

Press release

LCQ20: Development of Hong Kong as a fund management centre in Asia

Wednesday, October 17, 2012

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (October 17):

Question:

The Government has introduced measures such as the abolition of estate duty and offshore fund tax exemption in an attempt to facilitate Hong Kong to develop into the premier fund management centre in Asia. It has been reported that this fund management centre role has been challenged by Singapore recently as Singapore has a more accommodating legal and tax regime to cater not only for fund managers but also for funds which seek to establish and to domicile in Singapore. In this connection, will the Government inform this Council:

- (a) of the respective numbers of investment advisers and asset managers who were licensed or registered, between 2007 and 2011, for Type 4 and Type 9 regulated activities in Hong Kong under the Securities and Futures Ordinance (Cap. 571), and the respective numbers of such investment advisers and asset managers who have given up their licences or registration;
- (b) whether the Government has any legislative timeframe to amend the Companies Ordinance (Cap. 32) to facilitate the establishment of Open-ended Investment Companies (OEIC);
- (c) whether the Government has any plan to introduce new legislation to establish other forms of collective investment vehicles (e.g. limited liability partnership) apart from OEIC; if not, of the reasons for that;
- (d) whether the Government has any plan to introduce profits tax exemption for onshore funds; if not, of the reasons for that; and
- (e) whether the Inland Revenue Department will be prepared to make further clarification of paragraph 33 of the Departmental Interpretation and Practice Notes No. 43 on whether investments in bond funds and similar products fall within the definition of "specified transaction" and are exempted from profits tax?

Reply:

President:

It is one of our policy priorities to further develop Hong Kong into a major asset management centre in the region. Alongside our fundamental strengths as an international

financial centre, including a stable currency with free flow of capital, a rich pool of talents, and a low and simple tax regime, etc., we have been exploring various initiatives to further promote asset management business in Hong Kong.

With this, I would like to reply to the five-part question as follows –

(a) During the five year period of 2007 to 2011, 682 corporations have been licensed by the SFC to conduct Type 4 (Advising on Securities) and/or Type 9 (Asset Management) regulated activities under the Securities and Futures Ordinance. As at end-September 2012, 97 of these requested that the SFC revoked their Type 4 and/or Type 9 licences and they no longer remained licensed by the SFC. There are numerous reasons underlying these requests, including the difficult conditions that have prevailed in the global economy, group restructuring or consolidation resulting in the licensed activities of these formerly licensed corporations being transferred to other group companies, and their business activities were no longer required to be licensed under the Securities and Futures Ordinance.

(b) and (c) The fund industry has proposed to introduce a legislative framework facilitating the establishment of investment fund vehicles, including Open-ended Investment Company (OEIC) and Limited Partnership (LP) in Hong Kong. This may attract more funds to domicile in Hong Kong for the further development of the asset management industry and the financial industry as a whole. Some market participants have, on the other hand, pointed out that the attractiveness of a fund domicile also depends on other factors, and that the availability of more investment fund vehicles may not necessarily bring in more funds. We are studying the proposal and engaging the fund industry to identify measures best suited for our market circumstances.

(d) At present, profits tax exemptions are available for offshore funds and we are prepared to study proposals to enhance such tax exemptions in the light of market development. As regards onshore funds, we need to examine carefully the overall interests of Hong Kong, taking into account the relevant factors including Hong Kong's competitiveness as an asset management centre and implications for government revenue, before we consider any plan to introduce profits tax exemption for those funds.

(e) "Specified transactions" are defined in the Inland Revenue Ordinance (Cap. 112) (IRO) to cover typical transactions carried out by offshore funds in Hong Kong qualifying for profits tax exemption. Specifically, Schedule 16 to the IRO contains a list of "specified transactions" which include six categories of transactions, namely, a transaction in securities; a transaction in futures contracts; a transaction in foreign exchange contracts; a transaction consisting in the making of a deposit other than by way of a money-lending business; a transaction in foreign currencies; and a transaction in exchange-traded commodities. In particular, "securities" means, among others, bonds and funds. The Departmental Interpretation and Practice Notes (DIPNs), on the other hand, serve to provide the interpretation and practices of the Inland Revenue Department (IRD) in the implementation of individual provisions of the law, including the IRO,

administered by the IRD. The DIPNs have no legal binding force. Considering the above, the Administration does not consider it necessary to make further clarification in the DIPNs.

Ends