

## **Press Release**

### **LCQ22: Promoting equity crowdfunding activities in Hong Kong**

Wednesday, October 18, 2017

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (October 18):

#### Question:

In recent years, raising funds through crowdfunding activities is becoming increasingly popular among enterprises worldwide, and the governments of quite a number of countries have introduced legislation to regulate raising funds through crowdfunding activities. On the other hand, the Financial Services Development Council (FSDC) released on March 18 last year a report entitled *Introducing a Regulatory Framework for Equity Crowdfunding in Hong Kong*, which explored options for establishing a framework and a regulatory regime to promote and, at the same time, regulate equity crowdfunding activities in Hong Kong. So far, however, the Government has not yet announced any specific measures to promote equity crowdfunding activities. In this connection, will the Government inform this Council:

(1) whether, since the release of the aforesaid report, the authorities have taken specific follow-up actions on FSDC's recommendations; if so, of the details; if not, the reasons for that;

(2) as the authorities indicated in their reply to a question raised by a Member of this Council on May 17 this year that depending on the specific structure and features of the relevant crowdfunding arrangement, some types of crowdfunding activities, in particular equity crowdfunding, may currently be subject to regulation by the provisions of the Securities and Futures Ordinance (Cap. 571), and/or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) and even the Money Lenders Ordinance (Cap. 163), whether the authorities have drawn up guidelines to assist enterprises in assessing whether and how their intended equity crowdfunding activities will be subject to regulation by the aforesaid ordinances; if so, of the details; if not, the reasons for that;

(3) whether it has assessed the effectiveness of the existing legislation and measures in promoting equity crowdfunding activities and safeguarding the interests of investors; if so, of the details; if not, the reasons for that; and

(4) whether it has plans to amend the legislation and establish a relevant regulatory framework in the coming year in order to promote equity crowdfunding activities; if so, of the details (including the legislative timetable); if not, the reasons for that?

Reply:

President,

Our reply to the four parts of the question is as follows:

(1) We note that crowdfunding activities might come in different forms, including equity crowdfunding (ECF) and peer-to-peer (P2P) lending. The regulatory approaches towards these activities vary globally across jurisdictions in view of the nascent nature of the business. While some economies have developed dedicated new regimes, others leverage existing rules to regulate such activities. Adequate investor protection remains the fundamental policy objective notwithstanding the differences. Issues relating to potential risk management have surfaced in various regions, raising concerns that retail investors, even though provided with risk disclosure warning, may still not fully appreciate the high risks inherent in ECF and P2P lending.

Under the existing legislative framework, there is room for the operation of ECF platforms. The market may consider making reference to exemptions relating to professional investors under the existing regulatory framework for developing ECF platforms targeting professional investors in Hong Kong.

Please refer to our reply to parts (2), (3) and (4) of the question for the relevant follow-up actions.

(2) At present, parties engaging in crowdfunding activities in Hong Kong (e.g. where the activity involves an offer to the public to purchase securities, including shares, debentures or interests in collective investment schemes, or where the platform offers its own funds to borrowers) may be subject to the

provisions of the Securities and Futures Ordinance (Cap. 571), the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) and the Money Lenders Ordinance (Cap. 163), depending on the specific structure and features of the relevant arrangement.

The Securities and Futures Commission (SFC) has established a dedicated Fintech platform (namely Fintech Contact Point) in March 2016 to enhance communication between the SFC and the financial technologies (Fintech) community. Interested parties may approach the liaison platform for more details.

Furthermore, on September 29, 2017, the SFC announced the launch of the SFC Regulatory Sandbox to provide a confined regulatory environment for qualified firms to conduct regulated activities utilising Fintech, potentially including crowdfunding operations. The sandbox aims to enable qualified firms, through close dialogue with and supervision by the SFC, to identify and address any risks or concerns associated with their regulated activities before their services can be provided to the wider public in Hong Kong. On the same day, the SFC also issued a circular to clarify its approach in assessing the relevant industry experience requirement for individuals, including those with technology expertise applying to be responsible officers.

(3) and (4) As mentioned in part (1) of our reply above, under the existing legislative framework, there is room for the operation of ECF platforms. The market may consider making reference to exemptions relating to professional investors under the existing regulatory framework for developing ECF platforms targeting professional investors in Hong Kong.

It is also noted that ECF activities may involve the use of Fintech. On the development of Fintech, the Government will continue to keep abreast of the dynamic landscape, and ensure an appropriate balance between promotion of market innovation and investor protection.

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