

Press release

Government launches consultation on draft legislation on trust law reform

Thursday, March 22, 2012

The Government today (March 22) launched a two-month public consultation on the draft legislation on trust law reform.

The Secretary for Financial Services and the Treasury, Professor K C Chan, said, "The reform seeks to modernise Hong Kong's trust law to better cater for the needs of modern-day trusts and enhance the interests of parties to a trust. It is a major initiative to strengthen the competitiveness of our trust services industry and further consolidate our status as an international asset management centre."

Professor Chan said that the draft legislation crystallised the policy proposals that had received a positive response from stakeholders in an earlier consultation held in 2009.

"The consultation we launched today marks another milestone in taking forward the trust law reform. We look forward to receiving further views on the draft legislation so that we can finalise the amendment bill for introduction into the Legislative Council in the 2012-13 legislative year," he added.

The consultation document sets out draft provisions to amend the Trustee Ordinance (Cap. 29) and the Perpetuities and Accumulations Ordinance (Cap. 257). These provisions serve three major objectives.

First, they seek to clarify trustees' duties and power to provide clearer guidelines on the role of trustees. Specifically, the draft provisions seek to:

- (a) impose a statutory duty of care on trustees;
- (b) provide trustees with a general power to appoint agents, nominees and custodians;
- (c) give trustees wider powers to insure trust property against risks of loss; and
- (d) allow professional trustees to receive remuneration for services rendered to trusts.

Second, statutory provisions will be introduced to enhance the protection of beneficiaries' interests. These include provisions to regulate exemption clauses that seek to relieve professional trustees from liabilities for breach of trust. Beneficiaries will also be given the right to remove trustees through a simple, time-saving and court-free process.

Third, the trust law will be modernised. A provision will be introduced to clarify that a trust will not be invalidated only by reason of a settlor reserving to himself some limited power. The outdated rules that set time limits on the duration of trusts and the accumulations of income would be abolished.

The consultation document can be downloaded from www.fstb.gov.hk/fsb/ppr/consult/consult_tlr.htm. Members of the public are welcome to submit their comments by mail to Division 6, Financial Services Branch, Financial Services and the Treasury Bureau, 15/F, Queensway Government Offices, 66 Queensway, Hong Kong, or by fax to 2869 4195, or by email to to_review@fstb.gov.hk on or before May 21, 2012.

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