

Speech by SFST at Hong Kong Trustees' Association Annual Conference 2008

(English Only)

Following is the speech by the Secretary for Financial Services and the Treasury, Professor K C Chan, at the Hong Kong Trustees' Association Annual Conference 2008 today (May 29):

Trust and Hong Kong as a Regional Asset Management Centre

Carolyn (Butler), Ka Shi, ladies and gentlemen,

Good morning, it is a pleasure for me to be invited to speak at today's conference organised by the Hong Kong Trustees' Association. I found the conference today particularly relevant as the theme, "Trustees Beyond 2010", coincides with the Government's strategic objectives in developing Hong Kong as a regional centre for asset management and latest policy initiative to review Hong Kong's trust law regime.

Hong Kong as a major asset management centre in Asia

Over the past decade, Hong Kong has established an eminent position in Asia as a major asset management centre. According to the Fund Management Activities Survey 2006 conducted by the Securities and Futures Commission (SFC), Hong Kong's combined fund management business, comprising asset management, advisory business, private banking and real estate investment trust (REIT) business amounted to more than HK\$6.1 trillion at the end of 2006, representing a significant growth of 36% over that in 2005. Funds sourced from non-Hong Kong investors have consistently accounted for over 60% of the fund management business and reached almost HK\$3.8 trillion in 2006. This clearly illustrates that our financial market is attractive to foreign funds and investment.

It is equally encouraging to note that the number of high net worth individuals has grown by 8.6% to 2.6 million in the Asia-Pacific region in 2006, and their combined wealth is expected to grow from US\$8.4 trillion in 2006 to US\$12.7 trillion in 2011. With a perfect geographical location at the heart of Asia with the Mainland as our hinterland, Hong Kong is well placed to explore the huge opportunities and develop into a premier regional asset management centre.

Besides geographical location, other strong fundamentals have also contributed to shaping Hong Kong as a major asset management centre in Asia. We remain the world's freest economy for a straight 14 years as rated by the Heritage Foundation, with free flow of capital, simple business regulation and low taxes. We continue to supply a rich pool of high quality professionals, including many of you here today, who contribute utmost to strengthening Hong Kong as an international financial centre. We possess a world-class financial infrastructure which is supported by a common law system and an independent judiciary committed to the rule of law. All these strengths, complemented by our close links with the Mainland, have given Hong Kong the competitive edge in drawing in ever-growing foreign capital year after year.

Government Initiatives

Notwithstanding our strengths, there is no chance for complacency. We have spared no efforts in providing a conducive environment for further strengthening Hong Kong's position as a regional asset management centre.

To name a few, we have adopted various tax measures in the past two years. Since 2006, offshore funds have been exempted from profits tax. This has brought us in line with other major financial centres such as New York and London. Moreover, estate duty was abolished in 2006 to encourage local and overseas investors to invest further in Hong Kong.

Besides tax concessions, in 2006, we have streamlined the licensing procedure for overseas fund managers, including hedge fund managers. Fund management companies can now obtain their licences within a few weeks.

We are working hard to put in place a conducive platform for the development of Islamic finance in Hong Kong. A major local bank launched the first retail Islamic fund in Hong Kong in November 2007. Its fund size exceeded US\$54 million as at end April 2008, up by more than 10 times since its launch. Besides, Khazanah Nasional Berhad, the investment holding arm of the Malaysian Government, issued US\$550 million of exchangeable Islamic bond (sukuk) listed on the Hong Kong Stock Exchange in March 2008. This is the first sukuk offering exposure to China's growth through Chinese equities listed on the Hong Kong Stock Exchange. The sukuk received good response from Middle East investors and was over-subscribed by 10 times. Meanwhile, we are actively reviewing our taxation regime with a view to leveling the playing field for the issuance and transactions of sukuk vis-à-vis conventional bond in Hong Kong.

Review of Trust Law

The development of our trust industry also features high on our agenda. Trust is now commonly used as an important tool to manage assets. According to a survey commissioned by the Trustees' Association and the Hong Kong Branch of the Society of Trust and Estate Practitioners (STEP) in 2006, at least US\$364 billion of assets was held and managed in private client and institutional trust structures in 2004. Corporate trustees are involved in administering Mandatory Provident Fund schemes, REITs and even some alternative investments such as hedge funds, in addition to the trusts targeting at billionaires and institutional investors.

Trustees owe a fiduciary duty to act in the best interest of the investors, and ensure the safekeeping and protection of the assets in the funds. In essence, trustees are the guardians of the trusts. It is therefore of utmost importance that a proper legal infrastructure is in place to facilitate the work of the trustees while providing the necessary guidance.

As you all know, Hong Kong's trust law is based on the English common law and equity principles. The Trustee Ordinance, which modelled substantially on the English Trustees Act 1925, was first enacted in 1934 to supplement and amend the common law relating to trustees, including the trustees' powers, appointment and discharge of trustees, and registration of trust companies. However, the Ordinance has not been substantially reviewed and amended since its enactment and some of its provisions, particularly those concerning the powers and duties of the trustees, are outdated.

I would like to commend the work of the Joint Committee on Trust Law Reform jointly established by the Trustees' Association and STEP-Hong Kong. The Joint Committee has come up with useful ideas on how to modernise the Trustee Ordinance to facilitate trust administration and to accommodate new needs generated by modern economic and fiscal circumstances. Some major common law jurisdictions like the UK, Singapore and New Zealand have also recently reviewed and reformed their trust laws to attract more trust businesses. The Government has therefore committed in the 2007 Policy Agenda to review the Trustee Ordinance with a view to strengthening the competitiveness of our trust services industry.

My colleagues in the Financial Services and the Treasury Bureau have started working on the review in close consultation with the Joint Committee. The aims of the review are two-fold:

- * First, to modernise the Trustee Ordinance to facilitate more effective trust administration through the use of modern investment services; and updating trustee's powers and duties to cater for the fast-changing investment environment.
- * Second, to address some of the uncertainties at the common law and promote the use of Hong Kong's trust law especially by non-Hong Kong clients.

The review will make reference to the recent reforms in overseas jurisdictions. In the course of the review, we will seek views from trust practitioners and other relevant stakeholders. We aim to conclude the review in 2009. We believe that the reform will help strengthen the competitiveness and attractiveness of our trust industry and enhance Hong Kong's position as a regional asset management centre beyond 2010.

Conclusion

Ladies and gentlemen, we see huge potential for Hong Kong to develop into a leading asset management centre in Asia, thanks to the robust economic growth and wealth creation in the region and continued economic development on the Mainland. Given our strong fundamentals and competitive advantages which I have mentioned earlier, Hong Kong is best placed to capture the tremendous opportunities which are at our doorstep. The reform of our trust law will further sharpen our tools to grasp those opportunities. I look forward to your continuous support in the review exercise.

On this note, may I wish you fruitful discussions and a successful conference today. Thank you.

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