

Speech

Speech by SFST at Society of Trust and Estate Practitioners' Asia Conference (English only)

Tuesday, November 9, 2010

Following is the speech by the Secretary for Financial Services and the Treasury, Professor K C Chan, at the Society of Trust and Estate Practitioners' Asia Conference today (November 9):

Mrs Mimi Hutton, Distinguished Guests, Ladies and Gentlemen,

It is my great pleasure to join you today for the Society of Trust and Estate Practitioners' (STEP) Asia Conference.

Introduction

The exciting programme you have in front of you not only recognises global interest in Asia but also Asia's growing interest in the world. The in-depth sessions on planning issues specific to Asian clients reflect the demand for wealth management services in Asia.

Shifting of financial centre of gravity to the East

Asia has emerged well from the global financial crisis. In particular, China has led the revival of global demand since the crisis and tipped the greater economic growth opportunities from the West to the East. We now stand at a juncture where China's economy is taking off whilst markets in Europe and the US are still struggling to recover from the crisis.

Every corner you turn in Hong Kong you can feel the buzz and excitement. As recent as two weeks ago, we saw mega IPOs like AIA being listing on our stock exchange. The IPO was worth US\$20.5 billion, the biggest ever IPO in Hong Kong and one of the biggest ever IPOs in the world.

The confidence in Hong Kong is backed by data. Hong Kong exports rose 26 per cent in the first eight months of this year compared to the same period in 2009. We expect robust economic growth this year of between 5 and 6 per cent, and our latest unemployment figure has returned to pre-crisis levels of 4.2 per cent.

We have a vibrant securities market, and Hong Kong is ranked 1st globally in terms of initial public offerings raised in 2009. Hong Kong is also the world's 15th and Asia's 3rd largest international banking centre, and the 6th largest centre for foreign exchange trading.

Hong Kong, located in the centre of the burst of economic and financial activities is bombarded with new opportunities everyday.

We believe that by reinforcing Hong Kong's considerable advantages as an international financial centre, as a place with free flow of capital, as a place with good regulations, as a place to have good access to the Chinese market and products, and also good co-operation with Chinese financial regulators, we can actually capture all these opportunities.

Hong Kong as a global financial centre

Hong Kong today is living up to everyone's expectation of being China's global financial centre. We are able to ride on the rich opportunities in the Mainland by using the global connections we worked hard to establish over the years. We are part of China but yet able to cover financial activities happening in all corners of the globe. I dare say there is not another spot on planet earth where you can enjoy both the opportunities brought about by the economic development of China and the advantages of being a global financial centre.

Hong Kong enjoys a deep and extensive means of connection with the mainland Chinese market. Historically we have helped the Mainland develop its capital markets. Take state-owned enterprises as an example - it was Hong Kong who debuted them with international investors. The established market discipline in Hong Kong helped Mainland China enterprises meet international best practice standards in corporate governance, accounting, disclosure and management. It all started with Tsingtao Brewery, the first H-share IPO back in 1993, and there has been no stopping ever since.

We are proud to have led the development of our nation's capital markets and we are even more excited about assisting our nation's next phase of reform in market opening. It is no secret that Hong Kong has the full backing of the Central Government in developing offshore Renminbi (RMB) business.

We are well positioned to offer an offshore RMB market. In 2004, Hong Kong was the first economy outside mainland China to conduct yuan banking. Since the introduction of the pilot scheme on trade settlement in RMB a little more than a year ago, RMB trade settlement has been growing rapidly. Hong Kong is fast becoming an offshore RMB centre to facilitate trade settlement and related banking activities. With a pool of RMB liquidity that is being rapidly accumulated, Hong Kong has launched a variety of bank, securities and insurance products that are denominated and cleared in RMB.

Asset management centre

Hong Kong is situated in the heart of Asia and is the gateway to Mainland China. We operate in the Asian time zone and we have world-class business infrastructure to support our proximity with China and the rest of Asia. This includes a highly open and internationalised market, a regulatory regime aligned with major overseas markets, the rule of law, a rich pool of professional talent and robust infrastructure support, and the free flow of information and capital.

Our regulatory system is a key factor behind the high quality of our financial market.

During the recent global financial crisis, there was no major disruption to our markets. Our banking system remained sound and resilient. Clearing and settlement were smooth and efficient despite a surge in trading volume. Our seasoned regulatory regime has once again served us well in the current financial crisis.

In Hong Kong, when designing regulation, we have been careful to strike a balance between the goal of having a quality market and maintaining a forward-looking market friendly approach.

I have talked extensively about our preparation for being a global financial centre, now let's look at the opportunities in front of us.

After the financial tsunami, the strong rebound of China's economy has spearheaded the overall economic recovery of Asia and created abundant investment opportunities in the region. Asia is now the bright spot in the eyes of any investors.

Institutional investors in particular will place greater emphasis on Asia in their investment portfolios and it makes perfect sense for them to establish footholds locally where they have better access to information on their investments and able to respond faster to market movements.

Hong Kong is an ideal platform to access the Asian markets. Our fund management businesses have been taken to new heights in recent years. The combined fund management business of Hong Kong amounted to around HK\$8,507 billion (US\$1,091 billion) as at end 2009, up 45 per cent from 2008.

Reasons for reform

We are undertaking a number of legislative initiatives to further strengthen Hong Kong's competitiveness as Asia's leading business and financial hub. For instance, we are rewriting our company legislation and modernising our trust law - something which would be of immediate interest to you.

On trust law reform, we have been working closely with the Joint Committee on Trust Law Reform (Joint Committee) consisting of members from your society and the Hong Kong Trustees' Association.

As you would expect from a trust law that was enacted in 1934, many provisions are outdated. The current Trust Ordinance (TO) was put together at a time when family friends were asked as favours to manage estates for the purpose of preserving wealth for future generations. The trusts were set up on a shake of hands with no awkward discussions on what the trustees could or could not do or under what circumstances trustees could be sacked. Hence these informal arrangements often looked to the law for guidance on default powers of trustees and rules governing their appointment and removal.

As the importance of trust grows over the years, trusteeships have become an important profession in the financial industry. For an effective and efficient management of trust, modern trustees may need to delegate some of their powers to other experts and appoint nominees and custodians. Such powers as you can imagine were not necessary in the "one-man-band" trusteeship arrangement one hundred years ago.

Reform proposals

Last year, we conducted a three-month public consultation on the trust law reform. We are grateful for the suggestions and practical solutions you tabled. We have also studied the experiences of other common law jurisdictions, such as the United Kingdom and Singapore, to come up with a version suitable for us.

Trustees today are mostly professionals rather than friends performing a favour for another. We recognise that they need certain powers to manage trusts to the high standard expected from their clients, including powers to delegate, employ agents, nominees and custodians and take out insurance. At the same time, the powers granted will be balanced with the trustees' statutory duty of care. They will also need to be compensated for their service and we will introduce a statutory charging clause to enable them to receive remuneration.

We will also amend the Perpetuities and Accumulations Ordinance to abolish the archaic, complicated and uncertain rule against perpetuities and that against excessive accumulations of income except for charitable trusts. There doesn't seem to be any good reason for imposing a time limit for which properties must be vested particularly against the settler's wish. The same goes for accumulation of income.

We plan to introduce an Amendment Bill into the Legislative Council in 2011 to give effect to these proposals.

Comprehensive Avoidance of Double Taxation Agreements

Another piece of legislation you may be interested in is the Inland Revenue (Amendment) Ordinance 2010 (Amendment Ordinance). It enabled Hong Kong to adopt the Organisation for Economic Cooperation and Development (OECD) 2004 version of the Exchange of Information (EoI) Article in any Comprehensive Avoidance of Double Taxation Agreements (CDTAs) we sign with our trading partners.

Since passing the legislation we started signing CDTAs with many jurisdictions which would normally result in reduction of withholding tax rates on passive incomes such as dividends, royalties and interest. Tangible benefits have also been brought to our businesses and taxpayers and Hong Kong's position as an international financial centre have been significantly enhanced.

We considered taxpayers' privacy and confidentiality before we passed this legislation and provided additional safeguards in response to public concerns in the Inland Revenue (Disclosure of Information) Rules.

In particular, the domestic safeguards stipulate a mechanism to notify taxpayers before the information is exchanged and a system that enables taxpayers to request a review on the factual accuracy of the information by the Commissioner of Inland Revenue and the Financial Secretary.

There are also safeguards to prevent "fishing expeditions" and to ensure that individual requests are foreseeable and relevant.

Conclusion

Ladies and gentlemen, we see huge potential for Hong Kong to develop into a leading asset management centre in Asia. Given our strong fundamentals and competitive advantages which I mentioned earlier, Hong Kong is best placed to capture the tremendous opportunities coming out of Asia. The reform of our trust law will further enhance our competitiveness as a global financial centre. I look forward to your continuous support in moving our financial industry forward.

Thank you very much, have a great Conference and for our overseas guests, a very enjoyable stay in Hong Kong.

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