

HKTA MEMBERS' FORUM

Date: 8 December 2014

Time: 4:30pm – 6:00pm

Venue: International Arbitration Centre
Exchange Square Two, Central
Hong Kong

AGENDA

	Topics	By
1.	Welcome remarks, outline agenda and summary of HKTA work in 2014	Lau Ka Shi Chairman
2.	Accreditation/training programme	Loretta Ma Executive Committee
3.	Regulation of Trustees	Michael Shue Vice Chairman
4.	Taxation of Trusts	Michael Olesnick KPMG
5.	Other update and wrap up	Lau Ka Shi Chairman

1. Chairman Remarks - HKTA Members' Forum

Ka Shi Lau as Chairman welcomed attendees to the forum and introduced the agenda to be covered at this event.

To keep members updated on the HKTA, she gave a summary of work performed by the executive committee over the past year and the initiatives for 2015.

- HKTA has made various submissions in response to government/regulators' consultations including open-ended fund companies, automatic exchange of information, financial services resolution regime and those relating to the MPF system.
- On the SFC side, the HKTA fund trustees group continues its negotiation with the regulator on benchmark provisions re Trustee Liabilities and Powers to speed up the liaison and approval process for SFC authorised funds while the focus with the MPFA is on the "core fund"
- For FATCA, the HKTA has successfully worked with the FSTB in getting the IGA model 2 signed by the HK government on 13 November 2014.
- With the introduction of the amendments to the Trustee Ordinance, trust business for HK has picked up with 13 new members added to our membership register. In 2014, the HKTA was represented on the government roadshow in Paris on HK as an asset management centre.
- We have been consulting with a law firm on the best practice guidelines covering AML for the trust industry and will introduce them in 2015.
- The issue with opening bank accounts for trusts will continue to be the focus of discussion with FSTB, the HK Association of Banks and the HKMA.

In light of the need for increasing the pool of talent for the trust industry and enhancing professional standards of trust practitioners, the HKTA is pursuing the accreditation initiative with a institute. To seek members' input for this accreditation programme, we have conducted a professional training member survey recently on the training initiative and the regulation of trustees. Loretta Lam will go through the survey results on the education part while Michael Shue will present the results on trustee regulation at this forum.

2. Notes of Discussion on the Accreditation/Education Session

Accreditation Program

Loretta Lam (HKTA Excom) made a presentation as per attached.
<http://hktrustees.com/upload/documents/HKTA-Survey.pdf>

Background

- As you may recall, HKTA and KPMG jointly issued the Inaugural Report on the HK Trust Industry in June last year. During the preparation of the report, KPMG conducted a survey

and interviews with some trustee practitioners concerning the area regarding “People”. The report has highlighted growing concern about the shortage of talent in the trust industry, the lack of critical business knowledge and the inadequacy of planning in human capital etc. The report has come to the conclusion that to attract and retain talent, practitioners would have to look internally for development programs or externally for professional accreditation to be jointly developed by industry bodies.

- Separately the Financial Services Development Council (“FSDC”) has also commissioned a study earlier this year about the development of human capital in the financial industry (including trust), as they see this as a common challenge to all. HKTA also completed a survey on human capital of the trust industry at the request of FSDC.

Key Deliverables

- To follow up on the findings as mentioned, we have embarked on a few major tasks: -
 1. We have met up with a professional training institute, HKSI, to pick their brains about how the industry can deal with the talent development issue and what are the possible solutions. We sought their input about the various approaches and forms of professional development, the resources required, the road map for such planning and the key challenges, etc.
 2. We have made reference to trust-related training both locally and in other jurisdictions, eg Singapore.
 3. We informally consulted a trust veteran who is also a trust trainer about developing a relevant program in HK.
 4. As you are aware, we sent out a questionnaire to our members in Nov to ascertain how trust practitioners view the issue of human capital management.
- The survey results are summarized as shown on the screen.
<http://hktrustees.com/upload/documents/HKTA-Survey.pdf>

Conclusion

Summarizing the above, and thanks to the input and responses you have kindly provided, a very clear picture has emerged that there is a need for industry training.

What remains less clear are what to train, how to train, where and when to train, who to train and who to be trained, and where to obtain resources and endorsements etc.

We are sure that you would agree that these are tough questions to answer and this is also a very massive exercise. It is important for us to continue enlisting support from key stakeholders like you along the way, and to carry on our discussions with HKSI and trust trainers to work out viable ways for our industry. There is a long path to go, as portrayed by HKSI in walking us through their road map of program design, curriculum setting, course delivery, exams and assessments, etc. We will target to come up with a more concrete idea or proposition in the months to come.

Collection of information for trust industry

Separately, we have considered maintaining certain key information for the trust industry. HKTA would propose to revise the Membership Renewal and Application forms to obtain information in relation to the business nature, scale of business, etc. of our members and potential members on a regular basis. The information so collected would be used on an aggregate basis. Please refer to the screen for the revised forms with proposed changes highlighted.

As a supplement to the presentation outline on the accreditation program, Loretta Ma noted that due to limited financial recourses, it was not feasible for HKTA to set up a program by itself. One option was to work with Hong Kong Institute of Securities to develop a roadmap on course structure, module, and contents of the program.

In response to a question on the reasons for setting up another training program in addition to the existing trust training course offered by STEP, Loretta Ma responded that the STEP course focused on private trusts and the program proposed by HKTA would be comprehensive enough to cover other areas such institutional trusts and retirement schemes.

3. Regulation of Trustees

- Michael Shue (HKTA Vice Chair) made a presentation per attached.
http://hktrustees.com/upload/documents/20141208-Regulation-of-Trustee_in-HK_by-Michael.pdf
- Comments were invited from the floor
 1. Jacqueline Shek ("JS" - HKTA Excom) made two comments
 - a. Attitudes within the industry have moved on since the last survey and forum on Regulation of Trustees. The question was no longer whether we should be 'regulated', but how regulation/ registration would look like.
 - b. Suggest the discussion should not at this stage focus on 'who' is the right regulator/ registrar. Rather, regardless of the trigger leading to focus from the government, we should be prepared to speak with the same view.
 2. Richard Gasby (Maples): There was general acceptance that some form of 'lite registration' system would be accepted or even desirable. Discussion focused on what this may look like. JS suggested a type of 'fit and proper' test for individuals who act as directors and senior management of trustees may be appropriate as part of the registration system.
 3. Peter Bingham (Rosemont Trust) - referred to the Standard on the Regulation of Trust and Corporate Service Providers ("TCSPs") issued by the Group of International Finance Centre Supervisors ("GIFCS") in September 2014 to head off criticism of the TCSP industry, and to come to a common understanding as to the meaning of Beneficial Ownership. (HK is not a member of GIFCS but many offshore trust companies with businesses in HK would be from those countries that are). In short, international standards are being formulated and HK may not necessarily need to reinvent the wheels.

4. Michael Olesnicky (KPMG) - raised the possibility of self-regulation. Ka Shi Lau (HKTA Chair) pointed to the limitation of SRO in HK; vis - funding issues, and also the fact that different SROs also have a regulator overlooking them now (Accountants, Insurers, etc.)"

4. Taxation of Trusts

<http://hktrustees.com/upload/documents/Taxation-of-Trusts-in-Hong-Kong.pdf>

5. Wrap up

After all the presentations, Ka Shi closed the forum by thanking the executive committee members for their work and contributions to the HKTA, expressing appreciation to attendees for joining in the forum and soliciting continuing support from HKTA members in the coming year.