



HONG KONG MONETARY AUTHORITY
香港金融管理局

Banking Conduct Department

銀行操守部

Our Ref: B1/21C

27 May 2022

By email and by hand

Ms Ka Shi Lau
Chairman
Hong Kong Trustees' Association
Room 745, 7/F, Grand Millennium Plaza
181 Queen's Road
Hong Kong

Dear Ms Lau,

Consultation Conclusions on Enhancing the Regulation and Supervision of Trust Business

Thank you for your Association's comments on the consultation paper on enhancing the regulation and supervision of trust business issued on 10 July 2020, as well as your Association's feedback in subsequent dialogues on the subject matter over the past year or so.

The Hong Kong Monetary Authority ("HKMA") has duly considered all the comments received, and is issuing a consultation conclusions paper ("Conclusions Paper") today. The Conclusions Paper summarises the key comments received from respondents, the responses of the HKMA to those comments, and the conclusions of the HKMA on implementing the proposal to enhance the regulation and supervision of trust business going forward. A copy of the Conclusions Paper is attached.

Having taken into account industry comments, the HKMA has made some key changes to the proposal:

- (i) clarifying in the Code of Practice for Trust Business that it supplements all legal requirements and obligations applicable to trustees, and that certain requirements in the Code are subject to the terms of trust governing documents, as appropriate;

- (ii) removing “arranging for any person to act as trustee for a trust” from the definition of “trust business”;
- (iii) providing elaborations on the definition of “trust business”, such as not covering (a) investment management of the trust assets by a licensed or registered person for asset management under the Securities and Futures Ordinance (“SFO”), or (b) trust administration service of a collective investment scheme (“CIS”) the provision of which is the responsibility of the management company;
- (iv) providing the definition of “customers” to cover “settlers” and “beneficiaries” of trusts;
- (v) providing exemptions to trustees insofar as the trust services provided relate to occupational retirement schemes as defined in the Occupational Retirement Schemes Ordinance and trustees to the extent that the trust is created in connection with loans or debenture issuance;
- (vi) containing in the list of trustees only trustees that are authorized institutions (“AIs”) or subsidiaries of locally incorporated AIs, and the other trustees within an AI group that annually declare that they observe the Code;
- (vii) extending the implementation timeline of the related new Supervisory Policy Manual (“SPM”) module TB-1 on “Regulation and Supervision of Trust Business” and the Code from 6 months to 12 months from the date of issuance; and
- (viii) providing an exemption during the interim period between the implementation of the SPM module and that of the proposed Type 13 regulated activity (“RA13”) under the SFO for the existing depositaries of CIS authorized by the Securities and Futures Commission, to the extent that the trust services are related to the proposed RA13.

The HKMA is also issuing SPM module TB-1 today. On-line access to the SPM module is available under the icon for “Supervisory Policy Manual” on the HKMA’s website (<https://www.hkma.gov.hk/eng/>).

I am writing in similar terms to The Hong Kong Association of Banks, The DTC Association, the Private Wealth Management Association and Society of Trust and Estate Practitioners (Hong Kong) Limited.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Alan Au', with a stylized flourish extending from the end.

Alan Au
Executive Director (Banking Conduct)

Encl.

c.c. FSTB (Attn: Mr Justin To)