

**The Best Practice Guides for Trustees from HKTA  
raise industry standard to advance Hong Kong  
as a leading international centre for trust and asset management**

**Hong Kong, 14<sup>th</sup> November 2012:** The Hong Kong Trustees' Association (the "HKTA"), an independent body representing the trust and fiduciary services industry in Hong Kong, has recently announced the inaugural launch of the Best Practice Guides (the "Guide"). The Guide covers four areas of practice: Corporate Trusts, Pension Schemes, Private Trusts and Charitable Trusts, and aims to promote best practices and raise industry standards of trust practitioners in Hong Kong.

"The launch of the Best Practice Guides coincide perfectly with and are highly relevant to the recent new initiatives currently taking place in Hong Kong: the Introduction of the Employee Choice Arrangement ("ECA") of the MPF system; Amendment Bill to the Trustee Ordinance and the wide discussions within the community of the need for greater monitoring of charitable organizations," said Ms Ka Shi Lau, Chairman of The Hong Kong Trustees' Association.

Upon the implementation of ECA, effective from 1 November 2012, employees can enjoy more autonomy in managing their MPF assets with greater control over the choice of MPF schemes, leading to a greater awareness of the significance of the role and services of trustees. The Guide further highlights the importance of a proper corporate trust structure and the professional expertise required of corporate trustees.

Reforming Hong Kong's trust law which has been in effect since 1934 would bring the city's regulatory regime in line with other common law jurisdictions such as the UK and Singapore. This will provide a more clearly defined framework that governs the respective rights and duties of parties to a trust. The aim of the Trust Law (Amendment) Bill is also to enhance protection of beneficiaries' interests and better cater for the need of modern-day trusts. The Amendment Bill is to be presented by the Government to the Legislative Council in the 2012/13 session.

The consultation paper published by the Law Reform Commission points out that it has become a matter of major public interest that a system should be put in place to both regulate charities and enhance their transparency. It has been recommended that charity trustees of a

registered charity should be subject to certain duties, such as the duty to declare any conflicts of interest and personal interests and to keep proper accounting records of the charity which are sufficient to explain all the charity's transactions.

The nine guiding principles of the Guide (refer to the appendix) serve as minimum standards and general guidance on how the roles and responsibilities of a trustee can be discharged. It would be of particular use for private individuals who are not professional trustees and those who might be appointed as executors to administer estates or as directors of trustee boards of pension schemes and charitable trusts.

“Combined with the efforts of the trust industry in upholding best practices, it will strengthen the competitiveness and attractiveness of Hong Kong as a modern-day trust jurisdiction and further consolidate our status as a leading international asset management centre,” Ms Lau concluded.

**END**

Additional publications for reference:

HKTA The Best Practice Guides for Trustees:

<http://hktrustees.com/resources/article/C18/Best%20Practices>

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### **The Hong Kong Trustees' Association**

The Hong Kong Trustees' Association Ltd. was established in 1991 by members of the trust and fiduciary services industry to represent the trust industry in Hong Kong, particularly in the areas of legislation and education. It is a not-for-profit limited liability company incorporated in Hong Kong. The Trustees' Association currently has around 100 members, and represents thousands of professionals working in the trust, wealth management, custody and fund services, legal and accounting fields as well as company and corporate consultancy services.

Follow Hong Kong Trustees' Association online:

<http://hktrustees.com/>

香港信託人公會公布信託人之「最佳行業準則指南」  
提升業內標準，鞏固香港作為國際信託及資產管理中心的地位

香港，2012年11月14日 - 香港信託及信託從業員服務行業獨立機構--香港信託人公會最近公布最佳行業準則指南（「指南」）。該指南覆蓋四大範疇：企業信託、退休金計劃、私人信託及慈善信託，旨在推廣最佳行業準則及提升信託從業員的專業標準。

香港信託人公會主席劉嘉時女士表示：「最佳行業準則指南剛好與香港近期多項新措施同時推出，包括強積金僱員自選安排及《受託人條例》修訂草案，同時亦與社會廣泛討論對慈善機構的監察息息相關。」

2012年11月1日落實僱員自選安排，僱員在管理強積金資產方面有更大自主權，對強積金計劃的選擇也有更大控制權，令公眾更留意到信託人角色和服務的重要性。指南特別強調適當的企業信託架構及企業信託人具備專業知識及規範性操作的重要性。

政府決定對自1934年生效的信託法進行改革，此舉將有助香港的監管制度與英國及新加坡等其他實施普通法的司法管轄區一致，並就監管信託各方各自的權利與義務提供一個更清晰的框架。信託法修訂草案的另一目的是加強對受益人權利的保障，並更迎合現代信託業的需要。修訂條例草案將於2012/13立法年度，由政府向立法會提交。

根據法律改革委員會發表的諮詢文件指出，制定一個用以監管慈善機構及提高其透明度的系統已成為公眾關注的事項。文件建議註冊慈善機構的慈善信託人需承擔若干責任，如申報利益衝突及個人利益；保存慈善機構的會計記錄，以解釋其所有交易的詳情。

指引的九項原則(見附錄)提供有關信託人如何履行其角色及責任的最低標準及一般指引，特別對本身並非專業信託人的人士、或可能獲委任為財產管理執行者、或退休金計劃及慈善信託委員會董事的人士，尤其合用。

劉女士總結：「指引的公布，配合著信託業堅守最佳行業準則，將能加強香港作為現代信託司法管轄區的競爭力與吸引力，進一步鞏固香港作為國際資產管理中心的地位。」

其他參考刊物:

香港信託人公會信託人之最佳行業準則指南:

<http://hktrustees.com/resources/article/C18/Best%20Practices>

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## **香港信託人公會**

香港信託人公會有限公司成立於 1991 年，由信託及信託人服務從業員所組成，以代表在港的信託業，尤其在立法和教育等領域。它是一個在香港註冊成立，非牟利的有限公司。目前擁有約 100 多個成員，代表著在信託、財富管理、託管及基金服務、法律及會計界、公司及企業顧問服務業數以千計的從業員。

香港信託人公會網址

<http://hktrustees.com/>

### **The Guiding Principles issued by Hong Kong Trustees' Association (“HKTA”)**

When acting as trustee, certain duties and powers are imposed and created pursuant to the provisions of the trust deed, the Trustee Ordinance and general common law. The Guiding Principles seek to guide the trust & fiduciary services industry on how such duties and powers should be discharged and exercised. The application of these general Guiding Principles varies depending on the particular trust involved and the terms by which that trust is constituted. However, applying these principles when acting as trustee should assist trust practitioners in meeting their fiduciary obligations.

#### **Guiding Principles**

- 1. Act in Good Faith** - Acting in good faith and in the best interests of beneficiaries in accordance with the objects of the trust.
- 2. Act with Prudence and Care** - Acting with prudence and reasonable care in the performance of the trustee's duties.
- 3. Act with Skill and Diligence** - Acting with appropriate skill, competence and diligence in the performance of the trustee's duties.
- 4. Act with Integrity and Independence** - Acting fairly, consistently, objectively and impartially when reaching decisions relating to the trust and its beneficiaries. Maintaining independence and integrity by managing conflicts of interest fairly and objectively.
- 5. Maintain Confidentiality** - Maintaining the confidentiality of all trust related information and treating any personal data with the utmost care and sensitivity. Avoid disclosure of information to third parties except where required for the management of the trust or in accordance with the applicable laws and regulations.
- 6. Comply with Applicable Laws and Regulations** - Comply with all applicable laws, regulations and the trust constitutive documents.
- 7. Communicate Effectively in a Transparent Manner** - Communicating with interested parties in an informed, timely, accurate and transparent manner.
- 8. Promote the Highest Standards of Governance** - Actively contributing towards improving the governance of the trust and maintaining a good governance structure to discharge the trustee's duties.
- 9. Act in Accordance with Trust Objects** - Acting fairly, consistently, objectively and impartially when dealing with trust participants and beneficiaries.

### 香港信託人公會(「HKTA」)提出的指導原則

當出任信託人時，若干職責及權力乃根據信託契約的條文、《受託人條例》及一般普通法而實施及設立。指導原則旨在指導信託行業成員如何履行及行使該等職責及權力。此等原則的應用將視乎所涉及的特定信託及構成信託的條款而定。然而，應用此等原則，應能有助信託從業員履行作為受託人的責任。

#### 主導原則

1. **行事真誠**— 真誠行事，根據信託宗旨以受益人士之最佳利益行事。
2. **行事謹慎及小心**— 履行信託人責任時，謹慎及合理小心行事
3. **行事專業及盡職**— 履行信託人責任時，以適當技巧、能力及盡職工作
4. **維持誠信及獨立性**— 在達成有關信託及其受益人決定時，應保持公正、持平、客觀及不偏不倚。在處理利益衝突時，務求公平和客觀，以維護獨立和誠信。
5. **嚴守機密**— 以最謹慎小心方式保密所有信託相關資料及任何個人數據。除應信託管理層要求或法律及條例所需，避免向第三者公開資訊。
6. **嚴守法規**— 嚴守所有適用法律、規則及信託組成文件內容。
7. **透明有效的溝通**— 與有關方保持知情、適時、準確及透明的溝通。
8. **推展最高管治水平**— 積極改善信託的管治，並維持能讓信託人履行責任的良好管治架構。
9. **按信託安排的宗旨行事**— 處理信託參與者及受益人事務時，須公正、持平、客觀及不偏不倚。