Legal and Regulatory Framework for Open-ended Investment Companies in Hong Kong

The Financial Services Development Council has published a paper to consult on the proposal to introduce a new open-ended fund company structure to expand Hong Kong's legal structure for investment fund vehicles. ICC-HK welcomes the initiative and provided some comments for further promoting the overall asset management business in Hong Kong.

ICC-HK welcomes the Report by the Financial Services Development Council and agree that the proposed measures would be effective to attract more funds to be registered in Hong Kong.

However, getting more funds registered in Hong Kong is just the first step in promoting the overall asset management business. In this connection, it is necessary to attract firstly more fund distribution and marketing teams; and secondly more traders and research analysts.

Hong Kong has long established itself as the leading hub for distributing funds in Greater China. In fact, most of the fund house operations in Hong Kong are sales and distribution related. In order to promote further growth, Hong Kong needs to expand attracting capital from Greater China to the Asia Pacific region, and eventually to the world. This can be achieved by attracting more end-clients with capital, such as pension funds, endowment funds to set up office in Hong Kong, and by making Hong Kong to be the best location in the world to place a sales order. To this end, Hong Kong needs to ensure providing a simple and efficient infrastructure, so that clients may be comfortable in dealing with sales and distribution teams in Hong Kong. What make up of such as a business environment include the rule of law, transparency in enforcement of regulation, professional government input and a knowledgeable workforce. ICC-HK suggests also that the government can co-ordinate and promote Hong Kong as the go-to place by doing joint promotions and road-shows with various financial institutions.

Indeed, Hong Kong needs to go beyond just being a place of fund registration (similar to Luxembourg), or a place of fund marketing and distribution (where Hong Kong is now). It should aim to be a place where capital sits (similar to Switzerland) and where the capital markets are in action (similar to London). Capital markets are where the traders are. Traders, supported by proprietary research analysts, are where the exchanges of capital and securities occur. In order to achieve this, there are favourable attributes for running all businesses in Hong Kong, e.g. education with an international bent, better air quality, more affordable land and space and office rents, an efficient workforce, a low tax regime and a credible common law system. In addition, Hong Kong can take full advantage of RMB internationalization as an opportunity to transform itself to be a trading hub. Traders and portfolio managers are attracted to a place where they can have better access to products. If Hong Kong has the best, the most diverse, and the most liquid RMB products to offer, traders and portfolio managers would naturally garner around Hong Kong. While Hong Kong has the first-mover advantage, competitors like London, Taiwan, Singapore are very closely behind. Some of those have their own competitive advantages and pose real threats to Hong Kong. For example, London is already a global bond trading hub and can easily leverage its own strength into this new market of RMB products. ICC-HK suggests that the government works closer with the Chinese government, Chinese financial institutions and corporates so that they might give priority to Hong Kong as the RMB fundraising destination. Lastly, after the agreement for mutual recognition of Hong Kong-China funds, funds registered in Hong Kong can be distributed in China Mainland; and if Hong Kong registered funds are required to have a certain percentage of portfolio managers to be based in Hong Kong, then it would provide additional incentives for portfolio managers and traders to move here, for example, within the sphere of the Closer Economic Partnership Agreement (CEPA).