Trends and Developments

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Macro Trends Underlying the Hong Kong Funds Market

Hong Kong has been through a challenging period that has seen questions raised about its future. Political upheavals and uncertainties have dominated the climate and conversations, with unprecedented displays of civil protest, social division and unrest for a large part of 2019 that continued into 2020, casting a shadow even as Hong Kong has shown remarkable resilience in tackling the COVID-19 pandemic.

Following China's introduction of the National Security Law in July 2020 – intended for restoring security, peace and stability – calm has ensued, with muted protests under the new law's perceived broad scope of application. The Hong Kong government and financial regulators have emphasised that the new law is for Hong Kong's long-term prosperity and is not intended to affect the legitimate rights and freedoms or the rule of law of its common law legal system, and reassured that there will be no change to the fundamentals of Hong Kong's monetary and financial system or the normal conduct of business or capital market activities.

Hong Kong's long-standing position has been the bridge between China and the world, and it remains unique as a city with rich tradition and characteristics of the East as well as the West. With this, Hong Kong will continue to play a key role, which is further evolving alongside developments in China's economic and financial markets, finding its place with Mainland China in a new geopolitical environment regionally and globally.

With its deep market infrastructure, highly established and liquid markets, and expertise in international finance, Hong Kong is expected to remain strategically important in China's "opening-up" and integration with the global financial markets. Under "One Country, Two Systems", Hong Kong's common law legal system, unrestricted foreign exchange and capital flows, and dollar-peg currency offer a well-oiled operating environment for international and China companies and institutions to tap cross-market opportunities relating to China as the second-largest economy in the world.

Hong Kong is a top global market for IPOs, and US–China tensions have resulted in more China companies choosing to return to or list in Hong Kong. Hong Kong is also increasingly a significant centre for China and Asian venture capital and private equity activities, especially since Hong Kong revised its listing requirements in recent years to attract companies in emerging and innovative sectors, such as biotech and other technology fields. Hong Kong's continuing strength and vibrancy in both the public and private markets will be key for financial institutions and institutional investors to operate there as a base for the region, supported by strong market infrastructure and expertise, while private banks and financial advisory firms, including multi-family offices, have, in recent years, been drawn to Hong Kong to meet the investment needs of growing wealth in China and the region that add depth and liquidity.

The Hong Kong Financial Services Development Council (FSDC) published a policy paper in July 2020 on developing Hong Kong as a regional family office hub, leveraging growing wealth in China and Asia, and Hong Kong's mature and sophisticated financial markets infrastructure. Hong Kong's relatively low tax rates and friendly tax framework make it an attractive location not only for income and wealth generation, but also as a centre through which wealth and assets are held and managed. Hong Kong has established itself as a successful and prominent centre for asset management and financial services and is well placed as a significant market offering trust and wealth management services to high net worth and ultra-high net worth families in the region.

Greater Bay Area

Hong Kong's position as a key international financial centre is expected to be consolidated under China's Greater Bay Area plans, to leverage Hong Kong's status in this regard and as an offshore renminbi hub and international asset management centre.

On 29 June 2020 the People's Bank of China, the Hong Kong Monetary Authority and the Monetary Authority of Macau announced the launch of the Cross-boundary Wealth Management Connect Pilot Scheme in the Guangdong–Hong Kong–Macau Greater Bay Area ("Wealth Management Connect"), the purpose of which is to facilitate cross-boundary investment by individual residents in the Guangdong–Hong Kong–Macau Greater Bay Area (the "Greater Bay Area").

Under Wealth Management Connect, residents in Hong Kong, Macau and nine cities in Guangdong can carry out cross-boundary investment in wealth management products distributed by banks in the Greater Bay Area. The scheme has two components, Southbound Connect and Northbound Connect, depending on the residency of the investors. Under Southbound

Connect, residents of the Mainland cities in the Greater Bay Area can invest in eligible investment products distributed by banks in Hong Kong and Macau by opening designated investment accounts with these banks; whereas under Northbound Connect, residents of Hong Kong and Macau can invest in eligible wealth management products distributed by Mainland banks in the Greater Bay Area by opening designated investment accounts with these banks.

The financial regulators across the Greater Bay Area are working out implementation details – including investor eligibility, mode of investment, remittance and quota arrangements, scope of eligible investment products, investor protection, handling of disputes – under the arrangement, and the date of formal launch of Wealth Management Connect and the implementation details are still to be specified. It is anticipated that at the preliminary stage, eligible wealth management products for Southbound Connect will consist of "plain vanilla" products authorised by the Securities and Futures Commission (SFC) of Hong Kong with a low to medium risk level, while the industry expects there to be more distribution potential for a wider range of products than under the Mainland–Hong Kong Mutual Recognition of Funds scheme.

Trends in Establishing and Managing Funds in Hong Kong

Hong Kong has a well-established asset management and funds industry that has been successful under its dynamic and free markets, while global asset managers operating in Hong Kong continue to have unique opportunities due to the region's close and strategic links to China's growth and expansion, under various China market access schemes, such as the Mainland–Hong Kong Stock Connect and Bond Connect programmes, the Mutual Recognition of Funds (MRF) arrangements introduced in 2015 that allows qualifying retail funds managed in Hong Kong to be registered for distribution in China, and for qualifying Mainland China retail funds to be available in Hong Kong. Hong Kong has also established MRF arrangements with the United Kingdom and several European jurisdictions, further to which, Hong Kong-domiciled funds could be distributed in these markets.

Under an open architecture framework, fund managers with overseas qualifications and experience of other markets may qualify to set up as licensed managers or intermediaries in Hong Kong and Hong Kong is domicile-neutral on the funds that may be offered in Hong Kong on a private placement basis or that may be approved for offer to the public in Hong Kong. These are factors for Hong Kong to remain strong and attractive for international global fund houses to set up asset management centres or marketing offices there and, in recent years, market entrants from Mainland China and other parts of Asia. A vibrant and expanding fund management industry in Hong Kong offers growing availability of financial products and investment choices for private wealth management and close direct access to professional investment expertise in a highly regulated environment.

Broadly speaking, the nature of the activities intended to be undertaken in Hong Kong would determine the type of licence or categories of regulated activities to be approved by the SFC, the primary regulator on the conduct of securities and futures businesses and markets in Hong Kong. A licence to conduct the regulated activity of "asset management" is required for engaging in fund management and/or investment management of portfolios investing in securities or futures contracts. On the other hand, the offering of fund products may fall to be licensed for the regulated activity of "dealing in securities", although a licensed fund manager may be exempted in offering its funds pursuant to its conduct of licensed asset management business. For a retail fund to be offered to the public in Hong Kong, the fund would need to be separately authorised by the SFC, and the fund manager would need to be subject to further qualification requirements for managing an authorised fund.

It has become common for managers and intermediaries to be licensed initially with the condition to only provide their services to "Professional Investors" – this covers institutional investors and high net worth individuals or corporations that meet the relevant wealth or assets thresholds. As Hong Kong establishes itself as a wealth management centre, more managers and intermediaries are establishing in Hong Kong, primarily to target high net worth and ultra-high net worth clients. In January 2020, the SFC issued a circular to clarify its regulatory stance and potential licensing requirements for investment services in the context of family offices.

With the growth of the venture capital and private equity funds industry in Hong Kong in recent years, and the trend of "onshoring" funds domicile and investment management activities as discussed below, there is also growing regulatory attention on the conduct of fund management activities in private equity, and also in January 2020 in a separate circular, the SFC sought to clarify uncertainty on the applicability of licensing requirements to private equity fund managers. In its Circular to Private Equity Firms Seeking to be Licensed, the SFC noted that it will consider the composition of the investment portfolio, which may trigger licensing requirements if the underlying specific-purpose vehicles or underlying investments of the private equity fund under management fall within the definition of "securities". The term "securities" has a broad definition under the Securities and Futures Ordinance (SFO), but the definition excludes shares or debentures of a company that is a private company within the meaning of Section 11 of the Companies Ordinance (Cap. 622). The SFC has confirmed a clear view that only shares and debentures of Hong Kong-incorporated private companies are excluded from the definition of "securities".

As the SFC continues to review its regulatory position and licensing expectations in an evolving market, on 11 December 2020, the SFC launched a consultation on "Proposed Enhancements to the Competency Framework for Intermediaries and Individual Practitioners", which includes proposals to raise the minimum academic qualification requirements for individuals, while a broader range of academic qualifications would be recognised, and for applicants to have more flexibility for meeting the industry qualification and regulatory examination requirements; but at the same time the SFC emphasises competence requirements for certain areas to ensure quality of work and supervision, including the management experience of applicants to be approved as responsible officers of licensed intermediaries for specific regulated activities. The SFC has proposed the implementation of the revised Competence Guidelines and CPT Guidelines at least six months after their publication and in any event no later than 31 December 2021. The consultation is open for comments for two months. Public comments are required to be submitted to the SFC by 10 February 2021.

It is, as ever, highly important to engage in a careful review of the intended fund management and investment activities to be carried out in Hong Kong to determine the licensing requirements to be complied with. In this regard, it would be necessary to consider the proposed set-up, taking into account the intended investment management and operational arrangements, the location and personnel where and by whom such activities would be conducted, and the related licensing, regulatory and tax implications.

Fund Domicile Trends – "Onshoring"

While it has been well accepted and common practice for Hong Kong fund managers to establish private funds domiciled in an offshore jurisdiction, with Cayman Islands' exempted company structures or segregated portfolio company structures being the most popular, Hong Kong has introduced new structures to provide viable and attractive alternatives for establishing Hong Kong-domiciled funds. These structures are supported by tax policy initiatives to encourage adoption, and more "onshore" funds are expected.

Hong Kong open-ended fund company structure

In July 2018, the legal framework was put in place for the open-ended fund company (OFC) structure with variable capital, under the amended SFO, together with the Open-ended Fund Companies Rules (as a subsidiary legislation of the SFO) (the OFC Rules) and the Code on Open-Ended Fund Companies (the OFC Code) issued by the SFC.

The OFC may be adopted for private funds or retail funds, and offers an additional choice that Hong Kong fund managers may consider in fund formation, subject to complying with the OFC Rules and the OFC Code. Setting up an OFC is subject to obtaining the prior approval of the SFC, under a "light-touch" and one-stop process, whereas retail OFC funds are subject to the usual SFC review and approval process for authorisation of a retail fund.

In April 2019, Hong Kong introduced a unified profits tax exemption regime for funds, replacing the previous tax exemptions for offshore (non-resident) funds, by providing that exemption from Hong Kong profits tax is available for structures meeting the definition of "fund" (which mirrors the definition of "collective investment scheme" in the SFO), in respect of "qualifying transactions" and "qualifying assets", and subject to relevant conditions (that apply equally regardless of tax residency). This levels the playing field for offshore private funds and private funds structured as Hong Kong OFCs, taking away ring-fencing features considered as harmful tax practice.

Enhanced custodian and safekeeping requirements for private OFCs

The SFC launched a consultation in December 2019 on proposed enhancements to the OFC structure, and in September 2020, the SFC released its consultation conclusions with amendments to the OFC Code with immediate effect. The SFC expanded the custodian eligibility requirements to allow intermediaries licensed or registered for the regulated activity of dealing in securities (Type 1) to act as custodians for private OFCs, subject to certain prescribed eligibility requirements, as well as enhanced certain safekeeping requirements for assets of private OFCs. At the same time, the SFC noted that a custodian must be appointed for safekeeping of assets of a private OFC regardless of the types of the assets and even where a private OFC invests in private equity and venture capital. For both public and private OFCs, the Revised OFC Code requires that the custodian must (i) have sufficient experience, expertise and competence in safekeeping the asset types in which the OFC invests; and (ii) maintain adequate internal controls and systems commensurate with the custodial risks specific to the type and nature of the assets invested. There is a six-month transition period for existing private OFC custodians to comply with the new requirements as applicable by 10 March 2021.

Relaxation of investible asset classes for private OFCs

It is also welcomed that under the enhancements introduced in September 2020, the previous "10% limit" imposed on private OFCs has been removed. Private OFCs are now allowed to invest in all asset classes without limit on management of assets that may fall outside the definition of "securities" that may not amount to regulated activity. As noted by the SFC in the Consultation Conclusions, this is intended to place private OFCs on a level playing field with other overseas corporate fund structures as well as the recently enacted Hong Kong limited partnership fund (LPF) structure and enhance the competitiveness of the OFC structure. This will allow the OFC structure to be adopted for investments other than securities or futures, such as investments in private companies, real estate, credit or other assets not previously eligible.

Re-domiciliation of overseas corporate funds
The SFC also proposed a re-domiciliation mechanism that will allow overseas corporate funds to be re-domiciled to Hong Kong as an OFC, provided key requirements for the registration of an OFC applicable to newly formed OFCs are satisfied, such as eligibility requirements of the investment managers, custodians and directors. According to the SFC, any changes to the overseas corporate fund structure that would not affect its ability to meet the key requirements can be effected after re-domiciliation. The SFC has also considered and indicated there is no restriction on the restructuring of Hong Kong unit trusts into OFCs provided that relevant requirements for establishing an OFC are met and that such restructuring could be done in accordance with the constitutive documents of the unit trust. For SFC-authorised funds that are in unit trust form, their past performance and track records could be preserved if they were to restructure to OFCs.

Exemption from significant controllers register requirements
While Hong Kong companies are generally subject to the requirements to maintain a significant controllers register, the SFC has proposed to align the anti-money laundering and counter-terrorist financing (AML/CTF) requirements applicable to OFCs with the requirements recently implemented for the new LPF structure discussed below, requiring OFCs to appoint a responsible person to carry out AML/CTF functions. The SFC is also conducting a further consultation on the customer due diligence (CDD) requirements to be imposed on OFCs.

With the enhanced Hong Kong OFC regime, the authors believe this alternative fund structure will become more appealing to fund managers seeking to establish or offer an investment fund in Hong Kong.

Hong Kong limited partnership fund structure
While the changes outlined above may lead to the establishment of Hong Kong-domiciled private or retail funds, the OFC structure, as its name suggests, is not intended for private equity funds that are typically structured as closed-ended, although it is technically possible to adopt the OFC for a private equity fund, with relevant lock-up or redemption restrictions.

Private equity fund managers operating in Hong Kong tend to establish private equity funds structured in an offshore jurisdiction (the Cayman Islands being the most common) as LPFs (with an incorporated Cayman general partner). To further encourage fund managers to adopt Hong Kong as the domicile of choice when establishing private funds, Hong Kong has introduced a new LPF regime intended for private equity funds.

Effective from 31 August 2020, the LPF structure may be established pursuant to the new Hong Kong Limited Partnership Fund Ordinance (LPFO). Application may be made to the Hong Kong Registrar of Companies to establish the LPF subject to the applicable requirements under the LPFO, identifying the proposed address, place of business and investment scope, the proposed general partner and proposed investment manager, as well as a proposed "Responsible Person", which must be an authorised institution, licensed corporation, accounting person or legal professional, with responsibility to carry out AML/CTF functions for the LPF. The application to register an LPF must be submitted on behalf of the fund by a registered Hong Kong law firm or a solicitor in Hong Kong admitted to practise Hong Kong law. The LPF will be registered if the Registrar of Companies is satisfied the application contains the necessary documents and information, and the requisite application fee is paid.

As the LPF is not a separate legal person, the general partner of the LPF exercises authority and acts on behalf of the LPF. The general partner has ultimate responsibility for the management and control of the LPF and has unlimited liability for all the debts and obligations of the LPF, whereas if an authorised representative has been appointed by the general partner, the general partner and the authorised representative are jointly and severally liable and share ultimate responsibility for the LPF. A limited partner has the benefit of limited liability under the LPF, and is not liable for debts and obligations of the LPF beyond the amount of the limited partner's agreed contribution, but this is provided the limited partner does not take part in the management of the fund. The LPFO specifically outlines certain activities or conduct that a limited partner may engage in that will not be regarded as taking part in the management of the fund, such as involving decisions around actual or potential conflict of interest, although those activities are not intended to be exhaustive circumstances through the exercise of which a limited partner may not be regarded as taking part in the management of the fund.

Licensing requirements
Notably, unlike the Hong Kong OFC structure, the LPF is not subject to prior approval or (direct) regulation by the SFC. The LPF must have a general partner and an investment manager that meet the respective requirements, as well as a proposed "Responsible Person" as noted above. The investment man-

ager must be a Hong Kong resident over the age of 18 years, a Hong Kong company or a non-Hong Kong company registered with the Hong Kong Companies Registry, whereas the general partner may be one of those categories of persons, or, notably, a domestic or foreign limited partnership. Where the general partner is a domestic or foreign limited partnership, the LPF must have an authorised representative that is a Hong Kong resident who is at least 18 years old, a Hong Kong company or a registered non-Hong Kong company. There is also the requirement that an independent auditor be appointed to audit the financial statements of the LPF annually.

The conduct of business in regulated activities relating to the securities and futures market is subject to potential licensing requirements by the SFC under the SFO. The SFC will consider the composition of the investment portfolio as to whether potential licensing requirements may be triggered. Persons engaged in the business of offering an LPF in Hong Kong may also be required to be licensed by the SFC, unless any relevant exemption applies. A Hong Kong manager licensed by the SFC to conduct the regulated activity of asset management may rely on an exemption to market its fund as being incidental to its conduct of asset management business.

Favourable tax framework

Under the unified profits tax exemption regime for investment funds in place since April 2019, subject to meeting specified conditions, regardless of the location of central management and control, their structure, size or investment objectives, investment funds, including private equity funds, may enjoy tax exemption for transactions in specified assets subject to meeting certain conditions. A fund may enjoy the tax exemption in connection with its investment in overseas and local private companies; as such, the new profits tax exemption provides an attractive tax framework for private equity funds to be established or managed in Hong Kong, including funds structured as LPFs.

Hong Kong is also proposing the introduction of further tax incentives to encourage private equity fund operators to establish Hong Kong LPFs and to operate in Hong Kong. At the start of January 2021, the Hong Kong Legislative Council released the legislative proposals to provide a tax concession for carried interest distributions of eligible private equity funds operating in Hong Kong, and it is intended for the concessionary tax treatment to take effect retrospectively for eligible carried interest received by, or accrued to, qualifying carried interest recipients on or after 1 April 2020.

Eligible carried interest would be zero-rated for profits tax, while 100% of eligible carried interest would be excluded from the employment income for the calculation of salaries tax, for the following proposed eligible recipients of carried interest for providing investment management services:

- a corporation licensed under Part V of the Securities and Futures Ordinance (Cap. 571) or an authorised financial institution registered under that Part for carrying on a business in any regulated activities;
- any other person or entity providing investment management services in Hong Kong to a certified investment fund that is a "qualified investment fund" (ie, a fund with at least five investors and meeting certain requirements over capital commitments and distribution of the net proceeds), or arranging such services to be carried out in Hong Kong; and
- employees of the qualifying persons referred to in the two points above or their associated corporation or partnership by providing investment management services in Hong Kong to the certified investment funds on behalf of the qualifying persons.

The provision of investment management services must be provided in Hong Kong in view of the policy objective to attract more private equity funds to operate in Hong Kong. In addition, qualifying carried interest recipients must meet relevant substantial activities requirements, such as having an adequate number of qualified full-time employees and certain minimum operating expenditure incurred in Hong Kong for the relevant years of assessment. To prevent tax abuse, it is also proposed that the Hong Kong Monetary Authority will administer a certification scheme, for funds to be subject to a certification process as to whether relevant conditions on local employment and local expenditure are met to qualify for the carried interest concessionary tax treatment.

Sustainable Finance

The COVID-19 pandemic has sharpened the focus on the interconnectedness of the world and global readiness to respond to a system-wide crisis, and the drastic consequences for social issues. This has propelled a strong momentum for companies and the investment industry to increasingly emphasise environmental, social and governance (ESG) risks and issues. Hong Kong is also keeping up with the global trends towards green and sustainable investments and the greater emphasis on responsible corporates taking into account ESG factors.

Green or ESG funds

In accordance with its Strategic Framework for Green Finance issued in September 2018 to facilitate the development of a wide range of green-related investments, the SFC published guidance on enhanced disclosures for SFC-authorised green or ESG funds in April 2019 in its "Circular to management companies of SFC-authorised unit trusts and mutual funds – Green or ESG funds" (the "Circular"). Pursuant to the Circular, SFC-authorised unit trusts and mutual funds that claim to be green or ESG funds must disclose how green or ESG factors are incorporated in their investment strategy and investment selection process. A list of green or ESG funds that fulfil the requirements set out in the Circular is available on the SFC's website.

The Circular requires authorised green or ESG funds to disclose, at a minimum, the following information in their offering documents:

- a description of the key investment focus and how it is considered green or ESG-related;
- a description of the investment strategies adopted, which includes disclosure of the investment selection process and criteria;
- a description of whether an exclusion policy has been adopted by the fund and types of exclusion;
- a description of the risks associated with the green or ESG fund's investment theme; and
- any other information considered necessary by the manager for investors to make an informed judgement of the investment.

The manager of the green or ESG fund should regularly monitor and evaluate the underlying investments, with proper procedures in place to make sure it continues to meet the stated investment objective and requirements set out in the Circular, and is required to provide to the SFC a self-confirmation of compliance or a confirmation on compliance supported with an independent third-party certification or fund label.

Managing climate-related risks

In October 2020, the SFC released its Consultation Paper to enhance climate-related disclosures by Hong Kong SFC-licensed fund managers. The Consultation Paper is issued in furtherance of the objectives set out in the SFC's Strategic Framework for Green Finance, and forms part of its initiative to encourage the consideration of ESG factors in investment and risk management processes and enhance reporting of environmental and climate-related information. It takes into account the latest international developments, including growing regulatory focus on managing climate risks, the increasing adoption of the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD), and the SFC's regulatory objectives and intention to align with international standards, and its aims to collaborate with international and Hong Kong financial regulators and the industry in meeting those objectives. The SFC acknowledges the importance of promoting sustainable development, but intends to focus initially on climate-related risks relevant to each investment strategy and fund due to various factors, including the irreversible impact of climate change and urgency to take action to address the threat of climate change.

Under the Consultation Paper, the SFC is proposing to amend the Fund Manager Code of Conduct (FMCC) and to issue a circular in order to introduce baseline requirements that shall apply to managers of collective investment schemes with respect to climate-related risks. The Consultation Paper refers to three main types of identified risks associated with climate change that could have an adverse impact on the value of a wide range of financial assets – physical risks, transition risks and liability risks – and outlines four key elements to address such risks:

- governance;
- investment management;
- risk management; and
- disclosure.

These elements are baseline requirements that are applicable to all fund managers. Enhanced standards are proposed for large fund managers of assets under management of HKD4 billion or above, including fund-level disclosure on weighted average carbon intensity of Scope 1 and Scope 2 greenhouse gas emissions associated with the funds' underlying investments, on top of entity-level disclosures expected of all fund managers. The consultation period for the proposals made in the Consultation Paper ended on 15 January 2021.

Further green finance policy initiatives

More policy and regulatory initiatives with enhanced requirements on financial institutions and corporations around ESG are expected, especially with respect to climate risks. The Green and Sustainable Finance Cross-Agency Steering Group (the "Steering Group") was set up in May 2020 and co-chaired by the SFC and the HKMA, with members comprising the Environment Bureau, the Financial Services and the Treasury Bureau, Hong Kong Exchanges and Clearing Limited, the Insurance Authority, and the Mandatory Provident Fund Authority. The aims of the Steering Group are to co-ordinate the management of climate and environmental risks to the financial sector, accelerate the growth of green and sustainable finance in Hong Kong and support the Hong Kong government's climate strategies. Further, in a policy address in November 2020, the Hong Kong Chief Executive pledged to achieve carbon neutrality by 2050.

In December 2020, the Steering Group announced its green and sustainable finance strategy for Hong Kong and six key focus areas in its Strategic Plan, as well as five key near-term action points. The six focus areas are:

- strengthening climate-related financial risk management;
- promoting the flow of climate-related information at all levels to facilitate risk management, capital allocation and investor protection;

- enhancing capacity building for the financial services industry and raising public awareness;
- encouraging innovation and exploring initiatives to facilitate capital flows towards green and sustainable causes;
- capitalising on Mainland opportunities to develop Hong Kong into a green finance centre in the Greater Bay Area; and
- strengthening regional and international collaboration.

The five near-term action points are:

- climate-related disclosures aligned with TCFD recommendations will be mandatory across relevant sectors no later than 2025, and active steps will be taken to enhance climate-related disclosures of financial institutions – including banks, asset managers, insurance companies and pension trustees – and to increase the coverage of mandatory disclosure as soon as practicable, so that more information on how companies and assets will be impacted by climate change is available in the financial markets to support informed capital allocation and promote market discipline;
- to aim to adopt the Common Ground Taxonomy, which will be developed by mid-2021 by the International Platform on Sustainable Finance (IPSF) Working Group on Taxonomies co-led by China and the EU;
- to support the International Financial Reporting Standards Foundation's proposal to establish a new Sustainability Standards Board for developing and maintaining a global, uniform set of sustainability reporting standards;
- to promote climate-focused scenario analysis to assess the impacts on financial institutions under different climate pathways, such as through the pilot climate risk stress testing exercise for banks and insurers, and the use of scenario analysis by large asset managers; and
- to establish a platform to act as a focal point for financial regulators, government agencies, industry stakeholders and academia to co-ordinate cross-sectoral capacity building, thought leadership and as a cross-sectoral repository of green and sustainable finance resources in addition to the Sustainable & Green Exchange (STAGE).

Considering feedback from market participants and the key near-term action points agreed to be implemented by the Steering Group, the authors anticipate that there will be stronger co-ordinated efforts to develop and maintain a uniform set of reporting standards that will facilitate effective and meaningful disclosure to generate data that is of better comparability and materiality.

Hong Kong is also expected to play a key role as China continues its strong efforts in green finance, such as under the Guangdong–Hong Kong–Macau Greater Bay Area Green Finance Alliance, including initiatives to develop an integrated carbon market.

In its paper published in July 2020, the FSDC outlined Hong Kong's ambition to be the global ESG investment hub of Asia. With Hong Kong's existing strength as a key international capital market and leading asset management centre – as well as the active steps that the SFC, the HKMA and other key regulators are taking in developing green finance – Hong Kong is well positioned to become a leading capital market for sustainable finance and an ESG investment hub.

Given the rapid pace of legal and regulatory developments for Hong Kong to remain competitive as an attractive location to set up investment management business – offering more options to develop as a fund domicile with tax incentives, and staying ahead and relevant in green and sustainable finance – there is much cause for optimism and confidence that Hong Kong is building back better.

Vivien Teu & Co LLP is a Hong Kong corporate and commercial law firm with a particular focus on investment funds, asset management and financial services, securities and regulatory, tax and trusts. The firm has been highly rated for technical ability and innovation, with its lawyers having in-depth Hong Kong and international legal practice experience, combined with deep and broad knowledge of China and regional markets. The legal practice areas at Vivien Teu & Co LLP encompass providing corporate and commercial advice, as well as on securities law and financial regulatory issues in local and international transactions, and it is a go-to firm for corporate transactions and funds formation. The firm has gained a reputation of offering seamless support on cross-border Hong Kong and Mainland China matters in the areas of asset management, investment funds, cross-border securities and investments, inbound and outbound M&A, and China market entry strategies. The firm has strengthened its focus on ESG and sustainable finance in its investment funds and corporate practice areas.

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