

HONG KONG OFC

REGULATORY MEMO • Q1 2018

ABOUT HONG KONG OPEN-ENDED FUND COMPANY (OFC)

As part of a series of local market infrastructure enhancements to further develop the city as a full-service international asset management centre and a preferred fund domicile, the Securities and Futures Commission (SFC) has been working closely with the government of Hong Kong to establish the legal and regulatory framework for a new open-ended fund company (OFC) structure. It is **expected to be operational in 2018**.

The current Companies Ordinance prohibits the increase or reduction in capital or payment of dividends without approval of the shareholders of the company, and investment funds in Hong Kong usually use a unit trust structure which is more flexible. With the new OFC structure, they will benefit from another flexible option and it should help attract more funds to domicile in Hong Kong.

Key features of the proposed OFC rules and code

- An OFC will be established and incorporated **under the Securities and Futures Ordinance**. It will not be subject to the Companies Ordinance unless otherwise provided in the new OFC Code and rules. It is proposed that for winding-up and disqualification orders, the "Companies (Winding Up and Miscellaneous Provisions) Ordinance provisions" are to be applied to OFCs as well. This approach is to align Hong Kong's legislation for similar corporate fund vehicles with overseas jurisdictions such as the UK and Ireland
- An OFC must be registered with the SFC and incorporated by the Companies Registry
- OFCs can be public or non-public. A public OFC will have to comply with the detailed requirements as set out in the SFC's products handbook
- An OFC must have a board of directors with at least two individual directors
- An OFC must have a custodian to whom all scheme property must be entrusted for safekeeping
- The local authorities **envisage a profits tax exemption** for private OFCs, subject to a separate legislative process

Source: Consultation Paper on the Securities and Futures (Open-ended Fund Companies) Rules and Code on Open-ended Fund Companies, June 2017: <http://www.sfc.hk/edistributionWeb/gateway/EN/news-and-announcements/news/doc?refNo=17PR88>

SCOPE

- Local and global asset managers

The Hong Kong OFC will support umbrella and sub-funds structures and cross-investment of sub-funds.

INDUSTRY IMPLICATIONS

This new OFC regime provides an **attractive alternative** for funds domiciled in Hong Kong with its flexible features that are currently not available under Companies Ordinance. In addition to encouraging new funds to set up in Hong Kong in competition with other fund domiciles, the new structure should encourage greater funds passporting with Hong Kong as a home country.

Along with the Mutual Recognition of Funds signed with Switzerland (December 2016) and France (July 2017), the OFC framework should facilitate distribution of Hong Kong-domiciled funds to Europe, with a choice of structure that is internationally recognisable, particularly in Europe.

BNP Paribas Securities Services' view

- We believe that the benefits of the new proposed OFC regime increases the competitiveness of Hong Kong-domiciled funds and their marketability across the globe.
- With the launch of similar new company structures in Australia and Singapore however, competition between fund jurisdictions in the Asia-Pacific region is getting more intense. Australia is due to launch its new Collective Investment Vehicles (CIV) scheme in 2018, and Singapore plans the launch of the Singapore Variable Capital Company (S-VACC) and the Corporate Collective Investment Vehicles (CCIVs) also in 2018.
- However, Hong Kong can benefit from its long-established fund management industry and its privileged access to China. The proposed profit tax exemption for onshore private open-ended fund companies would be a key factor in the success of the new OFC scheme.
- Leveraging its broad expertise in depobank in Europe, BNP Paribas Securities Services has the experience and track record to assist you in Hong Kong in every aspect, from setup, trustee, custody and transfer agency services, to fund administration and portfolio valuation. In addition, as the leading European bank, with deep and comprehensive cross-border distribution services, we are ideally positioned to support broader international distribution of Hong Kong funds in the region and beyond.

For additional information, please contact your local relationship manager

KEY DATES

○ **JUNE 2015**
Consultation conclusion

○ **JULY 2017**
Proposed legislation to offer profit tax exemption to onshore private OFC

○ **AUGUST 2017**
Closing of the formal consultation paper on the OFC code and rules

○ **2018**
Expected launch



BNP PARIBAS

**The bank
for a changing
world**

IN A CHANGING WORLD

We believe that changing regulations are a critical business issue for our clients and are shaping their priorities today. There is a huge cost in meeting new regulations, but perhaps a bigger one in getting it wrong. The pace of regulatory change calls for agility. Business models will need to be adapted and our insights help you address these issues.

BRINGING YOU THE LATEST REGULATORY INTELLIGENCE

Created by our Public Affairs team in Europe and our local specialists in Asia-Pacific, each concise memo covers a specific regulation, including its scope, implications for the industry and the key dates in the regulatory process. As a Bank that is actively engaged with regulators and keenly follows developments, we also include our point of view on each regulation.

Recent updates include key regulations such as MiFID II, the Central Securities Depositories Regulation (CSDR), the Hong Kong Mutual Recognition of Funds initiatives with European countries, the China Interbank Bond Market and the Asia Region Funds Passport.

Visit the full collection on our website:

<http://bit.ly/regmemos>

NOTES

FOLLOW US



FIND US

securities.bnpparibas.com



The information contained within this document ("information") is believed to be reliable but BNP Paribas Securities Services does not warrant its completeness or accuracy. Opinions and estimates contained herein constitute BNP Paribas Securities Services' judgment and are subject to change without notice. BNP Paribas Securities Services and its subsidiaries shall not be liable for any errors, omissions or opinions contained within this document. This material is not intended as an offer or solicitation for the purchase or sale of any financial instrument. For the avoidance of doubt, any information contained within this document will not form an agreement between parties. Additional information is available on request.

BNP Paribas Securities Services is incorporated in France as a Partnership Limited by Shares and is authorised and supervised by the European Central Bank (ECB), the ACPR (Autorité de Contrôle Prudentiel et de Résolution) and the AMF (Autorité des Marchés Financiers).

BNP Paribas Securities Services, London branch is authorised by the ACPR, the AMF and the Prudential Regulation Authority and is subject to limited regulation by the Financial Conduct Authority and Prudential Regulation Authority. Details about the extent of our authorisation and regulation by the Prudential Regulation Authority and regulation by the Financial Conduct Authority are available from us on request. BNP Paribas Securities Services, London branch is a member of the London Stock Exchange. BNP Paribas Trust Corporation UK Limited (a wholly owned subsidiary of BNP Paribas Securities Services), is incorporated in the UK.

In the U.S., BNP Paribas Securities Services is a business line of BNP Paribas which is incorporated in France with limited liability. Services provided under this business line, including the services described in this document, if offered in the U.S., are offered through BNP Paribas, New York Branch (which is duly authorized and licensed by the State of New York Department of Financial Services); if a securities product, through BNP Paribas Securities Corp. or BNP Paribas Prime Brokerage, Inc., each of which is a broker-dealer registered with the Securities and Exchange Commission and a member of SIPC and the Financial Industry Regulatory Authority; or if a futures product through BNP Paribas Securities Corp., a Futures Commission Merchant registered with the Commodities Futures Trading Commission and a member of the National Futures Association.

Printed on recycled paper with vegetable inks - Designed by the graphics department, corporate communications, BNP Paribas Securities Services.

180208C_SFO_HKOFRC_RM_EN