

New regulation in relation to ships' ballast water proposed

The Government proposes to make a new regulation under the Merchant Shipping (Prevention and Control of Pollution) Ordinance to incorporate the latest requirements of the International Convention for the Control and Management of Ships' Ballast Water and Sediments of the International Maritime Organization (IMO) into local legislation.

â€‹ The new Merchant Shipping (Control of Ballast Water and Sediments) Regulation seeks to implement the latest requirements of the Convention to regulate the discharge of ballast water of ships by establishing standards and procedures for the management and control of ships' ballast water and sediments.

â€‹ A spokesman for the Transport and Housing Bureau said today (May 18), "Major requirements of the Convention include requiring ships to conduct ballast water exchange before discharge, as well as to keep a ballast water management plan and a ballast water record book on board. The requirements will apply to all ocean-going vessels (OGVs) registered in Hong Kong and all OGVs within Hong Kong waters."

â€‹ The Legislative Council Panel on Economic Development and the relevant consultative committee of the Marine Department have been consulted. Members supported the legislative proposal.

â€‹ The legislative proposal was gazetted today and will be tabled at the Legislative Council on May 23 for negative vetting.

Subsidiary legislation for open-ended fund companies gazetted

The Government and the Securities and Futures Commission (SFC) published in the Gazette today (May 18) three pieces of subsidiary legislation to enable the implementation of the open-ended fund company (OFC) regime. The three pieces of subsidiary legislation are:

- (a) the Securities and Futures (Amendment) Ordinance 2016 (Commencement) Notice (the Commencement Notice);
- (b) the Securities and Futures (Open-ended Fund Companies) Rules (the OFC Rules); and
- (c) the Securities and Futures (Open-ended Fund Companies) (Fees) Regulation

(the Fees Regulation).

The Commencement Notice will bring into effect all provisions in the Securities and Futures (Amendment) Ordinance 2016 from July 30, 2018, onwards and the OFC regime will commence on that day. The detailed statutory operational requirements of the regime, including matters related to an OFC's formation, incorporation and maintenance, appointment and cessation of appointment of the key operators, corporate filings, segregated liability of sub-funds (if any), winding-up and offences, will be set out in the OFC Rules. The fees to be collected by the SFC and the Registrar of Companies in respect of OFCs will be set out in the Fees Regulation.

The Inland Revenue (Amendment) (No. 2) Ordinance 2018, which extends profits tax exemption to onshore privately offered OFCs, will also take effect on July 30, 2018.

"With the commencement of the OFC regime, fund managers will have the option of setting up a fund in the form of a company, in addition to the form of a unit trust. This additional choice should help diversify Hong Kong's fund domiciliation platform and build up our fund manufacturing capabilities. This will in turn help further develop Hong Kong's asset management industry," a government spokesperson said.

An OFC is a collective investment scheme with variable capital set up in the form of a company, but with the flexibility to create and cancel shares for investors' subscription and redemption in the fund. Also, an OFC will not be bound by restrictions on distribution out of capital applicable to a conventional company, and instead may distribute out of capital subject to solvency and disclosure requirements. The SFC will be the primary regulator responsible for the registration and regulation of OFCs under the Securities and Futures Ordinance (Cap. 571). The Companies Registry will oversee the incorporation and statutory corporate filings of OFCs and the Official Receiver's Office the winding-up procedure.

The three pieces of subsidiary legislation will be tabled before the Legislative Council on May 23, 2018, for negative vetting.

Order on Comprehensive Avoidance of Double Taxation Agreement with Saudi Arabia gazetted

An order made by the Chief Executive in Council under the Inland Revenue Ordinance (Cap. 112) to implement the Comprehensive Avoidance of Double Taxation Agreement (CDTA) with Saudi Arabia was gazetted today (May 18).

"The CDTA with Saudi Arabia ensures that investors will not have to pay tax twice on a single source of income. This CDTA will bring tax savings and a greater certainty on taxation liabilities for investors from Saudi Arabia when they engage in trade and investment activities with Hong Kong and vice versa," a Government spokesman said.

Highlights of the CDTA with Saudi Arabia are set out in the Annex.

The order will be tabled at the Legislative Council on May 23 for negative vetting. The CDTA will enter into force after both Hong Kong and Saudi Arabia have completed their ratification procedures.

Hong Kong signed the CDTA with Saudi Arabia in August 2017.

Banking (Amendment) Ordinance 2018 **(Commencement) Notice 2018 and Banking** **(Exposure Limits) Rules gazetted**

The Banking (Amendment) Ordinance 2018 (Commencement) Notice 2018 and the Banking (Exposure Limits) Rules were gazetted today (May 18) to modernise section 87 of the Banking Ordinance in relation to a prescribed limit on equity exposures incurred by authorised institutions.

Enacted by the Legislative Council in January 2018, the Banking (Amendment) Ordinance seeks to incorporate into local legislation the latest standards promulgated by the Basel Committee on Banking Supervision in relation to concentration of financial exposures of authorised institutions, by empowering the Monetary Authority to prescribe rules on financial exposure limits.

The Banking (Exposure Limits) Rules modernise section 87 of the Banking Ordinance by capturing equity exposures more comprehensively and recognising certain risk mitigation techniques commonly used in the industry in measuring equity exposures. The relevant provisions in the Banking (Amendment) Ordinance 2018 will have to commence operation to allow new rules to be made to replace section 87 of the Banking Ordinance.

A government spokesman said, "The Banking (Exposure Limits) Rules introduce a more flexible equity exposure limit which could enhance the resilience of the banking system and at the same time ensure competitiveness of the banking industry in Hong Kong. This is important to Hong Kong as a major international financial centre."

A Hong Kong Monetary Authority spokesman said, "Guided by the international principles on the supervision of a bank's concentration risk,

we have made the Banking (Exposure Limits) Rules to bring up to date the provisions for regulating authorised institutions' equity exposure. We have closely engaged the banking industry in the making of the Rules to make sure that the Rules reflect the latest market developments and risk management practices of the industry."

The Commencement Notice and the Banking (Exposure Limits) Rules will be tabled before the Legislative Council at its sitting on May 23, 2018 (Wednesday) for negative vetting, and will come into operation on July 13, 2018.

[Hing Wah Street West Playground to open on June 1 \(with photos\)](#)

The Leisure and Cultural Services Department (LCSD) announced today (May 18) that Hing Wah Street West Playground will be opened on June 1. Located at the junction of Hing Wah Street West and Tung Chau Street in Sham Shui Po, the newly built playground is in the vicinity of several public and private housing estates and will become a popular recreational and leisure venue for the enjoyment of residents in the community.

Hing Wah Street West Playground occupies an area of about 0.8 hectares, providing a wide range of leisure and sports facilities which will benefit people of all ages. The facilities include a seven-a-side artificial turf soccer pitch, a children's playground with a designated tricycling area, an area with fitness stations for the elderly, and landscaped areas and seating benches.

In view of the local community's strong demand for more pet gardens, Hing Wah Street West Playground features the third pet garden in Sham Shui Po District for people to walk their pets and enjoy activities in the well-equipped open space.

For enquiries, please contact the Sham Shui Po District Leisure Services Office of the LCSD at 2370 9193.

