

Speech by SJ at “Why Invest in Hong Kong: Current Opportunities” Webinar (English only) (with photo)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at "Why Invest in Hong Kong: Current Opportunities" Webinar today (April 30):

Laura (Chairman of the Hong Kong Exchanges and Clearing Limited, Mrs Laura Cha), Christopher (Secretary for Financial Services and the Treasury, Mr Christopher Hui), Tony (Chairman of the Asian Academy of International Law, Dr Anthony Neoh), distinguished panellists, ladies and gentlemen,

It gives me great pleasure to welcome you to the second webinar in the "Why Hong Kong" series. Triggered by a comment from a media, the Asian Academy of International Law has taken the initiative to organise an event entitled "Why Hong Kong is Irreplaceable". Thereafter the "Why Hong Kong" series is organised monthly, starting with "Why Arbitrate in Hong Kong" last month, and today, "Why Invest in Hong Kong: Current Opportunities".

The legal services in Hong Kong is not just about dispute resolution as some may perceive. Since 2018, extra efforts have been made in promoting Hong Kong as a deal-making hub in the light of the opportunities rendered under the Belt and Road Initiative and the Greater Bay Area. Dispute resolution services are but a corollary to deal making for the simple reason that it is inevitable that transactions, unfortunately, tend to generate disputes. As the shift of the global economy is without a doubt moving to Asia, disputes should be dealt with inside the region, preferably where the transactions took place, for reasons of costs and efficiency and importantly the understanding of the culture.

Today we focus on deal making and the financial services that accompany it. The two areas of law and finance are in fact closely intertwined. Corporate governance, capital raising and legal compliance are essential to any commercial activity. The backing of a solid rule of law and regulatory framework is important to the reliability and vibrancy of financial markets.

Law does not exist in a vacuum, nor does it solely exist in the ivory tower for academics to pour over. The law in its origin exists in order to be practised and observed in the real world. It provides a legal order for all by which a fair, open and transparent market economy can thrive.

It is with these two points in mind – the law only exists in practice, and the law and finance are intertwined – that our target audience and speakers are not only lawyers, but also those engaged in business and finance. Today's speakers are here to discuss, from a user perspective and with their abundant experience on capital and financial markets, on why they see Hong Kong as a platform to invest in, and through.

The regulatory and legal compliance of any deal or financial transaction necessitate the support of mature international legal services. The legal system has to be such that investors can be satisfied of the legal certainty and predictability of the laws, in particular that in the commercial area, and that there are checks and balances to ensure a level playing field.

Hong Kong practices common law under the "one country, two systems" policy which is constitutionally backed by the Basic Law. Our common law system is open, transparent, rule-based, and independent. The case law developed here also provides a business friendly, certain and predictable legal framework for investors and the international business community.

One extremely important facet of the common law is the independence and strength of our judiciary, which is highly regarded and internationally recognised. Hong Kong cases are cited in overseas jurisprudence from time to time, which speaks volumes on the confidence of the global legal community in the integrity and quality of Hong Kong's judicial system. As the Chief Justice notes:

"An independent judiciary is essential to the rule of law in Hong Kong and the due administration of justice. It is equally crucial to public and business confidence – whether local or overseas – in our judicial system, as well as to the international reputation of Hong Kong as a society that is governed by the rule of law under the 'one country, two systems' arrangement."

Hong Kong's judicial independence is evidenced by the solid infrastructure that is primarily laid down in the Basic Law, and judgments rendered are well reasoned and publically available for all to see. Judicial independence is taken seriously in Hong Kong. As Lord Sumption, a former Judge of the United Kingdom Supreme Court and a Non-Permanent Justice of the Hong Kong Court of Final Appeal noted in a statement published in *The Times*:

"The permanent judiciary of Hong Kong is completely committed to judicial independence and the rule of law. Successive chief justices have made this clear in public statements. These statements are not just lip service. They represent the convictions of experienced, courageous and independent-minded judges."

The Department of Justice is also committed to promoting and upholding the rule of law. By launching the "Vision 2030 for Rule of Law" initiative ("Vision 2030"), we aim to promote the better and proper understanding of the rule of law, fair and inclusive societies, access to justice and furthering the Department's mission of "Rule of Law and Justice for All". One of the important projects of "Vision 2030" is the collection of objective data which will enable us to better understand how these data, together with the culture of the region (both social and legal cultures) may influence on the subjective perception of citizens on the rule of law. This, we believe, will help solidify the proper understanding of how the rule of law is practised and hence to improve on it as necessary.

While we are not dealing with dispute resolution today, it is worth

noting that mediation and arbitration are both widely practised in Hong Kong. In 2015, Hong Kong was ranked the third most preferred seat worldwide just behind London and Paris. Whilst there is some minor fluctuation in 2018, Hong Kong remains in the top five most preferred seats of arbitration in the world. The Hong Kong International Arbitration Centre has been consistently ranked first for location, value for money, helpfulness of staff and IT services by the Global Arbitration Review's Hearing Centres Surveys from 2013 to 2020. As to mediation, apart from the Mediation Ordinance, Hong Kong is the first Asian jurisdiction to enact the Apology Ordinance which helps foster the culture of amicable dispute resolution and dispute avoidance.

Returning to deal making, the objective data shows that Hong Kong is a unique platform. For example, Hong Kong's Initial Public Offering market has ranked number one in the world in seven of the last 12 years, and in 2020 alone 398 billion Hong Kong dollars were raised in the Hong Kong IPO market. Last year, Hong Kong ranked number two, just after NASDAQ, raising some US\$51 billion, which is an increase of over 25 per cent from 2019. The numbers also reflect our strong legal fraternity in providing the necessary legal services. We have over 1 500 practising barristers and 10 000 practising solicitors in Hong Kong. There are also more than 85 foreign law firms and 1 500 registered foreign lawyers in Hong Kong as well, and of a course a pool of financial talents. As Eddie Yue, the Chief Executive of the Hong Kong Monetary Authority said in his keynote in the "Why Hong Kong is Irreplaceable" webinar, "talent always follows the money".

Hong Kong is indeed irreplaceable because we have the solid legal and financial infrastructure, business opportunities unique under the "one country, two systems" policy, and a pool of talents with a diverse background and outlook.

Looking forward, the Department of Justice has been working closely with the Mainland, creating more unique opportunities for Hong Kong and reinforcing our strengths discussed above. We are hopeful that there will be some good news soon. Indeed, the next webinars "Why use Hong Kong Law", and "Why Invest in Hong Kong: a Look to the Future", are not to be missed.

Finally, let me thank the convenors and speakers for sharing their unique insights and first-hand experience on the ground in Hong Kong so that myths may be dispelled, confidence reinforced, and opportunities seized. Thank you very much.

