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HONG KONG GEARS UP FOR FINTECH

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Legal Briefings – By **William Hallatt**, **Damien Bailey** and **Stella Loong**

Following the announcement in the February budget speech that the government will take active steps to increase Hong Kong's attractiveness as a fintech hub, the Hong Kong Monetary Authority ("**HKMA**") and the Securities and Futures Commission ("**SFC**") have opened up the lines of communication between regulators and the fintech community.

Specifically:

- the HKMA has established a Fintech Facilitation Office (see speech dated 21 March 2016 in English and Mandarin); and a dedicated email account; and
- the SFC has established a Fintech Contact Point and a Fintech Advisory Group.

The principal objective behind these groups is to facilitate greater dialogue between regulators and interested parties. Notably, the Fintech Advisory Group brings together senior members of the SFC's Risk and Strategy Unit as well as thought leaders from various industries for the purposes of advising the SFC on its engagement with businesses involved in the development of fintech in Hong Kong.

We expect the formation of these groups to enable the Hong Kong government to respond more quickly and relevantly to the needs of the various players in the fintech environment. In particular, we foresee that the regulators will make it their priority to issue further clarification on the regulation and requirements around crowdfunding (including P2P lending) and cyber security in the coming months ahead.

We also note that these initiatives are consistent with the way governments around the world are supporting the development of fintech in their economies, however, it is arguable that Hong Kong still has some way to go. For comparison, the Australian government has recently issued its statement on fintech (21 March 2016), which goes much further in terms of outlining plans to release regulatory guidance on “robo-advice”, P2P lending products, and the development of a world leading “regulatory sandbox” that would allow companies to manage regulatory risks during product testing stages.

Nevertheless, businesses should be encouraged by the openness from the regulators to pursue a dialogue. In this regard, we note that the collaborative stance is also resonant with the approach the HKMA has adopted towards new and existing entrants in the emerging payments economy. That is, in the guidance issued to persons applying for a licence to operate a stored value facility (“**SVF**”) (i.e. products such as the Oyster Card and the Alipay Wallet mobile app), applicants are “strongly encouraged” to discuss their plans with the HKMA before submitting a formal application; in cases where the applicant’s parent company is also engaged in an SVF business in another country, then the HKMA has also said that it may contact the relevant regulator in that country to discuss risks associated with the expansion of the SVF business in Hong Kong.

Hong Kong has always valued the entrepreneurial spirit, but with legislation failing to keep pace with the advances of technology and other countries keen to call themselves the fintech hub of the world, one wonders whether simply opening up the lines of communication will be enough.

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