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WOOING MULTINATIONALS

Tax initiatives bolster Hong Kong's position as a financial services centre

Introduction

The HKSAR Government wants more multinational enterprises (MNEs) to call Hong Kong home. Recent financial budgets have contained important tax initiatives to encourage MNEs (including Chinese enterprises) to establish their asset management businesses, corporate treasury centres and intellectual properties holding hubs in Hong Kong. The idea is to promote Hong Kong as the premier financial service centre in the region and preferred investment management platform for MNEs.

Asset management centre

On 17 July 2015, the Inland Revenue (Amendment) (No. 2) Ordinance 2015 (New Offshore Fund Law) was gazetted, exempting non-resident private equity (PE) funds from profits tax. The legislation became effective on 17 July 2015 and applies retroactively to transactions carried out from 1 April 2015.

This new legislation is an extension of the existing offshore fund law[1] which was introduced in March 2006 and exempts non-resident funds from Hong Kong profits tax on "specified transactions" carried out through or arranged by "specified persons" [2]. "Specified transactions" are broadly defined to include transactions in securities, futures, foreign exchange contracts, foreign currencies and exchange traded commodities and the making of certain deposits. However, they exclude transactions in shares in private companies. This explains why under the older offshore fund law, PE funds were not exempt from profits tax.

Some key features of the New Offshore Fund Law:

- Extending the exemption to transactions in an "excepted private company" which is defined to mean:
  - a private company incorporated outside Hong Kong; and

1 The existing offshore fund law is contained under Section 20AC of the Inland Revenue Ordinance.
2 "Specified person" means a corporation licensed under the Securities and Futures Ordinance to carry on a business in any regulated activity.

- at all times within three years prior to the transaction taking place, such company did not carry on any business through or from a permanent establishment in Hong Kong; and
- not more than 10% of the aggregate value of its assets comprises:
  - share capital in private company(ies) carrying on a business through or from a permanent establishment in Hong Kong, or
  - immovable property in Hong Kong, or share capital in private company(ies) directly or indirectly holding immovable property in Hong Kong.

- Allowing a "qualifying fund" that is not managed by a person licensed under the Securities and Futures Ordinance to be exempted from profits tax if it meets the following criteria:
  - At all times after the fund's final closing, the number of investors in the fund exceeds four,
  - The capital commitments made by investors exceed 90% of the fund's aggregate capital commitment, and
  - The net proceeds to be received by the originators of the fund and their associates, after deduction of capital contributions, do not exceed 30% of the net proceeds of the fund.

- Granting profits tax exemption to special purpose vehicles[3] (SPVs), which are commonly used by PE funds to hold their investments, in respect of profits derived from certain transactions, including profits from disposal of an excepted private company or an SPV that owns an excepted private company.

- The addition of an anti-avoidance provision to tax a Hong Kong resident person's share of an SPV's tax exempt profits.

The New Offshore Fund Law provides tax certainty for PE funds which satisfy all the prescribed conditions. Hong Kong will attract non-resident PE funds which are currently managed by asset managers located in jurisdictions where income tax exemption to the funds is not available (eg mainland China). This will enhance Hong Kong's competitiveness and strengthen its position as an international asset management centre.

Corporate treasury centre

Under existing Hong Kong tax law, income earned by a group treasury company from its ordinary course of corporate treasury management and money lending activities carried out in Hong Kong is subject to profits tax at the rate of 16.5%. However, any interest payment made by such a group treasury company to its overseas group companies is not tax deductible because such interest is not chargeable to Hong Kong profits tax in the hands of the overseas recipients. This asymmetrical tax treatment has resulted in Hong Kong being a less attractive location for corporate treasury operations.

In order to attract MNEs to establish corporate treasury centres (CTCs) in Hong Kong to perform treasury activities for their group companies, the Financial Secretary proposed in his 2015/16 Budget the introduction of a CTC regime in Hong Kong. On 1 June 2015, a proposal to attract enterprises to establish CTCs in Hong Kong was discussed in the Legislative Council Panel on Financial Affairs. Under the proposal, the following measures and incentives would be introduced to attract CTCs to be established in Hong Kong:

i Amendment to Section 16(2) of the Inland Revenue Ordinance (IRO) to allow deduction of interest expenses paid by a "qualifying CTC" to associated corporations outside Hong Kong – provided that the corresponding interest received by the associated corporation is subject to tax of substantially the same nature of profits tax in a territory outside Hong Kong, with the tax paid thereon at a rate not lower than Hong Kong's profits tax rate.

ii Amendment to Section 15(1) of the IRO to make it clear that the interest income and specified disposal profits – earned by a CTC in respect of the business of the borrowing from and lending of money to associated corporations in or outside Hong Kong – are deemed trading receipts chargeable to profits tax, when their interest expenses pay for the borrowings from associated corporations in or outside Hong Kong are deductible.

iii A 8.25% (ie current profits tax rate of 16.5% × 50% = 8.25%) concessionary tax rate will apply to qualifying profits of a qualifying CTC in relation to its qualifying corporate treasury activities, including:
  - loans made to associated corporations outside Hong Kong;
  - qualifying corporate treasury services provided to these associated corporations outside Hong Kong; and
  - qualifying corporate treasury transactions undertaken on its own account with any person not carrying on a trade, profession or business in Hong Kong (non-HK entities).

It has been proposed to apply the half-rate tax regime to a qualifying CTC as a whole rather than to each qualifying corporate treasury activity. This "entity-based approach" is preferred to the "activity-based approach" as it is tidier in terms of implementation. There will be anti-avoidance provisions to prevent abuse of this half-rate tax concession. The HKSAR government is currently conducting industry consultations about this new CTC legislation. It is anticipated that a draft bill will be available in the latter part of 2015 and the proposed legislation changes could be passed by the Legislative Council in the 2015/16 legislative year.

The introduction of the CTC regime will help remove the asymmetrical tax treatment that may arise from intergroup company money lending and borrowing transactions. Nonetheless, based on the current draft of the June 2015 proposal, it seems the half-rate concessionary tax treatment is limited to certain loans and corporate treasury services provided by a qualifying CTC to its overseas associated corporations, and certain qualifying corporate treasury transactions undertaken by a qualifying CTC with non-HK entities.

In other words, a qualifying CTC would still be subject to profits tax at the full rate of 16.5% in respect of its loan interest income and corporate treasury services income received from associated corporations in Hong Kong, as well as profits derived from corporate treasury transactions undertaken with other Hong Kong entities (eg banks or other financial institutions). MNEs should evaluate the effectiveness of this CTC regime to their corporate structure once the new legislation is enacted.

Intellectual property hub

In the 2015/16 Budget, the Financial Secretary also seeks to provide a more commercially friendly environment for operating an intellectual property (IP) hub in Hong Kong with a view to attracting MNEs to hold their IP in Hong Kong. In particular, the scope of tax deduction for capital expenditure incurred on the purchase of IP rights would be extended to cover more types of IP rights as appropriate.

Under existing Hong Kong tax law, any capital expenditure incurred by a person carrying on a trade, profession or business on (i) the purchase of patent rights or rights to any know-how for use in Hong Kong and/or (ii) specified intellectual property rights[4] for use in the trade, profession or business in the production of profits in respect of which the person is chargeable to profits tax shall be deductible in accordance with the relevant provisions of the IRO. However, no deduction is allowable under Section 16E or 16EA in respect of any relevant right purchased by a person wholly or partly from an associate. Unless this restriction is relaxed or removed in the new legislation, MNEs may not be able to avail themselves of the tax benefits by transferring any qualifying IP rights owned by existing group entities to their IP hubs in Hong Kong. For the purchase of certain IP rights from third parties, however, tax deduction may be available provided certain conditions are satisfied.

3 SPV means a corporation, partnership, trustee of a trust estate or any other entity that is incorporated, registered or appointed in or outside Hong Kong and must be wholly or partially owned by a non-resident person and does not carry on any trade or business except solely for the purpose of holding, directly or indirectly, and administering one or more excepted private companies.

4 Specified intellectual property right means copyright, registered design or registered trademark.

Conclusion

Hong Kong has long been renowned for its low rate taxation system, with a simple, territorial basis. Therefore, Hong Kong is commonly used by MNEs for investment holdings and as the principal location for parking profits. Nevertheless, with the rapid expansion of Hong Kong's tax treaty network and the finalisation in early October 2015 by the Organisation for Economic Cooperation and Development of its base erosion and profit shifting action plans to tackle the negative effect on national tax bases of MNE tax avoidance strategies, it is expected that MNEs may no longer be able to establish a pure investment holding company or "cash-box" entity in Hong Kong without being challenged by tax authorities across the globe.

The above proposals/new legislation initiated by the HKSAR Government aim to enhance the tax effectiveness of using a Hong Kong company either as a regional CTC or as an IP holding company with real economic and business substance. MNEs – including those Chinese enterprises taking advantage of the state strategy of "Going Global" – may therefore want to revisit their group structures and consider how Hong Kong can play a role in their international tax planning.

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GOOD MPF EMPLOYER AWARD 2014/2015

BDO was awarded the "Good MPF Employer Award 2014/2015" by the Mandatory Provident Fund Schemes Authority. BDO is the only accounting & advisory organisation in Hong Kong to receive this award.

This special award has been launched in Hong Kong for the first time to commend employers who place a high value on their employees' retirement needs. Apart from being compliant with MPF legislation, the awardees must have taken extra steps towards enhancing the retirement protection of their employees. Among the 270,000 employers that provide MPF for their employees on a regular basis, only 0.2% of these companies were qualified to receive the award.

BDO WINS IAB NETWORK OF THE YEAR AWARD

BDO was announced as the winner of the prestigious Network of the Year award at the International Accounting Bulletin (IAB) Awards 2015.

The annual IAB Awards celebrate excellence in the accounting profession and bring together some of the most prominent people in the industry. BDO was up against strong competition, including PWC and KPMG, shortlisted in the same category. Network of the Year is awarded to networks that have demonstrated the execution of profitable growth strategies during the past 12 months, and have excelled in a number of key strategic and operational areas. They are also recognised by the industry as a reputable brand that consistently delivers high quality professional services.

The continuing development of our network is a defining and vital element of our strategy and in the past year BDO's global performance continued to surpass that of the world economy. In 2014 we achieved an 8.81% increase in combined worldwide revenues, crossing the US$7 billion mark for the first time and increasing our geographical reach with the addition of firms from 8 countries.

BDO GLOBAL NETWORK DEVELOPMENT AT A GLANCE

BDO appoints new member firm in the Palestinian Territories

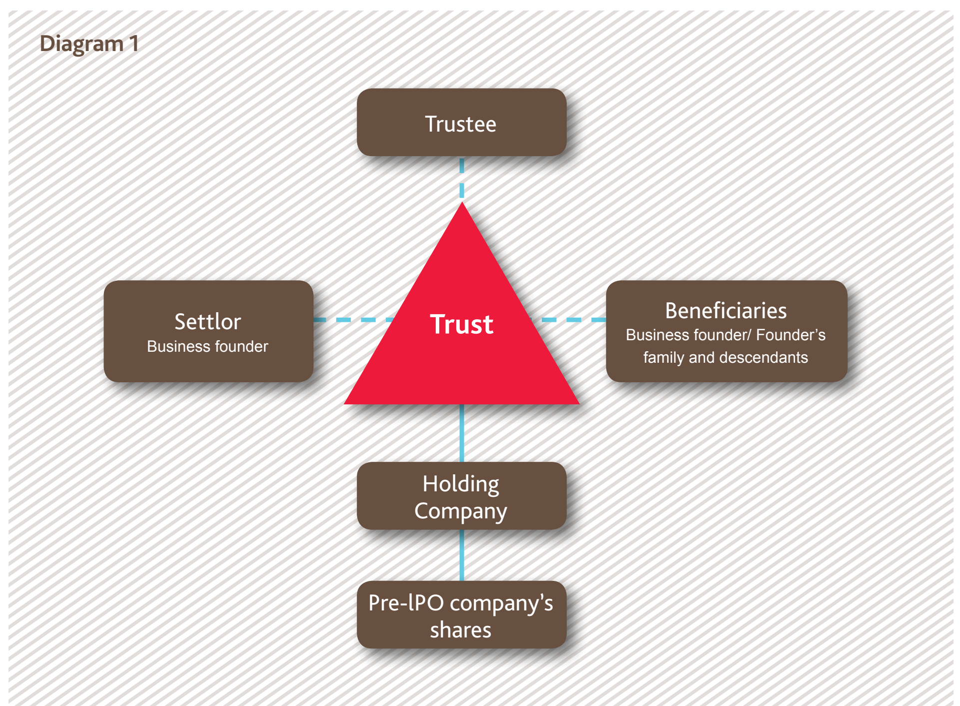
BDO is pleased to announce the appointment of a new member firm in the Palestinian territories. Formerly Harvard for Accounting, Auditing & Tax Services, the new BDO firm will be known as BDO Accounting, Audit & Tax Services. Established in 2009, the firm is based in Ramallah and focuses on delivering audit & accounting, tax, advisory and corporate finance services – to banks and international NGOs, in particular.

The firm's revenues are increasing at approximately 70% per annum, which shows remarkable growth. Managing partner Nabeel Mahmoud Zeidan is convinced that, under the BDO brand, this growth can only accelerate.

TRUSTS AS AN ESSENTIAL PART IN PRE-IPO PLANNING

With a solid reputation as a leading jurisdiction for listings, Hong Kong has long been a favourite place for mainland Chinese entrepreneurs seeking to list their companies. A key part of the pre-IPO planning process often involves the establishment of a family trust structure.

Trusts are generally regarded as tools used by high net worth individuals/families for traditional purposes such as asset protection, wealth succession and tax planning. A suitable trust structure, however, can play a crucial role in pre-IPO planning. **Diagram 1** shows a typical trust structure for holding pre-IPO shares.



This article will briefly discuss some of the benefits of settling pre-IPO shares into a family trust structure.

Business succession planning

One of the main aims of pre-IPO planning is to preserve the business over the long term. Using a trust structure to hold pre-IPO shares can be an effective way to formulate clear rules on how the beneficial ownership of the shares and future dividends should be passed on to family members. Often, family members (including the business founder) who are beneficiaries of a trust sit on the board of directors or the management committee of the holding companies under the trust. This helps to ensure that the management and control of the business (including the listed company) is retained in the hands of the founder and his/her family members in accordance with his/her wishes.

Continuity of shareholding

The period leading up to a listing is delicate, and sudden changes to the shareholding of a company may disrupt the listing process. Imagine a founder who holds all the shares of a company but becomes incapacitated (or dies) during the listing process: the shares could be frozen in probate and the IPO could be derailed.

A trust structure can prevent shares from being frozen due to the incapacitation (or death) of a founder. If the pre-IPO shares are transferred into a trust and held by a third-party trustee, this will ensure the continuity of share ownership throughout the listing process since trusts, unlike individuals, do not die and can last long – even in perpetuity in certain jurisdictions.

Consolidation of majority shareholding

If shares are distributed among family members before the listing, it is possible that some family members do not wish to vote in the same way as others. Using a trust to hold pre-IPO shares (i) ensures that the majority/controlling voting rights of the shares before the listing are preserved after the listing and (ii) reduces the chance that the listing process is impeded due to a dilution of the majority/controlling voting rights.

Protection against matrimonial disputes

Divorces have become more prevalent, not only in Western societies but also in China and Hong Kong. In China, the usual starting point in law of a matrimonial property claim is that all matrimonial property should be shared equally (50/50) between the spouses if they divorce.

Most wealthy families in mainland China only have one child. If the parents of these single children pass on all their family wealth in a lump sum to their son or daughter, and if that son or daughter's marriage ends in divorce, half of the family wealth could be lost through the divorce.

A proper trust structure is an effective tool to protect the controlling powers over the assets (including the listed shares) from spousal claims in the event of a divorce of either the founder or any beneficiaries of the trust.

Protection against creditors' claims

Shares that are legally and rightfully transferred to, and held in, a properly structured trust are generally protected from creditors' claims. As long as certain criteria are met, shares that have been transferred into a trust belong to the trustee. Even if the settlor (ie the founder) or any of the beneficiaries of the trust later face financial difficulties, bankruptcy or insolvency, the shares in the trusts will still be in the custody of the trustee and may not be claimed by the creditors.

Tax advantages

Hong Kong currently does not impose tax on dividends and capital gains. Since Chinese nationals are subject to tax on their worldwide income (which includes capital gains and dividends), using a trust to hold pre-IPO shares for the benefits of family members may enable the deferral of tax until such time when dividends or gains are distributed to them.

In some jurisdictions, the idea of settling pre-IPO shares into a trust may be used to avoid estate tax or inheritance tax. Hong Kong abolished estate duty almost a decade ago. Although China currently does not impose inheritance tax, many Chinese nationals are concerned that the draft inheritance tax laws of China – which were proposed in 2004 and revised in 2010 – may soon be promulgated. The establishment of family trusts by high net worth Chinese individuals with a view to holding assets (including pre-IPO shares) for the benefits of their family members may be a planning tool for mitigating inheritance tax – should the new laws come into effect.

Reporting to regulatory bodies

In some cases, the transfer of shares into a trust after listing is likely to trigger reporting obligations to the local stock exchanges and other local regulators, whereas the transfer of shares into a trust prior to a listing usually does not require any notification to the stock exchange or other regulators. Also, transferring shares into a trust after a listing may draw public attention and lead to media speculation, resulting in a negative impact on the share price.

Conclusion

Listing on a stock exchange is an important phase in the life of a company and we have highlighted some of the general factors that ought to be considered when planning a pre-IPO. We have not intended to address the specific circumstances of individuals or entities, and it is therefore important that individuals seeking to list their companies using a trust structure first obtain proper advice so that such structure delivers the desired objectives.

BDO's Private Client Team offers a wide range of tailored services to high net worth individuals who want their wealth, family business and tax affairs managed proactively and seamlessly. The team works with a vast network of reputable and experienced international professional service providers (such as investment bankers, migration experts, trustees, real estate agents and lawyers) and can facilitate building up a team of professionals that can help clients meet their personal and family needs.

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CROSS BORDER DATA TRANSFERS: THE COMPLIANCE PITFALLS

The recent surge in spam emails and phone scams has had the general public worried about the transfer of their personal data to places outside Hong Kong. It has once again put section 33 of the Personal Data (Privacy) Ordinance (PDPO) into the spotlight.

PDPO is nothing new in Hong Kong. The PDPO (Cap 486) was enacted in 1995 by the government of Hong Kong, which was then a British colony. Section 33 deals with the cross border transfer of personal data, but has not yet entered into effect. It has taken some 20 years of consultation and preparation work – as well as studies of the current situation about the transfer of personal data to places outside Hong Kong – before the "Guidance on Personal Data Protection in Cross Border Data Transfer" (the Guidance) was published by the Office of the Privacy Commissioner for Personal Data, Hong Kong (the Office) on 29 December 2014. Section 33 outlines the importance of personal data and the role of data users. It aims to help organisations understand their compliance requirements under section 33 and to assist them in preparing cross border data transfer agreements with the overseas recipients of data.

Definitions

Personal data: Any kind of direct or indirect data to identify an individual. Personal data protected by PDPO include:

1. Names;
2. Phone numbers;
3. Addresses;
4. Identity card numbers;
5. Photos;
6. Medical records;
7. Employment records; and
8. Other personal records (such as personal records attached to social media networks, airlines and travel agents, etc).

Data user: A person, solely or jointly with other persons, involved in the collection, holding, processing or use of the data.

Table 1

Impact on cross border transfer of personal data when section 33 is in effect	Impact	No Impact
1) Involvement by the third party data processors in or outside Hong Kong (eg offshore or outsourcing companies)	✔	
2) Passing the customers' personal data to contractors outside Hong Kong (eg direct marketing)	✔	
3) Intragroup companies to download or access the personal data from the centralised database (eg Human resources department in the multinational companies)	✔	
4) Storing the personal data in the cloud server which can be accessible outside Hong Kong	✔	
5) Data transfer – the personal data is transferred to a place outside Hong Kong due to Internet routing		✔

Scenarios

Table 1 details the impact on data users when section 33 of PDPO comes into effect.

The Office did not indicate the exact date when section 33 will take effect, but employers should be aware of their obligations under this ordinance, and prepare for the implementation of the policies and procedures, in particularly issues relating to companies located outside of Hong Kong, or hiring of foreign contractors and storage or disposal of personal information of employees of the company.

Exceptions

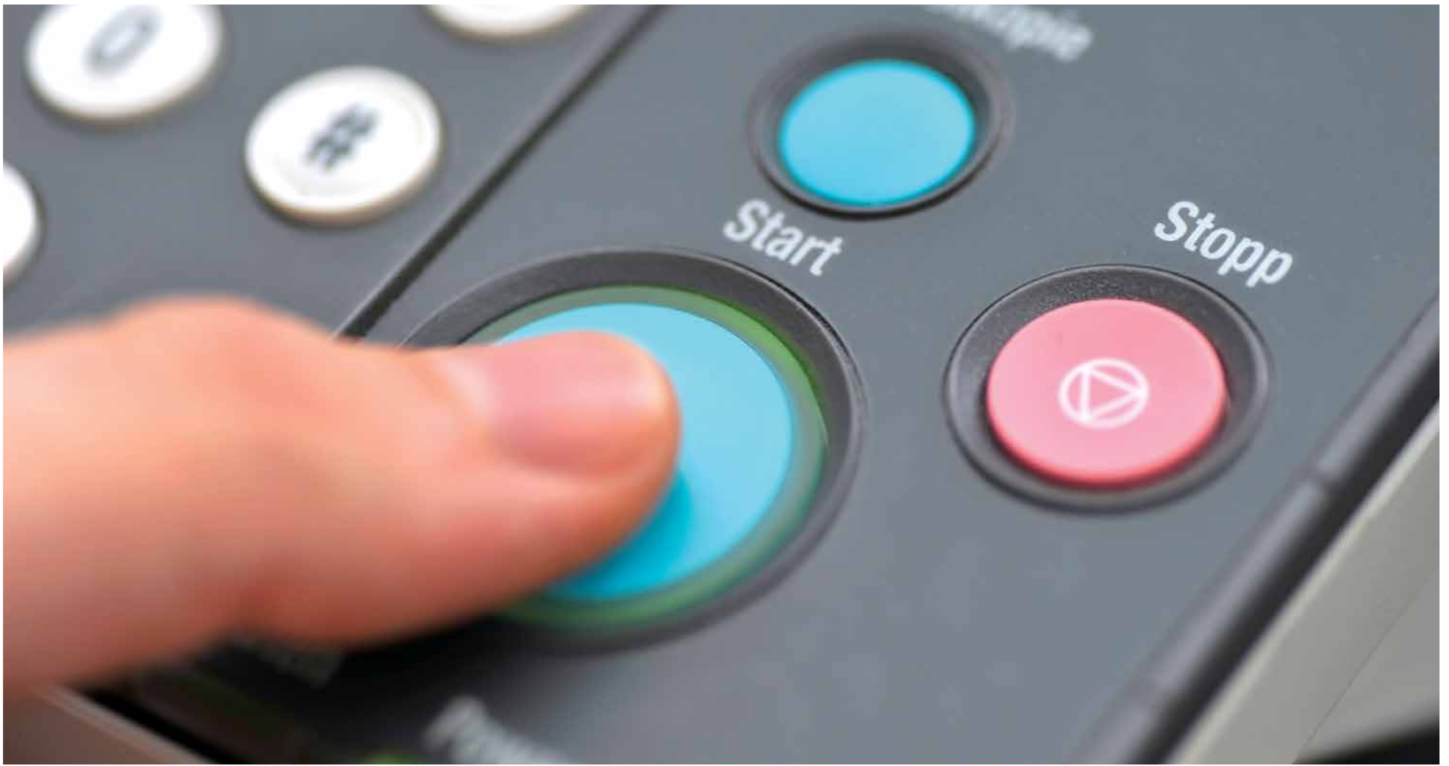
Under section 33, if the collection, holding, processing or use of personal data is in Hong Kong, the data user at the place of business should be controlled and monitored. Section 33 (2) provides that personal data shall not be transferred to a place outside Hong Kong, **EXCEPT** in the case of any of the following conditions:

- The Privacy Commissioner for Personal Data, by notice in the Hong Kong Gazette, considers the place to which the data are transferred to be on a "White List", meaning that the place has a substantially similar jurisdiction to Hong Kong or has similar data privacy laws to Hong Kong. At present, such White list has not been finalised by the Office.

- Data users (eg employers) have reasonable grounds to believe that the laws of the place to which the data are transferred are substantially similar in purpose to the regulations of PDPO.

- The data subject (eg employee) has consented in writing to the data transfer activities.

- Data users (eg employers) have reasonable grounds to believe that any adverse effect of the data transfer on the data subject (eg employees) has been cancelled out; or action has been taken to mitigate the impact of the data transfer; and it is not practicable to obtain the data subject's written consent. But if that were practical, such consent would have been provided.



- An exemption under this Ordinance Part VIII from Data Protection Principle (DDP) applies (ie for reasons of domestic purpose, staff planning and employment, security in respect of Hong Kong, prevention of crime of Hong Kong, health, news, statistics and research, etc).
- Data user has taken all reasonable precautions and all efforts have been made to ensure that the information collected, held, processed or used in the place to which the data are transferred has been collected, held, processed or used as if that place were Hong Kong, and no regulations have been violated.

The Office has imposed penalty clauses on contravention of section 33, once it enters into effect. The penalty may reach up to HK$10,000 and further breaches of an enforcement notice will turn into further offences. A first conviction can be penalised by up to a maximum fine of HK$50,000 and two years imprisonment. While the effective date of PDPO section 33 has yet to be determined, the Office has the authority to impose penalty clauses on corporate data users for current contraventions committed. Therefore, it is imperative for data users to establish a code of good practice on operation of cross border data transfer.

Dealing with potential risks

In view of the potential risks of cross border data transfers, the data users should take immediate action to review and update the following:

- The data users (eg employers) should review their current arrangements by setting up policies or procedures for the transfer of data and to identify if such arrangements involve cross border transfer of personal data (eg offshore personnel data storage, outsourced data processing and storage capabilities, or intragroup sharing of information within the companies outside Hong Kong). If it is the case, data users should assess if there is threat for arranging sensitive data storing outside of Hong Kong and take immediate actions to rectify the situation so as to comply with the requirements of section 33 PDPO.
- Data users should take necessary control measures on cross border data flow activities (for example, to review and upgrade their IT infrastructure to restrict access or download of personal data by unauthorised persons outside Hong Kong).
- If cross border transfers of personal data are necessary for data users, they must obtain consent in writing from the data subjects.
- The data users shall always maintain a record of personal data transferred outside Hong Kong, shall monitor the data handling process of the offshore data processors (and their related entities), shall keep track of the status of the personal data and shall assess privacy risks continuously.
- Data users must take effective control measures to regulate the offshore data recipients (and their related entities) by entering into a contract with terms to strictly define the limitations on data retention and data security.
- For security purpose, data users must always be reminded to apply protective measures while transferring the employees' personal data offshore (such as: the de-identification of an employee's personal information by creating an employee code, the encryption of personal information, etc).
- Data users should monitor updates of the White List and other exceptions from the Office.
- Data users must conduct regular audits and inspections of the offshore transferees' operations to ensure that they have complied with their obligations as required by the PDPO.

The long awaited implementation of section 33 under the PDPO is said to be near. As part of their corporate governance responsibility, the data users, particularly multinational companies, are encouraged to have well developed practices in place to handle the offshore data transfer.

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RISKS OF PEER TO PEER (P2P) FINANCE IN CHINA

Things to consider before investing in P2P ventures

The number of P2P finance companies has soared in China in recent years as a solution to the financing needs of millions of small businesses. As of the end of July 2015, there were a total of 3,846 P2P finance companies in China. The number of daily individual lenders using a P2P network reached 165,200 people nationwide in China during the period from January to July 2015, which is an increase of 113,300 people compared to the same period in 2014, representing an increase of 218%. **(Table 1)**

As of the end of July 2015, the net balance of P2P loans was RMB270.897 billion, 219% more than the RMB84.827 billion in the same period in 2014. From the perspective of the net balances, it would seem as though the P2P loan market is immense and rapidly growing.

Yet, a large number of P2P companies have had difficulties. Cumulatively since 2013, 24.13% of the P2P companies have had operational or legal problems. From January to July 2015, 566 P2P companies encountered serious liquidity difficulties or had to close down. Owners have disappeared, businesses have been hoarded up, companies have been investigated for fraud…

In July 2015, the People's Bank of China and nine other ministries and commissions issued the «Guiding Opinions on Promoting the Healthy Development of Internet Finance» (the "Guiding Opinions"). This is the first internet finance regulation in China particularly addressing P2P loans. According to the Guiding Opinions, P2P companies should act as information intermediaries, mainly providing information exchange, match-making and credit assessment for the direct lending of both lenders and borrowers. The China Banking Regulatory Commission is the competent authority for P2P network loans. It will issue more detailed guidelines.

With the newly issued regulations, the market expects that the participants in the P2P network loan market can be regulated in a healthier manner while the market can maintain its growth, considering that small companies still have a funding need and that there are many individual investors with a healthy appetite. However, some risks associated in the China P2P network loan should still be taken into consideration before investing in a P2P company or lending money to the borrowers through the P2P network platform:

Table 1

	January-July 2014	January-July 2015	Number increased	% Increased
Number of Daily individual P2P lenders	51,900	165,200	113,300	218%

- **Qualification risk**
  Banks or trust companies may need a registered capital of billions of renminbi, an amount that may not be used for daily operations. This obviously sets a high threshold for accessing the financial services industry. P2P companies, on the other hand, are legally defined as information intermediaries. P2P platform software can be low-cost from several million down to only a few thousand renminbi. There have been instances where individuals purchased low-cost platform software and started attracting lenders, promising a return as high as 30% or even up to 70%. Unfortunately, those funds eventually disappeared in personal pockets.

- **Misappropriation risk**
  It is essential for a P2P company to ensure that the fund is loaned to the agreed borrower and project. Equally important is to safeguard the funds. However, a large number of P2P companies do not use a third-party financial institution to manage the funds, preferring to keep these in their own accounts. (On the other hand, even if they did use a third-party fund manager, it would only help P2P companies open accounts without guaranteeing supervision of the funds' usage.) Some P2P companies can easily withdraw the funds for operational needs or even for repaying the owners' personal loans.

  The Guiding Opinions require that P2P companies deposit the funds into a third-party fund management account. The market is waiting for the detailed guidelines to regulate the responsibilities of both P2P companies and the fund management party in ensuring that the lenders' funds are properly monitored to avoid misappropriation.

- **Information system risk**
  The information systems used by many P2P companies are low-cost and immature. Also, a large number of the P2P companies are profit-driven and do not invest in the development and upgrading of the information system. Interestingly, P2P companies are keener on spending on marketing and commercials rather than on their system security and stability. As a result, there is increasing risk of unreliable data processing, damage by malicious attacks, data loss and unauthorised data modification.

- **Information disclosure risk**
  With the rapid development of the P2P industry, the market expects an adequate disclosure of the borrower's information and credit assessment. However, there is no requirement or guideline specifying what type of information should be provided by the P2P companies on the borrower and on the specific projects. As a result, key information which could help potential lenders make a judgment is missing, intentionally or not. P2P companies ought to encourage borrowers to provide either a personal or a third-party financing guarantee and sufficiently disclose such information.

- **Management risk**
  The P2P industry is growing rapidly in China, yet has a very short history as of today. Many P2P lenders are not properly and sufficiently educated in this brand new market. They are easily lured with the promise of high yield and ignore the risks.

  When there is a market boom, regulations have a tendency lag behind. Detailed regulations explaining the requirements of certain qualified management have not yet been published. There is a lack of professionals with knowledge and skills of financing risk assessment and management in quite a lot of P2P companies. This is one of the reasons for the larger number of bad debts in many P2P companies.

- **Money laundering risk**
  There is risk of illegal fund sources in P2P transactions. Smaller P2P companies in particular lack the means to review the source of a lender's fund. As a result, these P2P networks run the risk of being used as money laundering tools.

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BDO NEW APPOINTMENTS

AGNES CHEUNG
Director, Head of Tax
Tax Services

Agnes Cheung was appointed as Director and Head of Tax with effect from 1 September 2015.

Agnes has extensive experiences in providing Hong Kong and international tax planning services to multinational companies as well as Chinese state-owned enterprises. In particular, Agnes is experienced in advising group restructuring, merger and acquisition and other cross border transactions involving Hong Kong, the PRC and other Asia Pacific countries.

Agnes is specialised in the Hong Kong Offshore Funds Law and was heavily involved in lobbying the Hong Kong Government on the new Offshore Funds Law for Private Equity Funds, which was enacted in July 2015.

Agnes is a Hong Kong Certified Public Accountant. She is also a fellow of the Association of Chartered Certified Accountants (ACCA), the Taxation Institute of Hong Kong and a member of the Tax Subcommittee of ACCA.

ALBERT SO
Principal
Specialist Advisory Services

Albert So was appointed as Principal of Specialist Advisory Services with effect from 1 October 2015.

Albert has extensive experience in providing due diligence, mergers and acquisitions advisory and valuation services in Hong Kong, China and Taiwan.

Albert is a Hong Kong Certified Public Accountant, and a fellow member of the Association of Chartered Certified Accountants.

EMILY WONG
Principal
Technical and Training Department

Emily Wong was appointed as Principal of Technical and Training Department with effect from 1 October 2015.

Emily has over ten years of professional experience in assurance practice. Emily provides advisory services to the firm's assurance practice in relation to audit reporting, Listing Rules requirements and Hong Kong Companies Ordinance requirements.

Emily is a Hong Kong Certified Public Accountant and a fellow member of the Association of Chartered Certified Accountants.

HERMES LIANG
Principal
Risk Advisory Services

Hermes Liang was appointed as Principal of Risk Advisory Services with effect from 1 October 2015.

Hermes has extensive experiences in providing IT compliance under the Sarbanes Oxley 404, corporate governance review, risk assessments and internal audit plan for listed companies.

Hermes is an associate of the Association of Chartered Certified Accountants, Certified Public Accountant in Hong Kong, Certified Information System Auditor and Certified Internal Auditor.

JASON WONG
Principal
Risk Advisory Services

Jason Wong was appointed as Principal of Risk Advisory Services with effect from 1 October 2015.

Jason has 16 years of working experience and specialises in governance, risk and compliance services with the focus on COSO – enterprise risk management, AML & sanction system, SFO compliance and anti-fraud review.

Jason is an Associate Member of The Association of Certified Fraud Examiner.

LEO LI
Principal
Tax Services

Leo Li was appointed as Principal of PRC Tax with effect from 1 September 2015.

With more than 15 years' tax experience, Leo has provided a full range of corporate tax advisory services including expatriate tax, foreign investments, customs and foreign exchange services in China as well as advising tax due diligence reviews on mergers and acquisitions and IPO projects.

He is a member of the Hong Kong Taxation Institute and a Certified Tax Adviser in Hong Kong.

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