Hong Kong Venture Capital and Private Equity Association
香港創業及私募投資協會

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Julia Leung
Under Secretary
Financial Services and Treasury Bureau
The Government of the Hong Kong Special Administrative Region
8/F West Wing, Central Government Offices
Ice House Street
Hong Kong

Dear Julia

Proposed European Directive on Alternative Investment Fund Managers

We are writing to you requesting your assistance in protecting Hong Kong's interests with respect to a new regulation that is under discussion in Europe relating to Alternative Investment Managers.

Background

As you are aware the Hong Kong Private Equity and Venture Capital Association is a long-standing Hong Kong Association representing 93 Hong Kong private equity or venture capital managers. The firms represented by the HKVCPEA are responsible for managing funds totaling US$60bn and directly employ around 750 professionals in Hong Kong.

Our membership is made up of alternative investment managers that principally provide venture and growth capital (with a small proportion of capital invested in Leveraged Buyouts) in order to help investee companies grow. The sizes of the funds managed by member firms tend to be classified as small to medium funds by the industry standards in Europe – and could in no way be seen to pose systemic risk to European investors.

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Hong Kong is an active centre of private equity fund management for investment throughout the Asian region, providing access for investors to a wide range of Asian markets as well as China. In addition, the Association represents a number of Hong Kong resident Funds of Funds that provide a diversified exposure to Asian investments for investors based outside the region. Hong Kong is a natural hub for Private Equity investing in the region and the pool of capital managed from here, the numbers of Private Equity managers based in Hong Kong and indeed our own membership are all steadily growing.

European investors have historically been a significant contributor to the capital pools raised by our members. Currently asset allocations to Asia are being revised upwards at many institutional and family office investment firms in Europe and America.

The Association recognizes that regulatory oversight of the private equity industry is inevitable and should be beneficial – and further believes that the balanced regulatory stance taken in Hong Kong together with the firm foundation of Hong Kong's legal system provides it with a competitive advantage relative to other Asian financial centres.

Provisions of the Draft Directive

As you are aware, the Directive is not yet finalised and has been approved in slightly different forms that contain some incompatibilities. A negotiation is currently taking place to agree a final version. There is much that raises concern in the current versions, but the main issue is the extent to which non-EU regulators have to be subservient to EU regulations if their licensed AIFMs are to be given access to EU countries.

Under the **Commission's** proposal, a non-EU AIFM must comply with **all** the European regulations or will be banned from operating throughout the EU. Under the **Council's** version, individual countries may enter cooperation agreements with non-EU regulators and allow access to each specific country on a bilateral basis.

We would like to see a pan-European solution ('passport') available to non-EU AIFMs whose regulators have obtained approvals from a central EU agency. In HK's case, the SFC would then be able to agree regulations for its licensed PE firms that both provided comfort to the EU and are appropriate for the type of investment being undertaken by those firms.

We do not believe the draft EU regulations are necessary or appropriate for our member firms, but consider that the SFC is likely to be better able to judge what is appropriate.

Conclusion

The EU's stance towards regulating Alternative Investment Managers has created significant concerns in third countries regarding protectionism and unilaterally restricting market access to European capital. In our view, improving regulatory oversight is essential for the industry and this is best carried out by local regulators working within consistent but individual standards.

We would like to ask the Hong Kong government to represent to the relevant parties in Europe that the European Community is best served by allowing its investors to commit capital to regulated funds in other parts of the world. Hong Kong's regulator is best placed to determine the appropriate regulation of private equity investors based in Hong Kong and European regulators should work with the SFC to establish conditions under which Hong Kong based firms can continue to have access to European capital.

Yours sincerely,

Johnny Chan
Chairman