

PRESS RELEASE

ASIFMA CONCERNED BY THE USE OF POWERS OF ATTORNEY FOR HONG KONG IPOs

23 September, 2015, Hong Kong – Today ASIFMA released the following statement regarding the use of powers of attorney for Hong Kong IPOs:

ASIFMA has taken note of the continued emergence of a unique practice in connection with certain Hong Kong IPOs pursuant to which less senior underwriting syndicate members, including joint bookrunners, are required to execute broad, irrevocable powers of attorney in favor of global coordinators, sometimes immediately upon being invited to join the syndicate, and at times before the resolution of one or more critical matters, including (i) determination of the principal commercial terms of transaction; (ii) finalization of definitive transaction documentation; and (iii) customary syndicate member due diligence. Subject only to a limited number of individually negotiated conditions, if any, the required powers of attorney irrevocably authorize global coordinators, among other things, to execute, on behalf of the relevant syndicate member, the yet to be negotiated underwriting agreements and agreements among underwriters. The combination of (i) the irrevocability of the powers granted and their limited, if any, conditionality; (ii) the timing of the requests for execution; and (iii) the absence of definitive transaction documentation at the time of execution, effectively seek to bind the relevant syndicate members to a transaction with unspecified commercial arrangements without the benefits of the prior opportunity to (i) manage or assess economic and underwriting risk; (ii) discharge regulatory obligations and establish due diligence defenses to disclosure liability; and (iii) obtain clarity as to the contractual legal protections that will be provided to the underwriting syndicate.

The use of powers of attorney in this manner poses potential risks to underwriting syndicate members from regulatory, risk management and corporate governance perspectives, and ASIFMA is concerned about the further proliferation of this market practice.

As a general matter, ASIFMA does not believe there are features unique to Hong Kong IPOs that mandate the broad use of powers of attorney among underwriting syndicate members beyond that which is customary in other international equity capital markets transactions. Nevertheless, ASIFMA acknowledges that the use of powers of attorney may alleviate logistical and practical difficulties associated with the extraordinarily large underwriting syndicates that feature on Hong Kong's very largest IPOs. ASIFMA has formed a working group to address its concerns with the practice, and intends to publish guidelines on the use of powers of attorney by underwriting syndicates in connection with Hong Kong IPOs, together with template forms of powers of attorney.

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About ASIFMA

[ASIFMA](#) is an independent, regional trade association with over 90 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative and competitive Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the [GFMA](#) alliance with [SIFMA](#) in the United States and [AFME](#) in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

More information about ASIFMA can be found at: www.asifma.org.