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To: taxtreatiesbranch@treasury.gov.au

Cc: ZZ - ASIFMA Compliance & Tax Team <ZZ-ASIFMAComplianceandTaxTeam@sifma.org>

Subject: ASIFMA Submission to the Australian Treasury's Consultation - Expansion of Australia's Tax Treaty Network



ASIFMA Submission to the Australian Treasury's Consultation - Expansion of Australia's Tax Treaty Network

Dear Sir/Madam,

On behalf of the members of Asia Securities Industry & Financial Markets Association (“**ASIFMA**”), we respectfully submit our suggestions in respect of the announcement from the Australian Treasury: [Expansion of Australia's tax treaty network | Treasury.gov.au](#).

Pursuant to the announcement, the Australian Government is entering into tax treaty negotiations with Brazil, New Zealand, South Korea, Sweden and Ukraine as part of its expansion of Australia's tax treaty network and the Treasury is seeking views on the key outcomes Australia should seek in negotiating these tax treaties and **any other issues related to Australia's tax treaty network**. It is in the context of the second leg (highlighted foregoing) of the consultation that ASIFMA would like to share our suggestions for Australia to expand its tax treaty network by considering a comprehensive double tax agreement between Australia and Hong Kong.

In this regard, we like to express our support for submissions made by the Australian Chamber of Commerce in Hong Kong (AustCham):

[Submission on Australia's Tax Treaty Network Expansion](#) (dated 18 April 2024)

[Submission to Australian Government Consultation on Modernising the Individual Tax Residency Rules](#) (dated 22 September 2023)

[Submission on Australia's Tax Treaty Network Expansion](#) (dated 23 December 2022)

[AustCham Letter to Australian Treasurer on Tax Proposals](#) (dated 14 October 2022)

Trade between Australia and Hong Kong has been steadily increasing, and signing of the Australia-Hong Kong Free Trade Agreement (“A-HKFTA”) that entered into force on 17 January 2020 signaled a new chapter in economic relationships between Australia and Hong Kong, providing Australian businesses greater certainty in trading and investment activities in HK. To quote the Australian Department of Foreign Affairs and Trade's website on the A-HKFTA [Australia-Hong Kong Free Trade Agreement and associated Investment Agreement | Australian Government Department of Foreign Affairs and Trade \(dfat.gov.au\)](#):

“Hong Kong is a Special Administrative Region of the People’s Republic of China, and it is an attractive export destination for Australia. In 2020-21, Hong Kong was Australia’s thirteenth most important destination for merchandise exports (\$6.2 billion) and eighth-largest services export market (\$1.6 billion). Hong Kong was our fifth largest source of total foreign investment, with a stock of \$126.9 billion at the end of 2021. Hong Kong was our ninth largest destination for total Australian investment, with a stock of \$65 billion at the end of 2021.”

According to the website’s [Outcomes: Services | Australian Government Department of Foreign Affairs and Trade \(dfat.gov.au\)](https://dfat.gov.au), financial services is one of the top 5 Australian services export to Hong Kong in 2021:

“Financial services, including banking and insurance services, is one of the most dynamic sectors of the Australian economy. Total Australian cross-border exports of financial services were \$4.2 billion in 2020-21. Of these, exports to Hong Kong, valued at \$292 million, accounted for 7 per cent.”

Many of ASIFMA’s members have their regional headquarters in Hong Kong given that Hong Kong is a major regional financial center in Asia Pacific. One of the main objectives of any tax treaty is to provide certainty regarding when and how tax is to be imposed. With the signing of the A-HKFTA, it is critical to provide similar certainty on taxation matters. While a treaty can cover definitional matters, such as permanent establishment or royalties, it will also provide much needed certainty to individuals – for example individuals who recently moved from Hong Kong to Australia (while maintaining significant personal connections in Hong Kong) and to many Australian expatriates working in Hong Kong, as well as to students, teachers, etc.. The provisions of the treaty may also provide certainty for secondary taxation matters – for example, the availability of Australia’s foreign income tax offset if Hong Kong imposes tax.

Related to this, ASIFMA made a joint submission on 5 March 2024 where we presented our views regarding the public consultation released on 12 February 2024 on the revised Exposure Draft (“ED”) law for the proposed Australian public country-by-country reporting measures (“PCbCR”) which included Hong Kong in the draft list of specified jurisdictions, and requested the removal of Hong Kong and Singapore from the draft list of specified jurisdictions so as to appropriately reflect and give effect to the policy intent of improving tax transparency. Our request was made with the backing of a comprehensive list of international tax transparency measures promulgated by the Global Forum on Transparency and Exchange of Information for Tax Purposes (“GFTEI”) which Hong Kong is a member and/or signatory to and other reasons contained in the 5 March 2024 submission. For those reasons alone, we assert that Hong Kong should not be included in the list of specified jurisdictions. A comprehensive double tax agreement with Hong Kong to facilitate exchange of information between Competent Authorities upon request should remove any remaining doubt that Hong Kong should not be on the list.

The Hong Kong government is committed to executing comprehensive double tax treaties with major trading partner nations and we strongly recommend that Australia commences discussions with their Hong Kong counterparts on entering into such a treaty. ASIFMA has also similarly recommend the Hong Kong authorities to have a tax treaty with Australia.

If you have any questions, please kindly contact Patrick Pang (ppang@asifma.org).

Yours sincerely
Patrick

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