

Press release

LCQ20: Monitoring of the operations of finance companies

Wednesday, December 9, 2009

Following is a question by the Hon Mrs Regina Ip and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (December 9):

Question:

Recently, I received many complaints about finance companies being too lax in approving loans, such as granting large amounts of loans to young people who have no income or credit records, which adversely affects their growth and their parents will most probably have to make repayment for them in the end. Moreover, it has been reported that some foreign domestic helpers left Hong Kong after borrowing money from finance companies, and their former employers are often harassed by finance companies when the latter recover debts. In this connection, will the Government inform this Council:

(a) under the Money Lenders Ordinance (Cap. 163), Money Lenders Regulation and other relevant legislation,

(i) whether finance companies are allowed to make loans to persons who have no income or credit records;

(ii) whether finance companies have to follow a specific set of criteria or procedure for vetting and approving loan applications of young people and foreign domestic helpers; and

(iii) of the respective statutory rights and benefits of debtors and creditors in the situation where finance companies granted loans to persons who obviously lack repayment ability and such persons are unable to make repayment;

(b) whether the Government will, when studying Hong Kong's financial reform framework in the future, consider reviewing and amending the Money Lenders Ordinance at the same time, so as to protect people's interests more effectively; and

(c) given that some finance companies also take deposits and such deposits are fully guaranteed by the Government, whether the Government has assessed if there arises a situation of members of the public depositing large sums of money in these companies to earn higher interest income because they do not need to worry about the financial situation and stability of such finance companies, and thus these finance companies have abundant funds to make loans extensively?

Reply:

President,

My reply to the question is as follows:

(a) (i) & (ii) At present, the Money Lenders Ordinance (the Ordinance) does not prohibit finance companies from making loans to certain persons. However, the Ordinance provides that a money lender must clearly set out the loan terms and the repayment arrangements for the information of the borrower and his/her surety. Separately, the Licensed Money Lenders Association Limited in Hong Kong has issued the "Code of Money Lending Practice", requiring a money lender to conduct a credit assessment of an applicant and consider his/her repayment ability in vetting his/her application before granting a loan.

In addition, if a money lender is involved in unscrupulous money lending practices, contravenes the licensing conditions, or conducts its business in a manner contrary to the public interest, the court may make an order in respect of the situation to revoke or suspend its licence.

As regards the harassments mentioned in the question, currently the Police will deal with the issue of debt collection agencies using illegal practices to recover debts in accordance with a number of other statutory provisions.

(iii) If a loan agreement meets the requirements of the law, the money lender is entitled to recover the money from the borrower in accordance with the agreement. However, under section 25 of the Ordinance, if the court is satisfied that the transaction grossly contravenes the ordinary principles of fair dealing, the court may, having regard to all the circumstances (e.g. the borrower's age, experience, business capacity, and the degree to which he was under financial pressure and the nature of that pressure at the time of entering into the transaction, etc.), make such orders and give such directions as are appropriate, including reopening the discussion on the terms of the agreement and the respective rights of the debtor and the creditor, so as to do justice between the parties.

(b) At present, we do not have any plan to review the Ordinance. Nevertheless, the Administration will closely monitor the enforcement of the relevant law.

(c) Based on the records of the Hong Kong Monetary Authority (HKMA), no finance companies registered pursuant to the Money Lenders Ordinance are deposit-taking companies authorised under the Banking Ordinance.

As regards the regulation of deposit-taking companies, they are required by the HKMA to follow prudent principles in carrying out their lending business, including not to extend excessive amounts of loans to students or young people with no income or credit records. The HKMA monitors whether the lending practices of deposit-taking companies comply with prudent principles as part of its regular supervision of these companies.

The HKMA introduced the deposit guarantee on October 14, 2008, and has since stepped up the monitoring of whether there is any unusually rapid growth in the deposit balances of authorised institutions. The total deposits of the banking sector increased by 11.6% between October 14, 2008 and the end of October 2009. The deposits of deposit-taking companies rose by a comparable magnitude of 12.2%. During the same period, the total loans of the banking sector decreased by 4.4%, whereas the loans of deposit-taking companies declined by 14.0%. These statistics indicate that deposit-taking companies as a whole have not expanded their lending business because of the introduction of the deposit guarantee.

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