

Press release

LCQ17: Harassments by debt collection agencies

Wednesday, June 3, 2009

Following is a question by the Hon Lau Kong-wah and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (June 3):

Question:

I have received complaints from many members of the public about being harassed by debt collection agencies (DCAs) hired by banks and finance companies, but they were neither debtors nor loan guarantors, and some of them were only new owners of "repossessed residential properties". Since they did not know the details of the loans concerned, and very often DCAs only left behind telephone numbers of stored-value mobile phone cards, which were difficult to trace the identity of the cardholders, they could not contact the creditors concerned to make clarifications, thus resulting in their being harassed by DCAs continually. In this connection, will the Government inform this Council whether:

- (a) it knows the number of cases of banks and finance companies commissioning DCAs to recover debts in each of the past three years and, among them, the number of cases of debts recovered successfully;
- (b) it will request that when vetting and approving loan applications, banks and finance companies should consider the particulars of loan guarantors on the loan application forms as confirmed only if the guarantors have signed thereon in person; if it will not, of the reasons for that; and
- (c) it will stipulate that banks and finance companies have to request DCAs, when recovering debts on their behalf, to provide the persons from whom they are recovering debts with the contact details of the parties who commissioned the DCAs, so as to facilitate such persons to make clarifications or complaints?

Reply:

President,

(a) Since March 2002, the Hong Kong Monetary Authority (HKMA) has required all authorised institutions (AIs) (which comprise licenced banks, restricted licence banks and deposit taking companies) to submit quarterly returns on the number of complaints received against the debt collection agencies (DCAs) that they employ. According to the quarterly returns submitted by AIs, the number of cases assigned to DCAs for debt collection were 362,075 in 2006, 308,989 in 2007 and 339,569 in 2008. There were a total of 94,811 cases in the first quarter of 2009. The HKMA does not collect data on the number of successful recovery cases.

As regards money lenders, both the Registrar of Money Lenders (acted by the Registrar of Companies) and the Police do not have relevant statistics on the above cases.

(b) Where a loan guarantee is required to be given by a third party, AIs and money lenders will normally require the individual concerned to enter into a formal contractual agreement to ensure that the guarantee is legally enforceable. According to the Code of Banking Practice issued jointly by the Hong Kong Association of Banks and the DTC Association, AIs and their DCAs should not attempt to recover debts from third parties (including referees, family members or friends of the debtors) if the latter have not entered into a formal contractual agreement with the institutions to guarantee the liabilities of the debtors.

In addition, section 20 of the Money Lenders Ordinance stipulates that a money lender who enters into any agreement for a loan in relation to which security is provided shall, within 7 days after the making of the agreement, give to the surety a copy of the agreement. Failure to comply with such requirement is an offence. The Hong Kong S.A.R. Licensed Money Lenders Association Limited has also issued a Code of Money Lending Practice which stipulates that a money lender and its collection agency should not attempt to recover debts from third parties (including referees, family members or friends of the debtors) if the latter have not entered into a formal agreement with the money lender to guarantee the liabilities of the debtors.

(c) The HKMA has required AIs to put in place proper systems and procedures for monitoring the performance of their DCAs. The Code of Banking Practice has set out the relevant requirements to be observed by AIs in employing DCAs to recover debts.

According to the Code of Banking Practice, the AIs should give customers advance written notice of their intention to commission a DCA to collect an overdue amount owed to an AI. The written notice should contain the contact telephone number of the AI's debt recovery unit which is responsible for overseeing the collection of the customer's debt. The notice should also remind the customers to report in the first instance to the AIs any improper debt recovery actions taken by the DCA. On the other hand, AIs should require their DCAs, when collecting debts, to identify themselves and the institutions for whom they are acting, and present to the debtor upon request authorisation documents issued by the institutions for identification purposes. The above measures should be able to help individuals who are pursued for recovery of debts to contact the AIs concerned and file complaints where necessary.

HKMA observed that upon receipt of complaints from individuals who are wrongly pursued for recovery of debts, AIs will terminate the actions and update their internal records.

As regards money lenders, the Code of Money Lending Practice also stipulates that money lenders should require their DCAs, when collecting debts, to identify themselves and the money lenders for whom they are acting. Moreover, money lenders should issue authorisation documents to their debt collection agencies which should be presented to the debtor for identification purposes upon request.

Ends