

Press Release

LCQ7: Assistance for operators of money changers to open bank accounts

Wednesday, November 27, 2013

Following is a question by the Hon Chan Han-pan and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (November 27):

Question:

Recently, I have received requests for assistance from the operators of money changers holding licences issued by the Commissioner of Customs and Excise to operate money changing service (licensed MCs). They indicated that some banks had refused to open bank accounts for their MCs, causing great difficulties and inconvenience to their businesses. In this connection, will the Government inform this Council:

- (a) of the current number of licensed MCs in Hong Kong and the measures currently undertaken by the Customs and Excise Department to monitor the compliance with the licensing requirements by the operators concerned;
- (b) whether it knows the number of licensed MCs which have accounts with banks in Hong Kong; if no such information is available, whether it will compile such statistics;
- (c) whether the authorities had, in the past three years, received complaints or requests for assistance from the operators of licensed MCs in respect of their being unable to open accounts with banks; if so, of the details; and
- (d) of the mechanisms the Hong Kong Monetary Authority has in place and the measures it has taken at present to help the operators of licensed MCs to open bank accounts and to receive related complaints?

Reply:

President,

- (a) Pursuant to the Anti-Money Laundering and Counter-Terrorist Financing

(Financial Institutions) Ordinance (Cap 615, "AMLO") which came into operation on April 1, 2012, any person who seeks to operate a money changing or remittance service as a business is required to apply to the Commissioner of Customs and Excise for a money service operator (MSO) licence. A licensee is required to apply for a renewal of the licence every two years.

According to the records of the Customs and Excise Department (C&ED) as on October 31, 2013, there were 1,152 licensed MSOs in Hong Kong. Of these, 899 operated both remittance and money changing services, 211 a remittance service only and 42 a money changing service only.

The C&ED will assess whether a licence applicant is fit and proper to be licensed to operate a money service. It will also monitor licensees' implementation of customer due diligence and record-keeping requirements and compliance with other licensing conditions on a continuous basis, as well as combat any unlicensed money service operation. To ensure that licensed MSOs comply with the requirements stipulated in the AMLO, the C&ED will conduct, on a regular basis, compliance inspections. These include interviewing licensees by appointment, performing on-site examination, requiring regular reports from licensees, and monitoring licensees' implementation of relevant regulatory measures as required under the AMLO.

In addition, during compliance inspections, the C&ED will verify whether licensed MSOs have put in place appropriate internal control mechanisms, and whether they have complied with the requirement prohibiting maintenance of any anonymous account for a customer as well as other relevant statutory requirements. If a licensed MSO fails to comply with the statutory requirements, the C&ED may take disciplinary actions or refer the case to the Department of Justice to consider bringing criminal prosecutions, in accordance with the AMLO.

(b) According to the information provided to the C&ED by the applicants for MSO licences and the licensees, as well as the results of compliance inspections conducted by the C&ED, all 1,152 existing licensed MSOs have opened at least one account with a bank in Hong Kong.

(c) Over the past three years, the C&ED and the Hong Kong Monetary Authority (HKMA) have received three written submissions or complaints

from MSOs regarding the difficulties in opening accounts with banks or closure of accounts by banks.

Based on the records of the C&ED as on October 31, 2013, it had received reports from a total of 164 licensed MSOs (which would usually have opened accounts with a number of banks) claiming that some of their business accounts were cancelled by individual banks. About six banks were involved, and around 560 such accounts in total were cancelled.

(d) It essentially is a commercial decision of banks to consider whether or not to establish new business relationships or maintain existing business relationships with particular clients. We understand that the banking sector provides banking services for MSOs after evaluating these clients and fulfilling the relevant customer due diligence requirements under the AMLO. It is the responsibility of banks to exercise due diligence in managing their business risks to combat suspected money laundering or terrorist financing transactions in accordance with the AMLO.

When a bank decides to terminate its existing business relationship with a client, it should, in compliance with the Code of Banking Practice endorsed by the HKMA, give the client a reasonable period of notice before closing its accounts. The HKMA also expects banks to act reasonably and communicate with the clients concerned about the reason of any such decisions.

As the AMLO covers various financial sectors, the Administration and the regulators will continue to liaise with the sectors concerned to implement the statutory regulatory requirements to enhance our anti-money laundering and counter-terrorist financing regime. We will continue to listen to the views of these sectors on the implementation of the AMLO, and ensure effective enforcement of the regulatory requirements, without undermining Hong Kong's commitment to fulfilling our international obligations.

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