

Press Release

LCQ22: Regulation of financial intermediaries

Wednesday, December 17, 2014

Following is a question by the Hon Paul Tse and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (December 17):

Question:

In each of the past several years, I received requests for assistance from quite a number of members of the public who said that some staff members of financial intermediaries, impersonating staff members of banks or financial institutions, tricked them into applying for high interest rate loans from finance companies and charged them expensive intermediary fees. If the victims subsequently refused to sign or wanted to cancel the loan agreements, the staff members of such intermediaries often resorted to threatening means or even detaining them unlawfully in order to make them give in. The press has reported a case in which a victim, who originally had three outstanding debts, namely a first mortgage loan of \$1.87 million and a second mortgage loan of \$200,000 secured on a self-owned residential property, as well as a credit card debt of \$200,000, was persuaded by a financial intermediary selling a "pay-off-debt-and-save-interest plan" to take out a \$2.5 million refinancing package from another bank to repay the aforesaid three outstanding debts totalling \$2.27 million, and was charged a consultation fee of as high as \$100,000 while the refinancing plan was still being processed. The victim ended up with more loss than gain. In this connection, will the Government inform this Council:

(1) whether it knows the current number of financial intermediaries, their modes of operation and the sources of client information;

(2) of the authorities' current policies on regulating the operation of financial intermediaries, and the channels available for members of the public to seek assistance and lodge their complaints about the fees and services of such intermediaries; and

(3) whether it knows the respective numbers of complaints involving the

collection of fees by financial intermediaries received by the Police, the Hong Kong Monetary Authority, the Consumer Council and the relevant regulators in each of the past three years; the follow-up actions taken for such complaints; the number and type of convicted cases; and among such complaints, whether there were any cases involving collaborations between financial intermediaries and accountancy firms or law firms in touting loan-takers for subsequent profit-sharing; if there were, of the details?

Reply:

President,

(1) and (2) Under the Money Lenders Ordinance (MLO) (Cap.163), money lender's licences are granted by the Licensing Court. The Registrar of Money Lenders (i.e. the Registrar of Companies) is responsible for handling administrative matters related to the processing of licence applications and renewals, as well as maintaining a register of money lenders for public inspection. The Hong Kong Police Force (HKPF) is responsible for the enforcement work of the MLO which includes, inter alia, investigation of complaints against money lenders.

According to section 29(10) of the MLO, a money lender (or his partner, employer or employee), his principal, his agent, as well as any person acting for or in collusion with the money lender shall not demand any reward from a borrower (or intending borrower) for procuring, negotiating or obtaining any loan. Offenders are liable to a fine of \$100,000 and to imprisonment for two years. Section 30(1) of the MLO also stipulates that a person shall not, by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts, fraudulently induce or attempt to induce any person to borrow money from a money lender. Offenders are liable to a fine of \$10,000 and six months' imprisonment.

Moreover, under the Trade Descriptions Ordinance (TDO) (Cap.362), traders supplying services (Note) (including, inter alia, money lenders and traders supplying intermediation services) commit an offence if they engage in a commercial practice prohibited by that Ordinance, such as "false trade descriptions" or "misleading omissions". The maximum sentence is a fine of \$500,000 and five years' imprisonment.

For suspected breaches of the MLO, members of the public may lodge a complaint with the HKPF or the Companies Registry (CR). They may also report suspected contraventions of the TDO to the Customs and Excise Department (C&ED).

The Government and related organisations have been reminding the public through different means of the points to note when taking out loans. For instance, the Police publicise successful enforcement operations and prosecutions against unscrupulous money-lending practices so as to raise public awareness. In case of suspected unscrupulous business practices by licensed money lenders, the Police will take appropriate enforcement action, having regard to the individual circumstances of each case and the evidence obtained. Besides, the Hong Kong Monetary Authority, the Investor Education Centre (IEC) and the Consumer Council (CC) have held various public educational activities to remind the public of the need to pay close attention to the relevant terms and conditions, including those concerning fees and charges, before entering into any loan agreement or financial contract. The IEC has also made use of educational publications, websites and outreach seminars to enhance public awareness of the factors to be considered before making any loan decisions.

The Administration does not have any statistics on the number of financial intermediaries nor the details of their sources of client information.

(3) The numbers of complaints lodged with the CR, the C&ED and the CC regarding financial intermediation services over the past three years (from January 2012 to November 2014) are set out at Annex. These departments/organisations have not further categorised such complaint cases by their nature or whether they are related to accountancy firms or law firms. Of the complaints that involved suspected breaches of the MLO or other criminal offences, the CR, the C&ED and the CC have referred such cases to the Police for follow-up. On the other hand, among the complaints received by the C&ED, some have been found upon review not in breach of the TDO while the others have been withdrawn by the complainants, and therefore there has not been any prosecution case so far. The CC has endeavoured to resolve the complaints received by means such as mediation, or advised the complainants to pursue through other dispute resolution means. Apart from the above, the Police

handled 111 cases of loans-related offences from January 2012 to June 2014. Separately, during the same period, the Police has taken a total of 35 prosecutions against breaches of the MLO, resulting in 19 cases of successful conviction. The relevant authorities have not further categorised such cases by whether they involve financial intermediation services.

Note: The Trade Descriptions Ordinance does not apply to the sale, supply and provision of goods or services governed by the Insurance Companies Ordinance (Cap.41), the Banking Ordinance (Cap.155), the Mandatory Provident Fund Schemes Ordinance (Cap.485) and the Securities and Futures Ordinance (Cap.571).

Ends