

Press Release

LCQ11: Nationality considerations in the opening of bank accounts

Wednesday, January 28, 2015

Following is a question by the Hon Chiang Lai-wan and a written reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (January 28):

Question:

A local English newspaper has reported that a man who came to Hong Kong on a dependant visa was refused by three local banks one after another to open a bank account for him allegedly because he was a Pakistani. It has also reported that banks often have to review every account opened overseas by citizens of countries such as Pakistan because they do not want to be accused by the United States of aiding South Asian terrorist organisations, and that global bank regulators have, in recent years, tightened rules on foreign nationals opening bank accounts overseas in a bid to stop money laundering. In this connection, will the Government inform this Council:

(1) whether it has assessed if the refusal of banks to open an account based on nationality considerations constitutes discrimination under the existing discrimination ordinances; if the assessment outcome is in the negative, of the reasons for that, and whether it will introduce legislation to outlaw such practices of banks; if it will, of the legislative timetable; if not, the reasons for that; and

(2) whether it has reviewed if the guidelines issued by the authorities to the banking and financial sectors on prevention of money laundering by terrorists have caused differential treatments based on nationality considerations?

Reply:

President,

The Treat Customers Fairly (TCF) Charter, which was initiated by the Hong Kong Monetary Authority (HKMA) and signed up by all retail banks in Hong Kong in 2013, stipulates that banks in Hong Kong that engage in the

mass retail market should provide reasonable access to basic banking services for members of the public. Furthermore, the Code of Banking Practice prescribes, among other things, that banks should comply with the relevant legislation for the promotion of equal opportunity and should not discriminate against any customer simply on the ground of race in the provision of banking services or in the quality and terms of the services provided.

The HKMA issued a circular in December 2014 to all banks, reminding them of the importance of complying with the requirements under the TCF Charter, the Code of Banking Practice and the relevant anti-discrimination laws. The circular requests banks to adopt, where appropriate, a flexible and pragmatic approach in the process of securing documentary proof from applicants to support their applications for banking services. The management of banks should ensure that appropriate measures are taken, and that front-line staff understand and comply with the relevant policies and guidelines. The circular also reminds banks that care should be exercised whenever an application for services is rejected, and that the decision should be based on valid reasons and not purely on the basis of race or nationality. Banks are also requested to review their internal policies, procedures and controls to ensure that they are in full compliance with the requirements, and to provide suitable training and guidance for front-line staff.

Meanwhile, the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) (Cap. 615) requires banks to undertake customer due diligence measures and keep relevant records. The guideline published by the HKMA under the AMLO requires banks to assess money laundering and terrorist financing risks of individual customers by taking into account various risk factors and to apply measures commensurate to the identified risks. Save the restrictions under the subsidiary legislation of the United Nations Sanctions Ordinance (Cap. 537), the AMLO and the guideline have no specific requirement that would prohibit a bank from establishing a relationship with a customer from any particular place. The HKMA has reminded banks on many occasions of the importance of applying reasonable and proportionate anti-money laundering and counter-terrorist financing controls to ensure that businesses and customers have access to suitable services in Hong Kong.

To conclude, we do not accept banks using any supervisory guidelines as

an excuse to give unreasonable treatments to customers based on race or nationality considerations. Regarding the case of an individual customer cited in this question, we have already followed up with the Public Complaints Office of the Legislative Council Secretariat in early January 2015.

Ends