Press Release

LCQ13: Regulation of mortgage loan business of finance companies and mortgage intermediaries

Wednesday, March 25, 2015

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 (March 25):

Question:

It has been reported that the number of finance companies in Hong Kong has surged from around 300 in 2009 to about 1 200 this year, and such finance companies are heavily engaged in the mortgage loan business. There are comments that under the existing system, the banks providing the first mortgage loans may not be aware that the property owners concerned have taken out second, third and fourth mortgage loans from finance companies on the same properties. As finance companies charge high mortgage interest rates (reportedly as high as 30% to over 40%), there is a high risk of such borrowers not being able to repay the mortgage loans. Besides, it has been reported that many banks and finance companies have partnered with mortgage intermediaries to compete for mortgage business. Yet, mortgage intermediaries are not subject to the monitoring by the Hong Kong Monetary Authority (HKMA) and the Estate Agents Authority, and they often resort to problematic practices to induce people to borrow money. According to the press report concerned, a certain mortgage intermediary under an estate agency claimed that it had the support of 18 banks and could, gearing to borrowers' needs, make arrangements for the borrowers to apply, in the name of private companies, to banks for loans to small and medium-sized enterprises and that the overall loan-to-value ratio could be as high as 100% of the property value. In this connection, will the Government inform this Council:

(1) whether it has compiled statistics on the number and the total amount of mortgage loans provided by finance companies and, among them, the respective numbers and total amounts of second, third and fourth mortgage loans;

(2) of the authorities' measures to regulate (i) the aforesaid situation of banks

and finance companies providing multiple mortgage loans on the same property, and (ii) the levels of mortgage interest rates charged by finance companies;

(3) as it has been reported that some finance companies have obtained loans not relating to mortgage from banks and then used such funds for their mortgage loan business charging high interest rates, of the authorities' measures to regulate such practice;

(4) of the authorities' measures to ensure that the mortgage loan business of finance companies will not affect the stability and robustness of Hong Kong's banking system;

(5) whether it has studied if the aforesaid practice of mortgage intermediaries helping borrowers to take out mortgage loans of a loan-to-value ratio of as high as 100% will undermine the effectiveness of the measures taken by the HKMA for preventing the financial system from being exposed to excessive risk in the mortgage business; if it has studied, of the findings; if not, whether it will conduct such a study expeditiously;

(6) whether it has studied if the aforesaid practices of mortgage intermediaries in promoting and operating their business have breached the law; if it has studied, of the findings;

(7) whether it has assessed if mortgage intermediaries' marketing practices and finance companies' offering multiple mortgage loans at high interest rates will add fuel to the over-heated property market; if the assessment outcome is in the affirmative, of the authorities' counter measures; and

(8) of the authorities' new measures to protect members of the public from being misled by finance companies and financial intermediaries into taking out mortgage loans beyond their repayment capability?

Reply:

President,

(1) The Government does not have statistics on the overall number and value of property-related loans granted by finance companies, as well as the overall

number and value of second or multiple mortgages granted by them.

However, according to the information available to the Hong Kong Monetary Authority (HKMA), as at the end of 2014, 29 finance companies had obtained financing from banks and engaged in property-related lending. The total amount of property-related loans extended by these finance companies was approximately $9.2 billion, representing only about 1% of the banking sector's total outstanding residential mortgage loans, which stood at about $990 billion.

(2) When calculating the debt-servicing ratio of a mortgage loan applicant, the HKMA requires banks to take into account all the liabilities of that applicant, including the mortgage loan for which the applicant is applying and any other mortgage financing of the applicant for purchasing the property concerned.

The HKMA also encourages banks to conduct regular sample checking on individual mortgage loans drawn by borrowers. If banks note from the checking that borrowers have not informed them of any second or multiple mortgages, the HKMA expects banks to follow up with the borrowers concerned.

In providing first mortgage loans, banks will set out clauses in the mortgage loan agreement requiring borrowers to seek the consent of the banks before taking out a second mortgage on the same properties. Besides, before releasing the first mortgage loans to borrowers for completing property transactions, banks will ascertain through lawyers whether the borrowers have taken out any second or multiple mortgages. Separately, banks offering first mortgage loans have the right to repossess the mortgaged properties in the event of a default. The proceeds from selling the repossessed properties will first be used to offset the outstanding amount of the first mortgage, and any remaining proceeds will then be used to repay other liabilities of the borrowers. Therefore, banks' priority of using the proceeds to offset the outstanding mortgage loans given their capacity as lenders of first mortgage will not be affected by second or multiple mortgages.

As regards interest rate on loans, there is a statutory requirement under the Money Lenders Ordinance (Cap. 163) that any person (other than an authorised institution) shall not make, or offer to make, loans (including mortgage loans) to individuals at an effective interest rate exceeding 60% per annum.

(3) and (4) According to information available to the HKMA, as at the end of 2014, the total amount of financing granted by banks to finance companies which engaged in lending business was only $27 billion, accounting for less than 0.4% of the total loans in the banking sector. Besides, the total amount of property-related loans extended by finance companies which obtained financing from banks and engaged in property-related lending represented only about 1% of the total outstanding residential mortgage loans of the banking sector. Therefore, property-related lending by finance companies has limited systemic implications for banking stability.

That said, to avoid the effects of the countercyclical macro-prudential measures being undercut, the HKMA has all along been advising banks which lend to finance companies to require the finance companies to either comply with the HKMA's guidelines when extending property mortgage loans to customers or risk losing the credit relationship with the banking sector.

In its circular to banks on March 2, 2015, the HKMA has reiterated that banks should request all finance companies with whom they maintain a credit relationship to confirm that they will not henceforth provide any mortgage finance in whatever form for borrowers' purchase of properties. If these finance companies wish to continue to provide mortgage financing to customers, they must confirm with banks their willingness and ability to adhere strictly to the HKMA's prudential guidelines. The HKMA is collecting information from banks for analysis.

It has to be emphasised that the requirement where finance companies have to adhere to the HKMA's guidelines on property mortgage lending is targeted at the first and second mortgage financing provided by the finance companies to customers for the purchase of properties, rather than their business of providing short-term loans secured by properties.

(5) This marketing practice does not conform to the HKMA's countercyclical measures on property mortgage lending. Banks are well aware of the risk-based supervisory approach of the HKMA. The HKMA expects banks to refrain from offering any products which contravent the HKMA's regulatory requirements

or principles for property mortgage lending. In fact, the Hong Kong Association of Banks has indicated that this marketing practice might be misleading, and stressed that banks would not provide property mortgage loans exceeding the applicable maximum loan-to-value ratios set by the HKMA.

(6) As explained in the reply to (5), this marketing practice might be misleading. Generally speaking, the Trade Descriptions Ordinance (Cap. 362) applies to financial intermediaries, and also to other traders, as they must not engage in a commercial practice prohibited by that Ordinance, such as "false trade descriptions" or "misleading omissions". If this kind of practice involves fraud, relevant enforcement agencies will investigate it.

(7) The Government will continue to monitor the latest development of the money lending business and the property market, and the evolving external environment. We will not hesitate to introduce measures when necessary, in order to maintain the healthy and stable development of the property market and safeguard the stability of our macroeconomic and financial systems.

(8) As explained in the reply to (2), the HKMA has all along been requiring banks to take into account all the liabilities of an applicant, including the mortgage loan for which the applicant is applying and any other mortgage financing of the applicant for purchasing the property concerned, with a view to preventing excessive borrowing by applicants. Meanwhile, the public should be very cautious when making decision on purchasing property, and carefully assess the potential risk they need to bear in case of a market downturn.

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