

Press Release

LCQ4: Handling of suspicious transaction reports

Wednesday, April 27, 2016

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

Question:

Recently, the media have made known to the public a huge number of confidential documents leaked from a Panamanian law firm (the Panama Papers), exposing the fact that quite a number of politicians, public officials and celebrities across the world have set up offshore companies in tax havens and they are possibly involved in illegal activities such as assets hiding, tax evasion, money laundering, etc. Those papers have also revealed that, among the cities in the world, Hong Kong has the greatest number of intermediaries offering services for setting up offshore companies and, for that reason, been dubbed "a top centre for secretive offshore financial services". Such a situation has aroused concerns about whether the intermediaries in Hong Kong are helping their clientele, on a massive scale, to set up offshore companies for the purpose of carrying out the aforesaid illegal activities, and whether such activities will jeopardise the reputation of Hong Kong as an international financial centre. In this connection, will the Government inform this Council:

(1) of the respective numbers of (i) reports of suspicious transactions received and (ii) such reported cases found to be substantiated, in each of the past five years by the Joint Financial Intelligence Unit (JFIU), which is jointly run by staff of the Hong Kong Police Force and the Hong Kong Customs and Excise Department, together with a tabulated breakdown by trade/sector involved;

(2) of the respective staffing establishment of JFIU and its four Data Analysis Teams, together with the average monthly number of reported suspicious transactions handled by each member of those teams; the respective overtime work situations of the various types of JFIU staff last year;

(3) whether it has assessed the adequacy of JFIU's current manpower and other resources, and has planned to conduct a comprehensive review of JFIU's

structure and functions so as to step up its efforts to combat the aforesaid illegal activities; if it has, of the details; if not, the reasons for that;

(4) whether it knows the number of intermediaries in Hong Kong specialised in offering services for setting up offshore companies; of the legislation and policies the authorities currently have in place to regulate the conduct of business of such intermediaries; and whether it took any enforcement actions in the past three years against the alleged offending intermediaries; if it did, of the details; and

(5) whether it has planned to conduct proactive investigations on the basis of the information revealed by the Panama Papers to find out whether any local intermediaries have committed illegal acts, and to publish the results of such investigations locally and internationally; if it has, of the details; if not, the reasons for that?

Reply:

President,

(1) The respective numbers of suspicious transaction reports (STRs) received in each of the past five years by the Joint Financial Intelligence Unit (JFIU), jointly run by the staff of the Hong Kong Police Force and the Customs and Excise Department, together with a breakdown by trade or sector, are set out at Table 1 of Annex.

On receiving an STR, the JFIU will conduct intelligence analysis, and examine the intelligence received in terms of the degree of suspicion, level of risks and severity, etc., according to its risk assessment mechanism. Cases which require in-depth investigation will be referred to the relevant law enforcement agencies (LEAs) for follow-up action or criminal investigation. The numbers of STRs referred to relevant LEAs in the past five years by the JFIU are tabulated at Table 2 of Annex.

(2) and (3) Since April 1, 2014, the staffing establishment of the JFIU has been 48 posts, including a total of 22 officers in the Data Analysis Teams. We do not have statistics on the average number of reported cases handled by each officer and their overtime work performed. With the number of STRs rising year on

year, the JFIU will review and adjust its workflow in handling STRs from time to time to cope with the increasing caseload.

(4) and (5) We do not comment on individual cases. However, we should point out that there is no law in Hong Kong prohibiting individuals or commercial entities from setting up companies in jurisdictions outside Hong Kong. We therefore do not have the statistics on the number of intermediaries in Hong Kong providing services in connection with the incorporation of offshore companies. Nevertheless, under the Organized and Serious Crimes Ordinance, the Drug Trafficking (Recovery of Proceeds) Ordinance and the United Nations (Anti-Terrorism Measures) Ordinance, if any person (including any company service provider, law firm or financial institution) knows or suspects that any property is proceeds of a serious crime or drug trafficking, or a terrorist's property, the person must file an STR in relation to the information or transaction with the JFIU. Also, financial institutions must strictly comply with the requirements of customer due diligence and record keeping to ascertain the objectives and business information of customers and apply reasonable measures to identify and verify the beneficial owners of customers for mitigating the risk of money laundering and terrorist financing in accordance with the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance. Regarding tax matters, the Inland Revenue Department (IRD) has taken note of the report released by the organisation concerned. As always, IRD will take necessary actions against tax evasion and avoidance by taxpayers, based on information possessed by the department or received from other sources.

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