

LCQ1: Remittance of money to the Mainland

Following is a question by the Hon Ho Kai-ming and a reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (June 26):

Question:

It is learnt that in order to save time and cost, quite a number of Hong Kong people choose to use money changers instead of banks to remit Renminbi for them from Hong Kong to the Mainland. However, such money changers are regarded as "underground banks" as they have not been granted approval by the Mainland authorities for operating cross-border remittance business. Upon detection of illegal remittances, the law enforcement agencies on the Mainland may freeze the accounts of money changers and the Mainland beneficiaries concerned. As a result, the remitters fall into a "remittance trap" inadvertently. In this connection, will the Government inform this Council:

(1) of the number of complaints involving money changers received by the Government in each of the past three years, with a breakdown by type of complaints and the level to which the amount of money involved belonged;

(2) of the measures to enhance the regulation of the service of remitting money for customers to the Mainland provided by money changers, so as to avoid Hong Kong people suffering losses; and

(3) whether it will improve the current procedure and arrangements for banks to remit money for their customers to the Mainland, including discussing with the Mainland authorities the raising of the daily remittance limit per person and simplifying the vetting and approval procedure; if so, of the details?

Reply:

President,

Having regard to the international standards on anti-money laundering and counter terrorist-financing (AML/CFT), the Government commenced the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO) (Cap. 615) in 2012 to impose statutory customer due diligence and record-keeping requirements on financial institutions (including money service operators (MSOs)). The Ordinance also introduces a licensing regime for MSOs and empowers the Customs and Excise Department (C&ED) to supervise their AML/CFT compliance.

Under the AMLO, any person who operates a money service business (including money changing service and/or remittance service) in Hong Kong

must obtain a licence from the C&ED. the C&ED may grant a licence to an MSO applicant only if it is satisfied that the applicant and ultimate owners (if any) are fit and proper persons to operate a money service business. If the applicant is a corporation or a partnership, all directors, partners, and ultimate owners (if any) must be fit and proper persons. In deciding whether a person is fit and proper, the C&ED must have regard to whether the person has been convicted of an offence relating to money laundering or terrorist financing under the Organized and Serious Crimes Ordinance (Cap. 455), Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) or United Nations (Anti-Terrorism Measures) Ordinance (Cap. 575) (including similar offences in other jurisdictions); whether he/she has persistently failed to comply with the AML/CFT requirements stipulated under the AMLO or the AML/CFT Guideline promulgated by the C&ED; whether he/she has been convicted for an offence for which it was necessary to find that the person had acted fraudulently, corruptly or dishonestly; whether the person, being an individual, is an undischarged bankrupt or is the subject of any bankruptcy proceedings; and whether the person, being a corporation, is in liquidation or is the subject of a winding up order, etc. In addition to the above, the C&ED may consider any other matter that it considers relevant in determining whether a person is fit and proper.

My reply to various parts of the question raised by the Hon Ho Kai-ming is as follows:

(1) From 2016 to 2018, the C&ED received a total of 37 complaints relating to MSOs, 18 of which relate to failure to complete remittance transactions for various reasons after MSOs received funds from their customers.

(2) On top of the AMLO, MSOs must comply with other legislations, including those relating to consumer protection. For example, the Trade Descriptions Ordinance (TDO) (Cap. 362) stipulates that any trader (including MSOs) who applies a false or misleading claim during the course of offering a service to a consumer commits an offence; such offence may be reported to the C&ED. Further, a report may be made to the Police if an MSO or any trader is suspected of fraud or other criminal offences.

Aside from criminal investigation, the C&ED will also commence an investigation under the AMLO against the alleged MSO. If the licensee is found not to have complied with the AMLO or the AML/CFT Guideline, the C&ED may institute a criminal prosecution or impose administrative measures against the licensee, including public reprimand, order for remedial action, fines and/or imposition of additional licensing conditions. If the licensee is no longer considered to be a fit and proper person to operate a money service business, the C&ED will suspend or revoke his/her MSO licence.

From January to April 2019, two persons who operate a money service business were arrested for suspected contravention of the TDO and theft respectively, and their MSO licences have been suspended by the C&ED. Investigation is ongoing. During the same period, the C&ED suspended/revoked another five MSO licences for various other reasons.

In addition to strengthening enforcement, the C&ED conducts regular outreach (e.g. distribution of pamphlets, providing latest information at its website, etc) to remind the public to engage only licensed MSOs and stay vigilant to the laws and regulations of other jurisdictions when remitting money so as to prevent any loss.

(3) The Hong Kong Monetary Authority (HKMA) attaches importance to the accessibility of financial and banking services to Hong Kong residents in the Mainland. The HKMA maintains liaison with the Mainland authorities on issues relating to payment, account opening, wealth management, and remittance etc, and measures of financial facilitation are introduced accordingly. The HKMA will follow up as appropriate with the Mainland authorities on arrangements to remit Renminbi having regard to the local situation.

Thank you, President.