

LCQ10: Regulation of money lenders

Following is a question by the Hon Cheung Kwok-kwan and a written reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (May 13):

Question:

Section 24 of the Money Lenders Ordinance (Cap. 163) provides that any person who lends money at an effective rate of interest which exceeds 60 per cent per annum commits an offence, and section 25 provides that a transaction where the effective rate of interest exceeds 48 per cent per annum is presumed prima facie to be extortionate. Regarding the regulation of money lenders, will the Government inform this Council:

- (1) of the historical background of and justifications for setting the ceilings for the two aforesaid per annum rates of interest on loans at the relevant levels;
- (2) whether it will study the lowering of the statutory ceiling for the per annum rate of interest on loans at 60 per cent;
- (3) given that the ways in which the rate of interest on loans is shown on promotional materials by money lenders are multifarious at present (e.g. annualised percentage rate (APR), monthly flat rate, best lending rate), and the relevant range of APRs varies from 4.49 per cent to 59.26 per cent, making it difficult for consumers to make comparisons between the rates of interest of different loan products, whether the Government has plans to require money lenders to use APRs across the board in indicating the rate of interest on loans;
- (4) given that under the existing regulatory regime, the Money Lenders Unit, the Licensing Court and the Police respectively regulate money lenders according to the relevant provisions in Cap. 163, whether the Government has assessed if the aforesaid practice is desirable; if it has assessed and the outcome is in the negative, whether it has plans to entrust the work relating to the regulation of money lenders to a single agency; and
- (5) given that Cap. 163, which was enacted in as early as 1980, has been in operation for four decades, whether the Government has plans to make amendments to the Ordinance to step up the regulation of the business of money lenders (particularly the emerging mobile phone and online means of lending) and enhance the protection for consumers; if so, of the details; if not, whether it will consider doing so?

Reply:

President,

Our reply to the Hon Cheung's question is as follows:

(1) and (2) Licensed money lenders provide an alternative source of finance outside the banking sector for individuals and enterprises with financial needs. Money Lenders Ordinance (Cap. 163) (MLO) was enacted in 1980 to, amongst others, provide for the control and regulation of money lenders and money-lending transactions, and to provide protection and relief against excessive interest rates and extortionate stipulations in respect of loans. The two ceilings for the annual interest rate on loans laid down in the MLO combat money lending activities of usury, and also provide those in need a lawful channel to borrow money and appropriate protection. We will continue to monitor the implementation of the MLO, including provisions related to ceilings for the annual interest rate, and review and enhance the regulatory regime as and when necessary.

(3) According to section 26(2) of the MLO, money lending advertisements shall show the interest proposed to be charged as a rate per cent per annum. Section 2 of the MLO also clearly states that interest includes any amount (by whatever name called) in excess of the principal, which amount has been or is to be paid or payable in consideration of or otherwise in respect of a loan. Subject to the requirements of these provisions, we are exploring measures to increase the transparency of loan interest rates so as to facilitate consumers in comparing different loan products in the market.

(4) and (5) We have been mindful of the public's concern over the money lending sector, and have been reviewing and enhancing the regulation of licensed money lenders as appropriate. This includes the launching of various measures to address the concerns about the sector in 2016, including enhanced enforcement by the Police, imposition of more stringent licensing conditions on money lenders under the MLO, enhanced public education and publicity, as well as enhanced advisory services to the public. Moreover, in view of the concerns about anti-money laundering and referees' consent, we have imposed two additional licensing conditions since 2018. Under these conditions, a licensed money lender is required to comply with specific anti-money laundering and counter-terrorist financing requirements. A licensed money lender is also required, if a referee is involved in a loan application, to obtain such referee's written consent confirming his/her agreement to act as a referee in respect of the loan application.

Currently, the Licensing Court, the Police and the Money Lenders Unit (MLU) of the Companies Registry have respective roles to play under the regulatory regime of money lenders. The Licensing Court is responsible for the determination of applications for and granting of money lender licences as well as the imposition of licensing conditions. The Police is responsible for enforcing the MLO, including examination of applications for money lender licences and renewal of licences, as well as investigating and taking enforcement actions towards complaints against money lenders. As for the MLU, it is responsible for processing applications for money lender licences, maintaining a register of money lenders for public inspection, as well as monitoring licensed money lenders' compliance with the MLO and the conditions imposed by the Licensing Court when carrying on their money lending business, including conducting site inspections.

In recent years, the Government has strengthened measures along the four-pronged approach, viz. imposition of more stringent licensing conditions, enhanced enforcement, public education and publicity, and advisory services to the public. The Government will continue to monitor the situation of the money lending sector and the latest developments of the money lending business. If necessary, we will tighten the regulation of licensed money lenders and refine as appropriate the provisions and implementation of the MLO.