

LCQ13: Bank accounts of travel agencies

Following is a question by the Hon Yiu Si-wing and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (October 31):

Question:

I have learnt that two bank accounts under the name of a travel agency were frozen one after another within two years. The person-in-charge of the travel agency made repeated enquiries with the bank concerned and demanded unfreezing of the accounts, but to no avail. It was only after he had sought assistance from the Hong Kong Monetary Authority (HKMA) that the two accounts were unfrozen. As far as he knows, the reason for the accounts of his travel agency being frozen was probably that his travel agency had organised several years ago a tour group to Iran which was then under the sanctions of the United Nations (UN). In this connection, will the Government inform this Council:

(1) whether the HKMA (i) has issued guidelines regarding the circumstances under which banks may freeze accounts, and (ii) knows the number of bank accounts which were frozen in each of the past three years on the grounds that there had been fund transfers between the account holders and the countries being sanctioned by the UN; if so, of the details; if not, the reasons for that;

(2) whether the HKMA has drawn up guidelines or codes of practice to require that, in respect of freezing of accounts, banks must (i) conduct it in a transparent and reasonable manner, (ii) set a time limit for the freeze, (iii) explain to the customers concerned the reasons, and (iv) propose solutions; if so, of the details; if not, the reasons for that; and

(3) as quite a number of travel agencies in Hong Kong are actively exploring business opportunities in the countries along the Belt and Road, which will give rise to fund transfers with these countries, and such travel agencies are worried that their bank accounts may be frozen in the event that such countries are suddenly sanctioned by the UN, how the HKMA will allay the industry's concern in this regard and provide the needed assistance?

Reply:

President,

(1) to (3) In recent years, as the international community steps up efforts to combat money laundering and terrorist financing, financial institutions around the world have generally strengthened the related controls, including undertaking more comprehensive due diligence and on-going monitoring on customers. Global sanctions regimes and other regulatory requirements have

added to the complexity of the global banking landscape. The Hong Kong Monetary Authority (HKMA) has been reminding the local banking industry that, in implementing robust anti-money laundering and counter-terrorist financing controls, they should be mindful not to create unreasonable hurdles for legitimate businesses and ordinary citizens to access banking services. The HKMA has issued guidance to banks in the past two years, reiterating that banks should apply a risk-based approach in conducting customer due diligence (CDD) on new and existing customers for the opening and maintenance of bank accounts. Banks should also maintain proper communication with customers throughout the CDD process, and ensure that the process is transparent, reasonable and efficient, in line with the "Treat Customers Fairly" principle.

The HKMA requires banks to consider a range of risk factors in assessing the risk level of individual customers; country risk is only one of the factors to be considered. Individual banks also establish their own CDD policies based on internal policies and risk appetite. Banks should follow the relevant terms and conditions previously agreed with the customers when dealing with the operation of accounts.

Generally speaking, during on-going monitoring process where banks suspect that any accounts are involved in irregular or suspicious transactions, or if customers refuse to provide the required information, banks should take appropriate risk mitigating measures, such as by filing a suspicious transaction report as required by law, or restraining the operation of the accounts. Regular operation of the account will be resumed upon the provision of relevant information by the concerned customer to address the bank's concerns. The HKMA requires banks to explain to customers the reasons for any actions taken on the accounts where appropriate. The HKMA received 36, 40 and 36 complaint cases concerning freezing of corporate accounts by banks in 2016, 2017 and 2018 (up to September 30, 2018) respectively, some of which resumed operation after the customers had provided the requisite information. The HKMA does not maintain statistics in relation to accounts frozen due to fund flows with countries sanctioned by the United Nations.

The HKMA requires banks to put in place appropriate and effective mechanism and procedures for handling customer complaints, and for following up individual cases in a fair and expeditious manner. Retail banks should also have procedures to handle customers' requests for reviewing the banks' decisions on account maintenance. If a customer considers that a bank has not handled his/her case properly, he/she can make a complaint to the bank concerned or consider lodging a complaint against the bank with the HKMA. The HKMA will follow up each and every case in an appropriate manner.