

LCQ18: Implementation of Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (January 16):

Question:

Under the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629) (the Ordinance), which has come into operation since July last year, if a traveller who arrives at a specified control point from a place outside Hong Kong is in possession of a large quantity of currency and bearer negotiable instruments (CBNIs) (i.e. CBNIs of a total value of more than HK\$120,000), he or she must make a written declaration to an authorised officer. Moreover, a traveller who is about to leave Hong Kong, or who arrives in Hong Kong (other than at a specified control point) from a place outside Hong Kong, must disclose, upon the requirement of an authorised officer, whether he or she is in possession of a large quantity of CBNIs, and a person disclosing that fact must make the aforesaid written declaration. Such declaration is also required for import or export of a large quantity of CBNIs under other circumstances as specified in the Ordinance. Regarding the implementation of the Ordinance, will the Government inform this Council:

- (1) of the number of declarations received by the Customs and Excise Department (C&ED) since the Ordinance came into operation and the total amount of money involved, with a breakdown by declarations made (i) by travellers and (ii) under other circumstances;
- (2) of the number of breaches of the declaration or disclosure requirements uncovered by C&ED since the Ordinance came into operation, as well as the respective numbers of (i) written warnings issued and (ii) prosecutions instituted against the persons concerned, and the total amount of money involved;
- (3) whether it has allocated additional manpower and other resources to C&ED for the enforcement of the Ordinance at various control points; if so, of the details; of the mechanism for selecting travellers for examination for the enforcement of the Ordinance, and the number of such examinations conducted to date; and
- (4) of the channels through which the Government has publicised such declaration or disclosure requirements to inbound travellers and Hong Kong residents, so as to prevent them from inadvertently breaching the law?

Reply:

President,

The Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (the Ordinance), commencing operation from July 16, 2018, implements Recommendation 32 of the Financial Action Task Force to detect cross-boundary transportation of large quantities of currency and bearer negotiable instruments (CBNIs), for anti-money laundering and counter-financing of terrorism. The Customs and Excise Department (C&ED) is the major law enforcement agency of the Ordinance.

Under the Ordinance, a traveller who arrives in Hong Kong via a specified control point (Note) and is in possession of a large quantity of CBNIs (i.e. the total value of which is more than HK\$120,000) must use the Red Channel under the Red and Green Channel System and make a written declaration on the CBNIs concerned to an C&ED officer. A traveller who is about to leave Hong Kong, or who arrives in Hong Kong not via a specified control point, must disclose upon the request of an C&ED officer whether he or she is in possession of a large quantity of CBNIs and, if so, make a written declaration.

For a large quantity of CBNIs imported or exported in a cargo consignment, an advance declaration must be made to the C&ED through its online Currency and Bearer Negotiable Instruments Declaration System (CDS).

Persons in breach of the declaration or disclosure requirements under the Ordinance are liable to a maximum penalty of a fine of HK\$500,000 and imprisonment for two years. Travellers who breach the relevant requirements for the first time and have not been previously convicted of money laundering or terrorist financing offences, and whose CBNIs are not reasonably suspected to be crime proceeds or terrorist property, may discharge their statutory liability by making a payment of HK\$2,000 in accordance with the Ordinance. Other cases are subject to criminal prosecution.

To assist travellers and relevant trades to comply with the new requirements, during the first three months of the commencement of the Ordinance, the C&ED issued written warnings as appropriate to persons who breached the declaration or disclosure requirements under the Ordinance for the first time.

For the questions raised by the Hon Kenneth Leung, the reply is as follows:

(1) Since the commencement of the Ordinance and up to December 31, 2018, the C&ED received 10 186 declarations made by travellers, which involved CBNIs of a total value of around HK\$113.2 billion. For cargoes, the C&ED received 4 863 declarations which involved CBNIs of a total value of around HK\$621.2 billion.

(2) In the first three months of the commencement of the Ordinance (i.e. July 16 to October 15, 2018), the C&ED detected 23 non-compliance cases, and

issued 20 and three written warnings to travellers and persons responsible for the cargoes concerned respectively. After those three months and up to December 31, 2018, the C&ED detected 32 non-compliance cases committed by travellers, and all travellers concerned made a payment of HK\$2,000 in accordance with the Ordinance. For cargoes, one non-compliance case was detected in which one person was arrested. The case is under investigation. The 56 non-compliance cases mentioned above involved CBNIIs of a total value of around HK\$41 million.

(3) For enforcing the Ordinance, the C&ED has made suitable redeployment of existing manpower and added 44 permanent posts. The C&ED has also procured four cash detector dogs and necessary equipment (e.g. cash-counting machines) to support law enforcement. Since the implementation of the Ordinance, the C&ED has been conducting inspections of travellers and cargoes at control points under a risk management approach. As the number of inspections involves enforcement operational planning, it is not appropriate to disclose the information concerned.

(4) The Security Bureau (SB) and C&ED rolled out extensive public education and publicity on the requirements of the Ordinance before and after its commencement, including the production and broadcast of television and radio Announcements in the Public Interest (APIs); making arrangements to broadcast the APIs at control points and on local and cross-boundary conveyances; and displaying and distributing publicity materials on the Ordinance and placing advertisements through other suitable platforms (e.g. travel agencies, money changers and online media). Before the implementation of the Ordinance, the C&ED also conducted briefings for organisations which frequently moved CBNIIs into and out of Hong Kong (e.g. banks and security escort companies), at which the operation of CDS was explained and demonstrated to facilitate making declarations for cargoes. The SB and C&ED also publicised the requirements of the Ordinance with the assistance of Hong Kong's Economic and Trade Offices around the world, and introduced the Ordinance to other jurisdictions and law enforcement agencies through various appropriate channels (e.g. the World Customs Organization).

Note: There are currently 15 specified control points under the Ordinance, namely Lo Wu Control Point, Hung Hom Station, Man Kam To Boundary Control Point, Sha Tau Kok Boundary Control Point, Hong Kong-Macau Ferry Terminal, China Ferry Terminal, Lok Ma Chau Boundary Control Point, Hong Kong International Airport, Tuen Mun Ferry Terminal, Shenzhen Bay Port Hong Kong Port Area, Lok Ma Chau Spur Line Control Point, Kai Tak Cruise Terminal, Ocean Terminal, West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (other than the West Kowloon Station Mainland Port Area), and Hong Kong-Zhuhai-Macao Bridge Hong Kong Port.