

LCQ19: Regulation of money lenders

Following is a question by the Hon Kenneth Leung and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (April 17):

Question:

According to the Money Lenders Ordinance (Cap 163), no person shall carry on business as a money lender without a licence, except the persons specified in Part 1 of Schedule 1 (e.g. a bank) and the persons who make a loan as specified in Part 2 of Schedule 1. On regulating money lenders, will the Government inform this Council:

(1) of the number of licensed money lenders in each of the past five years, with a breakdown by type of business (e.g. vehicle financing and corporate/business lending); if such a breakdown is not available, of the reasons for that;

(2) as it is stipulated in section 24 of Cap. 163 that no person shall lend money at an effective rate of interest which exceeds 60 per cent per annum, whether the Government has studied if there is any room for adjusting downward the interest rate ceiling; if it has studied and the outcome is in the affirmative, of the details; if the study outcome is in the negative, the reasons for that;

(3) whether it will set up an independent institution to regulate money lenders and regulate money lenders on an ongoing basis under a risk-based approach; if so, of the details; if not, the reasons for that; and

(4) whether it will tighten the licensing conditions for money lenders to require that money lenders must, before approving a personal loan, conduct a test on the repayment ability of the loan applicant, so as to reduce the risk of over-borrowing on the part of the borrower; if so, of the details; if not, the reasons for that?

Reply:

President,

A consolidated reply to the question raised by the Hon Kenneth Leung is as follows:

(1) The number of licensed money lenders in each of the past five years is set out below:

As at	Number of licensed money lenders
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December 31, 2018	2 153
December 31, 2017	1 994
December 31, 2016	1 848
December 31, 2015	1 605
December 31, 2014	1 309

Since the money lender licences granted by the Licensing Court do not restrict the types of money lending business to be conducted by the licensees, the Money Lenders Unit (MLU) of the Companies Registry does not have the relevant breakdown.

(2) and (3) Currently, the Licensing Court, the Police and the MLU have respective roles to play under the regulatory regime for 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 Money Lenders Ordinance (MLO), including examination of applications for money lender licences and renewal of licences, and investigating 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 adopting risk-based supervisory measures to monitor licensed money lenders' compliance with the MLO and the conditions imposed by the Licensing Court when carrying on their money lending business. The MLU also conducts site inspections to ensure licensed money lenders have appropriate systems and measures in place for their business operation.

Section 24 of the MLO provides that if any person lends at an effective rate of interest exceeding 60 per cent per annum, he shall commit an offence punishable on conviction by a fine and/or imprisonment, and the relevant loan agreement shall also be unenforceable. Section 25 of the MLO provides that where proceedings are taken in any court by any person for the recovery of any money lent, or on application by a debtor, the court may, if satisfied that the loan transaction is extortionate, reopen the transaction and substitute just terms. A transaction where the effective rate of interest exceeds 48 per cent per annum is presumed prima facie to be extortionate.

The regulatory regime for money lenders and the statutory provisions pertaining to money lending transactions have been operating smoothly and are effective in curbing loansharking activities in Hong Kong. The Government will continue to keep in view the operation of the regulatory regime.

(4) Money lenders, which are outside the banking system, provide an alternative source of finance for individuals and enterprises which need to borrow money. Money lenders will conduct risk assessments on the repayment

ability of borrowers in deciding whether to approve the loan applications and the relevant terms and conditions. To alert the public of the risk of over-borrowing, more stringent licensing conditions have been imposed on all money lenders since 2016. Licensed money lenders are required to include a warning statement in their advertisements, namely, "Warning: You have to repay your loans. Don't pay any intermediaries". The Government has also rolled out public education and publicity activities, including collaborations with the Investor and Financial Education Council and the Consumer Council to remind the public of issues requiring attention when borrowing and to promote the message of prudent borrowing.