

LCQ2: Regulation of online fundraising activities

Following is a question by the Hon JoePHY Chan and a reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (May 25):

Question:

There are comments pointing out that currently, offline fundraising activities (e.g. flag sales and lottery ticket sales) may only be carried out after the applications have been vetted and approved by the relevant government departments. However, there is no dedicated legislation and government departments that regulate fundraising activities carried out online, resulting in a situation that fundraising activities are regulated if they are conducted offline but are not regulated if conducted online. It has been reported that during the riots in 2019, there were even people who conducted online fundraising for organising illegal activities that endangered national security. In this connection, will the Government inform this Council:

(1) whether it has compiled statistics on the number of online fundraising activities allegedly carried out for Hong Kong affairs in each of the past three years and, among such activities, the respective numbers of those launched via crowdfunding platforms and the social media accounts of individuals/organisations; of the total amount of funds raised in such fundraising activities, and the number of activities the organisers of which had made public the amounts of funds raised and their accounts on expenses;

(2) whether the Government will consider establishing a standardised regulatory mechanism for various types of online and offline fundraising activities; if so, when the Government plans to submit the relevant proposals to this Council; and

(3) as it is learnt that some people carried out public fundraising under the guise of selling things (e.g. meal vouchers and gifts), how the Government prevents those fundraising activities which evade regulation by adopting this approach (especially those adopting an online approach)?

Reply:

President,

First, I thank the Hon JoePHY Chan for raising this question, giving us an opportunity to explain the approach of the Government in regulating crowdfunding activities.

Any funds raised, transferred and used, whether through internet or physical means, must abide by the law. If any person or entity engages in illegal acts, such as money laundering, fraud, theft, acts and activities

that endanger national security, or incite, aid, abet or provide pecuniary or other financial assistance or property for other persons to commit offences endangering national security, he or she would be subject to criminal liability, including fine and imprisonment, in accordance with the Organized and Serious Crimes Ordinance (Cap. 455), the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), the Theft Ordinance (Cap. 210), the Crimes Ordinance (Cap. 200) and the Hong Kong National Security Law. In addition, financial services-related activities involving an offer to the public for purchase of securities or money lending are regulated respectively by the Securities and Futures Ordinance (Cap. 571), the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) and the Money Lenders Ordinance (Cap. 163).

We however note that many online crowdfunding activities of diverse purposes and nature have emerged in Hong Kong in recent years, as mentioned by the Hon Joephy Chan. While we have the law specified above, we do not have a dedicated legislation or government department or regulatory authority to deal specifically with the various kinds of online crowdfunding activities.

In this connection, I remarked last month that the Government has been reviewing the regulation of crowdfunding in order to provide clearer regulatory requirements, and to strengthen the transparency and accountability of crowdfunding activities, with a view to preventing illegal acts and protecting public interests. We plan to conduct a public consultation within this year which will cover the specific contents of the future regulatory framework, including the scope of crowdfunding activities to be regulated, regulatory requirements applicable to different types of crowdfunding activities such as whether application, registration, disclosure and account auditing, is required for the platform and fundraiser of crowdfunding activities, as well as the corresponding legislative work, regulatory agencies and enforcement arrangement.

Regarding the Hon Joephy Chan's question, in consultation with the Security Bureau, my reply is as follows:

(1) As it is now not always necessary to make prior application before the conduct of online crowdfunding activities, the Government does not possess a complete set of data in this aspect. However, the law enforcement agencies, in light of the actual circumstances, have constantly been monitoring the situation for any illicit fundraising activities and taking appropriate enforcement actions. For example, in the past three years, the Police have investigated and made arrests for those who were suspected of using funds gathered from online crowdfunding for illegal activities such as money laundering and fraud. In these cases, the arrested persons were suspected of using the proceeds raised from online crowdfunding for purposes different from the proclaimed purposes, and instead for personal consumption, investment and entertainment; or raising funds by impersonating social welfare and educational institutions. The Government will continue to combat the illegal use of proceeds raised from online crowdfunding.

(2) At present, physical fundraising activities are subject to certain regulations. For instance, a permit must be obtained from the Director of

Social Welfare or the Secretary for Home Affairs, depending on whether the fundraising activity is charitable or non-charitable in nature, in accordance with section 4(17) of the Summary Offences Ordinance (Cap. 228). In addition, the Government has implemented a series of administrative measures over the years to enhance the transparency of charitable fundraising activities, safeguard the interests of donors, etc.

When formulating our proposal on the regulatory framework for online crowdfunding activities, we will make appropriate reference to the above existing measures, and consider the relationship between the regulatory arrangements for fundraising and crowdfunding activities conducted in different modes and the consistency of the measures, and protect the public interest. The public consultation we plan to conduct this year will cover these issues.

(3) There are four common types of crowdfunding activities. In addition to the financial-related ones such as equity crowdfunding and peer-to-peer lending, there are also crowdfunding activities which the Hon JoePHY Chan are concerned about, including donation-based crowdfunding, whereby funds are raised for making donations to charitable activities or other causes such as making donations for political activities; and reward or pre-sale-based crowdfunding, whereby fundraisers provide goods or services in return for funds provided by contributors. The above four types of online crowdfunding activities fall under the scope of our review, and we will put forward corresponding regulatory recommendations in the public consultation later this year to avoid any person making use of fraudulent crowdfunding activities for potentially illegal purposes.

Thank you President.