

## LCQ4: Freezing suspected crime proceeds

Following is a question by Dr the Hon Cheng Chung-tai and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (December 16):

Question:

It has been reported that a Hong Kong resident who had been admitted to bail pending trial discovered, after announcing outside Hong Kong that he had gone on exile, that the deposits of several million dollars in several bank accounts belonging to himself and his family members had all been frozen, but some of such bank accounts were unfrozen one day later. The Police subsequently acknowledged that they had frozen a deposit of \$850,000 of an absconding Hong Kong resident. Some members of the public have queried that the aforesaid practice of the Police may have violated the provision of the Basic Law regarding protection of private properties, and dealt a blow to the public's confidence in Hong Kong's financial system, thereby undermining Hong Kong's status as an international financial centre. In this connection, will the Government inform this Council:

(1) whether the law enforcement agencies may, without any restraint order issued by the court, direct banks to freeze the deposits in the accounts of any person who has allegedly broken the law; if so, of the legal basis;

(2) under what circumstances the law enforcement agencies will unfreeze frozen deposits within a short period of time; and

(3) whether it is a standing practice of the Police to freeze the assets of absconders and their families; if so, how the Government ensures that such practice will not undermine the confidence of the international community in Hong Kong's financial system?

Reply:

President,

Effective freezing of suspected crime proceeds to stop criminals from benefiting from crimes or continuing to use the funds for illegal purposes, is an important measure to fight money laundering. One of the main objectives of the relevant mechanism is to protect victims' assets from falling into the hands of criminals. Unfortunately, the mechanism has been smeared, by some people for political purposes, as abuse of powers and responsibilities. I must solemnly refute such political smear which is wrong and misleading.

The person being referred to in the question is an absconder who has openly jumped bail, with foreign politicians having publicly confessed that

they had rendered assistance to him in making up a false itinerary so that he could deceive the court for granting approval. An offender who fabricates false reasons and lies to the court in an attempt to abscond adds to the severity of his crime. Escaping from court trial by jumping bail and running away after breaking the law, and using such self-deluding excuse of the so-called "going into exile" to shift his responsibility and deceive others, are shameful and hypocritical acts of a coward. Members of the public should strongly condemn such malevolent acts which are contempt of the rule of law and undermine justice. Persons who are wanted for prosecution of offences and have absconded from Hong Kong are fugitive offenders. The Hong Kong Special Administrative Region Government will hold them criminally responsible and make them face the sanctions of the law.

My reply to the various parts of the question is set out below:

(1) Under sections 25 and 25A of the Organized and Serious Crimes Ordinance (Cap. 455) and the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), a person, including a bank, commits an offence, i.e. money laundering offence, if he or she deals with any property, knowing or having reasonable grounds to believe (including when being alerted or notified by law enforcement agencies (LEAs)) that the property represents the crime proceeds of an indictable offence (such as fraud involving embezzlement of funds raised through crowdfunding, drug trafficking and illegal gambling operations). The person is liable to a fine of \$5 million and imprisonment for 14 years. The law also provides for the obligation of the person or bank concerned to file a "suspicious transaction report", and stipulates the confidentiality requirements which prohibit the disclosure of matters prejudicial to investigation.

The alert or notification of the banks concerned by LEAs must be based on reasonable suspicion, such as there being activities of the account different from the holder's purported business, irregular transfers, frequent cash transactions in large amounts, large sums of money flowing abnormally from corporate accounts to personal accounts, etc.

Actions to freeze suspicious assets must be decisive, swift and effective, otherwise the crime proceeds may dissipate quickly. One common example is telephone deception in which elderly victims are cheated out of their property, where freezing swindlers' bank accounts could help to intercept and recover the money concerned so to alleviate the victims' loss. It is both necessary and right for banks to freeze suspected crime proceeds in accordance with the law for the prevention of money laundering, thereby complying with the law and carrying out their duties. We should affirm and support banks' obvious and rightful fulfilment of their statutory obligations in anti-money laundering.

Actions taken by LEAs must target acts of money laundering, and have nothing to do with the political background of the persons involved. Actions against other associated accounts must also be made on the ground that the transactions concerned are suspected money laundering activities, and whether such accounts belong to family members or acquaintances of the persons

involved is irrelevant. Any person who is dissatisfied with the freezing of his or her property may resort to litigations in court, including claiming compensation.

(2) As regards the reports mentioned in the question, it has been the Government's position not to comment on individual cases, especially as the reports concerned were based on accounts of a person who lied openly. But generally speaking, when investigations by LEAs have revealed that the property is no longer suspicious, LEAs would notify the banks and give consent to them to continue dealing with the property concerned.

(3) The mechanism for freezing suspected crime proceeds in Hong Kong complies with international requirements and has won international recognition. Hong Kong is a member of the Financial Action Task Force (FATF), an intergovernmental anti-money laundering organisation the membership of which covers around 40 major economies in the world, including China, the United Kingdom, the United States, Australia, Singapore, etc. Members of the FATF have the responsibility to take effective measures to freeze, seize and confiscate crime proceeds; and prevent the dealing, transfer or disposal of property subject to confiscation. As pointed out in the FATF's evaluation report on Hong Kong published last year, Hong Kong's mechanism facilitates the tracing of fund flows and detection of crime networks by LEAs, and plays an important role in combating fraud and deception crimes, preventing the illegal dissipation of assets, confiscating crime proceeds, etc. From 2014 to 2019, suspicious assets with a total value of around HK\$1.8 billion had been frozen and subsequently confiscated pursuant to court orders.

Freezing suspected crime proceeds for combating money laundering and organised crimes is a measure recognised and adopted internationally. Combating money laundering effectively not only is an important measure to fight organised crimes but also reinforces Hong Kong's status and reputation as a financial centre. The actions taken by the Police in this case targeted suspected money laundering. While jumping bail and absconding are illegal and constitute contempt of court's order, they were not the grounds of freezing property in this case. Therefore, the premise of this question is wrong. Those who seek to glorify the committal of crimes and malevolent acts of absconding, or give support, recognition or encouragement to them, should be strongly condemned. People who slander Hong Kong's effective anti-money laundering system for political reasons are indeed those who undermine Hong Kong's financial system.

Thank you, President.