

LCQ5: 612 Humanitarian Relief Fund

Following is a question by the Hon Elizabeth Quat and a reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (September 8):

Question:

In June 2019, the "612 Humanitarian Relief Fund" (the Fund) was established to raise funds through online crowdfunding so as to provide relief in terms of money, etc. for those injured and those arrested in the movement of opposition to the proposed legislative amendments. As at the end of July this year, the donations received cumulatively by the Fund exceeded \$253 million. It has been reported that the Fund has not applied for registration under the Societies Ordinance, nor does it fall within any of the associations to which the Societies Ordinance does not apply as specified in the Schedule to the Ordinance. In this connection, will the Government inform this Council:

(1) whether it has studied if the Fund is required to apply for registration or exemption from registration under the Societies Ordinance; if it has studied and the outcome is in the affirmative, of the follow-up actions;

(2) whether it will enact legislation to regulate public fundraising activities for raising funds to subsidise persons suspected of breaking the law; and

(3) given that the Fund itself does not have a bank account and has been receiving donations through a bank account of another body, namely "Alliance for True Democracy", whether it has investigated if the Fund has received funds from organisations or persons outside Hong Kong, and if the activities of these two associations have contravened the Anti-Money Laundering and Counter-Terrorist Financing Ordinance and other laws?

Reply:

President,

First, thank you the Hon Elizabeth Quat for raising this question, allowing us to state clearly the position of the Government.

As an international financial centre, upholding the rule of law has always been the cornerstone of Hong Kong's success. It also lays the foundation for the orderly conduct of various trades, financial services and investment activities in the market. The Government is therefore on high alert for illicit activities. If any persons or organisations have violated laws and regulations, our regulatory bodies and law enforcement agencies will take appropriate actions in accordance with relevant legislations. If there are any acts involving attempts to 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, bringing threat to the nation's and Hong Kong society's prosperity and stability and the living of the general public, it may constitute an offence under the Hong Kong National Security Law, which is a very serious crime. The Government will take it very seriously.

Regarding the Hon Quat's question, Members may have already noted that the National Security Department of the Hong Kong Police Force announced last week that they had launched an investigation against the "612 Humanitarian Relief Fund" for suspected contravention of the Hong Kong National Security Law or other Hong Kong relevant laws. In consultation with the Security Bureau, my reply to the question is as follows:

(1) According to the records of the Societies Office, the "612 Humanitarian Relief Fund" is not registered as a society or exempted from society registration under the Societies Ordinance. Section 5 of the Societies Ordinance stipulates that, unless otherwise specified, a local society shall apply to the Societies Officer for registration or exemption from registration within one month of its establishment or deemed establishment. Section 2(2) of the Societies Ordinance provides that the Societies Ordinance shall not apply to any person listed in the Schedule to the Ordinance, including any company registered under the Companies Ordinance, any trade union or any trade union federation registered under the Trade Unions Ordinance, any company, association or partnership formed for the sole purpose of carrying on any lawful business and registered under any other Ordinance, etc.

According to the records of the Companies Registry and Labour Department's Registry of Trade Unions, the "612 Humanitarian Relief Fund" is neither registered as a company under the Companies Ordinance, nor as a trade union or trade union federation under the Trade Unions Ordinance. As mentioned above, the National Security Department of the Hong Kong Police Force is currently investigating the "612 Humanitarian Relief Fund" for suspected contravention of the Hong Kong National Security Law or other Hong Kong laws. If any individual or institution is suspected of any illegal act, the Police will deal with it in accordance with the law having regard to the relevant statutory requirements and the actual circumstances of the case.

(2) and (3) The Government has to emphasise that, any funds raised, transferred and used must be in compliance with the regulatory requirements stipulated in the relevant laws. Law enforcement agencies will, in light of the actual circumstances, monitor and keep an eye on the operation of such funds, and take enforcement actions against illegal acts in accordance with the law.

Regarding Members' concern about anti-money laundering, the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (AMLO) requires financial institutions and designated non-financial businesses and professions (such as legal professionals, accounting professionals, trust or company service providers, etc.) to carry out anti-money laundering measures

in accordance with the AMLO, including specific requirements such as customer due diligence and record-keeping. The AMLO also provides that any person carrying on a trust or company service by way of business in Hong Kong is required to obtain a licence to provide relevant services. If any person is suspected of providing trust or company services without a licence, he or she will breach the law, and the Companies Registry will investigate and follow-up.

Under the law including the Organized and Serious Crimes Ordinance, the Theft Ordinance, etc., the activity of any persons involving the objectives of money laundering, fraud and other illegal acts will be investigated and prosecuted.

The Hong Kong National Security Law has clear provision regulating the pecuniary or other financial assistance or property for the commission by other persons of the offences stipulated in the law, in order to combat offences of colluding with a foreign country or with external elements to endanger national security.

On the other hand, in respect of crowd-funding platform, if any online fundraising activities involve financial services-related activities such as an offer to the public to purchase securities or conduct lending, the relevant crowd-funding platform may be subject to regulation by the Securities and Futures Ordinance, the Companies (Winding Up and Miscellaneous Provisions) Ordinance, the Money Lenders Ordinance, etc.

Therefore, crowd-funding activities are regulated by the relevant legislations depending on their purposes and nature.

The National Security Department of the Hong Kong Police Force is currently investigating the "612 Humanitarian Relief Fund" for suspected contravention of the Hong Kong National Security Law or other Hong Kong laws. The Government will not comment on the operation of individual self-proclaimed funds. We strongly appeal to the public to distance themselves from fundraising activities of self-proclaimed funds which are suspected of contravening the Hong Kong National Security Law or other Hong Kong laws, so as to avoid being deceived or bearing any legal risks.

Thank you President.