

LCQ8: Remittance service provided by money changers

Following is a question by the Hon Chung Kwok-pan and a written reply by the Secretary for Financial Services and the Treasury, Mr James Lau, in the Legislative Council today (January 23):

Question:

At present, operators of money changers are required to possess a licence granted by the Commissioner of Customs and Excise for operating remittance and/or money changing service(s). It has been reported that recently, a member of the public entrusted a money changer to remit money to the Mainland but the designated recipient has still not received the money after a lapse of several days. That member of the public has sought, for a number of times, the assistance from the Police, the Consumer Council and the Customs and Excise Department, but to no avail. In this connection, will the Government inform this Council:

(1) of the number of complaints against money changers received (with a breakdown by the subject of the complaints) and, among such complaints, the number of those about money changers' failure to execute remittance instructions of their clients, in each month of the past three years; and;

(2) how it monitors the remittance service provided by money changers at present; whether it will step up efforts in monitoring this type of business; if so, of the details; if not, the reasons for that?

Reply:

President,

(1) From 2016 to 2018, the Consumer Council received a total of 197 complaints relating to money service operators (MSOs), amongst which 118 relate to money changing service, and the remaining 79 relates to remittance service. During the same period, the Customs and Excise Department (C&ED) received a total of 37 complaints relating to MSOs, amongst which 18 relate to failure to complete remittance transactions for various reasons after MSOs received funds from customers.

(2) Hong Kong currently has a number of legislations regulating MSOs.

To mitigate the money laundering risk faced by the money service business, the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (AMLO) (Cap 615) stipulates that any person who operates a money service business (including money changing service and/or remittance service) in Hong Kong must obtain a licence from the C&ED. The C&ED may grant a licence to an MSO applicant only if it is satisfied that the applicant and ultimate owners

(if any) are fit and proper persons to operate a money service business. If the applicant is a corporation or a partnership, all directors, partners, and ultimate owners (if any) must be fit and proper persons. In deciding whether a person is fit and proper, the C&ED must have regard to whether the person has been convicted of an offence relating to money laundering or terrorist financing (including similar offences in other jurisdictions); whether he/she has persistently failed to comply with anti-money laundering/counter-terrorist financing (AML/CFT) requirements stipulated under the AMLO or the AML/CFT Guideline promulgated by the C&ED; whether he/she has been convicted for an offence for which it was necessary to find that the person had acted fraudulently, corruptly or dishonestly; whether the person, being an individual, is an undischarged bankrupt or is the subject of any bankruptcy proceedings; and whether the person, being a corporation, is in liquidation or is the subject of a winding up order, etc. In addition to the above, the C&ED may consider any other matter that it considers relevant in determining whether a person is fit and proper.

Further, MSOs must comply with other legislations, including those relating to consumer protection, such as the Trade Descriptions Ordinance (TDO) (Cap 362) and the Money Changers Ordinance (MCO) (Cap 34). The TDO stipulates that any trader (including MSOs) who applies a false trade description to a service supplied or offered to be supplied to a consumer; or supplies or offers to supply to a consumer a service to which a false trade description is applied, commits an offence. The MCO requires MSOs which carry out an exchange transaction exceeding HK\$100,000 to display net rates of exchange in a visible and legible manner and provide transaction note to the customer in a prescribed form. The MCO also prohibits MSOs from making a false or misleading statement as to the rate of exchange offered. Anyone who suspects an MSO of being involved in fraud or other criminal offences should also report to the Police.

Law enforcement agencies, including the C&ED, will investigate complaints relating to MSOs. Depending on the substance of complaints, matters for investigation may include whether the relevant MSO's mode of business violates the TDO or the MCO, or whether the MSO has violated the AMLO. Aside from criminal prosecution under the said Ordinances, if an MSO is convicted of an offence for which it was necessary to find that the person had acted fraudulently, corruptly, or dishonestly, the C&ED will also consider whether the person remains a fit and proper person for operating a money service business under the AMLO, and revoke the MSO licence where appropriate.