

For discussion
on 7 May 2007

**Legislative Council
Panel on Financial Affairs**

**Issues related to services provided by banks to
money changers and remittance agents**

This paper provides information on the issues related to services provided by banks to remittance agents and money changers (RAMCs) as raised in the letter from the Clerk to the Panel of 23 April 2007.

Statutory and Regulatory Regime on RAMCs

2. Hong Kong has been actively participating in the international co-operation network combating money laundering and terrorist financing activities. Hong Kong is a member of the Financial Action Task Force (FATF), which is an inter-governmental organization that sets international standards and develops and promotes policies on anti-money laundering and counter financing of terrorism, and is obliged to implement the FATF recommendations to prevent our financial systems and other related sectors from being abused by criminals or terrorists for conducting illicit activities.

3. RAMCs are increasingly being highlighted internationally as a type of business that should be regarded as high risk from the point of view of prevention of money laundering. Specific recommendations have therefore been formulated by FATF with a view to strengthening the control and regulation of business and operation of the sector and to preventing such businesses from being abused by criminals and terrorists.

4. Currently, Hong Kong maintains a registration system for RAMCs. Under s.24B of the Organized and Serious Crimes Ordinance (Cap.455) (“OSCO”), a person is required to notify the Police in writing not later than 1 month after becoming a RA or MC (s. 24B(5) of OSCO). RAMCs are also required to notify the Police in writing of the cessation of business not later than 3 months after the cessation (s.24B(6) of OSCO). OSCO also requires RAMCs to keep records of transactions amounting to HK\$8,000 or above or its foreign currencies equivalent. To

facilitate better understanding on the statutory requirement and to ensure compliance, the Police issued a set of guidelines for reference of RAMCs.

Statutory and Regulatory Regime Governing Banks Relationship with RAMCs

5. There are no statutory or supervisory requirements on banks on whether business relationships should or should not be maintained with a particular group of customers, except where such customers are named in regulations issued under the United Nations Sanctions Ordinance or in the list of terrorists and terrorist associates designated by the United Nations Security Council Committee which takes effect in Hong Kong by virtue of the United Nations (Anti-Terrorism Measures) Ordinance.

6. The only references to MCs (there are none to RAs) are in the Supplement to the HKMA's Guideline on Prevention of Money Laundering, introduced in 2004. This states that banks should develop customer acceptance policies and procedures which are capable of identifying the types of customer likely to pose a higher than average risk of money laundering and mentions MCs, among others, as examples of businesses that may be particularly susceptible to money laundering risk because they handle large amounts of cash. As an international financial centre, it is important for Hong Kong's prevention of money-laundering arrangements to be consistent with international standards. In this connection, all the factors included in the Supplement that banks should consider in assessing the money-laundering risk of customers are consistent with the relevant international standards issued by the FATF and the Basel Committee on Banking Supervision.

7. Where a customer is assessed by a bank to be of higher risk, the bank is expected to apply an enhanced customer due diligence process. This should include obtaining reliable documentation to verify the information provided by such customer, and conducting extra scrutiny of the transactions of the relevant accounts throughout the course of the business relationship. The objective is to ensure that the transactions being conducted are not inconsistent with the bank's understanding of the background and business nature of the customer.

8. The Supplement only requires banks to take extra care in managing business relationships with those customers the banks assess to be of higher risk. It does not mandate banks to restrict or not to provide services to a particular group of customers solely on the ground that the

business nature of such customers is more susceptible to money laundering risk. Whether to maintain a particular line of business or maintain banking relationship with certain customers is entirely a commercial decision for individual banks.

The Impact of the Statutory and Regulatory Regime on Banks and RAMCs

9. The statutory requirements for registration and record keeping as set out in paragraph 4 above were first put in place in 2000. The Administration has conducted public consultation through questionnaires, visits and focus group meetings and the majority of respondents supported our proposals. Given that RAMCs are only required to register their business and keep proper records under the OSCO, the compliance cost and burden on their operations would, in general, not be onerous. In fact, the number of RAMCs registered with the Police has increased from around 360 in 2000 to around 1,700 now.

10. It is a global trend for regulators to have due regard to compliance cost when assessing the impact of regulation. The HKMA is aware that requirements on banks in the context of combating money laundering and terrorist financing may increase the operating cost of banks. This is not unique to Hong Kong. But any additional costs must be weighed against the need to ensure that Hong Kong, as an international financial centre, has adequate safeguards against money laundering and terrorist financing activities and that such arrangements are in line with international standards. When the Supplement was introduced in 2004, the HKMA had carefully evaluated the regulatory burden on banks and had conducted extensive consultation with the banking industry.

11. It is worth pointing out that the compliance burden on banks should be measured against the potential damage to the banking sector, and Hong Kong's position as an international financial centre, if banks are found to be involved in suspected money laundering or other illegitimate activities. If such a situation were to arise, the strongest defence would be the robustness and sophistication of the safeguards that the relevant institution and authorities have put in place to detect irregular activities. This explains why the HKMA has put so much emphasis on bringing the system for combating money laundering and terrorist financing (as it relates to the banking sector) in line with international standards.

Concerns over the Alleged Refusal of a Bank to Provide Services to RAMCs

12. According to Police's records, there are about 1700 registered RAMCs. Many of these RAMCs are self-employed persons or sole proprietors without any employees.

13. Based on information available to the HKMA, many banks are providing account services to RAMCs. There is no evidence suggesting that banks are refusing to provide services to this group of customers in a bid to gain a competitive edge over the latter.

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