

For discussion on
7 November 2006

Panel on Security of the Legislative Council

Proposed changes to the requirements of verifying customer's identity and record keeping in remittance and money-changing transactions

Purpose

This paper briefs Members on our proposal to lower the threshold for the requirements of verifying customer's identity and record-keeping in remittance and money exchange transactions from \$20,000 to \$8,000.

Background

2. On 20 October 2006 the Narcotics Division issued a consultation paper to all local remittance agents and money changers to invite their views and comments on the proposal. A copy of the paper was issued to Members on the same day.

3. The proposal seeks to implement Special Recommendation (SR) VII of the Financial Action Task Force (FATF), using a step-by-step and pragmatic approach. FATF is an inter-governmental organization that sets international standards and develops and promotes policies on anti-money laundering and counter financing of terrorism (AML/CFT). It was established in 1989 by the Group of Seven (G7) countries and it now has 33 members¹. China is an observer. Hong Kong has been an FATF member since 1990 and was the FATF President in 2001/2002.

¹ The 33 FATF members include Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, European Commission, Finland, France, Germany, Greece, Gulf Co-operation Council, China Hong Kong, Iceland, Ireland, Italy, Japan, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Portugal, Russia, Singapore, South Africa, Spain, Sweden, Switzerland, Turkey, United Kingdom, United States.

4. The 40 “Recommendations” and Nine “Special Recommendations” (“40+9” Recommendations) of the FATF set out the basic framework to prevent, detect and suppress money laundering and the financing of terrorism. All members are expected to put in place measures to implement all of the Recommendations. Implementation of the Recommendations would help safeguard the reputation of Hong Kong as a major international financial centre and also prevent our financial systems and other related sectors from being abused by criminals or terrorists for conducting illicit activities.

5. Special Recommendation (SR) VII is one of the counter financing of terrorism measures that aims to obstruct the flow of terrorist funds via wire transfers, which is found to be commonly used by terrorists according to a FATF typology study on wire transfers and their relation to terrorist financing. The measure also makes transfer of terrorist funds more traceable, hence facilitating the prevention of terrorist acts.

6. As far as remittance is concerned, SR VII essentially requires the application of the following requirements to transactions over EUR/USD 1,000, or, if possible, to all transactions -

- (a) the ordering financial institution to record and maintain the sender’s identification details, and to verify the identity of the same for all cross border and domestic wire transfers;
- (b) the ordering financial institution to include the sender’s identification details in the message or payment form accompanying the wire transfer for all cross border wire transfers; and
- (c) the recipient institution of cross border wire transfers to consider refusing to accept transfers that are not accompanied by sender’s identification.

FATF members are expected to implement this measure by January 2007.

The Proposal

7. As the other FATF members start to implement the measure, if Hong Kong does not follow suit, our remittance agents may encounter problems in the operation of their business with these other jurisdictions, in that the overseas banks and counterparts may reject wire transfers sent by a Hong Kong remittance agent if the sender's information is not available. At the same time, in order to minimize disruption to the operation of the remitting and money exchanging industry that may arise from the implementation of the measure in Hong Kong, we intend to adopt a step-by-step and pragmatic approach to the implementation of SR VII. This would involve :

- (a) implementing the requirement in **paragraph 6(a) only** at this stage so as to give the industry sufficient time to adapt to a lower threshold;
- (b) considering the implementation of requirements in paragraphs 6(b) and 6(c) by law at a later stage when the industry and the international community have accumulated sufficient experience as to how best to put them into practice; and
- (c) considering the implementation of other FATF Recommendations relating to remitting and money changing business.

8. In the meantime, we will recommend to remittance agents through advisory guidelines to implement the requirement in paragraph 6(b) in their operations so as to facilitate smooth international transfer of funds, particularly to jurisdictions which might refuse to accept transfers not accompanied by sender's information.

9. To this end, we propose making the following amendments to the Organized and Serious Crimes Ordinance (Cap.455) (OSCO) by the Secretary for Security giving notice in the Gazette in accordance with section 24C(5) of the Ordinance -

- (a) Changing the threshold amount in section 24C(1) from HK\$ 20,000 to HK\$ 8,000; and
- (b) Amending item 6 of Part 1 and Item 5 of Part 3 of Schedule 6 to include sender's information (name, identity card number, telephone number and address) as information that have to be recorded and retained.

10. The present formulation of section 24C(1) would make the proposed amendments also apply to money changers. Applying the same threshold to both remittances and money changing would have the benefit of avoiding confusion to the industry which might otherwise be caused by applying different thresholds to the two types of transactions, as both are often conducted by the same operator within the same premises. This is also in line with the current practice.

11. We have invited the local remittance agents and money changers to let us have their views and comments in writing before 20 November 2006 on the proposal and on any matters relating to the implementation of Special Recommendation VII.

12. Subject to the response to the consultation, we intend to publish a notice in the Gazette on 1 December 2006 and the amendment would be tabled at the Legislative Council for negative vetting on 6 December 2006. It is hoped that the amendment would take effect in January 2007.

Advice Sought

13. Views of Members on this proposal are welcome.

Narcotics Division
Security Bureau
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