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27 July 2007

Clerk to the Panel on Security
Legislative Council
Legislative Council Secretariat

(Attn: Mr Raymond LAM)

Dear Mr Lam,

**Progress Report on the Issue of Establishing
a Regulatory Body for Remittance Agents and Money Changers**

I refer to your letter to the Secretary for Security dated 30 May 2007 with a list of follow-up actions required of the Administration attached (“the list”). Item 6 of the list requires the Administration to provide a progress report in July 2007 on the issue of establishing a regulatory body for remittance agents and money changers (“RAMC”) and a comparison of the regulatory regime in Hong Kong and that of other places such as Singapore and Taiwan. I write to inform you of the progress.

Progress

The Financial Action Task Force on Money Laundering (“FATF”), which is an inter-governmental organization that sets international standards on anti-money laundering (“AML”) and counter-terrorist financing (“CFT”), has classified RAMC as financial institutions of high money laundering risk alongside banks, securities firms and insurance companies.

The Administration is reviewing the current regulation of RAMC for AML and CFT purposes. In the process, the Administration is mindful of the business characteristics of RAMC. Any future enhancement in the regulation to be proposed should be focused and pragmatic to avoid imposing excessive

burden on these businesses. In the review, the Administration would also draw reference to overseas experience in this regard (see **Annex** for a comparison of Hong Kong's RAMC regulatory regime with that of other jurisdictions).

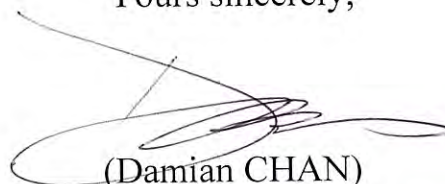
In view of the complexity of the issues involved, the review will take some time to complete. Furthermore, the future enhancement in the regulatory regime may have to be underpinned by legislation. In drawing up a regulatory proposal, the Administration will consult the trade, the Legislative Council and the public. The Administration will also take into account the comments and recommendations that may be made in the forthcoming Mutual Evaluation ("M.E.") of Hong Kong by the FATF (see below for details).

FATF Mutual Evaluation of Hong Kong

Established by the G-7 Summit held in Paris in 1989, the FATF has 34 members. Hong Kong has been a member of the FATF since 1990. China has just been admitted to full membership of the FATF at the Plenary held in June 2007.

The FATF will conduct an M.E. of Hong Kong's AML/CFT regime against its revised 40 Recommendations on AML and 9 Special Recommendations on CFT ("40+9 Recommendations") in November 2007. This is the first time for Hong Kong to be evaluated against the revised FATF standards. M.E. is a rigorous process by which a jurisdiction's compliance with the 40+9 Recommendations is scrutinized by other member jurisdictions. An assessment team comprising legal, law enforcement and financial experts from different member jurisdictions will conduct extensive and detailed examinations on site across all aspects of Hong Kong's AML/CFT regime. The assessment team will assess compliance with reference to each criterion of the 40+9 Recommendations, award ratings for each Recommendations and make suggestions for improvement. The assessment team will compile an M.E. report for discussion and endorsement by the FATF Plenary. The report on Hong Kong is expected to be submitted to the FATF Plenary in June 2008. The finalized report will be published on the FATF website thereafter.

Yours sincerely,



(Damian CHAN)
for Secretary for Security

c.c.
Clerk to the Panel on Financial Affairs

**Summary of the Regulatory Regime of Remittance Agents and Money Changers
in Hong Kong, U.S., U.K., Singapore and Taiwan**

	HK	U.S.	U.K.	Singapore	Taiwan
Licensing / Registration Requirement	<p>The Organized and Serious Crimes Ordinance (OSCO) requires remittance agents (RA) and money changers (MC) to register with Narcotics Bureau of the Hong Kong Police Force their business not later than 1 month after so becoming a RA/MC and notify any subsequent change of the particulars not later than 3 months after the event.</p> <p>The registration system is basically a notification requirement under which the Police has no power to refuse registration.</p>	<p>Bank Secrecy Act (BSA) requires certain money services businesses (MSBs) to <u>register</u> with the Financial Crimes Enforcement Network (FinCEN) within 180 days after the date on which the MSB is established. Registration must be renewed every two years. These businesses are also required to prepare and maintain a list of agents. A business is an MSB if it provides one or more of the following products or services:</p> <ul style="list-style-type: none"> - Money orders; - Check cashing; - Traveler's checks; - Currency dealing or exchange; - Money transmission. 	<p>All money service businesses (MSBs) are required to comply with the UK's Money Laundering Regulations which obliges all MSBs to <u>register</u> with HM Revenue and Customs (HMRC). The MSB sector consists of:</p> <ul style="list-style-type: none"> - Bureaux de Change; - Money transmitters; and - Cheque cashers. 	<p>Under the Money-changing and Remittance Businesses Act (MCRBA), no person shall carry on money-changing or remittance businesses unless he is in possession of a valid <u>licence</u> from the Monetary Authority of Singapore (MAS). There are minimum criteria as to the granting of remittance licence including:</p> <ul style="list-style-type: none"> - The entity is a company; - Minimum capital of S\$100,000 - Maintain with MAS security of the value of S\$100,000 	<p>For RA, only licensed banks and Post Office are allowed to do remittance business.</p> <p>For MC, only licensed banks, Post Office and hotels (limited amount) are allowed to do money changing business.</p>

	HK	U.S.	U.K.	Singapore	Taiwan
Anti-money laundering (AML) compliance programme	There is no legal requirement for RA/MCs to implement an AML compliance programme.	All MSBs are required to develop and implement an AML compliance programme that must be commensurate with the risks posed by the location, size, nature and volume of the financial services provided by the MSB. Requirements of AML compliance programme are detailed in the BSA.	All MSBs are required to implement a system of anti-money laundering controls, including: <ul style="list-style-type: none"> - Putting in place clear written policies and procedures; - Appointing a money laundering reporting officer; - Applying “know your customer” measures; and - Ensuring appropriate training for staff. 	Each licensee shall adopt policies that are consistent with the principles set out in the Prevention of Money Laundering Notice issued by the MAS under the MCRBA, and ensure that its staff, wherever located, are informed of these policies and adequately trained in matters covered by the Notice.	For remittance and money changing businesses of licensed banks and Post Office, relevant banking regulatory framework applies.
Customer due diligence (CDD) and record keeping	OSCO requires RA/MCs to verify the name and identity of any customer who they deal with in person and who carries out a remittance or exchange transaction of HK\$8,000 or more. RA/MCs are also required to make a record of any remittance or exchange transaction of HK\$8,000 or more and identity information of the customer. Such records should be kept for not less than 6 years.	If an MSB provides money transfers of US\$3,000 or more to the same customer in a day, regardless of the method of payment, it must keep a record for 5 years from the date of transaction. If an MSB provides currency exchanges of more than US\$1,000 to the same customer in a day, it must keep a record for 5 years from the date of transaction.	All MSBs are required to identify customers (i.e. obtaining evidence of name and address) where a single transaction exceeds €15,000 or where there is an ongoing business relationship. All MSBs are required to hold all customer ID and business records for at least 5 years after the end of the business relationship.	Remittance licensees shall not conduct business transactions, and money-changing licensees shall not conduct business of aggregate value exceeding S\$5,000, with customers who fail to provide evidence of their identity. Each licensee shall keep customer information and transactions records for at least 6 years.	Ditto

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Suspicious Transactions Reports (STRs)	RA/MCs are obliged under OSCO, the Drug Trafficking (Recovery of Proceeds) Ordinance and the United Nations (Anti-Terrorism Measures) Ordinance to report suspicious transactions.	All MSBs are required to file suspicious activity reports of transactions or activities involving US\$2,000 or more.	All MSBs are required to have a system in place to facilitate the identifying and reporting of suspicious transaction reports.	Each licensee shall institute a system for reporting suspicious transactions.	Ditto
Ongoing supervision	The Joint Financial Intelligence Unit has issued a Guideline for Remittance Agents and Money Changers setting out the various legal requirements and best practices for anti-money laundering and counter-terrorist financing purposes.	The Internal Revenue Service Small Business and Self-Employed Division (IRS-SB/SE) has been delegated authority to examine MSBs for BSA compliance.	HMRC officers examine the records and anti-money laundering systems of traders they visit. Via the Revenue and Customs Prosecutions Office, the HMRC have the power to prosecute and the power to serve fines for breach of the money laundering regulations.	The MAS is the Authority responsible for the administration of the MCRBA. It is empowered to inspect the premises of licensees and any book, document or record on those premises.	Ditto