

LEGISLATIVE COUNCIL BRIEF

Organized and Serious Crimes Ordinance (Cap. 455)

ORGANIZED AND SERIOUS CRIMES ORDINANCE (AMENDMENT OF SECTION 24C(1) AND SCHEDULE 6) NOTICE 2006

INTRODUCTION

The Secretary for Security will, pursuant to section 24C(5) of the Organized and Serious Crimes Ordinance (Cap. 455) (“OSCO”), publish the Organized and Serious Crimes Ordinance (Amendment of Section 24C(1) and Schedule 6) Notice 2006 (“Amendment Notice”) at **Annex** in the Gazette on 1 December 2006 to amend section 24C(1) and Schedule 6 to the OSCO.

JUSTIFICATIONS

2. The Amendment Notice seeks to amend the amount stipulated in section 24C(1) and the particulars stipulated in Schedule 6 to OSCO as the first stage implementation of the Special Recommendation VII (“SR VII”) by the Financial Action Task Force on Money Laundering (“FATF”), the international anti-money laundering standard setter.

3. SR VII aims to obstruct the flow of terrorist funds via wire transfers, as such transfers are found to be commonly used by terrorists according to a FATF typology study. The measure also enhances the traceability of terrorist fund transfers, hence facilitating the prevention of terrorist acts.

4. Apart from the measures we are now taking, SR VII further requires the ordering financial institution to include the sender’s identification details in the message or payment form accompanying the remittance for all cross border remittances. FATF also requires the recipient financial institution of cross border remittances to consider

refusing to accept remittances that are not accompanied by sender's identification. In order to minimize disruption to the operation of the industry, we intend to consider the implementation of these measures at a later stage when the industry and the international community have accumulated sufficient experience as to how best to put them into practice.

THE AMENDMENT NOTICE

5. Section 24C(1) of OSCO specifies the threshold for the requirements to apply to (i) verification of instructor's identity in a remittance transaction and the client's identity in a money exchange transaction; and (ii) record keeping for remittance and money exchange transactions. Schedule 6 to OSCO specifies the particulars to be recorded by remittance agents and money changers for transactions of or above the threshold. Under the Amendment Notice –

- (a) Clause 2 amends the threshold from HK\$ 20,000 to HK\$ 8,000 for the requirements of verification of instructor's identity and record keeping to apply;
- (b) Clause 3(1) amends item 6 of Part 1 of Schedule 6 so that a remittance agent carrying on the business of sending (or arranging for the sending of) money to a place outside Hong Kong is required to keep a record of the specified particulars of senders¹ for remittance transactions of or above HK\$ 8,000;
- (c) Clause 3(2) amends Part 3 of Schedule 6 by adding a requirement that a remittance agent carrying on the business of arranging for the receipt of money in a place outside Hong Kong shall keep a record of the specified particulars of senders¹ for remittance transactions of or above HK\$ 8,000.

6. The amendments will also apply to money changing transactions. Applying the same threshold to both remittance and

¹ Specified particulars of senders mean name, identity card number (or certificate of identity, document of identity or travel document number with place of issue), telephone number and address of senders.

money exchange transactions would avoid confusing the industry as most of the operators conduct the two types of transactions on the same premises. This is in line with the current practice.

LEGISLATIVE TIMETABLE

7. The Legislative timetable is as follows –

Publication in the Gazette	1 December 2006
Tabling at Legislative Council	6 December 2006
Commencement of the Amendment Notice	26 January 2007

IMPLICATION OF THE PROPOSAL

8. The proposal conforms with the Basic Law, including the provisions concerning human rights. It has no financial, economic, environmental, sustainability or civil service implications.

PUBLIC CONSULTATION

9. In October to November 2006, we consulted all the registered remittance agents and money changers. The majority of the respondents were supportive of the proposed amendments. We also organized two focus group discussions with the industry in early November. Most of the participants were supportive of the proposal since it was in line with the international standards and it would help to ensure the smooth operation of their business.

PUBLICITY

10. A press release will be issued on 1 December 2006 and a spokesperson will be available to handle media enquiries. We will also release a radio Announcement of Public Interest, and distribute posters, leaflets and stickers to remittance agents and money changers when the Amendment Notice takes effect in January 2007.

ENQUIRIES

11. Enquiries on this brief should be addressed to Ms Kitty Yu, Assistant Secretary for Security (Narcotics) 1 (telephone number: 2867 2749) or Mr. Nelson Cheng, Superintendent (Narcotics) (telephone number: 2867 2755).

Security Bureau
29 November 2006

**ORGANIZED AND SERIOUS CRIMES ORDINANCE
(AMENDMENT OF SECTION 24C(1)
AND SCHEDULE 6) NOTICE 2006**

(Made by the Secretary for Security under section 24C of the
Organized and Serious Crimes Ordinance (Cap. 455))

1. Commencement

This Notice shall come into operation on 26 January 2007.

**2. Duty on remittance agents and money
changers to keep records**

Section 24C(1) of the Organized and Serious Crimes Ordinance (Cap.
455) is amended by repealing “\$20,000” and substituting “\$8,000”.

**3. Particulars to be recorded by remittance
agents and money changers**

(1) Schedule 6 is amended, in item 6 of Part 1, by repealing “, if
available”.

(2) Schedule 6 is amended, in Part 3, by adding -

“10. Name, identity card number (or certificate of identity,
document of identity or travel document number with
place of issue), telephone number and address of
sender(s)”.

Secretary for Security

24 November 2006

Explanatory Note

This Notice amends the Organized and Serious Crimes Ordinance (Cap. 455) (“the Ordinance”) to implement certain measures recommended by the Financial Action Task Force on Money Laundering (FATF) in its Special Recommendation VII.

2. At present, the requirement for a remittance agent or money changer to keep a record of specified particulars and to verify certain particulars does not apply to a remittance transaction or exchange transaction which is less than \$20,000. Section 2 amends section 24C(1) of the Ordinance to lower that threshold from \$20,000 to 8,000.

3. Section 3(1) amends Part 1 of Schedule 6 to the Ordinance to make it mandatory for a remittance agent carrying on the business of sending (or arranging for the sending of) money to a place outside Hong Kong to keep a record of the specified particulars of the sender(s) before completing a remittance transaction. At present, the requirement only applies if the specified particulars of senders are available.

4. Section 3(2) amends Part 3 of Schedule 6 to the Ordinance by adding a requirement that a remittance agent carrying on the business of arranging for the receipt of money in a place outside Hong Kong shall keep a record of the specified particulars of senders.