

LegCo Panel on Financial Affairs
Civic Party Bullet Points Submission
on the Proposed New Anti-Money Laundering Legislation for Financial
Institutions

- The Civic Party is in support of the further tightening up of anti-money laundering legislation in Hong Kong.

- The scope of the legislation should not only aim at traditional financial institutions (“**FIs**”) but it should also expand to cover estate agents firms regulated and registered under the Estate Agents Authority.

- Property transactions in Hong Kong are of significant monetary value and it is well known that many transactions are conducted in cash.

- It is necessary to consider expanding the coverage of the legislation so as to include estate agent firms. This would impose a statutory duty on estate agents to undertake a ‘customer due diligence’ (“**CDD**”) for any transaction that is settled in cash or substantially in cash.

- A FI is required to undertake a CDD. Other than those measures currently stated in the proposal, a new category should be considered: for customers who pay cash to acquire fixed assets through their respective agents, the agent should facilitate the FI in question to conduct a CDD on the customer upon the deposit of payment through the FI to the seller or its designated nominee.

- For example, a buyer who pays a down payment of 30% for the acquisition of a fixed asset at a value of HK\$ 4,000,000 or above in cash, at the time when the agent makes the payment on behalf of its customer to the seller through the FI, the agent should facilitate the FI to conduct a CDD in question.

- Other CDD requirements include:

Offshore companies are frequently used as money laundering devices. The current legislative reform should also focus on the tightening up of the supervision of activities conducted through these offshore companies and their accounts held at FIs.

Banking and securities transactions are conducted on a daily basis. It is recommended that regulatory bodies in Hong Kong should conduct an ongoing monitoring of these offshore companies and their activities. For instance, HKMA and SFC should impose regulations to require FIs and licensed corporations respectively to maintain a register in relation to accounts where the beneficiaries or nominees are offshore companies. The register should be constantly updated with information provided by FIs and licensed corporations in an ongoing due diligence process, and the information on this register should be submitted to HKMA and SFC on a regular basis for review. In this regard, the regulatory bodies would be able to take a more active role in anti money laundering inspection and the identification of such activities.

- Hong Kong cannot afford to be mentioned in international reports on money

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launders, terrorism funding and tax havens. Our brand as a financial centre besides London and New York is too important to be damaged in this manner. Hong Kong has been named with reputations as being good places to put illicit money. Internet websites cite the ease with which companies can be set up and managed, banking and corporate secrecy and neglect to sign up to international rules. No matter how much the British Virgin Islands, Cayman Islands and Panama, among others off shore places, claim to be operating respectable and honest systems, they have become bywords for dubious financial trading. We cannot afford to be lumped in with them. One of Hong Kong's great strengths is its laws and legal system.

Dated 4 May 2010

Civic Party

Economic and Public Finance Branch