

**Bills Committee on Anti-Money Laundering and
Counter-Terrorist Financing (Financial Institutions) Bill**

**Information/response to be provided by the Administration in response to
Members' requests made at the meeting on 14 March 2011**

1. The Prosecution Division of the Department of Justice is requested to –
 - (a) provide examples where a person committing an offence under clauses 5(6) or (8) may have an intent to defraud persons other than the financial institution or a relevant authority and reconsider whether the formulation of the offences under clauses 5(6) and (8) may be revised to specify the person to be defrauded, for example, “with intent to defraud the financial institution or a relevant authority”; and
 - (b) explain, with reference to case law, how an employee would be liable for the offence under clause 10(8) by “allowing” the financial institution to do the act specified under that sub-clause.

2. In respect of clause 29, to -
 - (a) advise whether the Bill allows the “mobile operation” of a money service business with no fixed address; and
 - (b) consider if the level of penalty under clause 29(2) should be increased having regard to the severity of the offence of unlicensed operation of money service business.

3. In respect of clause 30, to
 - (a) consider adding a provision under clause 30(4)(b) to include offences in overseas jurisdictions mirroring those provided under clause 30(4)(a) which are not covered by clause 30(4)(b)(i) and (ii); and
 - (b) consider whether the concept of “ultimate owner” should also apply to applicants who are individuals or partnership.

4. To consider stipulating in the Bill the sanction against failure to return a licence pursuant to the requirement provided under clause 34(5)(c).
5. With reference to other similar licensing regimes, to explain why it is necessary to stipulate the licensing arrangements in such depth and detail in Part 5 of the Bill.
6. In respect of clause 41(a), to explain how the Commissioner for Customs and Excise (“CCE”) would deal with cases –
 - (a) where a licensee who is an individual died, including who, if any, would be required to notify the CCE of the death of the licensee within any specified period; and
 - (b) where the licensee cannot be contacted by CCE or is suffering from mental incapacity such that he/she can no longer run the business.
7. To explain the rationale for clause 42(5) which provides for the registration of an order to pay a pecuniary penalty made under clause 42(1) or (4) in the Court of First Instance.
8. To clarify whether a person would be required to make a statutory declaration under clause 12(5) immediately when being required and if so, why this is necessary as this may put undue pressure on the person being requested to make the statutory declaration.