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1 December 2010

Mr Raymond LAM
Clerk to the Panel on Security
Legislative Council Building
8 Jackson Road
Central, Hong Kong
(Fax: 2509 0775)

Dear Mr LAM,

**Panel on Security
Information on Combat Money Laundering**

At the meeting on 2 November 2010, Members requested information on efforts to combat money laundering in relation to the recent real estate boom. The information is set out in the attached paper for Members' reference.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Eric K Lee', written over a large, light-colored circular stamp or watermark.

(Eric K Lee)

for Commissioner for Narcotics

For information

Legislative Council Panel on Security

Prevention of Money Laundering through Real Estate Transactions

PURPOSE

This paper briefs Members about the measures in preventing money laundering activities through real estate transactions and the overall policy on anti-money laundering (AML) / counter financing of terrorism (CFT).

CURRENT POSITION ON REGULATION

2. The Estate Agents Authority (EAA), established in 1997, is the statutory body to regulate the practice of all estates agents, salespersons and estate agency companies in Hong Kong. To prevent real estate transactions from being abused for money laundering, the EAA has issued four Practice Circulars (PCs) on AML/CFT since 2000. According to the PCs, estate agents should adopt preventive measures against money laundering, which include customer due diligence, record-keeping, suspicious transaction reporting, etc. Non-compliance will be subject to disciplinary action, with the most serious breaches attracting revocation of licence. To ensure compliance with the above measures, the EAA inspected 219 and 230 estate agencies in 2008 and 2009 respectively. Seven non-compliance cases were revealed and disciplinary action taken against the estate agents involved. In 2010 (up to 7 November), the EAA has inspected 213 estate agencies with no irregularity found.

3. In respect of the legal profession, the Law Society of Hong Kong (HKLS) had promulgated a Practice Direction on AML/CFT in December 1997 for the compliance of all lawyers. The Practice Direction, which became mandatory on 1 July 2008, stipulates professional requirements in various areas such as identification and verification of customer's identity, customer due diligence, and record-keeping, etc. To enhance the practitioners'

understanding on AML/CFT issues, the HKLS organises regular seminars and talks for their members.

OUTREACHING AND CAPACITY BUILDING PROGRAMMES FOR THE SECTORS CONCERNED

4. In parallel, the Narcotics Division (ND), Security Bureau has launched a series of programmes to raise the awareness of the Designated Non-financial Businesses and Professionals (DNFBPs) on AML/CFT. Apart from estate agents and lawyers, these DNFBPs include accountants, dealers of precious metals and precious stones, and trust and company services providers. These programmes include annual capacity building training seminars and workshops for different sectors, focus groups meetings for exchange of views and discussion of practical issues on implementation of relevant international AML/CFT standards. An interactive training kit has been distributed to the practitioners of those sectors, TV and radio ‘Announcements in the Public Interest’ (API) have been broadcast, and posters displayed in public places. ND and the Joint Financial Intelligence Unit (JFIU), a unit jointly set up by the Hong Kong Police Force and Customs and Excise Department, were invited to deliver talks on AML/CFT issues to DNFBPs from time to time. ND is now inviting views from the sectors concerned for the annual seminars to be held in early 2011.

5. To enhance practitioners’ understanding of relevant issues and to help prevent money laundering, ND published the Practical Guide on Anti-Money Laundering & Counter-Terrorist Financing in June 2009, with dedicated chapters for the accountants, estate agents, precious metals and precious stones dealers and trust and company service providers respectively. The Practical Guide makes clear that “Cash transaction in large amounts” is one of the suspicious activity indicators. Government officers also deliver talks on AML/CFT at the continuous professional development programmes held by the EAA.

SUSPICIOUS TRANSACTION REPORTING

6. Pursuant to Section 25A of the Drug Trafficking (Recovery of

Proceeds) Ordinance, Cap. 405 and Section 25A of the Organized and Serious Crimes Ordinance, Cap. 455, where a person knows or suspects that any property represents any person's proceeds of drug trafficking or crime, he shall disclose that knowledge or suspicion to the JFIU. After a series of outreaching and capacity building programmes targeted at the DNFBPs, the number of suspicious transaction reports (STR) filed by these sectors has increased rapidly in the past few years. There were 79 real estate related STRs submitted by lawyers and estate agents from 2008 to the first ten months of 2010.

OVERALL POLICY ON AML/CFT

7. Hong Kong has a robust system to combat money laundering and counter financing of terrorism through legislation, law enforcement, publicity and education, regulation of the financial sectors and international cooperation. Hong Kong's system and competency in combating money-laundering and counter-terrorist financing has been positively recognised by international organisations, including the Financial Action Task Force (FATF), the international anti-money laundering and counter financing of terrorism standard-setter. The Financial Services and the Treasury Bureau (FSTB) is the overall coordinator of AML/CFT policy and ND shoulders the work on the formulation of AML/CFT policy and measures in respect of the DNFBPs.

8. FATF conducted an evaluation on Hong Kong in 2007-08. While FATF recognised the strengths of Hong Kong's AML/CFT regime, they also highlighted certain deficiencies that should be addressed. In response to the evaluation report, the FSTB has prepared the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Bill (the Bill), which was introduced into the Legislative Council on 10 November 2010. The Bill seeks to improve Hong Kong's AML/CFT regime by better reflecting the prevailing international standards in respect of the customer due diligence and record-keeping requirements applicable to financial institutions, specifically those from the banking, securities, insurance, and remittance agents and money changers sectors.

9. FATF also offered advice regarding the regulatory system of DNFBPs and recommended some improvement measures, including expediting the legislative process on customer due diligence and record-keeping requirements

applicable to DNFBPs; developing programmes for internal policies, procedures and control pertaining to AML/CFT, raising practitioners' awareness and the effectiveness of suspicious transaction reporting; and formulating a monitoring or regulatory system on AML/CFT which is most suitable for the DNFBPs.

WAY FORWARD

10. The Security Bureau would follow-up on FATF's recommendations on improving the regulatory regime of the DNFBPs, and would consult the sectors extensively on the future regulatory framework. To facilitate an early implementation of the "Self Regulatory Organisation" requirement, ND has held discussions with the Law Society of Hong Kong, the Estate Agents Authority, the Hong Kong Institute of Certified Public Accountants, and the Hong Kong Institute of Chartered Secretaries. ND will enhance the dialogue with professional organisations and seek the relevant sectors' support and cooperation in preparing for the future legislative exercise.

Security Bureau
November 2010