

Panel on Financial Affairs
Meeting on 15 November 2016

Difficulties encountered by certain enterprises in opening bank accounts

Introduction

The HKMA has noted comments made through different sources that corporate customers, more notably small and medium-sized enterprises (SMEs) and start-up companies from overseas, have expressed difficulties in opening and maintaining bank accounts in Hong Kong. This paper sets out the background on the opening and maintenance of bank accounts in Hong Kong and the steps taken by the HKMA in this area.

Statutory and regulatory requirements on opening and maintenance of bank accounts

2. Before opening an account with a customer, banks are required to comply with the relevant legal and regulatory requirements, which include the customer due diligence (CDD) requirements¹ stipulated in the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (AMLO). Once the account is operating, banks are also required under the AMLO to ensure that the CDD information is up-to-date and relevant on an on-going basis, such as through periodic reviews. These requirements should be implemented using a risk-based approach (RBA) as promulgated by the HKMA².

¹ CDD measures include the identification and verification of the customer, the beneficial owners of the customer and any person purporting to act on behalf of the customer, as well as to understand the purpose and intended nature of the business relationship.

² The CDD requirements stipulated in the AMLO apply a RBA, which is an internationally recognised concept that different customers, transactions or services will each present different risks, and CDD measures applied by banks should be commensurate with the risks identified, i.e. on a risk-sensitive basis.

3. To ensure both compliance with and effective implementation of account opening and maintenance requirements as well as the risk-based approach, each bank implements its own AML systems and controls (including policies and procedures) taking into account, inter alia, the HKMA requirements, the requirements of its headquarters or group where applicable, as well as its risk appetite.

4. At the same time, the HKMA expects banks to treat all customers and prospective customers reasonably and fairly, and provide sufficient training to frontline staff to ensure transparency and effective communication with customers throughout the business relationships.

Steps taken to address the issue

5. Based on the information collected by the HKMA, the difficulties faced by some corporate customers in opening and maintaining bank accounts do not appear to be an industry wide issue. The issue is pertinent amongst one or two banks which are usually the first port of call for many companies seeking to open a bank account. This may partly explain why the unpleasant account opening experiences conveyed through various sources appear to be widespread.

Engagement with Stakeholders

6. The HKMA has been taking steps in dealing with the matter, including engaging various stakeholders in gathering specific incidents of difficulties in opening and maintaining bank accounts in order to follow up with the banks concerned more effectively. A number of sharing sessions has been hosted by the HKMA to facilitate direct exchange of views and foster cooperative relationships among the business community and banks. In particular, the HKMA had useful discussions with the Hong Kong Business Community Joint Conference (BCJC) and its SME member associations, the Chinese General Chamber of Commerce, together with the Hong Kong Association of Banks (HKAB) and over a dozen of retail banks in September. The discussions have provided useful insights for the HKMA's assessment of the matter, which have been incorporated in our guidance to banks (see paragraph 10 below).

7. The HKMA has also followed up with the management of banks, which have been taking steps to improve the account opening process and customer experience. Some examples of the measures that have been rolled out include shortening the turnaround time of account opening process, providing interim updates about the progress of applications (such as whether there are any outstanding documents and information) and establishing review mechanisms for unsuccessful applications.

Banks that Welcome SME Businesses

8. At the same time, some local and international banks have actively expanded their SME businesses in Hong Kong, providing greater convenience from account opening to business support. It is noted in particular that a major retail bank has recently enhanced its SME services by extending the coverage of SME services to all its branches, which has generated positive feedback from SME customers. The HKAB is also exploring opportunities for the banking industry to further cooperate with and leverage on the government platform³ to reach out to the SME community and provide SMEs with up-to-date information about banking services.

Supervisory Guidance on the Issues of De-risking and Financial Inclusion

9. The progressive tightening of the standards in combating money laundering and terrorist financing internationally in the past few years has led to enhancement of banks' anti-money laundering and counter-terrorist financing (AML/CFT) controls, including CDD processes for existing and new customers. Apart from the local requirements, some banks, for a variety of reasons, need to also comply with requirements or standards mandated by their head offices or overseas authorities. This has led to de-risking in some instances.

³ Support and Consultation Centre for Small and Medium Enterprises, known as SUCCESS in short, is run by the Trade and Industry Department in collaboration with various industrial and trade organisations, professional bodies, private enterprises and other Government departments to provide SMEs with business information and consultation services free of charge.

10. In view of the latest developments, the HKMA issued a circular to all banks on 8 September 2016 to elucidate our supervisory stance on issues related to de-risking by banks (the Circular). The Circular clarifies the HKMA's expectation that banks should refrain from adopting practices that would result in financial exclusion, such as the indiscriminate application of AML/CFT controls in the de-risking process. Instead, banks should adopt a RBA by carrying out CDD measures in a balanced manner, so that control measures applied to individual customers, transactions or services are proportionate to risk level they present. The Circular emphasises that the risk-based approach is not a "zero failure" regime, which means banks are not required to implement overly stringent CDD processes with a view to eliminating, ex-ante, all risks. Properly applied, the approach should help ensure that legitimate businesses and ordinary citizens have reasonable access to banking services in Hong Kong. The HKMA has also emphasised in the Circular the importance of banks' interface with customers to ensure that customers are being treated fairly, particularly with respect to transparency, reasonableness and efficiency. The same principles of RBA and treat customers fairly also apply to banks' collection of up-to-date CDD information and related documentation from customers. On 29 September, the HKMA has further issued "Frequently Asked Questions on Customer Due Diligence" (FAQ document) clarifying some commonly misinterpreted CDD requirements based on the information gathered from our supervisory process and recent engagement with various stakeholders. To reiterate the key messages in the Circular and FAQ document, the HKMA has also provided training to banks' directors, in addition to addressing the wider banking industry at annual AML seminars.

Way Forward

11. The HKMA Circular has required banks to review their existing processes and practices to ensure consistency with the supervisory principles outlined therein, and to provide adequate training to front line staff to ensure clear understanding and consistent implementation. The HKMA will continue to follow up with the banks in this regard. The HKMA is also proactively reviewing the international standards and the practice of other jurisdictions to ensure consistency in respect of CDD requirements. Meanwhile, the HKMA plans to commission mystery shopping programmes

in a few months' time to monitor effectiveness of the banks' measures.

12. It is important to recognise that the issue of de-risking is a global trend and has no easy quick fix. The HKMA will continue to work closely with the banking industry and relevant stakeholders including the business community to deal with the issue. Our aim is to maintain a robust AML/CFT regime in Hong Kong which does not undermine access by legitimate businesses and ordinary citizens to basic banking services.

Hong Kong Monetary Authority
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