

**For discussion  
on 29 May 2017**

**Legislative Council Panel on Financial Affairs**

**Developments after implementation of the four-pronged approach for  
tackling money lending-related malpractices**

**PURPOSE**

This paper updates Members on the developments after the implementation of the four-pronged approach in 2016 by the Government for tackling the problem of malpractices by financial intermediaries for money lending (“intermediaries”).

**BACKGROUND**

2. Separate fee charging on borrowers by money lenders, their employees, agents and persons acting for them and persons acting in collusion with them is prohibited under the Money Lenders Ordinance (“MLO”) (Cap.163). To address public concerns that some fraudsters claiming themselves to be intermediaries use deceptive tactics to induce borrowers to engage them for arranging loans from money lenders and charge the borrowers high fees under different pretexts, and that money lenders’ advertisements tend to promote spending without paying due regard to prudent borrowing, the Government implemented in 2016 a four-pronged approach to tackle these malpractices, viz. imposition of more stringent licensing conditions on money lender licences, enhanced enforcement, enhanced public education and publicity, and enhanced advisory services to the public.

3. Before implementing the four-pronged approach, we briefed the Panel on Financial Affairs in April 2016 on our proposals (see CB(1)736/15-16(03)). We issued two information notes to the Panel in August 2016 and November 2016 respectively to report progress (see CB(1)1158/15-16(01) and CB(1)221/16-17(01)), in particular in relation to the imposition of the more stringent licensing conditions.

## LATEST DEVELOPMENTS

4. To address the above-mentioned public concerns, we have –
- (a) required all money lenders to undertake due diligence checks before entering into loan agreement with a borrower to ensure that, where a third party is involved in the process, that third party is an appointed intermediary of the relevant money lender and does not charge the borrower any fees (the relevant requirements on money lenders are summarised at Annex A);
  - (b) expanded the Register of Money Lenders to include relevant information of the appointed intermediaries of money lenders to facilitate checking by prospective borrowers;
  - (c) launched a territory-wide publicity campaign to remind members of the public who intend to seek a loan from a money lender to take appropriate precautionary steps to better protect their own interests, including inter alia (details of the reminder messages are at Annex B) –
    - (i) before signing any agreement with an intermediary, check the Register of Money Lenders to verify the identity of the intermediary and check whether the intermediary has been appointed by the money lender concerned;
    - (ii) do not sign any agreement with an intermediary if the intermediary agreement contains any requirement for the borrower to pay them any fees under whatever pretext, such as administrative fees, handling charges or consultation fees; and
    - (iii) do not hand over any money to any intermediary, whether it is alleged to be for custody, improving the borrower's credit record, helping the borrower to purchase goods or services or make investment, etc.;
  - (d) commenced a 3-year pilot programme to provide assistance/counsel to people in financial distress through dedicated telephone hotlines set up by two subvented non-government organisations (viz. Caritas - Hong Kong and Tung Wah Group of Hospitals); and

- (e) required all money lenders to include a risk warning statement in their advertisements, namely “Warning: You have to repay your loans. Don’t pay any intermediaries”, so that the public would also be alerted to the risk of over-borrowing and reminded not to pay intermediaries.

#### *Appointed intermediaries*

5. As at 31 March 2017, the Register of Money Lenders contains relevant information of a total of 706 appointed intermediaries of money lenders, and 239 (or 13% of all) licensed money lenders have appointed such intermediaries. Given the variety of business models of different money lenders, not all of the appointed intermediaries and money lenders concerned are involved in the money lending business of personal loans that are more directly related to the issues of public concerns<sup>1</sup>.

#### *Site inspections*

6. Since January 2017, the Companies Registry (“CR”) has been conducting site inspections on money lenders to ascertain their compliance with the new requirements mentioned in paragraph 4(a) above. As at 31 March 2017, a total of 258 site inspections have been conducted. Compliance has been confirmed in most cases. In respect of the small number of cases where non-compliance has been identified, the CR has taken prompt follow-up actions, including issuing letters to the money lenders concerned requiring rectifications within a specified period, and, where necessary, arranging a second site inspection on the money lenders concerned. As at 31 March 2017, the CR has issued such letters to 38 money lenders. These follow-up actions have been effective and the money lenders concerned have either completed rectification actions or have been taking steps to rectify the non-compliances.

#### *Monitoring of money lenders’ advertisements*

7. The CR has also been monitoring media advertisements by money lenders to ensure their compliance with the new requirements mentioned in paragraph 4(e) above. Where any non-compliance is identified, the CR will issue letters to the money lenders concerned, requiring rectifications within a specified period. As at 31 March 2017, the CR has issued such letters to 44 money lenders and all of them have subsequently rectified the matter within the specified period.

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<sup>1</sup> A considerable number of intermediaries are appointed by those money lenders who are primarily engaged in corporate and business lending instead of unsecured personal loan business, e.g. vehicle financing, and acquisition of machinery.

### *Advisory services*

8. The Caritas - Hong Kong and the Tung Wah Group of Hospitals have been granted financial subsidy by the Government to launch in April 2016 a 3-year pilot programme to provide assistance / counsel through dedicated telephone hotlines to people in financial distress. During the first year of operation ending on 31 March 2017, the two dedicated telephone hotlines received about 2,260 calls. A majority of the callers were in financial or mental distress because of indebtedness, in which case apart from providing initial emotional support and advice to the callers on the means to deal with their debt problems where it was appropriate to do so, the two organisations have also made referrals to their related social services units or to other NGOs for providing various types of counselling services to the callers as appropriate. There were about 160 cases where the callers suspected that they had been approached by fraudsters or had been deceived by unscrupulous intermediaries. Depending on the nature of the individual cases, the two organisations have advised the callers to report to the Police as appropriate.

### *Public education and publicity*

9. A number of public education and publicity activities have been rolled out since mid-2016. Details are set out at Annex C. At the same time, the Police has been publicising the relevant crime prevention messages through its integrated scam prevention platform “Fight Scams Together”, online channels like Facebook as well as publicity activities at district level, etc.

### *Enforcement*

10. During the four-month period between December 2016 and March 2017, the Police received 85 complaints which were suspected to involve unscrupulous intermediaries. This number is significantly lower than the 292 complaints filed over the same period in the preceding year. All complaints alleged to involve unscrupulous intermediaries will be followed up by the crime investigation units of the Police. About 40 of the 85 complaints received are pursuable and the Police is taking follow-up actions.

11. According to past experience, complainants of cases involving unscrupulous intermediaries usually made a report to the Police after a period of time since the alleged malpractices had taken place. We will continue to keep in view the situation closely and also pay particular attention to cases that occur after implementation of the new regulatory measures to understand if there is any change in the tactics of unscrupulous intermediaries.

12. On the other hand, the Police has conducted a number of targeted enforcement exercises in the past two years, resulting in the arrest of some 760 people. In two cases, the persons arrested have been charged and have been scheduled for trial later this year.

## **NEXT STEPS**

13. The CR will continue to monitor money lenders' compliance with the new requirements closely, and the Police will continue with its targeted enforcement exercises. We will maintain liaison with the two NGOs mentioned in paragraph 8 above to keep in view the concerns of callers for advisory services and, building on the momentum of the territory-wide publicity campaign which commenced in Q2 2016, will implement additional public education and publicity measures in the coming months –

- (a) display of a mega sticker outside the Queensway Government Offices in Q3 2017;
- (b) insertion of a publicity leaflet in the water bills for the billing cycle for the period between June and September 2017; and
- (c) collaboration with the Consumer Council to launch a public education campaign in the second half of 2017 on responsible borrowing targeting young people.

14. We will commence a review of the new regulatory measures in Q3 2017. For the purpose of the review, we will take into account operational data and relevant information for the first six months of implementation of the new measures, including complaints and enforcement statistics, compliance situation of money lenders, and any revelation of changes in the modus operandi of unscrupulous intermediaries. We will also engage the NGOs and relevant industry associations as necessary in the course of the review. We aim to have all relevant data and information ready at hand for conducting the review before the end of Q3 2017, and come up with initial findings and observations by around end-2017 or early 2018 to facilitate further consideration of whether any new measures would be necessary.

**Financial Services Branch**  
**Financial Services and the Treasury Bureau**  
**19 May 2017**

**Relevant new requirements on money lenders  
(re paragraph 4(a))**

1. Before entering into any agreement for loan, a money lender must ask the intending borrower to state whether or not he has entered into or signed any agreement with a third party for or in relation to his application for a loan, and state in writing the borrower's reply in the loan agreement.
2. If the borrower's reply is in the affirmative, the money lender shall obtain from the borrower the name and address of the third party and record the same in the loan agreement, as well as to state the relationship between the money lender and the third party in the loan agreement.
3. Where a third party is involved in the process, the money lender may grant the loan only if, inter alia –
  - (a) it has already appointed the third party as its intermediary and such appointment has been reported to the Registrar of Money Lenders ("the Registrar") and included in the Register of Money Lenders for public inspection;
  - (b) the intermediary has not charged any fees on the borrower or required the borrower to pay any fees to any person (whether alleged to be for the purchase of any goods or services or not); and
  - (c) it has obtained a copy of the intermediary agreement from the borrower.

**Reminder messages to the public (re paragraph 4(c))**

Members of the public who intend to seek a loan from a money lender are reminded to take appropriate precautionary steps to better protect their own interests, including –

- (a) consider carefully their ability to repay before applying for a loan;
- (b) consider carefully if there is a genuine need to engage an intermediary instead of making the loan application to a money lender direct;
- (c) if it is considered necessary to engage an intermediary, before entering into or signing any agreement with the intermediary -
  - i. make sure that the intermediary is able to disclose which money lender(s) will be approached for assisting the borrower to applying for a loan; and
  - ii. check the Register of Money Lenders (e.g. by visiting the website [www.cr.gov.hk/mlr](http://www.cr.gov.hk/mlr)) to verify the identity of the intermediary and check whether the intermediary has been appointed by the money lender(s) concerned;
- (d) do not sign any agreement with any person who is not registered as having been appointed by the money lender concerned (whether such agreement is framed as intermediary agreement, consultancy agreement or loan application referral agreement, etc.);
- (e) if a person claims to be an appointed intermediary of a money lender but is not registered as having been appointed by the money lender concerned, stop dealing with that person immediately and report to the Police;
- (f) before signing an agreement with an intermediary -
  - i. check and make sure that the name of intermediary stated on the agreement is the same as the one they are engaging; and is registered on the Register of Money Lenders as having been appointed by the money lender concerned. If they have any doubt, they should check

with the money lender direct. The enquiry hotlines of money lenders are shown on the Register of Money Lenders which can be accessed through the website [www.cr.gov.hk/mlr](http://www.cr.gov.hk/mlr);

- ii. check the terms and conditions of the intermediary agreement carefully, and especially do not sign the agreement if it contains any requirement for the borrower to pay any fees or hand over any money to the intermediary or any other party. To avoid potential disputes after the agreement has been signed, if the agreement does contain an entry for fee, make sure that it expressly records that 'zero' fee will be charged instead of leaving the entry blank; and
  - iii. obtain confirmation from the intermediary that a copy of the intermediary agreement will be provided after signing;
- (g) generally speaking, the intermediary will only ask the borrower to sign one intermediary agreement. If the borrower is asked to sign more than one agreement, he should stay alert and especially check carefully to ensure that there are no fee-charging provisions in all these agreements;
- (h) make sure that the content of the copy of intermediary agreement provided by the intermediary is the same as the one they have signed;
- (i) before signing a loan agreement with a money lender -
- i. report the identity of the intermediary involved to the money lender and provide a copy of the intermediary agreement to the money lender for attachment to the loan agreement;
  - ii. check the loan agreement carefully to ensure that it has accurately recorded the details of the intermediary; and
  - iii. check the terms and conditions of the loan agreement carefully and make sure that they understand the details before signing it;



- (j) cooperate with the money lender when it makes written or video or audio record of its explanation of the terms and conditions to the borrower as required under the additional licensing conditions;
- (k) where it is necessary to use a subsidised flat as collateral for the loan, make sure that a written confirmation from the Housing Authority that the necessary premium for removing the restrictions on alienation on the said flat has been fully paid or the written approval of the Director of Housing to mortgage or charge the said flat has been obtained; and
- (l) for those borrowers who are required to provide title deeds of their property in connection with their loan applications -
  - i. they should understand how the title deeds will be handled;
  - ii. they should consider carefully if there is a genuine need to mortgage or re-mortgage their properties before signing any agreement;
  - iii. they should also understand the possible consequences of any default in loan repayment, including the taking into possession and sale of any property charged; and
  - iv. they should not hand over any money or part of the loan obtained to the intermediary or any other party designated by the intermediary (whether it is claimed to be used as guarantee money or improvement of credit record).

**Key public education and publicity activities since mid-2016  
(re paragraph 9)**

1. Distribution of information pamphlets and posters - Copies of the pamphlets and posters have been distributed through the Home Affairs Enquiry Centres of the Home Affairs Department, money lenders, banks, owners' corporations, Government buildings, and offices of members of the District Councils and the Legislative Council respectively. Posters were also displayed at bus shelters and MTR stations.
2. Broadcasting Announcements of Public Interest ("APIs") on TV and radios, and on television sets installed at the lift lobbies of public housing estates under the management of the Housing Authority and also on franchised buses.
3. Printing of a risk warning message on envelopes of Rates and Valuation Department's bills for the second quarter in 2017.
4. Display of roadside banners at specified locations in all 18 districts from January 2017 to mid-2017.
5. Collaboration with the Investor Education Centre ("IEC") in November 2016 to arrange the Financial Education Truck to tour around different districts in Hong Kong to promote the message of proper debt management and prudent borrowing, and supported the Hong Kong Money Month organised by the IEC in February and March 2017 which provided a diverse range of financial education activities to the public offering tools and tips on, among other things, debt management.
6. Collaboration with the Consumer Council to publish two articles in the Choice magazine in March 2016 and February 2017 to remind the public of the points-to-note when borrowing, including the need to guard against traps of unscrupulous intermediaries and the details of the more stringent licensing conditions.