

LEGISLATIVE COUNCIL BRIEF

Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Chapter 629)

CROSS-BOUNDARY MOVEMENT OF PHYSICAL CURRENCY AND BEARER NEGOTIABLE INSTRUMENTS ORDINANCE (AMENDMENT OF SCHEDULE 1) NOTICE 2020

INTRODUCTION

On 18 August 2020, the Commissioner of Customs and Excise (“C of C&E”) made the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) Notice 2020 (“the Amendment Notice”) (at **Annex**) under section 33(1) of the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629) (“the Ordinance”) to add a control point, namely “Heung Yuen Wai Boundary Control Point”, to Schedule 1 to the Ordinance.

JUSTIFICATIONS

Background

Financial Action Task Force

2. The Financial Action Task Force (“FATF”) is an inter-governmental body setting standards on combating money laundering (“ML”) and terrorist financing (“TF”) through 40 Recommendations for compliance by member jurisdictions (including Hong Kong). Specifically, Recommendation 32 requires the establishment by statute of a declaration/disclosure system to detect the physical cross-boundary transportation of currency and bearer negotiable instruments (“CBNIs”) (“the R32 System”). CBNIs suspected to be related to ML/TF, or falsely

declared/disclosed, should be stopped or restrained. Non-compliance with the declaration/disclosure requirements should also be subject to sanctions. The purpose is to ensure that terrorists and other criminals cannot finance their activities or launder crime proceeds through the physical cross-boundary transportation of CBNIs.

The Ordinance

3. The Ordinance, which came into operation on 16 July 2018, establishes the R32 System, fulfilling Hong Kong's international obligation to implement Recommendation 32 of FATF.

4. Under the Ordinance, a person in possession of a large quantity of CBNIs (i.e. the total value of which is more than HKD120,000) arriving in Hong Kong via a specified control point listed in Schedule 1¹ to the Ordinance must make a written declaration of the CBNIs to the Customs and Excise Department ("C&ED"). If a person arrives in Hong Kong not via a specified control point, or is about to leave Hong Kong, the person must disclose, upon the request of C&ED, whether he/she is in possession of a large quantity of CBNIs and, if so, make a written declaration of the CBNIs.²

Amendment of Schedule 1 to the Ordinance

5. The Heung Yuen Wai Boundary Control Point ("HYW BCP") is a new control point and is equipped with the relevant facilities for arriving persons to make written declarations of CBNIs in accordance with the Ordinance as mentioned in paragraph 4 above. C of C&E therefore has made the Amendment Notice to add HYW BCP as a specified control point into Schedule 1 to the Ordinance.

¹ Schedule 1 previously included 15 specified control points, namely (1) Lo Wu Control Point, (2) Hung Hom Station, (3) Man Kam To Boundary Control Point, (4) Sha Tau Kok Boundary Control Point, (5) Hong Kong-Macau Ferry Terminal, (6) China Ferry Terminal, (7) Lok Ma Chau Boundary Control Point, (8) Hong Kong International Airport, (9) Tuen Mun Ferry Terminal, (10) Shenzhen Bay Port Hong Kong Port Area, (11) Lok Ma Chau Spur Line Control Point, (12) Kai Tak Cruise Terminal, (13) Ocean Terminal, (14) West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (other than the West Kowloon Station Mainland Port Area), and (15) Hong Kong-Zhuhai-Macao Bridge Hong Kong Port.

² If the person concerned is a young person under the age of 16 years and is accompanied by an adult, the declaration or disclosure must be made by the adult on the young person's behalf if the adult knows that the young person is in possession of a large quantity of CBNIs.

THE AMENDMENT NOTICE

6. The Amendment Notice adds “Heung Yuen Wai Boundary Control Point” as a specified control point to Schedule 1 to the Ordinance. The Amendment Notice has come into operation on 26 August 2020, the commissioning date of HYW BCP.

LEGISLATIVE TIMETABLE

7. The legislative timetable is –

Publication of the Amendment Notice in the Gazette	21 August 2020
Commencement of the Amendment Notice	26 August 2020

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Ordinance. Any additional workload arising from the implementation of the proposal will be absorbed by C&ED from within its existing resources. The proposal has no economic, productivity, environmental, sustainability, family or gender implications.

PUBLIC CONSULTATION AND PUBLICITY

9. The proposal is a technical amendment to facilitate arriving persons via specified control points to make written declarations of CBNIs in accordance with the Ordinance. A spokesperson will be available for answering media and public enquiries.

ENQUIRIES

10. Enquiries on this brief can be addressed to Mr CHAN Tsz Tat, Assistant Commissioner (Intelligence and Investigation) of C&ED, at 3759 2008.

Customs and Excise Department
August 2020

**Cross-boundary Movement of Physical Currency and
Bearer Negotiable Instruments Ordinance (Amendment
of Schedule 1) Notice 2020**

(Made by the Commissioner of Customs and Excise under section 33(1) of
the Cross-boundary Movement of Physical Currency and Bearer Negotiable
Instruments Ordinance (Cap. 629))

1. Commencement

This Notice comes into operation on 26 August 2020.

**2. Cross-boundary Movement of Physical Currency and Bearer
Negotiable Instruments Ordinance amended**

The Cross-boundary Movement of Physical Currency and Bearer
Negotiable Instruments Ordinance (Cap. 629) is amended as set out
in section 3.

3. Schedule 1 amended (specified control points)

Schedule 1—

Add

“16. Heung Yuen Wai Boundary Control Point”.



Commissioner of Customs and
Excise

18th August 2020

Explanatory Note

The Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629) (*Ordinance*) establishes a declaration and disclosure system to detect the cross-boundary movement of large quantities of physical currency and bearer negotiable instruments (*CBNIs*) into or out of Hong Kong, in order to implement Recommendation 32 of the Financial Action Task Force.

2. Section 4 of the Ordinance requires a declaration to be made for CBNIs in the possession of a person arriving at a specified control point (i.e. a place specified in Schedule 1 to the Ordinance) from a place outside Hong Kong, if the total value of the CBNIs is more than the amount specified in Schedule 4 to the Ordinance (i.e. \$120,000).
3. This Notice adds Heung Yuen Wai Boundary Control Point to Schedule 1 to the Ordinance.