

**Administration's response to issues raised by the Bills Committee
on Organized and Serious Crimes (Amendment) Bill 1999
on 8 September 1999**

Exemption under the definition of "remittance agent"

In the Organized and Serious Crimes (Amendment) Bill 1999 (the Bill), the Administration proposes to exempt, under the definition of "remittance agent" in proposed section 24A, authorized institutions regulated by the Hong Kong Monetary Authority (HKMA), registered persons regulated by the Securities and Futures Commission (SFC) and authorized insurers regulated by the Insurance Authority (IA). At the Bills Committee meeting on 8 September 1999, the Administration proposed to add on to the list licensed leveraged foreign exchange traders and insurance brokers under the purview of SFC and IA respectively. In considering these proposals, Members requested more information about the anti-money laundering regulations/guidelines of these institutions, and additional information on the following issues :-

- (i) customer identification and record keeping by these institutions, especially whether banking institutions are required to keep record of customer identification in money changing transactions as that required of money changers under the Bill;
- (ii) meaning of "registered person" under the Securities and Futures Commission Ordinance (Cap. 24); and
- (iii) the code of practice/guidelines for insurance brokers in respect of anti-money laundering measures.

(a) *Anti-money laundering measures*

2. HKMA, SFC and IA have put in place a robust and comprehensive regime for the institutions under their purview. The regime comprises legislation, anti-money laundering guidelines, circulars on updated developments in money laundering, the Joint Financial Intelligence Unit's feedback documents, regulators' on-site examination, off-site reviews, prudential interviews and tripartite meetings with auditors and management as well as special training programmes for employees. The regime serves to guide the institutions under regulation in complying with legislative requirements such as those in the Organized and Serious Crimes Ordinance (Cap. 455) and the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405), thus preventing such institutions from being used for money laundering. It also ensures that these institutions

meet in full the requirements of the Financial Action Task Force on Money Laundering (FATF)'s Forty Recommendations, thus enhancing Hong Kong's status as a major international financial centre. The efforts made by Hong Kong's financial regulators and the regulated financial sectors are well recognized by FATF. The international focus of attention is now mainly on the unregulated sectors such as money changers and remittance agents.

3. The guidelines issued by financial regulators in respect of countering money laundering are enclosed. A table summarizing the existing requirements for financial institutions, as compared to those proposed to be imposed on money changers and remittance agents, is at Annex. Given the more comprehensive existing anti-money laundering regime for authorized institutions, registered persons, leveraged foreign exchange traders, authorized insurers and insurance brokers, the Administration considers that these entities should be exempted from the Bill. HKMA, SFC and IA are ready to review the anti-money laundering guidelines for financial institutions in the light of the proposals under the Bill.

(b) *Customer identification and record keeping*

4. The Bill requires persons carrying on money changing or remittance businesses to identify customers before engaging in transactions with them and to keep proper records of such transactions. Similar requirements are more elaborate, and indeed more long-standing in the anti-money laundering regime governing the institutions mentioned in paragraph 1 above. Having regard to the business nature and strategy of the regulated financial institutions, the anti-money laundering guidelines issued by financial regulators for such institutions require them to apply the "know your customer" principle to all customers irrespective of the value of transaction. Identification of suspicious customers or transactions then becomes more comprehensive and effective because of the application of this principle. Furthermore, the institutions are required to follow specified procedures in customer identification and keeping of customer and transaction records. Under Cap. 405 and Cap. 455, enforcement agencies can obtain information retained by these institutions by service of a Production Order or Search Warrant. The record keeping requirements of these institutions have taken account of the need to meet law enforcement agencies and the Court's requests amongst others.

5. Financial institutions' compliance with anti-money laundering guidelines is subject to regular monitoring by regulators. Non-compliance will result in doubt cast on the fitness and properness of such institutions to continue business. In such a case, regulators will request remedial action by the concerned institutions, failing which their licences may ultimately be withdrawn.

This ultimate sanction, though different from the criminal penalty for non-compliance proposed under the Bill, should be a sufficient and effective deterrent to ensure institutions' compliance with the respective guidelines.

(c) *Banking institutions' record keeping in money changing transactions*

6. As regards customer identification and record keeping requirements of authorized institutions, anti-money laundering guidelines issued by HKMA require banks to issue internal instruction manuals on account opening, identification of applicants for business, record keeping and reporting of suspicious transactions amongst others. Therefore, banks have internal guidelines which cover record keeping relating to its remittance and money changing business with both account or non-account holders (see first and second parts, second column of table at Annex). It is worth noting that for money changing transactions, banks prefer to deal with existing account holders. This should facilitate an easy audit trail when the need arises. Major banks have specific guidelines on identification of walk-in customers involved in significant transactions.

(d) *Meaning of "registered person"*

7. "Registered person" as referred to in the Bill means a person who is registered under the Securities Ordinance (Cap 333), the Commodities Trading Ordinance (Cap 250), or both, as a dealer, dealing partnership, dealer's representative, investment adviser, commodity trading adviser, investment advisers' partnership, investment representatives or a commodity trading adviser's representative. It generally refers to financial intermediaries who carry on a business of dealing with or advising other persons on securities or futures products, and includes such persons as stockbrokers, futures brokers, fund managers and investment advisers. During their course of business, registered persons may have to settle overseas securities transactions of clients and make arrangement for remittance for overseas clients. All registered persons are required to know their clients and keep sufficient records on all money transactions with/for their clients under the existing law and anti-money laundering guidelines, as set out in detail in the third column in the table at Annex. These requirements are already effective to provide an audit trail for investigation into suspected money laundering offence, and measure up to the standards recommended by FATF.

(e) *Insurance brokers*

8. Insurance brokers in Hong Kong are required to comply with the provisions of the Insurance Companies Ordinance (Cap. 41) and are subject to

the prudential supervision of IA. They are subject to comprehensive regulatory requirements including fit and proper person, proper books of accounts, professional indemnity insurance and annual audit. Insurance brokers can either be directly authorized by IA or admitted as members by a body of insurance brokers approved by IA. The same regulatory requirements apply in both cases. Regulation of members by a body of insurance brokers is supervised by IA. IA has the power under Cap. 41 to withdraw the authorization of an insurance broker or the approval of a body of insurance brokers. For non-compliance of any anti-money laundering requirements, the insurance broker, together with the directors or controllers concerned, may be considered as not fit and proper, and can be debarred from entering into the business or profession again.

9. Unlike other business, the nature of insurance business requires that the insured must have an insurable interest recognized by law in the subject matter under the insurance contract. To fulfil this principle, the identity of the insured or the beneficial owner of the policy is therefore essential and must be clearly established by the insurance broker to ensure that the insurance contract is legally enforceable. It follows that an insurance broker must identify customers and maintain proper records of the insurance transactions.

Definition of “money”

10. Members asked whether the definition of “money” in proposed section 24A covered valuable commodities and requested the Administration to review the definition.

11. The Bill is proposed to regulate money changers and remittance agents in order to address the practical reality of money laundering activities in these two business sectors. In their day-to-day operation, both these sectors deal exclusively with money in various currencies and forms including cash (notes and coins) and orders for payment of specified sums (checks, money orders, bank draft, etc), but not valuable commodities. The intent of the definition is clear and we consider that revision is unnecessary.

Criminal liability

12. In considering proposed section 24D of the Bill, Members expressed concern about the apparent lack of defence for persons employed by money changers or remittance agents under section 24D(1)(a), the scope of liability where the employer of a person is a corporation under section 24D(1)(c) and the liability of inactive partners under section 24D(4).

13. With regard to section 24D(1)(a), we agree to Members' suggestion and would like to propose the following amendment for consideration :-

To add in paragraph (a) of section 24D(1). “, unless the person shows that he exercised reasonable diligence to avoid the commission of the offence” after “agent”.

14. With regard to section 24D(1)(c), we consider that omission of any of the corporate figures mentioned in the section will present a loophole, giving rise to manipulation of the corporation by perpetrators. The liability of the corporate figures proposed is consistent with that covering corporate figures in other types of business affected by legislation of a similar regulatory nature, e.g. section 31 of the Money Lenders Ordinance (Cap. 163). By incorporating a defence (i.e. “unless he took reasonable steps to prevent the commission of the offence”) in section 24D(1)(c), there is already sufficient safeguard for the corporate figures likely to be affected by this section. To make the legislation effective, it is necessary for the scope of liability in this section to remain as proposed.

15. As regards section 24D(4), similar considerations in respect of corporate figures in section 24D(1)(c) apply. Section 24D(4) only makes another partner liable for the offence committed by the directly guilty partner if the offence was committed “with the consent or connivance of, or was attributable to any neglect on the part of” the other partner. The onus of proof is on the prosecution. This section in its application to partnerships is similar to section 101E of the Criminal Procedure Ordinance (Cap. 221) in its application to corporations. We consider that this section should remain as currently drafted since a partner, however inactive, has a responsibility towards the corporation he is partnering with. This section is crucial in making the proposed regulatory regime effective, as it ensures that individuals are liable even though they may distance themselves from the operation of their company businesses.

Duty to keep records

16. Members requested the Administration to review proposed section 24C(2)(c) in respect of keeping records of transactions for not less than six years. Members were concerned that under proposed section 24D(1), if a money changer or remittance agent fails to comply with section 24C(2)(c), the employee would be held liable as well.

17. Employees will have a defence to the offence under section 24C(2)(c) if Members accept the Administration's proposed amendment to section 24D(1) as set out in paragraph 13 of this response.

Powers of entry

18. In considering proposed section 24E, Members requested the Administration to consider whether "premises" include domestic premises and whether a judicial warrant should be required for entering domestic premises.

19. From operational experience, some remittance agents do operate from premises used for residential purpose. "Premises" in section 24E therefore include domestic premises. We accept Members' concern about the requirement for judicial warrant to be issued prior to entry to domestic premises. We would like to propose the following amendment to section 24E :-

(i) *In subsection (1) –*

(a) *To delete "Where" and substituting "Subject to subsection (6), where";*

(b) *To add ", with such assistants as may be necessary," after "he may";*

(ii) *After subsection (5), to add –*

"(6) An authorized officer shall not exercise his power under subsection (1) in respect of premises which are domestic premises except pursuant to a warrant issued under subsection (7).

(7) A magistrate may, if satisfied by information upon oath that there are reasonable grounds for the suspected offence, issue a warrant authorizing an authorized officer, with such assistants as may be necessary, to exercise his power under subsection (1) in respect of any domestic premises where the activities of the remittance agent concerned are being carried on.

(8) In this section, "domestic premises" means any premises or place used exclusively for residential purposes and constituting a separate household unit."

Seizure of records

20. Members asked whether a money changer or remittance agent whose records were seized would be provided with a copy of those records.

21. The procedures for handling records seized under proposed section 24E are the same as those applying to other categories of documentary exhibits seized in furtherance of an investigation. If an owner of the seized documents requests copies of those documents, the authorized officer will normally oblige, except in circumstances where there are reasons to suspect that providing copies will lead to furtherance of the offence or commission of another offence.

Narcotics Division
Government Secretariat
November 1999

(adm-re-8-9)

Anti-money Laundering Measures by Financial Institutions

	Remittance agents and money changers	HKMA (Authorized Institutions)	SFC (Registered persons/licensed leveraged foreign exchange traders)	IA (authorized insurers/insurance brokers)
Customer identification and record keeping	<ul style="list-style-type: none"> Under the Bill, remittance agents and money changers are required to identify customers, keep records of transaction serial number, date and time of transaction, currencies and amount exchanged, exchange rate, name, identity card number of client and telephone number and address of client. Record-keeping is mandatory for 	<ul style="list-style-type: none"> AIs are required under the Prevention of Money Laundering Guidelines (the Guidelines) issued by HKMA to obtain satisfactory evidence of the identity and legal existence of account holders and to refrain from keeping anonymous accounts or accounts in obviously fictitious names. File copies of the customers' identity documents should be kept. When accounts are opened, for individual clients, banks are required to obtain evidence of identity including name, permanent address, date of birth and occupation from official documents such as passports or identity cards. For corporate clients, AIs are required to obtain evidence of the 	<ul style="list-style-type: none"> The revised Guidance Notes issued by SFC for Money Laundering (the Guidance Notes) provides guidance on transaction records to be kept by registered persons and licensed traders. According to section 4.2 of the Guidance Notes, registered persons and licensed traders should ensure compliance with the record keeping requirements contained in the relevant legislation, rules or regulations of SFC or the relevant exchanges. The Guidance Notes prescribe that registered persons and licensed traders may seek the following information : <ul style="list-style-type: none"> (a) the beneficial owner of the account; 	<ul style="list-style-type: none"> Insurers are required under the Insurance Companies Ordinance (Cap.41) to keep proper books and records which sufficiently exhibit and explain all transactions entered into by them in the course of their business. Similarly, insurance brokers are required under Cap.41 to keep proper books and records. These records are subject to audit as required under Cap.41. Under the Guidance Note on Prevention of Money Laundering (the Guidance Note) issued by IA: - <ul style="list-style-type: none"> (a) Insurers and insurance brokers are required to identify and record the identity of their clients when

	Remittance agents and money changers	HKMA (Authorized Institutions)	SFC (Registered persons/licensed leveraged foreign exchange traders)	IA (authorized insurers/insurance brokers)
	<p>transactions over \$20,000 each.</p>	<p>identity of principal shareholders, directors and authorized signatories and the nature of the business in addition to verifying the corporate identity of the customers from official documents such as Certificate of Incorporation and Business Registration Certificate, memorandum and articles of association, resolution of the board of directors to open an account, search at the Company Registry, etc.</p> <ul style="list-style-type: none"> • For non-account holders, where a transaction involves large sums of cash or is unusual, AIs are required to ask the clients for the same evidence of identity as that required from clients opening accounts. The nationality of foreign nationals is recorded. Copies of the identification documents are required to be kept on file. 	<p>(b) the volume of the funds flowing through the account; and</p> <p>(c) for selected transactions:</p> <ul style="list-style-type: none"> • the origin of the funds; • the form in which the funds were offered or withdrawn, i.e. cash, cheques, etc.; • the identity of the person undertaking the transaction; • the destination of the funds; and • the form of instruction and the authority. <ul style="list-style-type: none"> • Registered persons and licensed traders are required to provide the information sought by SFC under existing legislation and the Guidance Notes. • The Code of Conduct for Persons Registered with SFC also requires a registered person to keep in Hong Kong and give 	<p>establishing business. The following information should be recorded in respect of all customers:</p> <ul style="list-style-type: none"> • true name of owner and beneficial owner of the insurance policy (with documentary evidence); • correct current permanent address; • date of birth; and • nationality. <p>(b) No anonymous accounts or accounts in obviously fictitious names should be kept. File copies of identification documents should be kept.</p> <p>(c) For selected transactions, the following information should be sought:</p> <ul style="list-style-type: none"> • The origin of the funds; • The form in which the

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		<ul style="list-style-type: none"> • An important objective for record keeping is for AIs to retrieve relevant information without undue delay. • According to section 7.2 of the Guidelines, AIs may have to seek the following information from their customers: <ul style="list-style-type: none"> (a) the beneficial owner of the account; (b) the volume of funds flowing through the accounts; (c) for selected transactions: <ul style="list-style-type: none"> • the origin of the funds (if known); • the form in which the funds were offered or withdrawn, i.e. cash, cheques, etc.; • the identity of the person undertaking the transaction; • the destination of the funds; and • the form of instruction and authority. 	<p>SFC access to record of:</p> <ul style="list-style-type: none"> (a) the identity, address and contact details of: <ul style="list-style-type: none"> (i) the person or entity (legal or otherwise) ultimately responsible for originating the instruction in relation to a transaction; and (ii) except in relation to an investment fund or discretionary account, the person or entity (legal or otherwise) that stands to gain the commercial or economic benefit of the transaction and/or bear its commercial or economic risk; and (b) the instruction given by the person or entity referred to in (i) above. 	<p>funds were offered or withdrawn (i.e. cash, cheques, etc.);</p> <ul style="list-style-type: none"> • The identity of the person undertaking the transaction; • The destination of the funds; and • The form of instruction and the authority.

	Remittance agents and money changers	HKMA (Authorized Institutions)	SFC (Registered persons/licensed leveraged foreign exchange traders)	IA (authorized insurers/insurance brokers)
Retention of records	<ul style="list-style-type: none"> Under the Bill, both remittance agents and money changers are requested to keep record of the information collected for not less than six years after the date of transaction notwithstanding that the remittance agent or money changer has ceased his business subsequent to the transaction. 	<ul style="list-style-type: none"> According to section 7.4 of the Guidelines, wherever practicable, the following document retention times should be followed: <ul style="list-style-type: none"> (a) account opening records: copies of identification documents should be kept for six years following the closing of an account; (b) account ledger records – six years from entering the transaction into the ledger; and (c) records in support of entries in the account in whatever form they are used e.g. credit/debit slips and cheques and other forms of vouchers – six years from when the records were created. 	<ul style="list-style-type: none"> When practicable, the following documents are suggested to be retained according to section 4.3 of the Guidance Notes: <ul style="list-style-type: none"> (a) all necessary records on transactions, both domestic and international, should be maintained for at least five years. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved if any) so as to provide, if necessary, evidence for prosecution of criminal behaviour; and (b) records on customer identification (e.g. copies or records of official identification documents like passports, identity cards, driving licences or similar documents), account files and business correspondence 	<ul style="list-style-type: none"> According to the Guidance Note, insurers and insurance brokers are required to retain all documentary evidence from the initiation of the insurance contract to final settlement by maturity, claim or cancellation for at least six years after settlement. They should ensure that adequate procedures are in place: <ul style="list-style-type: none"> (a) to provide initial proposal documentation including fact finding, analysis of needs, details of the payment method, identification documentation produced and illustration of benefits; (b) to retain all records associated with the maintenance of the contract post sale, up to and including maturity of the contract; and

	Remittance agents and money changers	HKMA (Authorized Institutions)	SFC (Registered persons/licensed leveraged foreign exchange traders)	IA (authorized insurers/insurance brokers)
			<p>should be kept for at least five years after the account is closed.</p> <ul style="list-style-type: none"> Registered persons and licensed traders are required, under the Securities Ordinance (Cap.333), the Commodities Trading Ordinance (Cap.250) and the Leveraged Foreign Exchange Trading Ordinance (Cap.451) respectively, to keep such accounting and other records as will sufficiently explain all transactions undertaken by them and the operation of their business. 	<p>(c) to provide details of the maturity processing and/or claim settlement which will include completed “discharge documentation”.</p>
Recognition and reporting of suspicious transactions	<ul style="list-style-type: none"> No specific requirement under the Bill, but section 25A of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap.405) and the 	<ul style="list-style-type: none"> On top of section 25A of Cap. 405 and Cap. 455, AIs are required to issue internal instruction manuals on account opening, identification of applicants for business, record-keeping and reporting of suspicious transactions. The ‘know your customer’ principle applies, irrespective of the value 	<ul style="list-style-type: none"> On top of section 25A of Cap.405 and Cap. 455, registered persons and licensed traders are required to have in place procedures covering account opening, customer identification, record keeping, cooperation with law enforcement agencies and internal audit to secure 	<ul style="list-style-type: none"> On top of section 25A of Cap. 405 and Cap. 455, insurers and insurance brokers are required to have instruction manuals that cover selling insurance products, customer identification, record keeping, acceptance and processing of insurance proposals and issue

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	Organized and Serious Crimes Ordinance (Cap.455) requires all persons to disclose suspicious transactions to an authorized officer.	<p>of transaction.</p> <ul style="list-style-type: none"> To assist banks in applying the ‘know your customer’ principle to identify suspicious transactions, the guidelines set out 52 examples of what might constitute suspicious transactions, under the categories of cash transactions, bank accounts, investment related transactions, offshore international activity, AI employees and agents and secured and unsecured lending. The guidelines also prescribe under what circumstances and how a bank should make suspicious transaction reports to the JFIU. 	<p>compliance with policies and controls relating to money laundering. The ‘know your customer’ principle applies, irrespective of the value of transaction.</p> <ul style="list-style-type: none"> To assist registered persons and licensed traders in applying the ‘know your customer’ principle to identify suspicious transactions, the guidelines set out 14 examples of what might constitute suspicious transactions, from the perspectives of the way investment is made and the practice of employees of registered persons and licensed entities. The guidelines also prescribe under what circumstances and how a registered person or licensed trader should make suspicious transaction reports to the JFIU. 	<p>of insurance polices. The ‘know your customer’ principle applies, irrespective of the value of transaction.</p> <ul style="list-style-type: none"> To assist insurers and insurance brokers in applying the ‘know your customer’ principle, 12 examples of what might constitute suspicious transactions, covering single premium insurance contracts, offshore international activity and transactions involving employees and agents of insurers. The guidelines also prescribe under what circumstances and how an insurer or insurance broker should make suspicious transaction reports to the JFIU.
Staff education and	<ul style="list-style-type: none"> No requirement under the Bill. 	<ul style="list-style-type: none"> AIs are requested to provide proper anti-money laundering 	<ul style="list-style-type: none"> Registered persons and licensed traders are requested to have 	<ul style="list-style-type: none"> Insurers and insurance brokers are requested to have

	Remittance agents and money changers	HKMA (Authorized Institutions)	SFC (Registered persons/licensed leveraged foreign exchange traders)	IA (authorized insurers/insurance brokers)
training		training to their local and overseas staff. The guidelines recommend the elements of training specifically for new employees, cashiers/tellers/foreign exchange operators/advisory staff, staff dealing with account opening, supervisors and managers. AIs are recommended to provide on-going training to their staff.	educational programmes in place for training new employees, staff dealing directly with the public, staff dealing with opening news accounts, supervisors and managers. They are recommended to provide on-going training.	educational programmes in place for training new employees, staff dealing directly with the public, staff dealing with insurance proposals and supervisors and managers. They are recommended to provide on-going training.
Inspection Power	<ul style="list-style-type: none"> • Cap.405 and Cap.455 empower the Court to examine all relevant past transactions and records of remittance agents and money changers in relation to money laundering. • An authorized officer under the Bill is empowered 	<ul style="list-style-type: none"> • Cap.405 and Cap.455 empower the Court to examine all relevant past transactions and records of the AIs in relation to money laundering. • The Banking Ordinance (Cap.155) also empowers HKMA to inspect the books and records of an AI if necessary. 	<ul style="list-style-type: none"> • Cap.405 and Cap.455 empower the Court to examine all relevant past transactions and records of the registered persons and licensed traders in relation to money laundering. • SFC is empowered by Cap.24 and Cap.451 to inspect books and records at the premises of the registered persons and licensed traders and make copies of any record or other documents relating to the business to which such certificate of registration applies. SFC will cover review 	<ul style="list-style-type: none"> • Cap.405 and Cap.455 empower the Court to examine all relevant past transactions and records of the insurers and insurance brokers in relation to money laundering. • IA is empowered under Cap.41 to inspect the books and records of an insurer or insurance broker respectively. In addition, IA is empowered to take copies of or extracts from the books or papers inspected by him. IA may

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	to enter the premises of the remittance agents and money changers and inspect the records kept.		of client identification documents and transaction records during routine inspection.	also require the director, controller, auditor or actuary of the insurer or insurance broker to provide an explanation of any of the books and records. Failure to comply with the requirement of IA is an offence under Cap.41.
Ensuring compliance	<ul style="list-style-type: none"> Police and Customs will be responsible for enforcing the provisions in the Bill. 	<ul style="list-style-type: none"> HKMA conducts on-site visits, off-site reviews, prudential interviews and tripartite meetings with AIs' external auditors and management, and may commission external auditors to investigate into the anti-money laundering controls of AIs. 	<ul style="list-style-type: none"> SFC conducts on-site visits and off-site reviews. 	<ul style="list-style-type: none"> IA conducts on-site visits, off-site reviews and prudential interviews.
Penalties for failing to comply with requirements	<ul style="list-style-type: none"> Failure to comply with various requirements in the Bill is an offence. 	<ul style="list-style-type: none"> HKMA takes any breaches of the Guidelines very seriously. If an AI fails to keep proper records as required under the Guidelines, HKMA will advise the AI to take steps to rectify the situation. The AI concerned will then report to HKMA its actions taken to address the issue. If the problem is related to the internal control 	<ul style="list-style-type: none"> SFC may cast doubt whether a registered person/licensed trader who fails to keep records as aforementioned is fit and proper to remain registered/licensed. For a registered person/licensed trader who is considered not fit and proper, SFC may take appropriate disciplinary action which include suspension or 	<ul style="list-style-type: none"> If an insurer or insurance broker fails to comply with the requirements of the Guidance Note, the IA will require explanation from, and remedial action to be taken by it. Any non-compliance with the Guidance Note or failure to rectify such non-compliance will affect the

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		<p>system of the bank, HKMA may conduct special on-site examinations or commission an external auditor to look into the AI.</p> <ul style="list-style-type: none"> • Under Cap.155, an AI could ultimately be liable to losing its banking licence if it fails to maintain adequate controls against money laundering as this is among the on-going minimum criteria for authorization. 	<p>revocation of licence.</p>	<p>fitness and properness of the insurer or insurance broker concerned.</p> <ul style="list-style-type: none"> • Under Cap.41, IA is empowered to take interventionary actions against the insurer including restriction or total cessation of its business. The IA is also empowered to withdraw the authorization of the insurance broker or the approval of a body of insurance broker. In the extreme case, Cap.41 empowers IA to present a petition for the winding up of the insurer or insurance broker. The effect of these penalties would mean that the insurer or insurance broker (including the directors or controllers involved) would be debarred from entering into the business or profession again.

	Remittance agents and money changers	HKMA (Authorized Institutions)	SFC (Registered persons/licensed leveraged foreign exchange traders)	IA (authorized insurers/insurance brokers)
Register	<ul style="list-style-type: none"> The Secretary for Security shall appoint a public officer to maintain a register of remittance agents and money changers. 	<ul style="list-style-type: none"> HKMA maintains a register to keep information of AIs which is accessible by the public. The information kept includes: <ol style="list-style-type: none"> name of the institution; principal place of business in HK and outside HK; published annual reports/accounts for the last three years; financial disclosure on a half-yearly basis, if any; memorandum and articles of association; ordinary and special resolutions passed; and copies of filings with the Companies Registry e.g. increase in capital, if any. Under section 20(7) of Cap.155, every director and every manager of an AI which failed to submit to HKMA the relevant information commits an offence and is liable on conviction to a maximum penalty of a fine at tier 7 (\$400,000) and to imprisonment 	<ul style="list-style-type: none"> Under section 64 of Cap.333, SFC maintains a register that sets out the name and particulars of every registered dealer and investment adviser. The register should include: <ol style="list-style-type: none"> the name of registrant; business type; date and place of incorporation; membership of the Exchanges; type of registrant/licence; registration number; date of registration/licence/declaration; registration details of directors; registered address; and business address. Similar registers for commodities dealers and licensed traders are also maintained by SFC pursuant to section 42 of Cap.250 and section 15 of Cap.451 respectively. 	<ul style="list-style-type: none"> Under Cap.41: <ol style="list-style-type: none"> IA is required to maintain a register of authorized insurers containing their names, places of incorporation, years of first authorization, and classes of business authorized, etc; IA is also required to maintain a register of insurance brokers authorized directly by him. The register contains the brokers' particulars including their names, addresses, telephone numbers, places of incorporation and names of their chief executives; and the two approved broker bodies are required to maintain a register of their member brokers. The information in the register

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		for two years.	<ul style="list-style-type: none"> • Every registered dealer/advisor and licensed trader are required to notify SFC in writing of any change in business particulars, such as business address. They should, on ceasing to carry on business in HK as a dealer or an investment adviser, notify SFC in writing of that fact. • Cap.333 and Cap.250 state that any person who, without reasonable excuse, contravenes any of the above notification requirements shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000. Similarly, Cap.451 states that if a licensed trader contravenes this section, the licensed trader and every director or shadow director of it commit an offence and each is liable on summary conviction to a fine of \$25,000 and in addition in case of every such director or shadow 	<p>includes the names, addresses, telephone numbers and names of their chief executives of their members.</p> <ul style="list-style-type: none"> • IA is empowered to require submission by insurers and insurance brokers of information specified by him and verified in a specified manner.

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			director, to imprisonment for six months.	

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