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Consultation Paper on
Proposed Changes to the Requirements of
Customer's Identity Verification and Record Keeping

Introduction

To enhance the effectiveness of our anti-money laundering and counter-terrorist financing regime and to fulfil Hong Kong's international obligations in this regard, the Government proposes to amend relevant sections of the Organized and Serious Crimes Ordinance (Cap. 455)¹ to :

- (a) lower the threshold for the requirements imposed upon remittance agents and money changers concerning verification of **instructor's** identity and record keeping from **HKD 20,000** to **HKD 8,000**; and
- (b) make the recording and retention of **sender's** particulars a mandatory obligation for remittance agents for transactions of HKD 8,000 or above.

The purpose of this paper is to consult the remitting and money exchanging industry on this proposal.

International Standards

2. Following the September 11th incident in the United States in 2001, and recognizing the vital importance of taking action to combat the financing of terrorism, the Financial Action Task Force on Money Laundering ("FATF") made Nine Special Recommendations to counter terrorist financing. The Forty Recommendations of FATF on combating money laundering, together with the Nine Special Recommendations set out the basic framework to detect, prevent and suppress the financing of terrorism and terrorist acts. Hong Kong, as a member of the FATF and a major international financial centre, has to implement these

¹ Currently, section 24C and Schedule 6 of the Organized and Serious Crimes Ordinance, Cap. 455, requires Remittance Agents and Money Changers to record details of all transactions of \$20,000 or more. The details to be recorded include the instructor's and or the sender's details for remittances, and the client's information for currency exchange.

recommendations in order to combat and prevent these transnational crimes effectively.

3. The proposal contained in this consultation paper seeks to implement Special Recommendation VII (“the Recommendation”). Detailed interpretation of the Recommendation can be found at www.fatf-gafi.org. As far as remittance is concerned, the Recommendation essentially requires, by January 2007 :

- (a) the ordering financial institution to obtain and maintain the sender’s identification details, and to verify the identity of the same for all cross border and domestic wire transfers;
- (b) the ordering financial institution to include the sender’s identification details in the message or payment form accompanying the wire transfer for all cross border wire transfers; and
- (c) the recipient institution of cross border wire transfers to consider refusing to accept transfers that are not accompanied by sender’s identification.

Consequence of not complying with the Recommendation

4. As many overseas jurisdictions will implement the Recommendation by the deadline set by the FATF, if Hong Kong does not follow suit, the Hong Kong remittance agent may encounter problems in the operation of its business, in that overseas banks and counterparts may reject wire transfers sent by a Hong Kong remittance agent if the wire transfers are not accompanied by sender’s information.

Approach to comply with the Recommendation

5. Due to the potential threat posed by small wire transfers, FATF encourages its members to take measures to enable themselves to trace all transactions, regardless of the amount involved. Having considered the possible impact of requiring sender’s information for all transactions (i.e. “zero-threshold”) on the remittance agent industry, the government does not wish to adopt such an approach. FATF allows a threshold not higher than USD/EUR 1,000 to balance the risk of terrorists breaking down their transactions into smaller denominations on the one hand and the possible impact on the industry if a zero threshold approach is adopted on the other. In order to align with this international practice, we intend to lower the threshold requirement of verification of remittance instructor’s and money changing client’s identification and record keeping under section 24C of the Organized and Serious Crimes Ordinance from HKD 20,000 to

HKD 8,000. No separate threshold is proposed for money changing activities to avoid possible confusion. This is in line with the existing legislation where a common threshold is applied to both remittance and money changing transactions.

6. Also, in order to minimize disruption to the operation of the remitting and money exchanging industry, we intend to adopt a step-by-step and pragmatic approach to the implementation of the Recommendation. This would involve :

- (a) implementing the requirement in **paragraph 3(a) only** at this stage so as to give the industry sufficient time to adapt to a lower threshold;
- (b) considering the implementation of requirements in paragraphs 3(b) and 3(c) by law at a later stage when the industry and the international community have accumulated sufficient experience as to how best to put them into practice; and
- (c) considering the implementation of other FATF Recommendations relating to remitting and money changing business.

7. Nonetheless, we strongly recommend remittance agents to implement requirements in paragraph 3(b) in their operations so as to facilitate smooth international transfer of funds, particularly to jurisdictions which might refuse to accept transfers not accompanied by sender's information.

Changes to the operation of remittance and money changing business

8. There would be two slight changes -

- (a) The threshold would be lowered (from HKD 20,000 to HKD 8,000) for the requirements of verifying remittance instructor's or money changing clients identity and record keeping to apply; and
- (b) When a remittance agent provides service of
 - (i) sending, or arranging for the sending of, money to a place outside Hong Kong; or
 - (ii) arranging for the receipt of money in a place outside Hong Kong,

he/she would be required to record and retain the particulars of the sender **and** the instructor if the instructor is not the sender. This would facilitate the transmission of funds to clients in receiving jurisdictions which require the provision of the sender's and instructor's information.

9. Remittance agents and money changers play an important role in the financial system. Your effort in reporting suspicious transactions has given the Hong Kong Joint Financial Intelligence Unit valuable information in combating money laundering and terrorist financing. Though the changes might involve some additional operational cost to your business, your contribution will help safeguard the reputation of Hong Kong and minimize the risk of your business being exploited by criminals and terrorists.

Other relevant information

10. The Hong Kong Monetary Authority is consulting with banks in Hong Kong. It is anticipated that the requirements of the Recommendation will be implemented by the banking industry in January 2007.

Your views

11. The Government wishes to seek the views and comments of the remittance agents and money changers on the proposal set out in this consultation paper. Please complete the attached questionnaire together with your views and return it to the Narcotics Division by mail, facsimile or e-mail before **20th November 2006**.

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Narcotics Division
Security Bureau
Hong Kong Special Administrative Region
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**Questionnaire on Proposed Changes to the
Requirements of Customer's Identity Verification and Record Keeping**

- I prefer having **one threshold** (i.e. HKD 8,000) in respect of the requirements for identity verification and record keeping for both remittance and money changing businesses.

Reasons:

- Easy to administer
- Less confusing to the public
- Others, please specify (use separate sheet if necessary):

- I prefer having **two different thresholds** in respect of the requirements for identity verification and record keeping for remittance and money changing businesses.

Reasons:

- Suitable to the different natures of the two businesses
- Easy to administer
- Others, please specify (use separate sheet if necessary):

Suggested threshold for money changing business : _____

(please tick the appropriate box)

Other views on the Government's proposal (use separate sheet if necessary):

Company name _____

Address _____

Contact Person _____ Job Title _____

Contact Number _____ Fax: _____ Email _____

- My company engages in
- remittance business only
- money changing business only
- both remittance and money changing business.
- (please tick the appropriate box)*

Please note that views received may be published in their entirety in future for public information. Please state your request clearly in your submission if you prefer your identity or views to remain confidential. All responses will be treated as public information unless otherwise specified.