

**Bills Committee on
Anti-money Laundering and Counter-terrorist Financing
(Financial Institutions) Bill**

**Money Service Operators' Access to Banking Services
- Further Response**

This note is further to the one submitted to the Bills Committee on 21 December 2010 on the same subject, and addresses the questions and suggestions raised by Members at the meeting on 22 December 2010.

2. Given the nature of remittance business, which involves the movement of funds often in substantial amounts (whether in single transactions or over time), often across borders between jurisdictions, and often through (sometimes multiple) intermediaries, it is inherently a high-risk sector. As stated in the previous note, the regulatory requirements to be introduced under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Bill (“the Bill”), in particular the requirement that money service operators (“MSOs”) will have to meet the licensing criteria, to be subject to customer due diligence (“CDD”) and record-keeping requirements and to be supervised for compliance with those requirements, will give other financial institutions a degree of assurance in maintaining business relationships with them. Provided that an MSO is licensed under the new Ordinance having met the licensing criteria and complies fully with the relevant statutory CDD and record-keeping requirements having regard to the relevant guidelines, the Hong Kong Monetary Authority (“HKMA”) does not see any reason in principle why it should not be able to access banking services due to money laundering/terrorist financing risks.

3. In response to Members’ questions and suggestions on possible additional measures to ensure that authorized institutions (“AIs”) would not close MSOs’ accounts without reasons, HKMA advises that whether or not to maintain a business relationship with any customer is a matter for AIs to decide based on a number of factors, including whether the business relationship would pose a risk to the AI and the AI’s ability to manage that risk. Nevertheless, HKMA considers that AIs should act reasonably when dealing with customers, including any closure of accounts.

4. HKMA further advises that AIs should give customers adequate notice of their intention to close accounts to allow them time to make other arrangements, and give reasons for the closure wherever possible. However, it may not always be possible for AIs to give reasons for closing individual accounts for legal reasons. For example, provisions under the Organised and Serious Crimes Ordinance (Cap 455)¹ require any person who knows or suspects that any property is the proceeds of or has been used in connection with or is intended to be used in connection with an indictable offence to disclose that knowledge or suspicion to the Joint Financial Intelligence Unit, but it is an offence to reveal or suggest that a disclosure has been made. Where accounts have been closed in these circumstances, AIs may be constrained from giving reasons to the customers concerned for closing accounts or from giving warnings to them about particular behaviour that might lead to account closure. However, within these constraints, HKMA will continue to expect AIs to give adequate notice and explain the reasons for closing account where possible.

**Financial Services and the Treasury Bureau
Hong Kong Monetary Authority
5 January 2011**

¹ Sections 25A and 26 of the Organised and Serious Crimes Ordinance.