立法會
Legislative Council

LC Paper No. CB(1)1639/10-11(01)

Ref: CB1/BC/1/10

Bills Committee on Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Bill

Summary of views of organizations and individuals on the Bill and the Administration's response
(Please see note)

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Note: The views set out in the submission from the Hong Kong Association of Banks (HKAB) (LC Paper No. CB(1)1196/10-11(01) issued on 28 January 2011) are not included in this summary. As agreed at the meeting on 17 February 2011, the Administration and the Hong Kong Monetary Authority will discuss with HKAB the latter's concerns and proposals and report back to the Bills Committee on the results.

A. General issues		
Organization/individual	**Views**	**Administration's response**
Hong Kong Investment Funds Association	(a) The Bill should set out the high level principles, based on which the relevant authorities should come up with detailed guidelines taking into account the specific business characteristics of the various sectors concerned.	• The customer due diligence ("CDD") and record-keeping obligations set out in Schedule 2 of the Bill will be supplemented by guidelines to be issued by the relevant authorities under clause 7 of the Bill to facilitate compliance. There will be a generic set of guidelines applicable to all relevant financial sectors, to be supplemented by sectoral guidelines to cover measures relevant to transactions specific to the relevant regulated sectors.
	(b) The Bill should adopt a risk-based approach on customer due diligence (CDD) and record keeping requirements, and should mirror the provisions under the Securities and Futures Ordinance (Cap. 571) (SFO).	• The Bill has adopted a risk-based approach where simplified due diligence may be applied to specified customers or products which involves a lower risk while special requirements are applicable to cases where higher risk is involved. • Since the Securities and Futures Ordinance ("SFO") is the latest piece of legislation on financial

		regulation examined and enacted by the Legislative Council, provisions relevant to the enforcement and disciplinary powers of the relevant authorities and the establishment and operation of the reviews tribunal under the Bill has drawn reference from SFO with suitable modifications.
Law Society of Hong Kong	(a) In order to maintain Hong Kong's competitiveness as a major international financial centre, the Bill should not go beyond the requirements of the Financial Action Task Force, the implementation legislation of other comparable jurisdictions and other international standards, nor impose an excessive legal and regulatory burden on financial institutions (FIs). (b) Part 2 of Schedule 1 of the Bill sets out the scope of the legislation, and should not simply be amendable by the Secretary for Financial Services and the Treasury by notice published in the Gazette. (c) To ensure consistency of application by the relevant authorities, the requirement to apply a "risk based	• The CDD and record-keeping obligations provided under the Bill reflect the requirements of the Financial Action Task Force ("FATF") as closely as possible with suitable adaptation having regard to local circumstances. • The proposal in the Bill is to ensure timely response to future changes in the international standards in respect of the types of FIs that should be subject to the CDD and record-keeping requirements. There will be procedural safeguard as the amendment will be subject to negative vetting by the Legislative Council. • The relevant authorities will provide appropriate guidance on the

	approach" in relation to the CDD process should be set out in a standalone provision at the beginning of the legislation or at least in the same manner as the Money Laundering Regulations 2007 in the UK.	application of the risk-based approach in the guidelines to be issued under clause 7 of the Bill.
The Institute of Securities Dealers Limited	The Bill should include a clear definition of "money laundering" so that FIs will not, inadvertently, breach the law.	• Schedule 1 of the Bill includes a definition of "money laundering". • The primary objective of the Bill is to give statutory banking to the preventive measures which FIs are required to implement to help combat money laundering. It should be noted that the offence of money laundering is provided for under a separate legislation, viz the Organized and Serious Crimes Ordinance (Cap 455).

B. Customer due diligence and record keeping requirements		
Organization/individual	**Views**	**Administration's response**
(a) Identification of a customer		
Hong Kong Investment Funds Association	(a) The Administration should assist FIs in authenticating local or overseas documents for ascertaining customers' identity, and provide guidance on how FIs should conduct CDD on customers that cannot be contacted or who refuse to provide identity	• FIs may enquire with the immigration authorities of the relevant jurisdiction. In line with international requirements, the Bill provides that FIs should not

	documents.	establish/continue a business relationship or conduct transaction for customers when CDD on the customer cannot be completed.
	(b) The Administration should issue detailed guidelines on what constitutes "reliable and independent" sources of information to verify a customer's identity.	• The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill.
	(c) It is onerous for FIs to have to ensure that customers' identification documents are up-to-date, as they have to rely on clients' volition to provide the information.	• Conducting ongoing monitoring (including the obligation to ensure that customers' identification documents are up-to-date) on all customers is a FATF requirement. The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill.
Law Society of Hong Kong	Under section 9(b) of Schedule 2, in verifying the identity of a customer who is not physically present, an FI should obtain supplementary information from "appropriate persons". The Administration should provide guidance as to who these "appropriate persons" are.	• The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill.
Hong Kong Money Changer and Remittance Association	(a) Many customers give remittance instructions through intermediaries, and they would not reveal details of these customers to money service operators (MSOs) for CDD purposes.	• It is Hong Kong's international obligation to follow FATF standards to require the identification of the beneficial owner of a customer (including the person on whose

	(b) Overseas customers are unlikely to qualify for simplified CDD, but MSO would have practical difficulties in applying enhanced due diligence on these customers.	behalf another person is acting). • It is Hong Kong's international obligation to follow FATF standards to require the application of enhanced customer due diligence measures to customers who could not be physically present for identification purpose given their higher money laundering/terrorist financing risk.
Hong Kong Association of Online Brokers (HKAOB)	Members of HKAOB might be liable to regulatory sanctions if their clients did not respond to the request for updated information for meeting the CDD and record keeping requirements.	• The earlier proposal to require remediation of all existing accounts within two years from the commencement of the Bill as put forward in the second-round consultation has been dropped. Under the Bill, FIs are only required to remediate existing accounts upon the occurrence of specified triggering events.
(b) When CDD measures must be carried out, and circumstances for applying simplified/enhanced CDD measures		
Hong Kong Investment Funds Association	(a) The Administration should elaborate the nature of events or circumstances that would trigger CDD to be conducted, and clarify whether fund managers would have the statutory power to close the account of a customer on grounds of anti-money laundering.	• The triggering events for conducting CDD on existing customers are set out in clause 6(1) of Schedule 2 to the Bill. The relevant authorities will provide guidance to FIs on how to fulfil the CDD and

		record-keeping obligations under the Bill. The Bill has stipulated specified circumstances where an FI should terminate its business relationship with a customer. The relevant provisions apply to fund managers as FIs.
	(b) The Administration should clarify what a "public body in Hong Kong" is and what activities are considered to be "public functions" when an FI may apply simplified CDD.	• Part 1 of Schedule 2 to the Bill provides a definition of the term "public body" for the purpose of this Bill.
	(c) The Administration should provide guidelines on what additional documents, data or information and supplementary measures are required for verification of identity of customers who are not physically present under the enhanced due diligence procedure.	• The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill.
	(d) The Administration should provide guidelines to help FIs determine which of their customers are of "high risk categories".	• The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill.
	(e) A simplified on-going CDD process should be adopted for existing low-risk customers where FIs would not need to collect updated information from them.	• The earlier proposal to require remediation of all existing accounts within two years from the commencement of the Bill as put forward in the second-round consultation has been dropped. Under the Bill, FIs are only required

		to remediate existing accounts upon the occurrence of specified triggering events.
	(f) FIs should be required to report suspicious cases of money laundering to regulators rather than refusing to process such transaction orders.	• There are legislative provisions in other relevant Ordinances governing the reporting of suspicious transactions, which falls outside the scope of this Bill. The Bill only requires an FI not to carry out an occasional transaction or establish/continue a business relationship under very limited circumstances, viz. when it cannot complete CDD measures as required. This is consistent with the requirements imposed by FATF.
Law Society of Hong Kong	(a) The threshold for applying CDD and record keeping requirements to multi-purpose cards should be amendable by notice published in the Gazette. (cf. clause 5(4))	• The currently proposed threshold was determined having regard to the development of multi-purpose cards and it is not expected to require frequent amendments. We consider that the current arrangement for its amendment is adequate.
	(b) Under section 3(1)(d) of Schedule 2, an FI must carry out CDD measures when it suspects that the customer is involved in money laundering or terrorist financing. Attempting to carry out CDD at this point may not be	• It is a FATF requirement that CDD measures should be applied in such circumstances. There are legislative provisions in other

	realistic, and may even tip off the customer. The Law Society considers that the more appropriate requirement should either to carry out CDD or to file a suspicious transaction report.	relevant Ordinances regarding the reporting of suspicious transactions.
	(c) The second limb *"(b) a jurisdiction that imposes requirements similar to those imposed under this Schedule"* of the definition of "equivalent jurisdiction" in Part 1 of Schedule 2 should be removed or substituted, as it would be of little practical use to FIs.	• The second limb provides flexibility for additional jurisdictions be regarded as an equivalent jurisdiction under the Bill in addition to those provided under the first limb, having regard to the requirements imposed on their FIs in that jurisdiction.
Hong Kong Securities Professionals Association	(a) The Administration should provide detailed guidelines regarding the implementation of CDD. The relevant industries should be consulted before finalizing the guidelines.	• The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill. The draft guidelines will be ready for consultation with the industry after the Bill is enacted.
	(b) FIs should only be required to update customers' information under the following circumstances: (i) after a major transaction; (ii) when there is major revision of document(s) relating to a customer; (iii) where an FI finds that the information of a	• The earlier proposal to require remediation of all existing accounts within two years from the commencement of the Bill as put forward in the second-round consultation has been dropped. Under the Bill, FIs are only required to remediate existing accounts upon the occurrence of specified

	customer was inadequate; or (iv) when the FI is aware of certain substantial changes in the way a customer's account is being operated.	triggering events specified under clause 6(1) of Schedule 2 to the Bill, which are very similar to those suggested.
The Institute of Securities Dealers Limited	There is no need for FIs to update customers' information. Inactive customers are unlikely to be involved in money laundering activities, while the information of active customers is already up-to-date.	• Conducting ongoing monitoring (including the obligation to ensure that customers' identification documents are up-to-date) on all customers is a FATF requirement. The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill.
(c) Identification of beneficial owners		
Hong Kong Investment Funds Association	There should be guidelines to help FIs comply with the statutory requirements on identification of beneficial owners in the CDD process, and clarify what "reasonable steps" they are expected to take in the process.	• The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill.
Hong Kong Money Changer and Remittance Association	Customers of MSOs will find the Bill onerous if every shareholder with more than 10% ownership is required to provide information for CDD and record keeping; recipients of remittance might refuse to co-operate to provide information.	• It is a FATF requirement that FIs should identify and take reasonable measures to verify the identity of beneficial owners. The 10% threshold was set pursuant to the current requirement under the guidelines issued by the financial regulators.

Law Society of Hong Kong	(a) For the definition of "beneficial owner" in section 1(1) of Part 1 of Schedule 2, the 10% threshold should be replaced by 25%, which is the standard generally applied in other comparable jurisdictions such as Singapore and the UK.	• The 10% threshold was set pursuant to the current requirement under the guidelines issued by the financial regulators. The compliance record with the current requirement has been satisfactory.
	(b) Where the customer is a trust, it should not be necessary for the CDD process to catch the beneficiaries given the administrative difficulties in identifying them; it should be enough that CDD information is collected and maintained on the settler, protector or trustee of the trust.	• It is a FATF requirement that all beneficial owners of a customer have to be identified. Paragraph (c) of the definition for beneficial owner under clause 1 of Schedule 2 to the Bill provides for the beneficial owners in relation to a trust. It should be noted that for beneficiaries, only those who are entitled to a vested interest in not less than 10% of the capital of the trust property are covered by the definition.
	(c) Limb (c)(iv) of the definition of "beneficial owner" in Part 1 of Schedule 2 refers to "an individual who has ultimate control over the trust". The expression "trustee" or other more clearly defined terms should be used.	• The concept of beneficial owners under the FATF requirements has an element of ultimate control. The relevant authorities will provide guidance to FIs on how to fulfil the CDD and record-keeping obligations under the Bill.

(d) Carrying out CDD measures by means of intermediaries		
Hong Kong Institute of Chartered Secretaries	Section 18(3)(a)(iii) of Schedule 2 should be amended to align the description of a member of the Hong Kong Institute of Chartered Secretaries with clause 6.8 of the Supplement to the Guidelines on Prevention of Money Laundering issued by the Hong Kong Monetary Authority in July 2009.	• The Administration is considering a Government-sponsored committee-stage amendment pursuant to the comment.
Hong Kong Investment Funds Association	(a) The Administration should clarify whether the Bill would apply to intermediaries such as fund managers who act as agents for an underlying customer.	• All licensed corporations as defined under SFO are subject to the requirements provided under the Bill.
	(b) FIs should not be held liable for offences related to CDD if it had taken reasonable steps of conducting CDD through a third party.	• It is a FATF requirement that where reliance on a third party to conduct CDD is allowed, the ultimate responsibility should still remain with the FI.
	(c) The Administration should make it clear that an FI does not necessarily have to obtain CDD information of an underlying customer of a third party if (a) it is prohibited from doing so under certain banking security laws, and (b) that the FI is satisfied with the CDD measures the third party had taken. The Administration should clarify whether the FI should, under such circumstances it should freeze or close such accounts.	• According to FATF's requirement, where an FI relies on a third party to conduct CDD, it should immediately obtain the CDD information of the underlying customer from the third party, and it should not establish/continue business relationship or carry out an occasional transaction when CDD (including the identification and verification of beneficial owners)

		cannot be completed.
Hong Kong Institute of Certified Public Accountants	Section 18(3) and (7) of Schedule 2 should be amended by replacing "certified public accountant (practising)" with "certified public accountant", as all certified public accountants, whether a practising certificate holder or not, are governed by the professional standards and are subject to the same regulatory and disciplinary regime.	• The Administration is considering a Government-sponsored committee-stage amendment pursuant to the comment.
Law Society of Hong Kong	The word "practising", which appears to be a duplication, should be deleted from "certified public accountant (practising)" in section 18(3)(a)(ii) in of Schedule 2.	• The Administration is considering a Government-sponsored committee-stage amendment pursuant to the comment.

C. Politically exposed persons		
Organization/individual	**Views**	**Administration's response**
Hong Kong Investment Funds Association	(a) The Bill should specify that FIs should put in place a risk-based system in determining whether a person is a politically exposed person (PEP), and should clarify whether such a system should be a computer or manual monitoring system.	• Clause 19(1) of Schedule 2 of the Bill provides that an FI must establish effective procedures for determining whether a customer or a beneficial owner is a PEP. There is no specification on whether FIs should adopt a computerized or manual system to fulfil that obligation.
	(b) The Administration should explain how FIs could obtain information about PEPs from different	• FIs can make reference to publicly available information or information

	countries.	in commercial electronic database in identifying PEPs.
	(c) The Administration should clarify whether FIs are liable if they do not possess information and are unable to find information about the close associates of a customer; and whether it is sufficient for an FI to meet the statutory duties simply by relying on information available in the Internet.	• FIs are expected to determine whether a customer or a beneficial owner is a PEP from publicly known information or information in its possession.
	(d) The Administration should clarify what level of management is considered sufficiently senior to approve the establishment of business relationship with higher risk clients.	• Given that organisational structure varies in different FIs, it is difficult to generalise which level of management is considered as senior management for the purpose of approving the establishment of business relationship with higher risk clients. FIs should decide the appropriate level of management to grant the approval having regard to its size and organization structure.
Law Society of Hong Kong	(a) The Administration should clarify the meaning of "state-owned corporation", which is used in the definition of PEP.	• A “state-owned corporation” means a corporation owned by a state. There is no specification on the percentage of which the corporation is owned by a state.
	(b) The definition of "close associate" of a PEP in the Bill is too broad and creates uncertainty.	• The definition of “close associate” of a PEP in the Bill was drafted with

		reference to the similar definition in the United Kingdom Money Laundering Regulations 2007. The relevant authorities will provide guidance to FIs in this regard as appropriate.

D. Criminal offences, guidelines-making power		
Organization/individual	**Views**	**Administration's response**
Hong Kong Investment Funds Association	(a) The Association disagreed with the proposal in the second round consultation document that it would be a criminal offence if an FI fails to comply with the regulator's requirements without reasonable excuse because assessing whether a transaction might constitute money laundering can be quite subjective.	• The earlier proposal that an FI fails to comply with the statutory requirements without reasonable excuse would be criminally liable has been dropped. Under the Bill, an FI would be criminally liable only if it contravenes the specified requirements under Schedule 2 of the Bill knowingly or with an intent to defraud.
	(b) It is overly burdensome to extend the scope of criminal liabilities to procedural and compliance obligations such as CDD and record keeping requirements. Contravention of these requirements should be dealt with by civil or supervisory sanctions.	• Civil sanctions and criminal offences are provided in the AML regulatory legislation in other major jurisdictions. Under the Bill, there are very clear mental thresholds for the criminal offences. No one will be criminally liable for breaches

		committed inadvertently. The provision for criminal offences under the Bill would provide an effective and appropriate deterrent in dealing with breaches of more culpable nature.
	(c) If criminal liability must be imposed, the Administration should explain what "reasonable excuse" is available, and training should be provided in helping responsible officers conduct CDD.	• Under the Bill, a person or an FI would be criminally liable only if it contravenes the specified requirements under Schedule 2 of the Bill knowingly or with an intent to defraud. The relevant authorities will provide training seminars prior to the commencement of the Bill.
Law Society of Hong Kong	The Bill imposes criminal sanctions with prison terms on individual employees as well as FIs for contravention of the statutory requirements. This is inconsistent with the position in a number of comparable jurisdictions, including Singapore and the United Kingdom. Criminal sanctions cannot generally be applied to "persons" in those jurisdictions for a breach of CDD or record keeping requirements.	
	(a) The CDD requirements of Schedule 2 are expressed in loose and subjective terms. It is wrong in principle to impose criminal sanctions for failure to comply with such loosely defined and vague standards. The imposition of a high mental	• Civil sanctions and criminal offences are provided in the AML regulatory legislation in the other major jurisdictions. The provision for criminal offences under the Bill

	threshold fails to address the concerns. Instead, administrative or regulatory sanctions should be considered.	would provide an effective and appropriate deterrent in dealing with breaches of more culpable nature.
	(b) The UK Money Laundering Regulations 2007 expressly provides that it is a defence to both civil and criminal sanctions if the person took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with. This defence has not been expressly stated in the Bill.	• The criminal offence under the UK Regulations is a strict liability offence. On the other hand, the criminal offences for breaches of the CDD and record-keeping obligations under the Bill have very clear mental threshold and thus no such defence is necessary.
	(c) Clause 7(4) should be amended to the effect that the relevant guidelines should be developed only after thorough consultation with the relevant sectors.	• The relevant authorities will consult the industry before publishing a guideline under clause 7. However, prescribing rigid consultation requirements under the law may hamper the relevant authorities' ability to provide quick response to industry's requests for clearer or additional guidance in certain areas or changes in international standards.
	(d) Clause 7(5) should be amended to state that compliance with the published guidelines constitutes a defence to a prosecution for non-compliance with the requirements in Schedule 2 to which the guidelines relate.	• The guidelines to be issued under clause 7 do not carry any legislative effect. They carry evidential value in considering whether specified provisions under Schedule 2 to the Bill have been breached.

E. Supervision and investigations, disciplinary actions by relevant authorities		
Organization/individual	**Views**	**Administration's response**
Law Society of Hong Kong	(a) A forum consisting of all regulators should be set up to develop generic guidelines to help FIs comply with the new statutory requirements.	• The relevant authorities will produce a generic set of guidelines which will be applicable to all relevant financial sectors.
	(b) The Law Society has serious concerns that the Bill seeks to apply the SFO's intrusive and extensive powers of investigation to non-compliance with the statutory CDD and record-keeping requirements. SFC is charged with the responsibility to protect market integrity and investigation may include the "investing public". By contrast, the purpose of any investigation launched under the Bill is limited to ascertaining whether an FI has complied with the statutory CDD and record-keeping requirements	• FATF requires that regulators should have adequate powers to monitor and ensure compliance by FIs. SFO is the latest piece of legislation on financial regulation examined and enacted by the Legislative Council and has been examined by FATF when conducting the mutual evaluation on Hong Kong. Thus, we consider it appropriate to model on the enforcement powers provided under SFO, and subject the exercise of the powers of the relevant authorities to appropriate procedural safeguards as provided in the Bill.
	(c) There is no requirement for the exercise of powers by the authorized person under clauses 9(1)(a) and (b) and (c)(i) that it has to demonstrate it has reasonable cause to do so. There are no safeguards against any abuse of the wide powers conferred under clause 9 -	• It is a FATF requirement that the supervisors should have the authority to conduct inspections of FIs, including onsite inspections, to ensure compliance. Such

	especially the right of entry or complaint or appeal procedures.	inspection should include the review of policies, procedures, books and records, and should extend to sample testing. The exercise of the powers conferred on the relevant authorities under the Bill will be subject to usual mechanism for review and/or complaint through judicial reviews or the Ombudsman, as in the case of the exercise of powers of other public bodies.
	(d) It is imperative to maintain a high degree of transparency and consistency in the exercise of powers among the relevant authorities under clauses 9 to 14. Guiding principles and considerations should be set out in the joint guidelines to be issued by the relevant authorities. The joint guidelines or a separate Memorandum of Understanding should set out how their regulatory powers would be exercised to avoid unnecessary duplication.	• The relevant authority for monitoring the compliance of each type of FIs are set out under Schedule 1 to the Bill. There would not be any duplication in enforcement actions taken by the relevant authorities under the Bill.
	(e) The Bill provides regulators the powers to call on persons unconnected with the FI (clauses 9(1)(c)(ii) and 9(3)(b)) and remove their right to remain silent (clause 13(11) and 9(9) etc.). Such powers are draconian, unnecessary and disproportionate to the offences in the Bill.	• The power to require information, records or documents from any person is essential for the effective enforcement of the statutory obligations under the Bill. The exercise of the power is subject to a number of safeguards, including that it can only be exercised when the information, records or documents

		sought cannot be obtained through exercising the powers over the FI.
	(f) The exercise of the powers under clause 9 should be restricted to "connected persons only", by adopting the provisions in Regulation 37 of the UK Money Laundering Regulations.	• The categories of persons who may be in possession of the relevant information, document or record that the relevant authority seeks to gain access to by exercising the power under clause 9 may differ in different cases. As such, narrowing down the scope of persons covered by clause 9 to "connected persons" (however defined), may prejudice the effective discharge of the relevant authority's duty in monitoring compliance by FIs with the CDD and record-keeping requirements through the inspection process.
	(g) The penalty under clause 21(2)(c)(ii) at "3 times the amount of the profit gained or costs avoided by the FI as a result of the contravention" bears little relevance to the offence of failing to comply with the CDD and record-keeping requirements. Reference should be made to the legislation of comparable jurisdictions in setting the penalty.	• The maximum supervisory fine proposed was modelled on that under SFO. To ensure that the supervisory fine imposed is proportionate to the breach and produce appropriate deterrent impact to prevent future non-compliance, we consider that a maximum fine to be determined having regard to the profit gained or

		costs avoided from the contravention is appropriate.
Hong Kong Association of Online Brokers	As in the case of the fine penalty provisions under the SFO, guidelines on how pecuniary penalty under the present legislation would be applied should be established to ensure consistency and to avoid abuse by regulators.	• The relevant authorities will publish guidelines on how they intend to use their power to impose supervisory fines under clause 23 of the Bill.

F. Money service operators		
Organization/individual	**Views**	**Administration's response**
Hong Kong Money Changer and Remittance Association	Some banks have refused to provide account services or have cancelled existing accounts of MSOs without giving any reasons. The Administration should regulate banks' practice in dealing with MSOs.	• As explained in Bills Committee papers CB(1)881/10-11(04) and CB(1)979/10-11(02), whether or not to establish or maintain business relationships with particular customers is a matter for FIs, including banks, to decide. The Hong Kong Monetary Authority expects banks to give adequate notice and explain the reasons for closing account where possible.
Law Society of Hong Kong	(a) The Administration should clarify why a MSO licence, when first granted, is valid for 2 years or such other period as the Commissioner considers appropriate, whereas the licence on renewal is valid for 2 years or such other shorter period as the	• Under clause 81 of the Bill, applications for a MSO licence from existing operators have to be made within 60 days from the commencement of the legislation.

	Commissioner considers appropriate. [cf. clauses 30(10) and 31(12)]	If all of these licences are valid for 2 years, it may not be possible for C&ED to process all of the renewal applications within a couple of months. As such, in order to spread out the renewal applications upon the expiry of the initial licence granted under the new legislation, the Commissioner will appoint a longer licensing period (for example in accordance with the issue date of the Business Registration Certificate) for individual licences.
	(b) The option for the Commissioner to "amend" a MSO licence when it is returned upon cessation of a MSO business should be removed. [cf. clause 40(2)]	• In cases where a licensee only cease its operation at one of its several business premises listed on the licence, the Commissioner will need to amend the licence to remove the premises where operation is ceased. Where the operation at all the business premises listed on the licence has ceased, the Commissioner will cancel the licence.

G. Appeals to Court of Appeal		
Organization/individual	**Views**	**Administration's response**
Hong Kong Investment Funds Association	• The Administration should confirm that a party who is dissatisfied with a decision of the review tribunal may seek a review by the Court of Appeal based on the merits of the case, and not only on an error of law or procedure.	• Under clause 70 of the Bill, a party to a review who is dissatisfied with the determination of the review may appeal to the Court of Appeal on a question of law or a question of fact or a question of mixed law and fact.

Financial Services and the Treasury Bureau
18 March 2011