

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

Money Service Operators' Access to Banking Services

This note explains how the Anti-Money Laundering and Counter-terrorist Financing (Financial Institutions) Bill (“the Bill”) would improve the business relationship between money service operators (“MSOs”) and banks and facilitate MSOs in accessing banking services.

2. Whether or not to establish or maintain business relationships with particular customers is a matter for financial institutions, including banks, to decide. In considering whether to establish or maintain a business relationship with a customer, banks will take into account a number of factors including whether the business relationship would pose a risk to the bank and the ability of the bank to manage the risk.

3. In view of the nature of remittance business and the fact that remittance business operators are currently not subject to anti-money laundering (“AML”) regulation as required under the prevailing international standard, remittance business operators are generally regarded as high-risk customers from the AML perspective.

4. The Hong Kong Monetary Authority’s Guideline on Prevention of Money Laundering and its Supplement require banks to take extra care in managing business relationships with those customers the banks assessed to be of higher risk and apply enhanced due diligence to such customers. It does not mandate banks to restrict or not to provide services to a particular group of customers solely on the ground that the business nature of such customers is more susceptible to money laundering. If banks decide not to maintain the business relationship with a customer, they are expected to act reasonably, give sufficient notice of the closure of the account and communicate the basis of the decision as far as possible.

5. The Bill introduces a licensing regime for MSOs and subjects them to the same set of customer due diligence (“CDD”) and record-keeping obligations that is applicable to other financial institutions including banks. Section 29 of the Bill makes it a criminal offence for anyone to operate a money service without a licence. Under the future regime, MSOs will be supervised by a competent authority, namely the Customs and Excise Department, on the same legal basis as other financial institutions covered under the Bill.

6. Clause 4(2)(a) of Schedule 2 to the Bill allows financial institutions to apply simplified due diligence to financial institutions covered by the Bill, which includes MSOs. The fact that the MSOs have met the licensing requirements under the Bill and are supervised for compliance with the requirements to conduct CDD on their customers will give banks and other financial institutions a degree of assurance in establishing or maintaining business relationships with them in accordance with their own risk-management and other policies. The new arrangements should therefore facilitate MSOs that meet the requirements under the Bill in gaining access to financial services.

Financial Services and the Treasury Bureau
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