

香港特別行政區政府
財經事務及庫務局
財經事務科
香港金鐘道六十六號
金鐘道政府合署十五樓



FINANCIAL SERVICES BRANCH
FINANCIAL SERVICES AND
THE TREASURY BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

15TH FLOOR
QUEENSWAY GOVERNMENT OFFICES
66 QUEENSWAY
HONG KONG

電話 TEL.: 2528 6384
圖文傳真 FAX.: 2869 4195
本函檔號 OUR REF: CO/2/19/2C(2015)
來函檔號 YOUR REF: CB2/PL/SE

LC Paper No. CB(2)1924/14-15(01)

15 July 2015

By fax (2185 7845)

Miss Betty MA
Clerk to Panel on Security
Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Dear Miss MA,

Letter from Hon Paul TSE Wai-chun

Further to the Secretary for Security's reply dated 30 June 2015 on the regulation of illegal practices of financial intermediaries, the Government would like to provide the following supplementary information for reference by members of the Panel on Security.

At present, the Money Lenders Ordinance ("MLO") (Cap.163) already expressly prohibits a money lender from colluding with any person to charge a borrower any fees other than interest. Section 29(10) of the MLO provides that a money lender, as well as his principal, agent, or any person acting for or in collusion with the money lender, shall not recover any expenses or receive any reward from a borrower (or intending borrower) for procuring, negotiating or obtaining any loan made or guaranteeing or securing the repayment thereof. Offenders may be liable to a maximum fine of \$100,000 and two years' imprisonment.

As regards advertising practices, section 30(1) of the MLO prohibits anyone from fraudulently inducing or attempting to induce a person to borrow money from a money lender by any false, misleading or deceptive statement, representation or promise, or by any dishonest concealment of material facts. Offenders may be liable to a maximum fine of \$10,000 and six months' imprisonment.

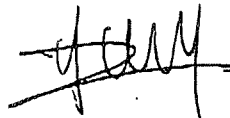
The Police are very concerned about the illegal practices related to money-lending activities and have taken actions to combat these malpractices in recent years. Between May 2014 and February 2015, the Police mounted operations codenamed Operation SMARTHOOK, Operation FIRECOBBLER and Operation TOPCLIMBER respectively to target contraventions of the MLO by money lenders and financial intermediaries. A number of money-lending companies and financial intermediaries were searched under these operations, resulting in the arrest of 80 persons in total and the seizure of loan application forms, related documents, computers and cash totalling around \$1.5 million. In March 2015, the Police also handled a suspected case of passing off as bank staff to promote money lending service and raided a financial intermediary using "accounting service" in its registered name. As a result of the raid, the Police arrested 19 persons and seized loan application forms, related documents, computers and phone sets. The Police will continue to proactively combat illegal acts and will seek to raise public awareness by publicising widely the successful enforcement actions and prosecutions.

On the other hand, financial intermediaries commit an offence if they engage in any commercial practices prohibited by the Trade Descriptions Ordinance ("TDO") (Cap. 362), such as "false trade descriptions" or "misleading omissions". Offenders may be liable to a maximum fine of \$500,000 and imprisonment for five years. The Customs and Excise Department has been proactively handling cases in contravention of the TDO and would refer appropriate cases to the Police for follow-up under the MLO such that appropriate enforcement or follow-up actions can be taken.

All in all, law enforcement agencies may take appropriate enforcement actions against money lenders and financial intermediaries in accordance with the relevant existing legislations (including those mentioned in the reply from the Secretary for Security dated 30 June). The Government will rigorously tackle cases involving breaches of the relevant ordinances and will continue to cooperate with related organisations in raising public awareness of fraudulent practices through different channels, and reminding the public to understand thoroughly the terms and conditions concerning the fees and charges in any loan agreements or financial contracts. Furthermore, the Investor Education Centre has enhanced its promotional and educational activities to remind members of the public of the need to properly manage their debts and the potential risks in borrowing money via financial intermediaries.

In June 2015, the Government submitted an information note (LC Paper No. CB(1)955/14-15(02)) to the Legislative Council Panel on Financial Affairs at its request. The note sets out the existing regulatory provisions applicable to the charging of fees and advertising practices of financial intermediaries, as well as the enforcement and public education efforts of relevant departments and organisations. We will follow up the matter with the relevant panel as necessary.

Yours sincerely,



(Paul Wong)

for Secretary for Financial Services
and the Treasury

c.c. Secretary for Security
(Attn. :Mrs Millie NG KIANG Mei-nei)

Secretary for Commerce and Economic Development
(Attn. :Ms Manda CHAN Wing-man)