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Written Response to the Bills Committee on Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 and Companies (Amendment) Bill 2017

Date: October 23, 2017

Introduction

Thomson Reuters welcomes the opportunity to provide its views and thanks the Bills Committee for the invitation. The following paper outlines our views on the second round of proposals released by the FSTB on this subject: "Money Laundering Regulation of Designated Non-Financial Businesses and Professions". We support the FSTB's aims to extend the anti-money laundering and counter terrorism financing (AML/CTF) regime to a number of new businesses and professions, including solicitors, accountants, real estate agents and Trust or Company Service Providers (TCSPs).

Thomson Reuters believes that an effective AML/CTF framework is absolutely integral to protecting Hong Kong's economy from the harm associated with financial crime, organised crime and terrorist financing — both domestically and internationally. As organisations such as the Financial Action Task Force (FATF) have demonstrated, cracking down on the laundering of proceeds of crime is an effective way to identify and mitigate predicate offences. The need for a robust anti-money laundering (AML) framework in Hong Kong is heightened by the recent spate of terrorist attacks in Europe and beyond and the concerns surrounding so-called "foreign fighters" in some Asian countries. More than ever there is a need for effective technical processes that identify potential financial crime and money laundering risks to support Hong Kong's efforts, thus making our society safer.

An effective AML/CTF regime requires a coordinated approach between the financial and non-financial sectors and the public and private sectors. Regulators, government departments, banks and vendors like Thomson Reuters are all part of an ecosystem that prevents and detects financial crime. With offerings like our World-Check due-diligence screening service, Thomson Reuters plays a key role in Hong Kong and globally in helping many private sector firms and public authorities identify potential risks in their supply chains, customers and business relationships.

In submitting our response, we draw upon Thomson Reuters global experience and expertise in the AML/CTF field, as well as our team of regulatory analysts from the world's major financial centres.

Yours faithfully,

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About Thomson Reuters

Thomson Reuters is the world's leading source of news and information for professional markets. Our customers rely on us to deliver the intelligence, technology and expertise they need to find trusted answers. The business has operated in more than 100 countries for more than 100 years. Thomson Reuters shares are listed on both the Toronto and New York Stock Exchanges.

Our experience has demonstrated to us how essential it is that the public and the private sectors work together to combat financial crime. Genuine partnerships in any field require time and trust and we have been dedicated to technological advancements for our customers and society since being founded in 1851. We believe it would be beneficial to highlight some of the ways that an organization like ours contributes to the global fight against money laundering and counter-terrorist financing.

We are a leading solutions provider and thought leader in Third-Party Risk Management and AML solutions. Our Customer and Third-Party Risk proposition offers a range of financial crime solutions providing expertise, content, software and services to banks, as well as other financial and non-financial institutions (e.g. corporates, casinos and high-value goods dealers). We also participate and provide leadership in international and cross-company initiatives to fight corruption and improve transparency.

Thomson Reuters offers risk management solutions that check and reveal hidden risks in business relationships and human networks, and ensure that relevant employees have access to key information that helps them make compliant decisions. Through our **KYC as a Service** platform we build a Know Your Customer (KYC) record with and for organizations' end-clients that uses public information to un-wrap beneficial owners and related parties, screen against Politically Exposed Persons (PEP) and sanctions lists, check for adverse information and negative news and maintain ongoing monitoring on the end-client data, proactively updating records. The end-client maintains control of any private information, logging on to the web-based portal to release their KYC records to their chosen counterparties. This enables our clients to manage the cost of KYC compliance, substantially reducing the time and effort taken to onboard new customers by increasing efficiency in their compliance operations.

KYC as a Service brings together a number of our market-leading risk solutions to verify the identity of clients, provide ongoing, proactive identity monitoring to detect changes in legal status, as well as assisting with due diligence requests. This service could be made available on a per search basis to even the smallest of reporting businesses in Hong Kong. This would provide cost effective access to a rigorous, global client due diligence service at a fraction of the cost of each business undertaking Client Due Diligence (CDD) independently.

Another of Thomson Reuters key products is **World-Check**, a comprehensive source of highly structured intelligence on heightened risk individuals (e.g. PEPs) and entities that uses publicly available open source data to help companies identify their customers and prevent money laundering; to-date, there are over 2.5 million World-Check profiles. We employ hundreds of specialist researchers who speak more than 60 local languages and cover 240+ countries and territories, in order to monitor hundreds of thousands of information sources as well as over 400 sanctions, watch, and regulatory enforcement lists. We also offer **Enhanced Due Diligence (EDD),** or enhanced background reports, on any high-risk entity or individual anywhere in the world.

It can be very difficult for financial service institutions to monitor the extremely high volumes of transactions that pass through the organisation on a daily basis. To address this challenge, Thomson Reuters offers a **transaction monitoring** solution designed to protect against financial crime. It uses pre-built risk scenarios to identify and alert companies to unusual patterns of customer activity that differ from expected behavior, and which may require further investigation.

The Thomson Reuters Foundation promotes socio-economic progress and the rule of law worldwide. They act as an impact multiplier, leveraging the skills, expertise and values of the Thomson Reuters enterprise to run programmes that inform, connect and ultimately empower people around the world. Key programmes of the Foundation include: Free Legal Assistance, Media Development and Training, Coverage of the World's Under-Reported News, and the annual Trust Conference. The Thomson Reuters Foundation also funds the Reuters Institute for the Study of Journalism at the University of Oxford.

Views on the proposed changes to Hong Kong's Anti-Money Laundering Ordinance

We agree that the AML regime for DNFBP's should be enhanced and that the specifications under the Anti Money Laundering Ordinance (AMLO) should be extended to lawyers, accountants, real estate firms as well as TCSPs. Our experience globally has shown that organised crime and criminals have used trust accounts, administrative services such as offshore shell companies and trust structures to hide funds obtained through illegitimate means. The real estate market and shell companies appear to have become a significant channel through which organised crime has been able to obtain assets or send funds overseas to finance terrorist activities.

Regarding the scope

As to the scope of the industry segments impacted by this regulation, Hong Kong was identified by the FATF as a location particularly relevant to the diamond trade[1]. International institutions have described Hong Kong as a major sourcing center for diamond cutters and polishers in Southeast Asia[2]. We believe that excluding the precious metals and stones sectors, which would include the diamond trade, may reduce the overall effectiveness of the proposed changes and also threaten the success of the upcoming FATF review.

Consolidation of the Regulatory Agencies

The proposal to designate the Law Society, the Hong Kong Institute of Certified Public Accountants (HKICPA) and the Estate Agents Authority as regulators needs careful consideration. It is the experience of other jurisdictions that a multi-regulator approach may not result in optimal or consistent outcomes (for example the UK has 27 regulators in the DNFBP sector). A number of jurisdictions have recently considered the single vs multi regulator option, including New Zealand. They have opted to designate a single regulator as this ensures consistency of approach, clarity of message and supports effective compliance outcomes.

Hong Kong should consider consolidating the AML related regulatory powers of its supervisory agencies into a single, dedicated AML/CTF supervisory agency. Supervision and enforcement is fundamental to the

[1] http://www.fatf-gafi.org/media/fatf/documents/reports/ML-TF-through-trade-in-diamonds.pdf
[2] https://www.imf.org/external/pubs/ft/tnm/2014/tnm1401a.pdf

effectiveness of a country's AML/CTF infrastructure. The proposed system would spread supervisory responsibility and its related risks among government regulatory bodies, industry bodies and the company registrar. Hong Kong should also replicate the provisions concerning the sanctions for non-compliance contained within AMLO for existing regulated entities to cover DNFBPs. When the FATF conducts its fourth round mutual evaluation visit to Hong Kong in 2018 it will be looking specifically at measures of effectiveness and we believe that a single agency with clearly laid out sanctions for non-compliance would be better able to consolidate the resources and expertise needed to ensure success.

Consideration also needs to be given regarding the capacity of the bodies listed as being able to effectively regulate AML/CTF: whether their other responsibilities would conflict with AML/CTF regulation, and whether their regulatory model and supervisory approach is consistent with existing AML/CTF regulation. Any variations could potentially result in disparate, disjointed, and ultimately ineffective regulation. If Hong Kong does not consolidate the supervisory powers into a single agency, then it must work to ensure that the licensing authorities that are responsible for supervision have the resources and expertise they need to carry out their new responsibilities. For example, the Companies Registry will be assuming enforcement of CDD and record-keeping requirements for thousands of small companies that may have no experience conducting that type of due diligence and may also lack the information and expertise to effectively carry it out. The Hong Kong government must work closely with the Companies Registry and actively support it or risk failing to reach full compliance under the FATF review.

A single authority covering all sectors would ensure consistency in procedures and treatment of offences and parties. It would also mean that there is consistency in the undertaking of regulatory oversight where red flags in certain commercial sectors can be pinpointed and investigated consistent information provided to stakeholders in the AML regime and; a consistent approach within the jurisdiction to meet best practices. It would also help the government determine the appropriate resources that may be needed to fill the agency's mandate.

Customer Due Diligence conducted by DNFBPs.

CDD is a key area where the risk based approach can be applied to address ML/TF risk. Particular customers presenting a high risk of money laundering or terrorist financing require additional Due Diligence. An effective CDD regime should ensure that the client experience is not unduly impacted by requirements that are disproportionate to a specific client's risk profile. Reporting entities must identify the ML/TF risk that they need to mitigate and manage the risk they face and CDD obligations should focus on ensuring the collection of sufficient information about a client to reasonably assess the ML/TF risk they represent. This information includes sanctions and PEP's as Individuals/Corporations/ of this type tend to pose a higher risk.

Low risk customers should be dealt with using minimal Due Diligence requirements that still guarantee the identification of any risk associated with ML/TF, and therefore support the mitigation and management of those risks. Best practices show that simplified due diligence should include the collection of basic information about the client to support the identification of ML/TF risk including initial screening of the entity against Sanctions and PEP lists. Simplified due diligence which also includes the implementation of ongoing screening processes and procedures to refresh the customer information collected is satisfactory. There may be requirements for additional due diligence where a shell company from an offshore jurisdiction is transferring money to a DNFPB. The AML compliance processes for DNFPBs can be streamlined and made cost effective if automated online procedures are put into place to assist the DNFPBs.

The six year record keeping requirement

The obligation for DNFPBs to mitigate against the risk of money laundering should be on par with the obligations bestowed upon financial institutions to guarantee a robust and consistent AML framework across industries and segments. The most important principle is to have a consistent approach to all entities subject to the AML regime. As such, we agree with the six year record requirement included in the proposals.

Fitness and properness of TCSPs

We support the proposed criteria for determining the fitness and properness of TCSPs. A similar regime was established successfully Australia for money remitters, who are regarded under the Australian regime as a sector that represents a significant ML/TF risk. The Australian regime requires significant information including criminal history checks be provided before an entity is registered with AUSTRAC.

We understand that the licensing process will require large collections of documentation and remediation of individual records, the effectiveness and consistency of the determination of the fitness and properness could be guaranteed by building out a centralized repository and centre of excellence to conduct the process. This would also systematically assess the ML/TF risks within that information and help to remove any gaps in approach or implementation.

Conclusion

Thomson Reuters would like to thank you once again for the invitation to provide its views to this esteemed committee. We believe Hong Kong is taking an important step towards a more comprehensive and effective AML/CTF regime. On behalf of our entire organization we look forward to working with financial institutions, DNFBPs, Hong Kong's Police force and its regulatory bodies to continue the fight against financial crime.