

**Bills Committee on Anti-Money Laundering and
Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill
2017 and Companies (Amendment) Bill 2017**

**List of follow-up actions arising from the discussion
at the meeting on 28 November 2017**

Hong Kong's situation in implementing the requirements of the Financial Action
Task Force

1. The Administration is requested to provide a comparison between the existing sanctions on financial institutions ("FIs") for non-compliance with requirements under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615) ("AMLO") and the proposed sanctions for non-compliance by designated non-financial businesses and professions ("DNFBPs") under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017 ("AMLO Bill").
2. The Administration is requested to set out the anti-money laundering and counter-terrorist financing ("AML/CTF") requirements in AMLO Bill that are beyond the requirements of the Financial Action Task Force ("FATF"), and explain the rationale of implementing such requirements in Hong Kong.
3. The Administration is requested to provide a comparison between the requirements in Schedule 2 to AMLO and those on the respective AML/CTF guidelines issued by the Law Society of Hong Kong ("LSHK") (i.e. the Practice Direction P), the Hong Kong Institute of Certified Public Accountants and the Estate Agents Authority, and highlight the requirements in Schedule 2 to AMLO that are not covered by the guidelines concerned or vice versa.

Other jurisdictions' situations in implementing the requirements of Financial
Action Task Force

4. The Administration is requested to provide information of other jurisdictions in implementing FATF's customer due diligence ("CDD") and record-keeping requirements on DNFBPs, including through legislative means (e.g. the United Kingdom), and non-legislative means (e.g. Singapore).

5. According to the Administration, Singapore has received adverse ratings in the recent mutual evaluation by FATF as Singapore has implemented the CDD and record-keeping requirements on DNFBPs through the issuance of guidelines. The Administration is requested to provide the relevant extract of FATF's mutual evaluation report on Singapore.

Issues relating to the implementation of requirements under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) (Amendment) Bill 2017

6. The Administration is requested to address a member's concern that while under AMLO Bill FIs are allowed to rely on legal professionals, accountants, licensed trust or company service providers ("TCSPs") and other FIs (including a foreign FI in the same parent group) as intermediaries to carry out the CDD measures, local legal professionals are not allowed to rely on qualified legal professionals of overseas jurisdictions to conduct CDD measures on their behalf for their overseas clients.
7. The Administration is requested to explain why the Practice Direction P issued by LSHK could not be regarded as an "enforceable means" for implementing the relevant CDD and record keeping requirements under FATF's recommendations.
8. The Administration is requested to clarify whether a person/company has to obtain a TCSP licence in the following scenario:

The person/company has agreed to act as the trustee/executor of a will which was set up by a relative/friend and contained a charging clause by the person/company.

If the person/company in the above scenario is required to obtain a TCSP licence, whether the person/company should obtain the licence before taking up the role of trustee/executor.