

**Supplementary information in relation to the meeting of the
Legislative Council Panel on Financial Affairs
held on 15 November 2016**

**Agenda Item VII – Difficulties encountered by certain enterprises
in opening bank accounts**

The Hong Kong Monetary Authority (“HKMA”) sets out below supplementary information as requested by the Legislative Council Panel on Financial Affairs —

- (a) To provide HKMA’s guidelines for banks in (i) processing applications for opening accounts by and (ii) providing banking services to, politically exposed persons and their family members, owners’ corporations and ethnic minorities**

In general, before opening an account with a customer, banks are required to comply with the relevant legal and regulatory requirements, which include the customer due diligence (“CDD”) requirements stipulated in the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (“AMLO”) and the Guideline on Anti-Money Laundering and Counter-Terrorist Financing for Authorized Institutions (“AML Guideline”). CDD measures include identifying and verifying the identity of the customer, beneficial owners of the customer and any person acting on behalf of the customer, as well as obtaining information on the purpose and intended nature of the business relationship. These requirements should be implemented using a risk-based approach (“RBA”) as promulgated by the HKMA.

To ensure compliance with and effective implementation of account opening and maintenance requirements as well as the RBA, each bank implements its own AML systems and controls (including policies and procedures) taking into account, inter alia, the HKMA requirements, the requirements of its headquarters or group where applicable, as well as its risk appetite.

Politically exposed persons (“PEPs”) and their family members

Relevant local legal and regulatory requirements in relation to PEPs are stipulated in section 10 of Schedule 2 to the AMLO, and section 4.13 of the AML Guideline. These are based on the definition provided by the international standards, which recognises that some PEPs have higher risks of money laundering (“ML”) through corruption and bribery.

In line with international standards and practices, these local requirements distinguish between foreign and domestic PEP due to the different level of risks they present. For foreign PEPs, which are generally considered to be higher risk, banks are required to obtain senior management approval and take reasonable measure to establish the source of funds and source of wealth of the PEP customers. However, domestic PEP customers, as a general rule, may not present the same level of risks, and therefore the bank should perform risk assessment to determine whether the individual poses a higher risk of ML, and based on the assessed risk level, determine whether to perform additional CDD measures and if so the extent of the additional CDD measures to be performed.

Owners’ corporations (“OCs”)

We do not have specific CDD requirements on OCs. OCs in Hong Kong are legal persons set up under the Building Management Ordinance. Therefore, banks should conduct CDD measures set out in the AMLO and AML Guideline that are relevant to a legal person.

Ethnic minorities

We do not have specific CDD requirements on ethnic minorities and banks should follow the same set of CDD requirements stipulated in the AMLO and AML Guideline that are relevant to an individual.

With respect to the provision of banking services to ethnic minorities, Section 10 of the Code of Banking Practice stipulates that banks should at all times comply with the relevant ordinances for the promotion of equal opportunity, and in addition to the statutory requirements, banks should not discriminate against any customers simply on the ground of race in the provision of banking services and in the quality and terms of services provided. In addition, the Treat Customers Fairly (“TCF”) Charter, which was initiated by the HKMA and signed up by all retail banks in Hong Kong in 2013, stipulates in Principle 5 that banks in Hong Kong that engage in mass retail market should provide reasonable access to basic banking services to members of the public.

(b) To provide information on the follow-up taken by HKMA and the banking industry on complaints about difficulties encountered by politically exposed persons and their family members, owners' corporations and ethnic minorities in opening accounts

Since 2015, the HKMA has received 1 complaint from PEP and 8 complaints (involving 5 complainants) from ethnic minorities in relation to difficulties encountered in opening accounts. We have received no complaint in relation to account opening from OCs.

Politically exposed persons and their family members

Concerning a PEP's complaint against a bank's refusal to open an account for his society, we note that the complainant did not provide the required supporting documents for bank's further processing, so the complaint was found to be unsubstantiated.

The requirement of establishing the source of wealth of a PEP customer often appears in the discussions on difficulties encountered by PEPs in opening accounts. With a view to outlining relevant regulatory expectations and sharing industry best practices on the source of wealth, the HKMA hosted an industry forum on 21 January 2016 and the presentation materials had been shared with all banks in Hong Kong.

The HKMA has been in discussions with the banking industry recently with a view to clarifying its supervisory expectations and developing further guidance¹ to ensure that the problems PEPs (particularly domestic PEPs) encountered are adequately addressed. The guidance is expected to be published in the first half of 2017.

¹ The guidance will also contain the information provided in the source of wealth forum on 21 January 2016.

Ethnic minorities

Regarding the complaints lodged by the ethnic minorities, they have been appropriately resolved by the concerned banks either by offering the banking services in question to the customers or explaining more clearly the interactions with the complainants. There was no evidence of discrimination, but the HKMA did find room for improvement in customer communications and execution of CDD measures. We have followed up with these banks on the identified issues and disseminated our observations and recommendations in this regard to the banking industry through the periodic newsletter Complaints Watch and industry seminars, and requested banks to improve their interface with customers during the account opening process.

The HKMA also issued a circular in December 2014 to reiterate to all banks the importance of complying with the requirements under the TCF Charter, the Code of Banking Practice and the relevant laws on the provision of banking services to members of the public including ethnic minorities. Banks were asked to review their internal policies and procedures and internal controls to ensure that they are in full compliance with the requirements, and provide suitable training and guidance to front-line staff to enhance their understanding of the requirements. The HKMA also asked banks to adopt, where appropriate, a flexible and pragmatic approach when requesting applicants to provide documentary proof to support their applications for banking services. Management of banks were asked to ensure that appropriate measures are taken and front-line staff understand and comply with the relevant policies and guidelines. The circular also reminded banks that, whenever an application for banking services is rejected, care should be exercised and the decision should be based on valid reasons and not purely on the basis of race or nationality. In addition, the HKMA asked the Hong Kong Association of Banks (“HKAB”) to issue a circular in January 2015 to remind its members to comply with the requirements under the relevant ordinances in relation to the promotion of equal opportunity, the TCF Charter, the Code of Banking Practice, and the relevant guidelines issued by the HKMA. The circular

also encouraged banks to provide suitable training and guidance to their frontline staff to minimise misunderstanding and disputes with customers.

Recognising the importance of strengthening communications between banks and members of the ethnic minorities, the HKMA arranged a sharing session in April 2015 for ethnic minority organisations and representatives of the banking industry to share perspectives and exchange views. In addition, the HKAB has been working with the Hong Kong Institute of Bankers and the Equal Opportunities Commission in organising regular training programme for frontline bank staff to ensure better communications and cultural sensitivities when providing services to customers from minority groups, and the most recent seminar was organised in October 2016. The HKMA has also requested the HKAB to consider arranging translation of the Code of Banking Practice into various languages to enhance the accessibility of the information therein to the ethnic minority groups. No complaint has been received from ethnic minorities about account opening so far this year. The HKMA will continue to work with the banking industry in enhancing provision of banking services to ethnic minorities.

- (c) **To provide half-yearly report on the situation regarding the issue of difficulties encountered by enterprises in opening bank accounts and the progress of improvement measures taken by HKMA and the banking industry in addressing the issue**

We will provide the relevant report.