

**Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions)  
(Amendment) Bill 2017  
Debate and voting arrangements**

- Object of the Bill :** To amend the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap. 615) (“*principal Ordinance*”) to meet Hong Kong’s obligations under the Financial Action Task Force’s Recommendations for combating terrorist financing and money laundering. The relevant proposals include:
- (a) to apply the customer due diligence and record-keeping requirements (“anti-money laundering and counter-terrorist financing (“AML/CTF”) requirements”) in the principal Ordinance (currently applicable only to financial institutions) to certain transactions conducted by accounting professionals, estate agents, solicitors and foreign lawyers, and trust or company service providers (“TCSPs”) (collectively called designated non-financial businesses and professions (“DNFBPs”)); and
  - (b) to make miscellaneous amendments to the existing requirements relating to financial institutions.

**First debate** : **Clauses with no amendment** – **Clauses 1 to 6, 10 to 17, 19 to 25, 27 to 33 and 35 to 49**

**Voting** : To vote on the above clauses standing part of the Bill

**Second debate** : **Clauses with amendments proposed by the Secretary for Financial Services and the Treasury (“SFST”) and Hon James TO** – **Clauses 7, 8, 9, 18, 26 and 34**

Joint debate on the original clauses and the amendments thereto.

**Debate theme: Application of AML/CTF requirements to certain operational arrangements of DNFBPs, and the time limit for prosecution of a relevant offence against a TCSP**

**SFST’s amendments**

**Clause 7**

- In respect of the application of AML/CTF requirements, referred to in Parts 2, 3 and 4 of Schedule 2 of the principal Ordinance, to DNFBPs, the amendment seeks to amend the proposed section 5A in clause 7 of the Bill to clarify that it is immaterial whether the subject matter of a transaction (involving DNFBPs) referred to in section 5A(3), (4) or (5) is in Hong Kong or elsewhere.

**Clause 8**

- To amend clause 8(8) of the Bill to add the proposed section 7(5A), and to delete clause 8(12), to clarify that the Law Society of Hong Kong (“LSHK”) may have regard to or take into account LSHK’s Practice Direction P in providing guidance on AML/CTF requirements, and that LSHK has the sole discretion to determine the content of Practice Direction P as defined under the Legal Practitioners Ordinance (Cap. 159).

**Clause 9**

- To amend a typo in the English version of the proposed section 9(15)(i) in clause 9(10) of the Bill.

**Clause 18**

- To amend section 53ZK(1)(d) of the proposed new Part 5A in clause 18 of the Bill to allow the Registrar of Companies to disclose information to the Estate Agents Authority under the proposed section 53ZK(1).

**Clause 26**

- To amend Schedule 2 of the principal Ordinance in clause 26 of the Bill to specify that (i) DNFBPs are allowed to rely on intermediaries to carry out customer due diligence measures; (ii) qualified estate agents in comparable jurisdictions are included as one of the specified intermediaries for carrying out customer due diligence measures; and (iii) the record-keeping requirement is amended from 6 years to at least 5 years.

**Clause 34**

- To amend the proposed section 9A of Cap. 159 in clauses 34(1) and (2) of the Bill to specify that the Council of LSHK must take into account Practice Direction P and has discretion in determining whether a conduct (i) involves an alleged breach of AML/CTF requirements; and (ii) should be inquired into or investigated before the conduct concerned can be referred to the Solicitors Disciplinary Tribunal for follow-up.

**Hon James TO's amendment****Clause 18**

- To amend section 53ZO of the proposed new Part 5A (regulation of TCSPs) in clause 18 of the Bill to specify that despite section 26 of the Magistrates Ordinance (Cap. 227), proceedings in respect of an offence under Part 5A (other than an indictable offence) may be brought within three years after the commission of the offence or within one year after the offence is discovered by, or comes to the notice of, the Registrar of Companies, whichever period expires first.

<b>Mover</b>	<b>Voting</b>	<b>Remarks</b>	<b>Amendment(s)</b>
SFST	SFST's amendments (clauses 7, 8, 9, 18, 26 and 34)	Irrespective of whether SFST's amendments are passed or not, Hon James TO <b>may</b> move his amendment.	LC Paper No. <b><u>CB(3) 273/17-18</u></b>
Hon James TO	Mr TO's amendment (clause 18)	—	LC Paper No. <b><u>CB(3) 292/17-18</u></b>

**SFST's amendments**

(set out in LC Paper No. **CB(3) 273/17-18** issued on 17 January 2018)

**Hon James TO's amendment**

(set out in LC Paper No. **CB(3) 292/17-18** issued on 22 January 2018)

Council Business Division 3  
Legislative Council Secretariat  
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