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CUSTOMS AND EXCISE DEPARTMENT  
HONG KONG

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By Fax (2877 5029)

12 June 2018

Mr Cliff IP  
Assistant Legal Advisor  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Mr IP,

**Cross-boundary Movement of Physical Currency  
and Bearer Negotiable Instruments Ordinance  
(Amendment of Schedule 1) (No. 2) Notice 2018  
(L.N. 111 of 2018)  
("the Amendment Notice")**

Thank you for your letter of 6 June 2018. With reference to the matters raised in the letter, our response is as follows.

**Background**

As set out in the Legislative Council (LegCo) Brief on the Amendment Notice, the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629) ("the Ordinance") fulfils Hong Kong's international obligation to implement Recommendation 32 of the Financial Action Task Force which requires the establishment by statute of a declaration/disclosure system to detect the physical cross-boundary transportation of currency and bearer negotiable instruments ("CBNIs").

Under the Ordinance, a traveller in possession of a large quantity of CBNIs (i.e. the total value of which is more than HKD120,000) arriving in Hong Kong via a specified control point listed in Schedule 1<sup>1</sup> to the Ordinance must make a written declaration of the CBNIs to the Customs and Excise Department (“C&ED”), using the Red Channel under the Red and Green Channel System (“RGCS”). If a traveller arrives in Hong Kong not via a specified control point, or is about to leave Hong Kong, he/she must disclose, upon the request of C&ED, whether he/she is in possession of a large quantity of CBNIs and, if so, make a written declaration of the CBNIs. Under section 33(1) of the Ordinance, the Commissioner of Customs and Excise may, by notice published in the Gazette, amend Schedule 1 to the Ordinance.

As mentioned in paragraph 5 of the LegCo Brief, the new control point of the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link with RGCS will facilitate arriving travellers to make written declarations of CBNIs in accordance with the Ordinance. Schedule 1 to the Ordinance should be amended by adding this control point as a specified control point.

**Meaning of “West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link” and “West Kowloon Station Mainland Port Area”**

The amendment under the Amendment Notice is technical in nature. C&ED earlier made a similar amendment to Schedule 1 to the Ordinance, i.e. the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) Notice 2018, adding “Ocean Terminal” as a specified control point into Schedule 1 to the Ordinance. Arriving travellers may make written declarations of CBNIs in accordance with the Ordinance using the Red Channel under RGCS at the control point.

At present, specified control points set out in Schedule 1 to the Ordinance refer to places like “Hong Kong International Airport” and “Ocean Terminal”. The identities and locations of such places can be ascertained according to the ordinary meaning of the descriptions in the relevant contexts. Schedule 1 to the Ordinance does not contain definitions by way of reference to other legislation.

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<sup>1</sup> Schedule 1 currently includes 13 specified control points, namely (1) Lo Wu Control Point, (2) Hung Hom Station, (3) Man Kam To Boundary Control Point, (4) Sha Tau Kok Boundary Control Point, (5) Hong Kong-Macau Ferry Terminal, (6) China Ferry Terminal, (7) Lok Ma Chau Boundary Control Point, (8) Hong Kong International Airport, (9) Tuen Mun Ferry Terminal, (10) Shenzhen Bay Port Hong Kong Port Area, (11) Lok Ma Chau Spur Line Control Point, (12) Kai Tak Cruise Terminal, and (13) Ocean Terminal.

Similarly, we consider that “West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link” and “West Kowloon Station Mainland Port Area” can be clearly understood according to their ordinary meaning without the need to define them by reference to other legislation.

### **Commencement Date**

The Amendment Notice is made in anticipation of the commissioning of the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, the RGCS of which will facilitate arriving travellers to make written declarations of CBNIs in accordance with the Ordinance as explained above. Under section 28(3) of the Interpretation and General Clauses Ordinance (Cap. 1), if no provision is made in subsidiary legislation for its commencement, it comes into operation on the date of its publication in the Gazette. In normal circumstances, the Government’s practice is to allow, wherever possible, the full negative vetting period under section 34 of Cap. 1 (i.e. generally 28 days + 21 days) to run its course before bringing subsidiary legislation into operation. However, there are some past occasions where the relevant subsidiary legislation, due to operational needs, had to commence before expiry of the full negative vetting period.

As far as the Amendment Notice is concerned, the first 28-day vetting period will end on 4 July 2018, subject to an extension of such a period to the date of the first LegCo sitting of the next LegCo session. The Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link is anticipated to be commissioned in September 2018. The Amendment Notice has to come into operation on the commencement date of the Ordinance enacted by LegCo through the passage of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill, in order to facilitate travellers arriving at the control point to make written declarations of CBNIs in accordance with the Ordinance.



(LAI Sau Ieng)  
for Commissioner of Customs and Excise

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