

LEGISLATIVE COUNCIL BRIEF

Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Chapter 629)

CROSS-BOUNDARY MOVEMENT OF PHYSICAL CURRENCY AND BEARER NEGOTIABLE INSTRUMENTS ORDINANCE (AMENDMENT OF SCHEDULE 1) (NO. 2) NOTICE 2018

INTRODUCTION

On 29 May 2018, the Commissioner of Customs and Excise (“C of C&E”) made the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 2) Notice 2018 (“the Amendment Notice”) (at **Annex**) under section 33(1) of the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629) (“the Ordinance”) to add a control point, namely “West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (other than the West Kowloon Station Mainland Port Area)”, into Schedule 1 to the Ordinance.

JUSTIFICATIONS

Background

Financial Action Task Force

2. The Financial Action Task Force (“FATF”) is an inter-governmental body setting standards on combating money laundering (“ML”) and terrorist financing (“TF”) through 40 Recommendations for compliance by member jurisdictions (including Hong Kong). Specifically, Recommendation 32 requires the establishment by statute of a declaration/disclosure system to detect the physical cross-boundary transportation of currency and bearer negotiable instruments (“CBNIs”)

(“the R32 System”). CBNIs suspected to be related to ML/TF, or falsely declared/disclosed, should be stopped or restrained. Sanctions should apply to non-compliance with the declaration/disclosure requirements. The purpose is to ensure that terrorists and other criminals cannot finance their activities or launder crime proceeds through the physical cross-boundary transportation of CBNIs.

The Ordinance

3. The Ordinance, which will come into operation on 16 July 2018, establishes the R32 System, fulfilling Hong Kong’s international obligation to implement Recommendation 32 of FATF.

4. 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 1¹ 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 CBNIs².

Amendment of Schedule 1 to the Ordinance

5. 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 as mentioned in paragraph 4 above. C of C&E therefore has made the Amendment Notice to add this control point as a specified control point into Schedule 1 to the Ordinance.

¹ 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.

² If a traveller is a young person under the age of 16 years and is accompanied by an adult, the declaration or disclosure must be made by the adult on the young person’s behalf if the adult knows that the young person is in possession of a large quantity of CBNIs.

THE AMENDMENT NOTICE

6. The Amendment Notice adds “West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (other than the West Kowloon Station Mainland Port Area)” as a specified control point into Schedule 1 to the Ordinance. The Amendment Notice will come into operation on the commencement date of the Ordinance enacted by the Legislative Council (“LegCo”) through the passage, with or without amendment, of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill³.

LEGISLATIVE TIMETABLE

7. The legislative timetable will be –

Publication of the Amendment Notice in the Gazette	1 June 2018
Tabling of the Amendment Notice at LegCo for negative vetting	6 June 2018
Commencement of the Amendment Notice	Commencement date of the Ordinance enacted by LegCo through the passage, with or without amendment, of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill published in the Gazette on 26 January 2018

IMPLICATIONS OF THE PROPOSAL

8. The proposal is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Ordinance. Any additional workload arising from the implementation of the proposal will be absorbed by C&ED from within its

³ The Bill was published in the Gazette on 26 January 2018.

existing resources. The proposal has no economic, competition, productivity, environmental, sustainability, family or gender implications.

PUBLIC CONSULTATION AND PUBLICITY

9. The proposal is a technical amendment to facilitate arriving travellers via control points with RGCS to make written declarations of CBNI in accordance with the Ordinance. A LegCo brief will be issued on 30 May 2018, and a spokesperson will be available for answering media and public enquiries.

ENQUIRIES

10. Enquiries on this brief can be addressed to Mr Ellis Lai, Assistant Commissioner (Intelligence and Investigation) of C&ED, at 3759 2006.

Customs and Excise Department
30 May 2018

Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 2) Notice 2018

(Made by the Commissioner of Customs and Excise under section 33(1) of the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629))

1. Commencement

- (1) This Notice comes into operation on the specified date.
- (2) In this section—

specified date (指明日期) means the commencement date of the Ordinance enacted by the Legislative Council through the passage, with or without amendment, of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill published in the Gazette on 26 January 2018.

2. Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance amended

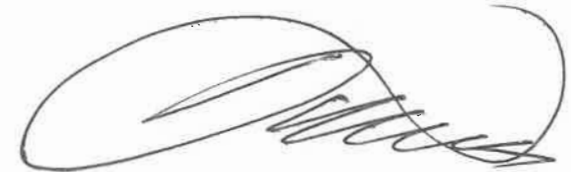
The Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629) is amended as set out in section 3.

3. Schedule 1 amended (specified control points)

Schedule 1—

Add

- “14. West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (other than the West Kowloon Station Mainland Port Area)”.



Commissioner of Customs and Excise

29th May 2018

Explanatory Note

The Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Cap. 629) (*Ordinance*) establishes a declaration and disclosure system to detect the cross-boundary movement of large quantities of physical currency and bearer negotiable instruments (*CBNIs*) into or out of Hong Kong, in order to implement Recommendation 32 of the Financial Action Task Force.

2. Section 4 of the Ordinance requires a declaration to be made for CBNIs in the possession of a person arriving at a specified control point (i.e. a place specified in Schedule 1 to the Ordinance) from a place outside Hong Kong, if the total value of the CBNIs is more than the amount specified in Schedule 4 to the Ordinance (i.e. \$120,000).
3. This Notice adds West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (other than the West Kowloon Station Mainland Port Area) to Schedule 1 to the Ordinance.