

**For discussion  
on 3 May 2021**

## **Legislative Council Panel on Financial Affairs**

### **Regulation of Licensed Money Lenders**

#### **PURPOSE**

The Government monitors developments of the money lending sector and reviews regulatory measures from time to time. This paper briefs members on the Government's work and proposal in improving regulation of the money lending sector to keep up with our social and economic development.

#### **INDUSTRY LANDSCAPE**

2. According to record of the Registrar of Money Lenders ("the Registrar", who is also the Registrar of Companies), there were a total of 2 395 licensed money lenders conducting various money lending business in Hong Kong in 2020. The Government has conducted regular surveys since 2019 to collect business statistics from licensed money lenders. According to survey results, the total amount of customer loans made by licensed money lenders as at end-2019 was about \$272.6 billion, amongst which about \$61.2 billion was unsecured personal loans. Although unsecured personal loans only accounted for about 22% of the total customer loans and were on average with smaller loan amounts and shorter maturity period, the number of loan transactions was high and quite a number of these borrowers were of relatively lower income. In order to enhance protection for unsecured personal loan borrowers, we have adopted multi-pronged measures, including enhanced enforcement, review of licensing conditions on money lenders, public education and publicity, entrusting non-government organisations ("NGOs") in providing advisory services to the public in need, etc. Latest developments of relevant measures are set out below.

## **ENFORCEMENT**

3. Under the Money Lenders Ordinance (Cap. 163) (“MLO”), a person carrying on business as a money lender in Hong Kong must obtain a money lenders licence, operate in compliance with licensing conditions, and apply for licence renewal every year. In 2019 and 2020, the Companies Registry (“CR”) conducted 497 and 188 site inspections on licensed money lenders<sup>1</sup> respectively, and issued 271 and 102 rectification orders, as well as five warning letters in each of the two years. Majority of the non-compliance was in relation to advertisements published and record-keeping<sup>2</sup>. The money lenders concerned had rectified the irregularities as requested. Depending on severity of the non-compliance, the CR would consider raising objection to the Licensing Court in respect of application for licence renewal by the licensed money lender concerned.

4. Meanwhile, the Police had carried out a number of targeted enforcement exercises, and also held regular liaison meetings with the CR to exchange information and intelligence on their respective enforcement efforts to tackle the malpractices of licensed money lenders and financial intermediaries. The Police continued to address cases of deception involving the latter. In 2019 and 2020, the Police received 384 and 450 complaints and all cases were duly followed up and investigated.

## **IMPROVED REGULATORY REQUIREMENTS AND LICENSING CONDITIONS**

5. With a view to enhancing the vetting process for the licensing of money lenders, the Registrar issued two sets of new guidelines, namely the Guideline on Fit and Proper Criteria for Licensing of Money Lenders and the Guideline on Submission of Business Plan by Applicant of a Money Lenders Licence, in January 2021. The Guideline on Fit and Proper Criteria for Licensing of Money Lenders outlines the criteria and matters that the Registrar will normally consider in determining whether the applicants for money lenders licences, licensed money lenders, and their related persons are fit and proper, including requirements related to their compliance records, internal management system, financial status, ability to carry on money lending business, reliability and integrity, etc. With effect from 1 April 2021, applicants for new money lenders licences are

---

<sup>1</sup> Site inspections (and hence other relevant figures) were affected by COVID-19 in 2020.

<sup>2</sup> The matters of non-compliance included not keeping records on (a) explanations given to the borrowers concerned of the terms and conditions of the loan agreements; and (b) borrowers’ responses as to whether they have entered into any agreements with intermediaries, the particulars of the intermediaries involved and the relationship between the money lenders and the intermediaries in the loan agreement.

also required to submit business plan for their money lending business together with their applications to show that they have a comprehensive understanding of the business and are ready to carry on with it, have the necessary resources to execute the business plan, and the knowledge of and readiness to comply with the provisions of the MLO and other requirements. The Guideline on Submission of Business Plan by Applicant of a Money Lenders Licence sets out the key items of information that should be included in the business plan.

6. As regards licensing conditions, the Registrar sought the approval of the Licensing Court in March 2021 to impose improved conditions on money lenders licences with effect from 16 March 2021 as and when they are granted or renewed. The improvement involves one new condition and amendments to two existing conditions.

- (a) New condition: it is a commercial decision of money lenders to offer loans to borrowers after considering the repayment ability of borrowers, and money lenders may have different risk appetite. Borrowers also have the responsibility to assess their own repayment ability. That said, the Government sees the need for more measures that can promote responsible lending amongst money lenders. The new licensing condition requires licensed money lenders, before entering into a loan agreement for an unsecured personal loan, to undertake an assessment of the borrower's ability to make repayments under the loan agreement, and have due regard to the outcome of the affordability assessment. In carrying out the assessment, money lenders have to consider, amongst others, the borrower's income and expenditure, and relevant factors such as the total amount of principal and interest payable, duration of the term for repayment of the loan, etc. Money lenders have to keep records of the assessment outcome as appropriate for inspection by the CR. The updated Guidelines on Licensing Conditions of Money Lenders Licence provides guidance to licensed money lenders for conducting such assessment.
- (b) Amended conditions: we have also amended the two licensing conditions on regulation of advertisements and protection of loan referees. One of the revised conditions requires that the advertisements published by licensed money lenders should be fair and reasonable and not contain misleading information. This seeks to address the public's concern that advertisements of some licensed money lenders may give the impression that interest rates

of loans and repayment burden are low, which may not reflect the truth. The other refined condition requires that a referee's information should immediately cease to be used if a money lender is informed or aware that the required written consent was in fact not signed by the referee, so as to combat the improper use of personal data of referees.

## **PROMOTION AND PROVISION OF ADVISORY SERVICES**

7. In order to enhance public awareness of the various strands of money lending, the Financial Services and the Treasury Bureau rolled out a public education and publicity campaign named "Warning Bros" in January 2020, with themes covering alertness towards money lending-related malpractices and prudent borrowing, to encourage the public to borrow wise and not to incur heavy financial burden due to unnecessary borrowing. Meanwhile, we have also worked together with government departments and organisations including the Anti-Deception Coordination Centre of the Police, the Hong Kong Monetary Authority, the Consumer Council and the Investor and Financial Education Council to carry out money lending-related publicity in their respective areas.

8. The Government has entrusted two NGOs (namely Caritas-Hong Kong and Tung Wah Group of Hospitals) since 2016 to offer people in financial distress counselling support and advice on how to handle debt problems (such as providing information on how to increase income/cut expenditure and restructure debts). Cases are also referred to the NGOs' associated social service units for further follow up if necessary. To strengthen these services, additional resources have been allocated to the two NGOs since 2019. In 2019/20 and 2020/21, the number of hotline enquiries/ requests for assistance handled by these two NGOs were 147 and 133 per month on average respectively.

## **PROPOSED LOWERING OF STATUTORY INTEREST RATE CAP**

9. Currently, sections 24 and 25 of the MLO stipulate the statutory interest rate cap and the extortionate rate for money lending. Section 24(1) provides that any person who lends or offers to lend money at an effective rate of interest exceeding 60% per annum commits an offence. Section 25(3) stipulates that any loan in respect of which the effective rate of interest exceeds 48% per annum shall be presumed to be extortionate,

and the court may declare that it is not extortionate if it is satisfied that such rate is not unreasonable or unfair having regard to all circumstances.

10. The Consumer Council pointed out in its report “Money Lending – Reforming Law and Trade Practices for Consumer Protection” published in 2019 that since the MLO was enacted in 1980 there had not been any revision of the interest rate cap. As the bank interest rates had fallen significantly since then, the interest rate cap for money lending seemed apparently not reflecting market conditions. The report also compared interest rate caps across jurisdictions, which showed that the interest rate cap in Hong Kong was higher than those of comparable levels of development<sup>3</sup>. The report recommended 48% per annum to be a more appropriate interest rate cap. At the same time, Legislative Council Members had also in the past pointed out court rulings in certain cases that some loan agreements between money lenders and borrowers should not be executed because of the excessive interest rates charged.

11. Taking into account the prevailing interest rates of the local money lending sector including banks<sup>4</sup>, relevant practices in comparable jurisdictions, as well as the community’s views on the issue, we are of the view that the statutory limit of effective rate of interest should be lowered from 60% per annum to 48% per annum. Correspondingly, an effective rate of interest exceeding which a loan transaction will be considered, *prima facie*, extortionate should be lowered from the stipulation of 48% per annum to 36% per annum. In the meantime, we will continue to remind the public of the importance of prudent borrowing through public education and publicity activities, and require money lenders to assess affordability of borrowers beforehand, thereby promoting responsible lending amongst money lenders.

12. We have informed licensed money lenders and the banking sector of the proposal and will continue to collect feedback. In the meantime, we have started preparing for the necessary legislative work.

---

<sup>3</sup> For example, the interest rate cap for money lending is 48% per annum in Australia, and 4% per month in Singapore.

<sup>4</sup> According to publicly available information of 11 credit card issuing banks, the normal annual percentage rates (“APR”) were in the range of about 16% to 39% as of last year. Only for delinquent APR would banks charge higher, in the range of about 39% to 47%.

## **ADVICE SOUGHT**

13. Members are invited to note the measures implemented by the Government in refining regulation of licensed money lenders, and provide views on the Government's proposal set out in this paper.

**Financial Services and the Treasury Bureau**  
**Financial Services Branch**  
**April 2021**