

For information

Legislative Council Panel on Financial Affairs

Regulation of Licensed Money Lenders

PURPOSE

This paper briefs members on the latest development of the money lending sector, Government measures and proposed legislative amendments to regulate licensed money lenders.

INDUSTRY LANDSCAPE

2. According to the records of the Companies Registry (“CR”), there were 2 490 licensed money lenders in Hong Kong as at end-2021, representing a slight increase from 2 395 as at end-2020. Since 2019, the CR has been collecting business statistics from licensed money lenders annually. Latest statistics show that the total amount of customer loans made by licensed money lenders as at end-2020 was about \$250.1 billion, representing a decrease of about 8% compared to 2019. During the year, the total amount of unsecured personal loans entered into was about \$48.1 billion, and the number of such loan transactions was some 728 000, which dropped by about 11% and 30% respectively compared to 2019. It reflects that the market was more prudent with borrowing and lending activities in the year. The overall unsecured personal loan market remained generally stable, with a default rate of about 6.9% in 2020, slightly lower than 7.1% in 2019.

3. In 2020, unsecured personal loans accounted for around 20% of the total customer loans, similar to that in 2019. Most of these loans involved a relatively smaller loan amount, shorter maturity period and higher interest rate, and a majority of the borrowers were of relatively lower income¹. To better protect the interest of the public, we continue to work closely with the CR and the Police to enhance enforcement and fully implement the latest regulatory requirements. We also continue to conduct public education, provide advisory services to people with excessive borrowing, and review the statutory interest rate cap. The latest development is set out below.

¹ Among the unsecured personal loans made in 2020, about 82% involved a loan amount not higher than \$50,000; about 84% were of a maturity period of 24 months or less; around 84% were borrowed by people with a monthly income of \$30,000 or lower; and about 83% of the loans were subject to interest rate ranging from 37% to 60%.

ENFORCEMENT

4. Money lenders' business is regulated by the Money Lenders Ordinance (Cap. 163) ("MLO") and licensing conditions. The relevant regulations cover requirements for licence application and renewal, interest rate cap, restrictions on fees and charges, privacy protection, disclosure of information, use of referees' information, advertisements content, etc. The CR conducts regular site inspections to monitor the compliance of licensed money lenders. In 2021, a total of 292 inspections were conducted and 163 rectification orders were issued. The non-compliant matters were mainly on description of third party agreement, records of money lenders on explanation of loan terms, content of money lending advertisements, anti-money laundering and counter-terrorist financing measures, etc. The CR conducted another 197 follow-up inspections to ensure the irregularities were rectified, and issued four warning letters to money lenders who remained non-compliant during the year. Further inspections would be conducted on such cases, and depending on severity of the non-compliance, the CR would consider raising objection to the Licensing Court in respect of the application for licence renewal made by the money lender concerned. In 2021, the CR objected to nine applications for licence renewal, amongst which three applications were subsequently withdrawn, while for the remaining six cases, objection was revoked after the money lenders concerned had submitted necessary supplementary information.

5. Meanwhile, the Police continued to take action against crimes involving financial intermediaries. According to the Police, the number of crimes involving financial intermediaries in 2021 was 148², representing a decrease of 58.8% and 66.8% from the corresponding figures of 359 and 446 in 2019 and 2020 respectively. Nevertheless, the Police noted an increasing trend of people with money defrauded by fraudsters who purported to be financial intermediaries. In those cases, the fraudsters often contacted the victims by phone and claimed that they were financial intermediaries. They would then ask the victims for payment to secure a loan, but would abscond after receiving the money. The Police would continue to step up efforts to combat such fraudulent cases, while we would strengthen public education on this front.

6. In combatting illegal debt collection activities, the existing licensing conditions on money lenders specify that a money lender and its debt collector(s) shall only recover debts from a person who is in law indebted to the money lender concerned, and that they are prohibited from using unlawful or improper debt collection practices. Under the MLO, a licensed money lender who contravenes the relevant requirements shall commit an offence. Upon receipt of relevant

² Amongst them, 78 people were arrested.

complaint, the CR would refer the case to the Police who would investigate and take necessary follow-up action (including prosecution) having regard to merits of the case. Over the past year, the Police continued to enhance intelligence gathering and carry out large-scale enforcement actions to combat illegal debt collection activities. The number of criminal cases involving debt collection activities was 2 704 in 2021, representing a decrease of 7.3% from 2 916 in 2020.

IMPLEMENTATION OF NEW REGULATORY MEASURES

7. Since March last year, with approval given by the Licensing Court, the Government has commenced imposing new licensing conditions on money lenders applying for or renewing licences. Licensed money lenders are required to (i) conduct assessment on the repayment ability of the borrower before entering into a loan agreement for an unsecured personal loan; (ii) ensure their advertisements are fair and reasonable, and do not contain misleading information; and (iii) immediately cease to use a referee’s information after they are informed or aware that the written consent was, in fact, not signed by the referee. As at 11 February 2022, over 90% of the licensed money lenders are subject to the new licensing conditions. To ensure effective implementation of the new conditions, the CR conducted over 850 inspections and checking from September 2021 to 11 February 2022³. The overall compliance with the new licensing conditions was generally satisfactory. However, the compliance rate for assessing the affordability of borrowers was about 78%. There were inadequacies in record-keeping by smaller money lenders. In this regard, the CR has issued rectification orders, and would conduct follow-up inspections to ensure their compliance with the requirement.

8. According to the information collected from 16 larger-scale licensed money lenders engaged in unsecured personal loan business, from the commencement of the requirement for conducting borrowers’ repayment ability assessment to end-December 2021, their overall loan default rate was 2.8%. This was an improvement to the 6.9% loan default in 2020, which shows preliminarily that money lenders have become more responsible in making loans under the new measure. Since the implementation of the new measure on protection of referees’ information last year, the number of relevant complaints received by the CR from March to December 2021 dropped by 50% compared to the same period in 2020⁴. In terms of money lending advertisements, the CR received eight complaints over the same period, and correspondingly followed-up the cases. It was found that seven of them were in fact related to unscrupulous lending practices instead of

³ The inspections on money lenders’ advertisements covered advertisements published or issued on online social platforms, mobile device applications and other online media.

⁴ From March to December 2021, there were 37 complaints about harassment of referees, while there were 76 such complaints over the same period in 2020.

content of money lending advertisements. Since the new measures have only been implemented for a relatively short period of time, we will further collect relevant information in the coming year with a view to examining more thoroughly their effectiveness, and conduct review as appropriate.

PUBLIC EDUCATION AND ADVISORY SERVICES

9. We continue with the public education and publicity campaign named “Warning Bros” in 2022. We have, through public transportation (including MTR stations and bus compartments), social media platform, online media, etc, publicised messages that seek to remind the public to carefully consider their financial situation and repayment ability prior to borrowing, and stay vigilant to the content of money lending advertisements; to fully understand the terms and conditions of loan agreements when entering into loan agreements; and to spend within their means, avoid piling up debts, and seek professional counselling services when necessary after borrowing.

10. We also collaborate from time to time with the Anti-Deception Coordination Centre of the Police, the Hong Kong Monetary Authority, the Consumer Council and the Investor and Financial Education Council, etc, to carry out money lending-related publicity in the respective areas. We notice that a sizeable portion of small-size unsecured personal loan borrowers are foreign domestic helpers, and would conduct targeted publicity work for this group of borrowers. We would remind them matters requiring attention when borrowing money, and of the responsibility to properly use information of referees. In collaboration with our counterparts, we are also closely monitoring the trend of young people influenced by money lending advertisements put on social media platforms and digital finance management mobile device applications. We are collecting data on young people’s personal finance management habit as well as borrowing behaviour, with a view to formulating apposite education and supporting measures. As regards the latest deception tactics mentioned in paragraph 5 above, we shall include alert message in the upcoming publicity campaigns to remind the public that when they receive calls from strangers claiming to be financial intermediaries who could arrange loans, they should verify the identity of the intermediaries concerned by checking against the list of third parties appointed by licensed money lenders available on the CR’s website. The public will also be reminded not to pay any fees to money lenders and financial intermediaries in regard to the loans to avoid being deceived.

11. Borrowers in financial distress are advised to seek assistance from two non-government organisations (“NGOs”), namely Caritas-Hong Kong and Tung Wah Group of Hospitals. We continue to provide financial support for the service provision of the two NGOs concerned, which involves offering emotional

support and advice on handling debt-related issues to people in need⁵, or referral to the NGOs’ associated social service units for further follow-up services. From April 2021 to January 2022, the number of hotline enquiries/requests for assistance handled by these two NGOs were 110 and 80 per month on average respectively.

PROPOSED LOWERING OF STATUTORY INTEREST RATE CAP

12. According to statistics of the CR, amongst the unsecured personal loan transactions in 2020, a majority of them were subject to an interest rate of over 36% (accounting for around 83% of the total number of loan transactions). We also notice that in general the lower average loan amount corresponded to higher interest rate and default rate. It suggests that the burden of higher interest rate and higher risk of default⁶ falls more on borrowers of lower income.

13. According to the MLO, money lenders who lend money at an effective rate of interest exceeding 60% per annum shall commit an offence; where the effective rate of interest of a loan exceeds 48% per annum, it shall be presumed to be extortionate⁷. Taking into account suggestion from the Consumer Council in 2019⁸, the effective interest rates adopted by the local money lending sector⁹, the relevant practices of comparable jurisdictions¹⁰ and related court judgements¹¹, we propose reducing the statutory limit of effective rate of interest from 60% per annum to 48% per annum, and the effective rate of interest exceeding which a loan transaction shall be considered, *prima facie*, extortionate from 48% per

⁵ Such as offering advice on how to increase income/cut expenditure and restructure debts.

⁶ For loans with interest rate from 37% to 48%, the average loan amount was some \$32,000, with a default rate of about 7.3%; for loans with interest rate from 49% to 60%, the average loan amount was some \$30,000, with a default rate of about 8.6%. The default rate of these two types of loans were both higher than that of the overall unsecured personal loans, which was around 6.9%.

⁷ 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.

⁸ The Consumer Council mentioned 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 bank interest rates had fallen significantly since then, the interest rate cap for money lending seemed apparently not reflecting market conditions, and was higher than jurisdictions of comparable levels of development. The report recommended 48% per annum to be a more appropriate interest rate cap.

⁹ According to publicly available information of 20 credit card issuing banks, the normal annual percentage rates (“APR”) were mostly in the range of about 33% to 41% as at end-2021. Banks would charge higher for delinquent APR, in the range of about 38% to 47%.

¹⁰ For example, the interest rate cap for money lending is 48% per annum in Australia, and 4% per month in Singapore.

¹¹ There were 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.

annum to 36% per annum. We consulted members on the proposal at the meeting of the Panel on Financial Affairs in May last year, and obtained Members' support. We plan to present the legislative amendments for consideration by the Legislative Council later this year, with a view to implementing the new interest rate cap within this year.

14. In the meantime, we will continue to promulgate the importance of prudent borrowing through public education, and actively enforce the MLO and the licensing conditions on money lenders to combat unscrupulous lending practices, and reduce the risks brought about by excessive borrowing. We will also review the regulatory and enforcement powers of the Licensing Court, the Police and the CR currently stipulated in the MLO as necessary to keep up with the development trend of the lending market.

ADVICE SOUGHT

15. Members are invited to note the above measures taken by the Government to enhance regulation of the money lending sector, and our plan for pursuing the proposed legislative amendments on lowering statutory interest rate cap this year.

**Financial Services Branch
Financial Services and the Treasury Bureau
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