

**Motion on**  
**“Urging the Government to step up the regulation of money lenders**  
**and financial intermediaries”**  
**at the Legislative Council meeting of 8 February 2017**

**Progress Report**

**Purpose**

At the Legislative Council (“LegCo”) meeting of 8 February 2017, the motion “Urging the Government to step up the regulation of money lenders and financial intermediaries” moved by Hon Alice MAK, as amended by Hon LEUNG Yiu-chung and Hon Kenneth LEUNG was passed. The full text of the motion is at Annex. This paper reports the progress of relevant work to Members.

**Existing Regulatory Framework and Government’s Approach to tackle Money lending-related Malpractices**

2. To recapitulate, the Money Lenders Ordinance (“MLO”) (Cap.163) provides the legal framework to regulate money lenders and related matters, including, inter alia, a statutory ban on separate fee charging on borrowers by money lenders, their employees, agents and persons acting for them and persons acting in collusion with them.

3. To address public concern that some fraudsters claiming themselves to be financial intermediaries for money lending (“intermediaries”) use deceptive tactics to induce prospective borrowers to engage them for arranging loans and charge fees under different pretexts, the Government implemented in 2016 a four-pronged approach to tackle these malpractices, viz. imposition of more stringent licensing conditions on money lender licences, enhanced enforcement, enhanced public education and publicity, and enhanced advisory services to the public. In particular, we have -

- (a) rolled out territory-wide publicity and public education materials to remind prospective borrowers that they should not –
  - (i) engage any intermediary who charge them any fees under whatever pretext, such as administrative fees, handling charges or consultation fees;
  - (ii) hand over any money to any intermediary, whether it is alleged to be for custody, improving the borrower’s credit record, helping the borrower to purchase goods or services or make investment, etc.;
  - (iii) engage any intermediary who has not been appointed by the relevant money lender;
- (b) expanded the Register of Money Lenders to include information of the intermediaries appointed by money lenders to facilitate checking by prospective borrowers;
- (c) required all money lenders to undertake due diligence checks before entering into a loan agreement to ensure that, where an intermediary is

- involved in the process, that intermediary is appointed by the relevant money lender and does not charge the borrower any fees;
- (d) commenced a 3-year pilot programme to provide assistance / counsel through dedicated telephone hotlines to people in financial distress by two subvented non-government organisations (viz. Caritas - Hong Kong and Tung Wah Group of Hospitals); and
  - (e) required all money lenders to include a risk warning statement in their advertisements, namely “Warning: You have to repay your loans. Don’t pay any intermediaries”, so that the public would also be alerted to the risk of over-borrowing and reminded not to pay intermediaries.

## **Recent Developments**

4. Since January 2017, the Companies Registry (“CR”) has been conducting inspections on money lenders and monitoring their advertisements to ascertain their compliance with the more stringent licensing conditions. So far, there were only a small number of cases where the money lenders concerned were not able to fully comply with the new requirements.

5. The CR has taken prompt follow-up actions in all these cases, issuing letters to the money lenders concerned requiring rectifications within a specified period and, where necessary, arranging a second site inspection on the money lenders. The CR will continue to monitor the implementation of the more stringent licensing conditions.

6. During the first two months in 2017, the Police received a total of 39 complaints against unscrupulous intermediaries, which is considerably lower than the 137 complaints filed over the same period in 2016. Besides, according to past experience, complainants of unscrupulous intermediaries usually made a report to the Police only some months or even a year after the alleged malpractices had taken place. We will continue to keep in view the situation closely.

7. On the other hand, the Police continues with enforcement exercises, resulting in the arrest of some 760 people in the last 18 months, and in two cases the persons arrested have been charged with “conspiracy to defraud” and “fraud” respectively and have been scheduled for trial later this year.

8. There are on-going liaison between the Police, the CR and the Financial Services and the Treasury Bureau (“FSTB”) where opportunities have been taken to share experience in respect of cases involving unscrupulous intermediaries. The CR has also arranged internal briefings and trainings to all frontline officers.

9. Building on the territory-wide publicity campaign which commenced in December 2016, including the broadcast of announcements of public interest on television, radio, public buses and at the lobbies of public housing estates; the issue of an information leaflet and posters to money lenders, banks, non-government organisations, Home Affairs Enquiry Centres of the Home Affairs Department, offices of members of the District Councils and the Legislative Council, etc., we are stepping up the publicity efforts with the following measures –

- (a) display of roadside banners in all 18 districts since January 2017;
- (b) display of a mega sticker outside the Queensway Government Offices in Q3 2017;
- (c) inclusion of a risk warning message on the envelopes of the quarterly demand for rates and government rent by the Rating and Valuation Department in Q2 2017; and
- (d) insertion of a publicity leaflet in the water bills in Q3 2017.

10. We have also stepped up cooperation with the Consumer Council, commencing with the publication of an article in the Choice magazine in February 2017 to remind the public of points-to-note when borrowing, including the need to guard against traps of unscrupulous intermediaries and the details of the more stringent licensing conditions. The Consumer Council will, in collaboration with FSTB, also launch an online education campaign on responsible borrowing targeting young people. A tender invitation for this project was issued in March 2017.

11. Since 1 December 2016, the CR has been maintaining a list of intermediaries appointed by money lenders which is published on its website ([www.cr.gov.hk/mlr](http://www.cr.gov.hk/mlr)). The CR will continue to update the list for public inspection. As at 31 March 2017, a total of 706 financial intermediaries<sup>1</sup> have been appointed by 239 money lenders.

### **Next Steps**

12. The FSTB and the CR will keep in view the implementation of the new regulatory measures and maintain close liaison with the Police, the two non-government organisations and the money lending industry associations with a view to closely monitoring if there is any change in the tactics of unscrupulous intermediaries. We will brief and update the Panel on Financial Affairs on the latest developments at its meeting on 29 May 2017.

13. As stated before, we will review the effectiveness of the more stringent licensing conditions after six months of their implementation and will, in the light of the review results, consider if there is a need to introduce additional improvement measures. Where necessary, we will explore the various ideas expressed in the motion passed at the LegCo meeting of 8 February 2017.

**Financial Services Branch**  
**Financial Services and the Treasury Bureau**  
**7 April 2017**

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<sup>1</sup> The figure concerned has excluded double-counting of intermediaries appointed by more than one money lender.

(Translation)

**Motion on  
“Urging the Government to step up the regulation of money lenders  
and financial intermediaries”  
moved by Hon Alice MAK  
at the Council meeting of 8 February 2017**

**Motion as amended by Hon LEUNG Yiu-chung and Hon Kenneth LEUNG**

That as the current policy and legislation fail to put financial intermediaries (‘intermediaries’) under direct regulation, fraudulent cases involving intermediaries have frequently occurred in recent years; information shows that the Police conducted a number of large-scale enforcement actions in 2015 and the first eight months of 2016, in which over 400 persons involved in malpractices of intermediaries were arrested, reflecting the severity of the problem; people in the relevant industry and non-governmental organizations have pointed out that the measures launched by the Government in April 2016 for more stringent regulation of money lenders can only treat the symptoms but not the root cause of the problem; to prevent more people from inadvertently falling into lending traps, this Council urges the Government to step up the regulation of money lenders and intermediaries, and relevant measures should include:

- (1) comprehensively reviewing and amending the Money Lenders Ordinance (Cap. 163) to expand its ambit to the regulation of companies or institutions engaged in money lending-related business, and to implement the establishment of a licensing regime for financial intermediaries to directly regulate the intermediaries;
- (2) further imposing more stringent licensing conditions for money lenders licence and formulating more stringent procedures for vetting licence applications, including requiring the applicant to hold a specified sum of registered capital to ensure adequate financial resources for the operation of money lending-related business, and making the operator’s conduct and the company’s business and financial information factors for consideration in licence issuance and renewal; and applying the above arrangements to the new licensing regime for intermediaries;
- (3) promoting the professional development of the industry to improve the conduct of its practitioners and increasing penalties for contravening the legislation, so as to solve the problem of varying standards among practitioners and combat the bad sales practices in the industry;

- (4) exploring the establishment of a statutory regulatory body to more effectively regulate companies or institutions engaged in money lending-related business;
- (5) continuously taking strict enforcement actions to combat the illegal practices involving intermediaries;
- (6) providing adequate resources to enhance public education and counselling services, with a view to reducing people's risk of being deceived by unscrupulous intermediaries;
- (7) establishing a registration system for practitioners in the industry to prevent people from being deceived by fake practitioners;
- (8) providing training and guidelines to enforcement officers in handling malpractices of money lenders and intermediaries, and requiring that relevant enforcement authorities must conduct inquiries into cases reported by the public, rather than refusing to process them on account of their being private commercial disputes or other unreasonable grounds; and
- (9) requiring that money lenders must assess the repayment ability of the borrowers prior to making the loan and decide the loan amount based on the assessment result;
- (10) formulating and implementing policies on financial technology development to promote diversified development of the lending business and foster benign competition within the industry; and
- (11) increasing the transparency of the information of lending business to deter intermediaries from adopting bad practices in business operation.