

LCQ13: Government's resumption of lands

Following is a question by the Hon James To and a written reply by the Secretary for Development, Mr Michael Wong, in the Legislative Council today (May 30):

Question:

Regarding the Government's resumption of lands for public purposes in the past by invoking the Lands Resumption Ordinance (Cap. 124), will the Government inform this Council:

(1) of the number of times since July 1, 1997 for which the Government invoked Cap. 124 to resume lands for:

(i) the development of public housing (including public rental housing estates and Home Ownership Scheme courts), and the details of each case;

(ii) the construction of roads, and the details of each case; and

(iii) other public purposes (with a breakdown by purpose), and the details of each case;

(2) in respect of the land resumption cases mentioned in (1), of the number of cases in which the land owners lodged a judicial review (with a breakdown by outcome of the judicial review), and the average time taken from the Court's granting of leave for judicial review to its handing down of judgments on the judicial review; and

(3) whether the North East New Territories New Development Areas Planning involves the need for the Government to resume for public purposes lands owned by real estate developers and lands owned by individuals; if so, whether the approaches for resumption of such lands include invoking Cap. 124; if they do, of the details (including whether Cap. 124 has already been invoked so far); if they do not, the reasons for that; if there are other approaches for resumption of such lands, of the details (including the expenditure involved) (set out the details by land owner being a real estate developer or an individual)?

Reply:

President,

My reply to Hon James To's question is as follows:

(1) From July 1, 1997 to December 31, 2017, the Government invoked the Lands Resumption Ordinance (Cap. 124) to resume private land for 154 public works

projects and for projects of the Urban Renewal Authority (URA) or its predecessor, the Land Development Corporation (LDC).

Amongst the 154 projects, 13 projects are public housing development projects; 55 projects are in support of development projects of URA or its predecessor, LDC; 2 projects involve new town/comprehensive development areas; 3 projects involve village expansion; and the remaining 81 projects involve construction of drainage channels, rectification works to stream courses, waterworks, construction of schools, markets, recreational facilities and residential care homes for the elderly (RCHEs), and for village resite, etc.

As for projects requiring land resumption for construction of road, sewerage or railway works, the Government would invoke other applicable ordinances to resume land concerned. From July 1, 1997 to December 31, 2017, the Government invoked the Roads (Works, Use and Compensation) Ordinance (Cap. 370) for 150 road projects; the Water Pollution Control (Sewerage) Regulation (Cap. 358AL) for 70 sewerage system projects and the Railways Ordinance (Cap. 519) for 9 railway projects.

(2) There were a total of 8 judicial review cases lodged by owners arising from the invocation of the Lands Resumption Ordinance (Cap. 124) for resumption of private land from July 1, 1997 to December 31, 2017. Details are at the Annex.

(3) For the Kwu Tung North and Fanling North (KTN/FLN) New Development Areas (NDAs) (formerly known as the Northeast New Territories NDAs), as a Government's new town development, the Government will mainly resume and clear the private land planned for developments in the NDAs according to relevant ordinances and undertake the necessary site formation and infrastructure works with a view to implementing the planned uses. Nonetheless, prior to the land resumption and clearance, the Government allows in-situ land exchange applications from land owners of sites planned for private developments, subject to them meeting the specified criteria and conditions under the enhanced Conventional New Town (CNT) approach. Any development under such a lease modification application is required to ensure timely supply of housing and other facilities. For applications failing to meet the requirements by the timeframe specified for the development programme, the private land concerned would still be resumed by the Government for development.

At present, land resumption work for KTN/FLN NDAs has not fully commenced. Between 2015 and 2017, two private lots of about 1.5 hectares within the boundary of the KTN/FLN NDAs were resumed under the Lands Resumption Ordinance (Cap. 124) to facilitate the construction of a new RCHE complex. The complex will accommodate eligible elderly residents currently living in the existing RCHEs at the Dills Corner Garden, which will be affected by the KTN/FLN NDAs project. Since claims for statutory compensation from the former owners of those two pieces of land are still being processed, the compensation expenditure involved is not available at the moment yet.

Proposed legislative amendments to implement \$200 cap on import and export declaration charges

The Government put forward to the Legislative Council today (May 30) a notice of motion which proposes to amend the Import and Export (Registration) Regulations for capping the charge for each import and export declaration (TDEC) at \$200.

The Secretary for Commerce and Economic Development, Mr Edward Yau, said the amendment would further lower the cost of importing and exporting high-value goods to and from Hong Kong, bringing direct benefit to the local trading and logistics industry and encouraging the industry to move up the value chain.

As announced in the 2018-19 Budget Speech, the proposal seeks to further the Government's strategic objective to develop Hong Kong into a trading, storage, logistics and distribution hub for high-value goods.

"There is strong potential for the Hong Kong cargo and supply chain management industry. Many high-value goods are re-exported and distributed through Hong Kong. The proposed cap is expected to save the trade about \$458 million a year and benefit about 900 000 TDEC cases involving goods at a value above \$1.644 million, further strengthening Hong Kong's position as a trading hub," Mr Yau said.

The Legislative Council Panel on Commerce and Industry at its meeting in April indicated its support for the Government's proposed legislative amendments.

The amendments, as set out in the Import and Export (Registration) (Amendment) Regulation 2018, will be introduced into the Legislative Council for approval by positive vetting procedures on June 20. Subject to the passage of the resolution within the current legislative session, the amendments will come into effect on August 1.

LCQ19: Opening of bank accounts by

enterprises

Following is a question by the Hon Kenneth Leung and a written reply by the Acting Secretary for Financial Services and the Treasury, Mr Joseph Chan, in the Legislative Council today (May 30):

Question:

To address the problem that quite a number of enterprises have encountered difficulties in opening and maintaining bank accounts, the Hong Kong Monetary Authority (HKMA) issued in September 2016 a circular entitled "De-risking and Financial Inclusion" to authorised institutions, emphasising that the customer due diligence (CDD) measures adopted by banks should be proportionate to the risk level, and that they were not required to implement overly stringent CDD processes. In addition, the HKMA issued a circular entitled "Guideline on Anti-Money Laundering and Counter-Terrorist Financing – Address Verification Requirements" in October 2017 to inform banks that the address verification requirements set out in the "Guideline on Anti-Money Laundering and Counter-Terrorist Financing (for Authorised Institutions)" would be formally removed, and thereafter banks would only be required to collect the address information of the customers. In this connection, will the Government inform this Council:

(1) whether the HKMA knows, since the issue of the aforesaid first circular, the respective numbers of bank account opening (account opening) applications from new enterprises received, approved and rejected by banks each month, and the average time taken for the vetting and approval of the applications; in respect of such applications, (i) how the success rate and the time for the vetting and approval of them compare with those before the issue of the circular, and (ii) the relevant figures of those in which the applicants were overseas enterprises;

(2) of the number of complaints, received by the HKMA since the issue of the aforesaid first circular, about banks rejecting account opening applications from new enterprises; whether the HKMA has compiled statistics on the types of enterprises mainly involved in such applications and the reasons for the rejection; and

(3) whether the HKMA has assessed the effectiveness of the aforesaid second circular in solving the problem of new enterprises experiencing difficulties in opening accounts; if so, of the outcome; if not, whether the HKMA will conduct such an assessment?

Reply:

President,

In the past few years, the strengthening of international efforts in combating money laundering and terrorist financing has in general led the banking industry to enhance their relevant controls, including adopting a

more comprehensive customer due diligence (CDD) process for new and existing customers.

The Hong Kong Monetary Authority (HKMA) has been reminding the banking industry that in implementing controls, they should also take care that the access of banking services by legitimate businesses and ordinary citizens should not be impeded. The HKMA has issued guidance to banks over the past two years, reiterating that banks should adopt a risk-based approach in conducting the CDD process. Specifically, banks should apply CDD measures that are commensurate with the different background, circumstances and risk levels of customers. Banks should also maintain proper communication with customers and ensure that the account opening process is transparent, reasonable and efficient, and that customers are treated fairly during the process.

In response to the HKMA's guidance, banks have taken measures to improve the account opening process. Apart from the earlier establishment of a review mechanism to re-examine unsuccessful applications and the provision of interim updates about the progress of applications, to provide greater convenience for customers all retail banks now offer a "pre-vetting" service, whereby applicants are allowed to submit account opening documents via email, fax or mail for initial pre-screening or pre-assessment by banks before attending face-to-face meetings. Some banks have also set up dedicated hotlines and dedicated branches where matters relating to account opening are handled by front-line staff with relevant training. The HKMA requires banks to enhance staff training in the aspects of professional knowledge and customer communication, so as to ensure the proper handling of customer enquiries and complaints.

The following are our specific responses to the questions:

(1) The HKMA has been monitoring the account opening situation. The retail banking sector opens on average about 10 000 new business accounts each month, of which some 60 per cent to 70 per cent belong to SMEs and start-up companies, including 2 000 new accounts opened by overseas start-up and SMEs. Of the successful cases, about 90 per cent completed the relevant account opening procedures within one month, some 50 per cent to 60 per cent within two weeks, and some as quickly as within a few days. The average unsuccessful rate of account opening applications is below 5 per cent, a substantive improvement from around 10 per cent in early 2016.

(2) In the 20 months running from the issuance of the "De-risking and Financial Inclusion" circular in September 2016 to the end of April this year, the HKMA received a total of 40 complaint cases concerning banks' refusal of account opening applications from corporates, mainly involving those engaged in trading business or financial services. In 11 of these cases, accounts were subsequently opened following reviews by banks. For most of the remaining cases, applications were rejected because applicants were not able to provide the information or documentary proof required by banks.

(3) With reference to international experience, the HKMA issued a circular in October 2017 to remind banks that in ordinary circumstances the opening of

savings or current accounts requires only the collection of customers' address information but not its verification as well. Following the issuance of the circular, some banks have implemented the recommendation, while some others are updating their systems to prepare for implementation in the year.

LCQ15: Open Application Programming Interfaces

Following is a question by the Hon Chan Chun-ying and a written reply by the Acting Secretary for Financial Services and the Treasury, Mr Joseph Chan, in the Legislative Council today (May 30):

Question:

In recent years, the Hong Kong Monetary Authority (HKMA) has implemented a number of measures to promote the development of financial technologies. One of such measures is to facilitate the development of Open Application Programming Interfaces (Open API), so that banks may allow access to some of the data of their customers by their working partners (such as credit card companies, Octopus Card Limited, insurance companies, travel agents and online shopping platforms) which have access to their systems. In this connection, will the Government inform this Council:

(1) as there are comments that when banks share customers' sensitive data through Open API, it is of utmost importance to ensure that the data are kept confidential and are not tampered with, whether the HKMA has drawn up rules and guidelines on the provision and receipt of data for compliance by various parties; if so, of the details; if not, the reasons for that;

(2) whether the HKMA has (i) required both the provider and receiver of data to ensure the secure transmission of data, avoid the use of indirect modes of transmission (such as uploading and downloading through the computer server) and prevent data loss and leakage, and (ii) drawn up relevant technical guidelines in this regard; if so, of the details; if not, the reasons for that; and

(3) given that banks in general have to obtain the consent of their customers prior to sharing the data about them with third parties, and to ensure that their customers are kept informed of the status of data sharing, whether the HKMA has plans to remind the public to stay alert to the security of sensitive data in deciding the items of data about them in respect of which they give consent to banks for sharing with third parties; if so, of the details; if not, the reasons for that?

Reply:

President,

Our consolidated reply to the three parts of the question is as follows:

The Hong Kong Monetary Authority (HKMA) attaches great importance of data security and integrity in Open Application Programming Interfaces (Open API). It has therefore included in the Open API consultation paper issued in January 2018 some high-level proposals on the protection of data, and welcomes views from the industry.

At the same time, the HKMA plans to work with the banking industry, after the Open API framework is formally announced, to develop a set of risk-based security and operational guidance for data providers (banks) and data consumers (third party service providers) to follow. The set of guidance will also contain technical standards that are internationally recognised (for example, the use of strong encryption algorithms for external network transmission, sound key management, and sufficient controls to maintain and verify the integrity of information) to ensure that there are sufficient security and protection measures for the use of Open API.

After banks have rolled out Open API, the HKMA plans to work with the industry to conduct public education and provide information to the public, so as to raise their awareness on the pros and cons of sharing personal data under Open API and to allow the public to choose and use Open API products and services wisely.

Besides, if any organisation is involved in the collection, holding, processing and using of personal data, as a data user, it should also comply with the requirements of the Personal Data (Privacy) Ordinance (Cap. 486).

[Guideline on Authorization of Virtual Banks](#)

The following is issued on behalf of the Hong Kong Monetary Authority:

The Hong Kong Monetary Authority (HKMA) published today (May 30) a revised Guideline on Authorization of Virtual Banks following the completion of a public consultation.

During the public consultation, the HKMA received submissions from a total of 25 respondents, including the Hong Kong Association of Banks, the DTC Association, the Consumer Council, chambers of commerce, an industry association from the fintech community, technology companies and professional firms.

All respondents supported the introduction of virtual banking in Hong

Kong. Most of them agreed that virtual banks should be subject to the same supervisory requirements applicable to conventional banks. No respondents raised objection to allowing both financial and non-financial firms to operate a virtual bank in Hong Kong, and there was broad support for virtual banks to operate in the form of a locally-incorporated entity with no physical branches.

Specific comments were, however, received on several principles in the Guideline. Firstly, while many respondents agreed that virtual banks, like conventional retail banks, should play an active role in promoting financial inclusion, a few respondents questioned the reasonableness of this supervisory expectation and did not favour the requirement on virtual banks not to impose minimum balance requirements or low-balance fees on customers. The HKMA would like to point out that a key objective of introducing virtual banks in Hong Kong is to help promote financial inclusion by leveraging on these banks' information technology (IT) platforms that would lower the incremental cost of taking in additional customers. The HKMA therefore remains of the view that virtual banks should not impose any minimum balance requirements or low-balance fees on customers.

Secondly, a few respondents did not support requiring virtual bank applicants to produce an exit plan, on the ground that no similar requirement applied to conventional bank applicants. Given that virtual banking is a new business model in Hong Kong, the HKMA considers it prudent to require virtual bank applicants to develop an exit plan. The purpose of an exit plan is to ensure that, should it become necessary, a virtual bank can unwind its business operations in an orderly manner without causing disruption to the customers and the financial system. Leading overseas supervisory authorities have introduced similar requirements for virtual bank applicants.

Thirdly, several respondents requested the HKMA to lower the minimum paid-up capital requirement of HK\$300 million for virtual bank applicants. It should be noted that the minimum paid-up capital requirement of HK\$300 million is stipulated in the Banking Ordinance and is applicable to all licensed banks. It is neither possible nor appropriate to lower the minimum capital requirement for virtual bank licensees.

A number of respondents requested the HKMA to elaborate on some of the principles contained in the Guideline. The HKMA has taken on board many of these comments, and has made suitable changes to the relevant paragraphs in the Guideline. A detailed summary of the comments received during the public consultation and the HKMA's responses can be found in the Consultation Conclusions at Annex 1. A revised Guideline, highlighting the key changes compared with the version published for consultation, is at Annex 2.

Since the HKMA announced its intention to encourage virtual banking in Hong Kong last September, it has received enquiries and indications of interests from over 50 companies. While it is unclear at this stage how many of these companies will eventually put in applications to operate a virtual bank, they should appreciate that the vetting and approval process entails extensive resources and efforts by both the applicants and the HKMA. For

those companies that have not been able to submit a substantially complete application to the HKMA by August 31, 2018, they are most unlikely to be included in the first batch of virtual bank applications to be processed by the HKMA. In processing these applications, priority will be given by the HKMA to those applicants which can demonstrate that (i) they have sufficient financial, technology and other relevant resources to operate a virtual bank; (ii) they have a credible and viable business plan that would provide new customer experience and promote financial inclusion and fintech development; (iii) they have developed or can develop an appropriate IT platform to support their business plan; and (iv) they are ready to commence operation soon after a licence is granted.

The Chief Executive of the HKMA, Mr Norman Chan, said, "We are pleased to have broad support received during the public consultation for the development of virtual banking. Interested parties are beginning to submit applications to the HKMA. We will evaluate the applications carefully and expeditiously, applying the principles set out in the revised Guideline. We hope to be in a position to start granting licences to virtual banks towards the end of this year or in the first quarter of next year."