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16 June 2022

By email and post

Mrs Lourdes A. Salazar
Chairperson
The DTC Association
Unit 1704, 17/F, Strand 50
50 Bonham Strand East
Sheung Wan
Hong Kong

Dear Mrs Salazar,

Proposed Lowering of Statutory Limits of Effective Rates of Interests Stipulated in the Money Lenders Ordinance (Cap. 163)

I am writing to provide an update on the Government's proposal of lowering the statutory limits of the effective rates of interests stipulated in the Money Lenders Ordinance ("MLO") (Cap. 163) and seek the industry's comments on the proposed guidance on customer communication to be adopted by Authorized Institutions ("AIs") subject to the approval of the proposed legislative amendments by the Legislative Council ("LegCo").

While the MLO shall not apply to AIs, section 12.3 of the Code of Banking Practice ("CoBP") makes reference to the interest rate limits under sections 24 and 25 of the MLO in AIs' charging of interest rates of credit products. In April 2021, with the Government proposing to lower the relevant interest rate limits in the MLO, we invited your Association to share the Government's proposal with your member institutions, and the comments received have been duly passed to the Financial Services and the Treasury Bureau ("FSTB").

Latest developments

At present, under sections 24(1) and 25(3) of the MLO, it is respectively stipulated that the interest rate cap ("the interest rate cap") on a loan shall be 60% per annum; and that the interest rate of a loan exceeding 48% per annum shall render the loan, *prima facie*, to be presumed to be extortionate and may trigger reopening of the transaction by the court ("the extortionate rate"). We understand that the Government has proposed to the LegCo to lower the interest rate cap from 60% per annum to 48% per annum, and the extortionate rate from 48% per annum to 36% per annum. If approved by the LegCo, the new interest rate cap and the new extortionate rate (collectively "the revised interest rate limits") will come into effect on **30 December 2022**.

Application to the banking industry

Subject to LegCo's approval of the proposed legislative amendments, AIs will need to adopt the revised interest rate limits when complying with section 12.3 of CoBP on the same date as licensed money lenders (i.e. 30 December 2022). A table illustrating the impact of the revision to the interest rate limits under the MLO on the banking industry via section 12.3 of the CoBP is enclosed at **Annex A** for reference. While there will be **no retrospective effect** for credit products offered by AIs, as a matter of principle, AIs are expected to facilitate customers to migrate from an existing credit product charging beyond the revised interest rate limits to a product that is subject to the revised (i.e. lower) interest rate limits, or at least not to unreasonably withhold customers from such migration.

The revision to the MLO's interest rate limits referenced by CoBP is a significant change, and AIs should clearly explain to customers on the revision in good time, such as to facilitate customers' planning of borrowing decisions and minimise any dispute that may arise. With this in mind, proposed guidance in respect of customer communication has been formulated for adoption by the industry, subject to LegCo's approval of the proposed legislative amendments. The proposed guidance can be found at **Annex B**.

While the proposed legislative amendments are pending LegCo's approval, comments from the industry on the proposed guidance and other arrangements set out in this letter, if any, are sought by **7 July 2022**. The HKMA plans to issue a circular to AIs on the implementation arrangements of the revised interest rate limits (taking into account the principles laid out in this letter as well as comments received from the industry) as soon as practicable after the proposed legislative amendments have been approved by LegCo.

On a side note, please be reminded that while the MLO shall not apply to AIs, AIs' subsidiaries (which lend or offer to lend money) are not exempted from compliance with sections 24 and 25 of the MLO. Your member institutions are hence reminded to pass a copy of this letter to their subsidiaries which lend or offer to lend money for their attention. For the avoidance of doubt, AIs' subsidiaries are also expected to abide by the customer communication requirements as laid out in Annex B of this letter.

If your Association or individual member institutions have any question on this letter, please feel free to contact Ms. Debby Ng (Phone: 2878-1004; Email: dtnng@hkma.gov.hk) or Mr. Leonard Tso (Phone: 2878-8589; Email: lkmtso@hkma.gov.hk).

We are writing in identical terms to the Hong Kong Association of Banks.

Yours sincerely,

Alan Au
Executive Director (Banking Conduct)

Encl.

c.c. FSTB (Attn: Mr. Desmond Wu)

Annex A

Impact of the proposed revision to the interest rate limits under the MLO on the banking industry via section 12.3 of the CoBP (subject to LegCo's approval of the proposed legislative amendments)

Period	**Annualised Percentage Rates (APRs) as mentioned in section 12.3 of the CoBP**	
	The level which is presumed to be extortionate under the MLO*	The legal limit as stated in the MLO**
Before 30 December 2022	Exceed 48%	Exceed 60%
On or after 30 December 2022	Exceed 36%	Exceed 48%

* AIs should be able to justify why such high interest is not unreasonable or unfair

** Unless justified by exceptional monetary conditions

Annex B

Proposed guidance in respect of customer communication
(subject to LegCo's approval of the proposed legislative amendments)

A. Notification to all customers (including prospective customers) of credit products

(a) From [a date to be determined*] to 29 December 2022, AIs should inform all customers (including prospective customers) of credit products on the change in MLO's interest rate limits referenced by CoBP at the following juncture:

(i) at the time of **credit application** (<u>before</u> a customer decides to apply for the credit product); and

(ii) at the time of **informing the customer of approval of credit application**.

(b) AIs should adopt means of notification which would provide reasonable assurance that their customers will be informed of the change and which do not rely unduly on the customers' own initiative.

B. Notification in case of change in interest rate(s)

(a) If an AI decides to change the interest rate(s) of any credit product offered to individual customers owing to the revision in interest rate limits, it should notify customers taking into account the time requirements for advance notice as laid out in the CoBP (60 days for cards; 30 days for other credit products).

(b) If, after revision, the interest rate(s) will exceed 48% on or after 30 December 2022, the notification should mention clearly:

(i) the revision of the interest rate limits; and

(ii) the fact that the customer's interest rate will remain above 48% in spite of the revision of the interest rate limits.

C. Special requirements for customers subject to interest rate(s) of 48% and above

(For credit arrangements to individual customers which take effect on or before 29 December 2022 only)

(a) If the interest rates mentioned in section 12.3 of CoBP (for AIs)/sections 24 and 25 of MLO (for AIs' subsidiaries) applicable to a customer will exceed 48% on or after 30 December 2022, the customer should be notified of:

   (i) the revision of the interest rate limits; and

   (ii) the fact that the customer's interest rate will remain above 48% in spite of the revision of the interest rate limits.

(b) Such a notification should be issued to the customer not later than 31 October 2022. For a credit application newly approved after 31 October 2022, this notification should be issued on the date of the AI's approval of the credit application concerned.

<u>Notes</u>

* AIs will be given around two months to prepare for this notification. Subject to the comments from the industry and the timing of LegCo's approval of the proposed legislative amendments, the target date will be around 1 October 2022. The exact date will be determined in the circular to be issued.