

# Money Lending - Reforming Law and Trade Practices for Consumer Protection

26 September 2019



消費者委員會  
CONSUMER COUNCIL





# The Study

1. Background
2. Market Overview
3. Consumer Behaviour and Issues
4. Trade Practices on Marketing and Advertisement
5. Regulatory Regimes in Other Jurisdictions
6. Regulatory Problems
7. Recommendations



# Current Regulatory Framework

## Money Lenders Ordinance (Cap. 163) (MLO)

- Enacted in 1980, targeting loanshark activities
- Provided framework for licensing and introduced cap on interest rates
- 3 different authorities governing money lending industry:
  -  **Registrar of Money Lenders** – deals with new and renewal of licences, and maintains register of money lenders
  -  **Commissioner of Police** – scrutinizes applications and investigates complaints
  - **Licensing Court** – hears and determines applications for money lender licences
- Since enactment no major reform in the past 4 decades



2016年2月3日星期三

◀ 上一篇 下一篇 ▶

## 警搜10間「吸血」財務中介公司 拘69名男女 (00:25)



A+ A- [Print] [Link] [Email] [Share]



圖2之1 - 警方展開「勇戰者」行動，打擊專收取昂貴手續費的借貸中介公司。.....



年近歲晚，警方有組織罪案及三合會調查科聯同多個總區刑事部，根據舉報經調查後，本周二展開代號「勇戰者」行動，打擊收取昂貴手續費的借貸中介公司，兵分多路突擊搜查油麻地、尖沙嘴、深水埗、旺角及灣仔區10個目標中介公司辦公室，共拘捕69名借貸中介公司職員。行動中，警員檢獲大量文件、97部手提電話、59部固網電話、72部電腦、3個夾萬及約18.3萬

## Government's Four-Pronged Approach to combat fraudulent and deceitful tactics by financial intermediaries in 2015/16

- Enhanced Police's enforcement actions against malpractices of intermediaries
- Imposed more stringent licensing conditions on all money lender licences
- Enhanced public education and publicity activities
- Enhanced advisory services to the public

## The MLO now regulates 5 aspects

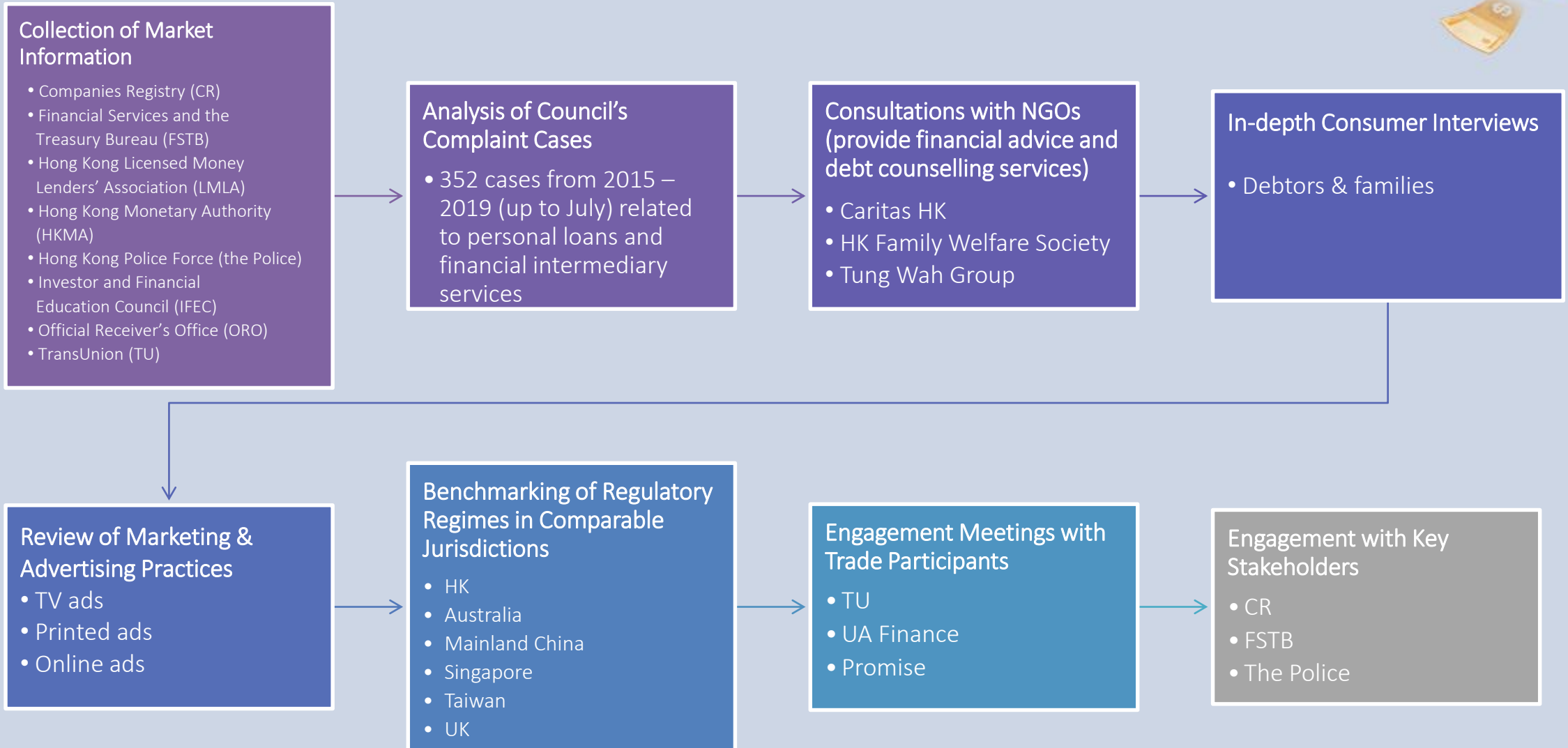
- Licensing of money lenders
- Supply of information
- Interest rate cap
- Restrictions on advertising
- Statutory ban on separate fee charge



# Study on Consumer Indebtedness

- Objectives
  - Understand consumers' borrowing behaviour and experience, to analyse the problems associated with the emerging trend of consumer indebtedness
  - Examine the marketing practices by money lenders, to identify any undesirable business tactics affecting consumer interests
  - Review the current state of regulatory framework of the money lending industry, to compare against regulatory regimes in comparable jurisdictions
  - Propose appropriate recommendations for enhancing consumer protection to consumers borrowing from money lenders

# Scope of Work





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# MARKET OVERVIEW



# A Booming Consumer Lending Market

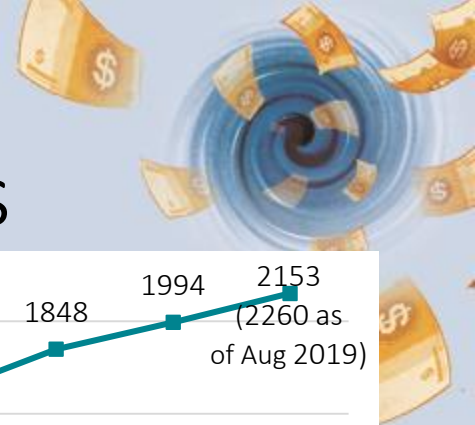
- Under favourable economic environment, consumers are in a strong position to borrow
  - Low inflation rate (2.4%)
  - Low interest rate (0.7% - average 3-months average HKD Interest Settlement Rates)
  - High employment rate (97.2%)
  - Growing household income (median \$35,000)
- Substantial growth in consumer loans by authorized institutions (AIs)\*
  - Total credit card advances and personal loans reached \$673.9 billion, 2.2 folds increase from 2009
  - Personal loans raised to \$543.9 billion, 2.8 folds increase from 2009
  - Personal loans accounted for 26.6% of total consumer loans vs. 19.9% in 2013

All figures are 2018 data

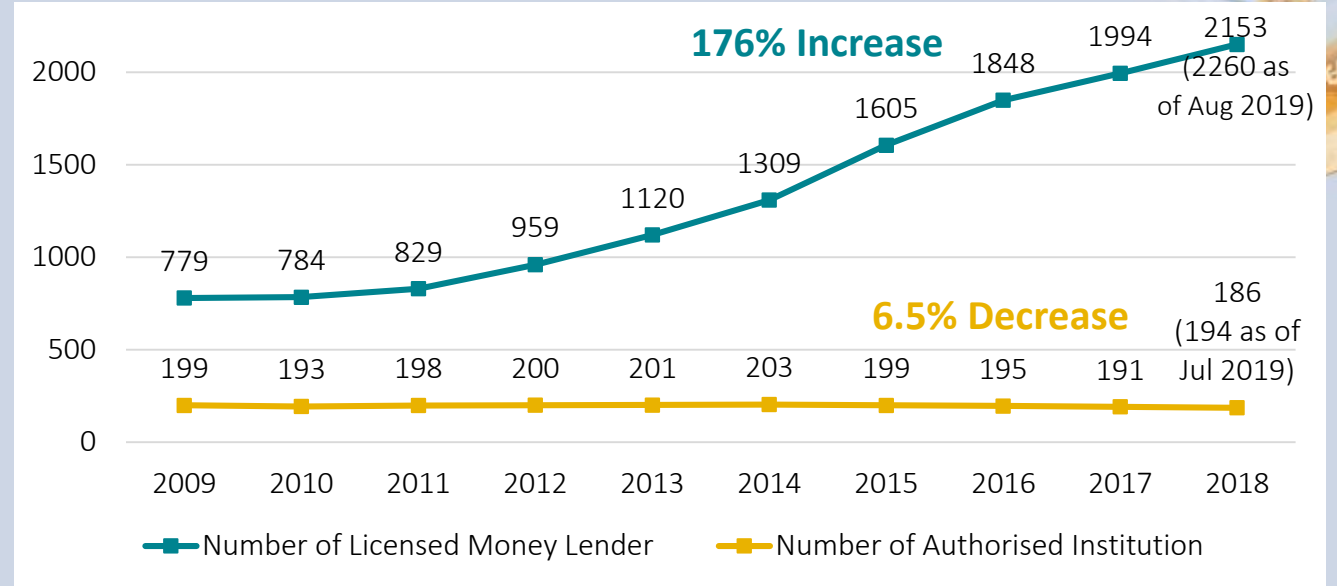
\* Hong Kong Monetary Authority Statistics



# Rapid Growth in Non-bank Money Lenders



- In 10 years, the number of non-bank licensed money lenders grew to 2,153 (176% increase), while the number of authorized institutions reduced to 186 (6.5% decrease)
- Only 8 applications were dismissed and 1 licence was revoked in 7 years



Number of AIs and Licensed Money Lenders in Hong Kong, 2009-2018, Source: HKMA, CR, LMLA

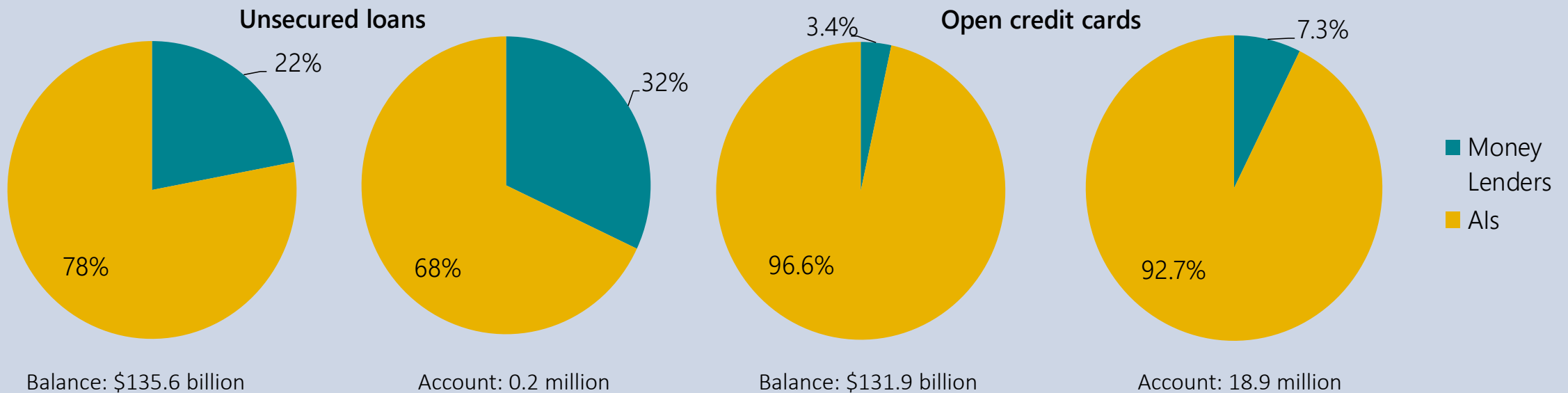
Year	2012	2013	2014	2015	2016	2017	2018
Total No. of Applications Received	1,124	1,313	1,570	1,928	2,152	2,379	2,601
- New Issue	190	252	337	453	344	362	421
- Renewal/ Endorsement (Address Change or Addition)	934	1,061	1,233	1,475	1,808	2,017	2,180
No. of Applications Dismissed by Licensing Court (Objections raised by the Police*)	0	5	1	0	1	1	0
No. of Money Lender's Licences Revoked by Licensing Court	0	0	1	0	0	0	0

\* Subject to investigation findings, the Police may object to an application and present the available evidence to the Licensing Court for determination.



# Share of consumer lending between consumer credit providers

- According to TransUnion (TU)\*, over 90% open credit card balances & accounts are managed by AIs
- For unsecured loans (installment loans + revolving loans), licensed money lenders managed 22% \*\* of balances & 32% of accounts as of Q1 2018



Share of AIs and money lenders with data based on TU members, Q1 2018, Source: TU

\* TU's website shows it has approximately 140 member companies

\*\* TU updated the Council that in Q1 2019, the % of unsecured loans balance managed by money lenders increased to 27.6%



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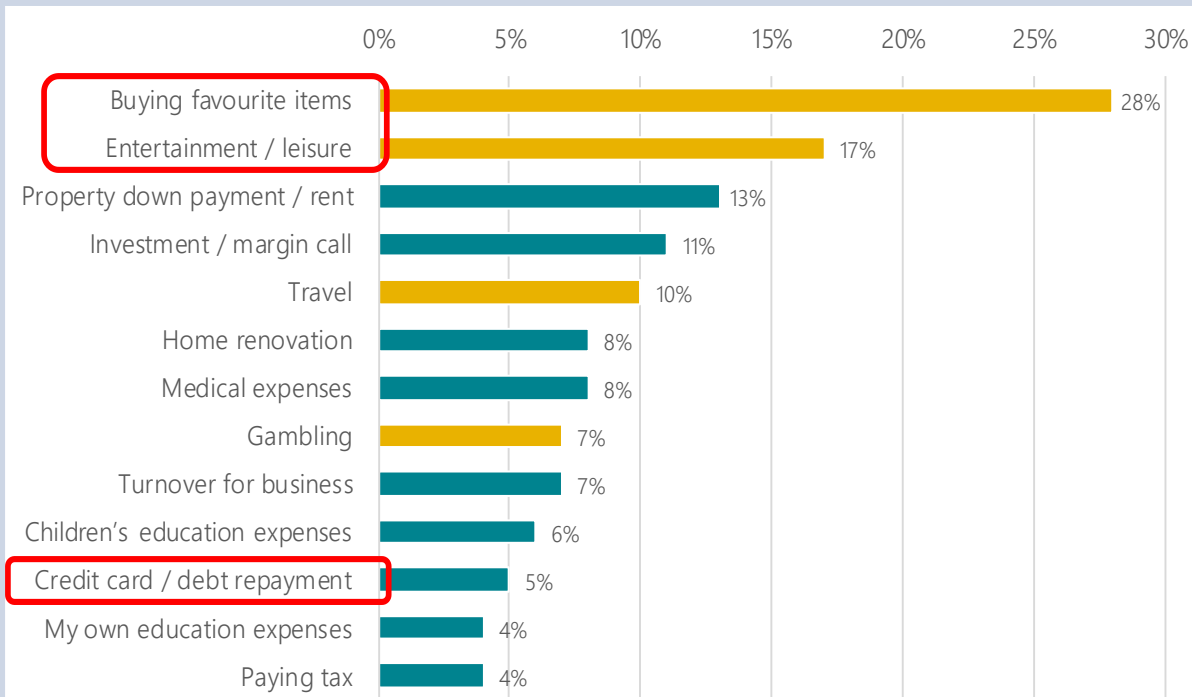


# CONSUMER BEHAVIOUR AND ISSUES

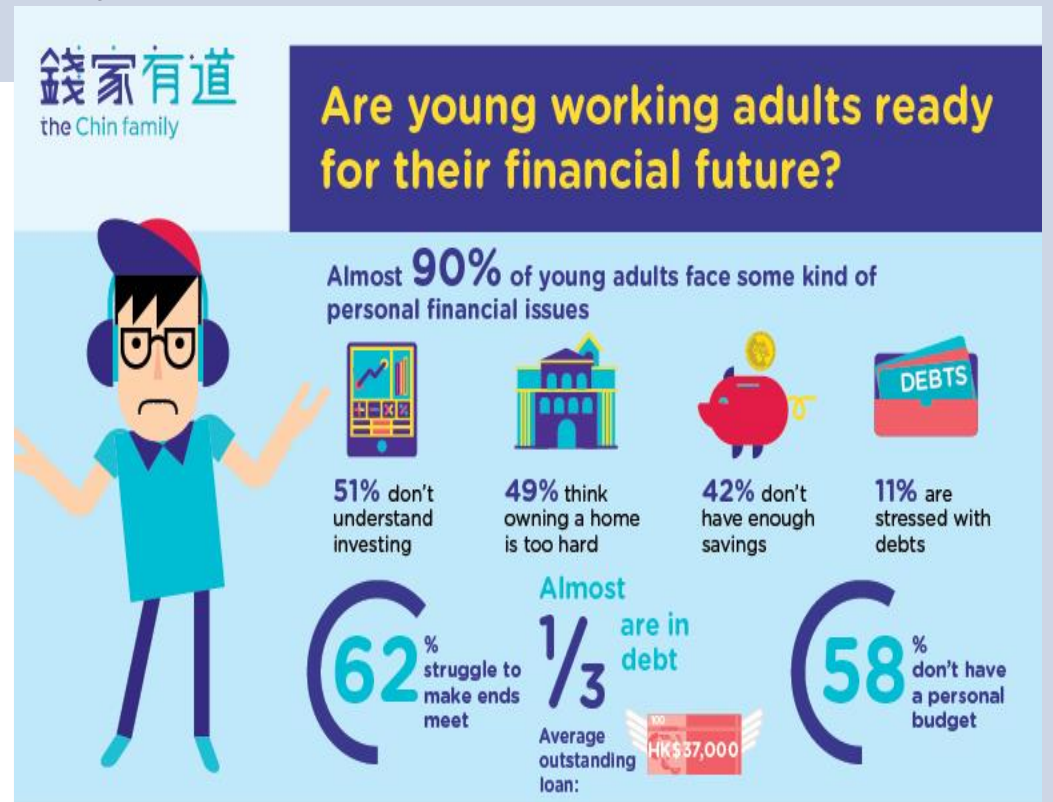
# Trends in Borrowing Behaviour (IFEC)

- 1 in 5 Hong Kong People (aged 18-64) had borrowed money before, and among them 19% had failed to repay their debts on time
- Males, aged 30-49 have higher propensity to borrow
- Many young working adults are facing financial struggles
- “Buying favourite items” and “Entertainment/leisure” are two major reasons to borrow

Reasons for Borrowing



Source: Knowledge, Attitude, and Behaviour towards Money and Debt Management, 2014, IFEC



Source: Survey Reveals Young Adults' Financial Struggles, 2017, IFEC



# Multi-time Bankruptcy Increases

- Despite the number of bankruptcy cases reducing to 7,146 in 2018, share of multi-time bankruptcy cases increased from only 1.6% in 2013 to 8.6% in 2018
- “Overspending”, “Lack of gainful employment” and “Excessive use of credit facilities” remain as the key reasons for bankruptcy

Year	All bankruptcy cases	Multi-time bankruptcy cases*	% share to all bankruptcy cases
2018	7,146	617	8.6%
2017	7,627	551	7.2%
2016	8,919	506	5.7%
2015	9,750	392	4.0%
2014	9,674	244	2.5%
2013	9,371	151	1.6%

Number of bankruptcy and multi-time bankruptcy cases as at 30 July 2019, Source: ORO

\* Multi-time bankruptcy cases are cases the bankrupts with bankruptcy more than once

# Review of the Council's Complaint Statistics

- Decline in consumer complaints on personal loans & financial intermediary services from 165 cases in 2015 to 39 cases in 2018 with the Government's four-pronged measures being implemented in 2016
- Complaints relate mainly to price disputes and sales practices

Complaints on personal loans and financial intermediary service	2015	2016	2017	2018	2019 (Jan-Jul)
Price disputes	84	28	25	19	8
Sales practices	59	38	13	11	9
Service quality	18	8	4	4	3
Contract alterations / termination	3	0	6	2	2
Others	1	2	1	3	1
Total	165	76	49	39	23
Total in value	\$20,630,688	\$9,039,346	\$4,828,989	\$3,882,835	\$3,659,858



# Consumer Issues Raised by NGOs Interviewed

Increasing trend of money borrowing from small money lenders

- They are termed as second- and third-tiered money lenders.

Small loans from multiple money lenders

- Typically below \$10K, with a relative short tenure. Accumulated loans from more than 10 money lenders are common, an extreme case with over 120 different money lenders.

Simple loan application and assessment by some money lenders

- Consumers having higher credit risks could only access money lenders with easy & simple application and assessment procedures. Newly emerged online money lenders were commonly found.

Not aware of or care about interest rates

- In many cases, consumers value speed & ease of access to loans over other factors, such as the higher long-term loan costs.

Provision of loan referee information without knowledge or informed consent

- Money lenders require borrowers to provide personal information, such as contact number or work address of their families, relatives, friends or even colleagues when applying for a loan. They are deemed as loan referees but without their knowledge or informed consent.

Rise of bankruptcy and multi-time bankruptcies

- Tendency for consumers to declare bankruptcy & even multi-time bankruptcy in recent years, some money lenders even offering loans for consumer's bankruptcy petition filing.







## Case Interview – Mr A

Mr A who is now 37, has an overspending habit since his graduation from post-secondary school in building engineering. He borrowed money for leisure, purchase of luxury products and expenses for wedding ceremony.

Mr A started to be in debt through making credit card minimum payment. As soon that all the credit limit of his credit cards were exceeded, he proceeded to first-tier money lenders, followed by conducting individual voluntary arrangement (IVA) at the age of 27 for 4 years and subsequently reaching out to second- and third-tier money lenders. During the peak of his indebtedness, he borrowed from 7 money lenders for a total of \$300,000.

As Mr A had a stable income & was able to repay on time, second-tier money lenders offered to extend his loan period or intentionally delayed processing his repayment so as to capture more interest from him. Other money lenders, through sharing his credit information and loan history, asked him if he needed to borrow more money to repay debt to his current money lender, thus further intensifying his over-indebtedness.

At present, Mr A has personal loans of \$200,000 from 7 money lenders and mortgage loan of \$200,000 with his father as loan borrower.



# TRADE PRACTICES ON MARKETING AND ADVERTISEMENT

# Review of TV Advertisements\*



## Key findings

- High frequency advertisement on money lending
- Ads by intermediary / sponsor without risk warning message
- Perception of low interest rate
- Perception of high reward
- Message of simple loan application / assessment
- Young working adults as advertising target

## Examples

- Generally, there was at least one money lending TV ad per hour during the covering period
- TV ad by an intermediary 英利按揭財務 without risk warning message “Don’t pay any intermediaries.” (“忠告: 借錢梗要還, 咪俾錢中介”)
- 康業信貸快遞 “年息可低至5厘”, 靚華押業 “年息可低至10厘起”
- 邦民日本財務 “新客戶成功貸款有現金獎高達\$2000”
- UA亞洲聯合財務 “UA No Show 私人貸款, 不用證明文件, 一個電話就有專人搞掂晒”, 靚華押業 “各類型物業, 1按、2按, 最快5小時批核, 無需入息証明及財務報表”, 康業信貸快遞 “上網申請或在任何一個K Cash據點的智能提款機即可撿錢”, 匯駿財務 “10分鐘特快批核, 免信貸報告審查”



\* A snapshot review of TV ads broadcasted on TVB – Jade conducted from 5pm to 1am (8 hours per day) on 27 May (Sunday), 28 May (Monday), 31 May (Thursday) and 1 June (Friday) in 2018. Over this period, out of the 1,085 TV advertisements being broadcasted, 48 were by AIs (5) and money lenders (43) on money lending (4.4%). In terms of overall time duration, 5.8% were by AIs and money lenders.

# Review of Printed Advertisements\*

- Non-compliance - money lending advertisement without money lender's licence number
- Using "low" interest rates as selling point
  - 英利按揭財務 年息6%起

**樓宇按揭 業主貸款**  
英利轉介銀行(財務) **至優方案**  
\$500,000 轉按利息即減 **30%\***  
84期: \$7,306 聯名契一人可借  
120期: \$5,552 免供回贈1-10期

私人貸款  
高達月薪 **20**倍

國內融資項目貸款  
中介人可獲1.5%佣金  
中港車牌買賣貸款  
的士小巴買賣按揭

自置旗艦店 實力雄厚 信心保證 **年息6%起**

英利應承您 一定幫到您 信譽昭著 **45**年

樓按專線: 2499 9922 多間銀行財務連線  
私貸熱線: 2789 9668 一站式按揭轉介服務 財務經驗  
地址: 九龍旺角西洋菜南街2A號銀城廣場8樓全層  
辦公時間: 星期一至五: 9:30-19:00 星期六: 9:30-13:00 忠告: 借錢要認準, 睇準錢中介  
www.intell.hk

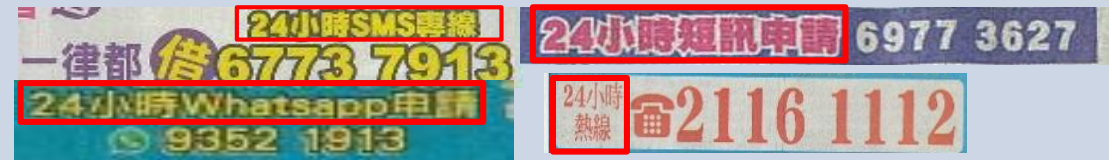
英利按揭財務公司  
Intell Finance and Mortgage Company

\* 以上利息減免, 視乎個人信貸評級、銀行及財務公司最後審批結果 代理樓宇按揭/私人貸款

\* Conducted between 25 May and 1 June 2018. Both paid (Apple Daily, Ming Pao, Oriental Daily, HK01) and free newspapers (AM730, Headline Daily, Metro Daily) were reviewed. Magazines included East Week, Oriental Sunday and TVB Weekly were also reviewed.

# Review of Printed Advertisements

- Perception of easy lending
  - Providing 24 hours lending services
    - 萬力亞洲財務 “24小時SMS專線”
    - 匯裕(遠東)有限公司 “24小時WhatsApp申請”
    - 信邦財務 “24小時短訊申請”
    - 順億物業按揭 “24小時熱線”
  - No credit record check
    - 易信貸財務 “免查信貸報告(TU)”
    - 朗氏財務 “免查信貸記錄”
    - 匯駿財務公司 “TU免信貸報告”
  - Simple loan application and assessment
    - 邦民日本財務 “貸款只需身份證+手提電話#，全程無需現身\*，申請至過數網上全辦妥。”
    - 安信信貸 “貸款\$50,000或以下，免申請文件，即批即攞現金”
    - 快易得財務 “申請簡單 特快批核 月供還款 15分鐘現金到手”





# Review of Printed Advertisements

- Target some working sectors or specific segments

**信邦財務** 正牌財務 絕非代辦 九龍油麻地 (油麻地)

放債人牌照：0557/2018

今期特選客戶：零售業優先

免查信貸記錄  
公務人員 自僱人仕  
中小企業 零售飲食  
各行司機 家庭主婦  
黑名單者 破產期滿  
壞數重數 一律都借

快捷保密 誠信可靠 免手續費 來電兩兩 簡單易借

萬大事有我 今期特選客戶 零售業優先

週轉特快 循環貸款

免查信貸記錄 各行司機 借 家庭主婦 借  
公務人員 借 自僱人仕 借 中小企業 借 零售飲食 借  
黑名單者 借 破產期滿 借 壞數重數 借 一律都借

熱線 2155 1933

萬力亞洲財務 正牌財務 絕非代辦 傳真：2155 1896 24小時SMS熱線 6773 7913  
地址：九龍旺角彌敦道678號華僑商業中心8樓C室 (旺角港鐵站D1出口)

“忠告：借錢梗要還，咪俾錢中介”  
投訴熱線：2155 1892

# A Review on Online Marketing & Advertisements\*

## • Issues with interest rates

- Wide range of interest rates displayed, no useful as reference

### 貸款利率

最低月平息0.8% (即實際年利率由最低9.6%至最高59.5%)

以上計算結果僅作參考用途，一切均以正式貸款申請所批核之結果而定。

實際年利率由最低3.271%至最高48%

適用之實際年利率由2.01% – 44.72%，而還款期為6至72個月。

- Always using minimum interest rate as example, could be misleading

### 低年利率

實際年利率最低4.49%至最高59.26%。  
以貸款HK\$200,000、月平息0.2% (以實際  
年利率4.49%計)，按36個月還款期計  
算，手續費全免，每月還款金額為  
HK\$5,940。所有示例資訊只作參考，最  
終批核按個別申請人之實際情況而定。

貸款產品	Express
貸款額	港幣\$5,000 - 港幣\$50,000
年利率	由29.2%至最高58.0%

financeone私人貸款常見還款例子：年利率為29.20%的情況下貸款HK\$30,000，還款期數18期，每期還款額為HK\$2,082，還款總額為HK\$37,476。

- Money lenders using different interest rate representations, creating confusion

### 其他特點：

- 月平息低至0.2%<sup>▽</sup> (百分比年利率: 4.48%)+
- 貸款額高達HK\$800,000或月薪8倍#
- 靈活還款期由6個月至最長48個月
- 全期免手續費



### 低息令你「零」包袱

一按實際年利率低至9% · 二按實際年利率低至12%

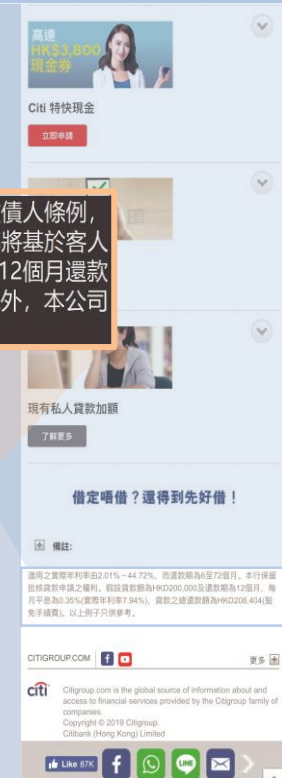
# • Issues with interest rates (con't)

- Locating interest rates in websites: show interest rates in small fonts or inconspicuously



適用之實際年利率由2.01% – 44.72%，而還款期為6至72個月。本行保留批核貸款申請之權利。假設貸款額為HKD200,000及還款期為12個月，每月平息為0.35% (實際年利率7.94%)，貸款之總還款額為HKD208,404 (豁免手續費)。以上例子只供參考。

\*備註：Formax提供6-60個月還款期的私人貸款。根據放債人條例，貸款法定年利率不可高於60厘。而客戶最終可享的年利率將基於客戶的信貸狀況及風險程度決定。例如以貸款額HK\$10,000，12個月還款期及年利率15.94%計算，總利息支出為HK\$884。除利息外，本公司絕不收取任何費用。








# Review of Online Websites & Ads

- Apart from interest rates, different practices in calculation between AIs and money lenders creating confusion

	AIs	Money Lenders
Service charge	<p><b>貸款手續費</b></p> <p>總貸款額的0.75%-1.5%(每年) (實際手續費請參閱貸款通知書)</p>	 <p><b>零手續費</b></p> <p>豁免任何貸款手續費，讓客戶可取得全數貸款。</p> <p>立即申請</p>
Penalty charge	<p><b>7. 逾期還款費用</b></p> <p>就本人未能在到期時全數繳交每月還款額的每一個月，銀行會徵收：</p> <p>(甲) 逾期未償還的每月還款額總額的<b>百分之三的逾期還款利息</b>；及</p> <p>(乙) <b>港幣三百元</b>的逾期還款手續費。</p> <p>提前還款／提前清償／贖回的收費</p> <p><b>本金結欠的 2% 及退回任何適用的推廣優惠</b></p> <p>於提前清還私人分期貸款前請參閱滙豐網頁（借貸 &gt; 貸款 &gt; 分期「萬</p>	<p>• <b>如逾期供款，利息如何計算？</b></p> <p>逾期供款按既定逾期利息計算，<b>以逾期結欠計算逾期時之日息</b>，利率不會因逾期而提升</p> <p>若提早清還貸款，銀行一般會收取貸款期末付的利息。對 MoneySQ.com來說，這種做法過於嚴苛，我們認為提早還款不應被懲罰。</p> <p>申請MoneySQ.com的貸款，<b>不會收取提早還款手續費</b>。閣下能夠提早清還，便可減少利息支出。</p>

# Review of Online Websites & Ads

- No financial assessment / income proof claims as selling tactics to those who have difficulty in passing/producing one

**不查TU**

不用查詢信貸紀錄即可申請

**TU** 更快

通寶信貸 **唔查舊債** 貸款

7. 財務 - 額大

[www.turbocredithk.com](http://www.turbocredithk.com)

期長，手續簡單，WTS申請專線 66963839

**入息證明**  
**免入息證明**

貸款手續  
填寫簡易申請書，只需香港身份證和住址證明

入息證明  
免入息證明

居住證明  
水費單或電費單

附加證明  
視乎貸款金額

貸款年期  
還款期由3星期至12個月

貸款金額  
最高可達港幣五萬 (HK\$50,000-)

貸款利率  
最低月息0.8% (即實際年利率由最低9.6%至最高59.5%)

審批時間  
文件齊備，最快15分鐘批核，30分鐘現金到手

還款方法  
自動轉帳、繳費靈(PPS)、銀行入帳

申請方法  
親臨分行、電話申請、網上申請皆可

## 基本資料

貸款金額	HKD\$5,000 – \$100,000
還款期數	6 – 48 個月
月平息	一律 0.84%*
手續費	\$0

同學可隨時取消申請或提早清還貸款  
\*以12個月還款期計算

申請條件：

1. 18歲或以上

2. 香港大專院校學生

3. 香港永久性居民

信貸評級 tu i 照樣借到錢 | 銀富財務 | [rsfinance.com](http://rsfinance.com)

(廣告) [www.rsfinance.com.hk/](http://www.rsfinance.com.hk/)

免睇信貸報告，信貸評級 tu i 都可以借到錢，最高可貸20萬，30分鐘過數



# Review of Online Websites & Ads

- Difficult to know if the money lender is licenced
  - By regulation, any advertisement by a money lender must contain the money lender licence number, however, the number is not displayed in some websites under study, such as the one below:

- Even if it is shown, it is difficult to know if it is valid or not

**Top Profit Finance Ltd | Room 401-403,**  
**Far East Consortium Building, 204-206 Nathan Road, Jordan,**  
**Kowloon, Hong Kong**  
  
**Tel: (852) 2375 1021 | Fax: (852) 2375 1020 | Email: [cs@tpfhk.com](mailto:cs@tpfhk.com) |**  
**Money Lenders Licence: 0582/2018**

4370	Perfect Finance Company Limited	臻美財務有限公司	26-Jan-19	R
4371	Honour Credit Limited	洪華信貸有限公司	26-Jan-19	R
4372	Bear Bright Limited	曜熊有限公司	26-Jan-19	R
4374	Hong Kong Mortgage Services Limited	香港按揭服務有限公司	2-Feb-19	R
4375	Top Profit Finance Limited	高盈財務有限公司	26-Jan-19	R

Different number in CR's website list

## 聯絡方法

☎ 查詢及投訴熱線:

旺角: 2469 0688

灣仔: 2469 0988

☎ WHATSAPP : 6797 7081

✉ 電郵: [johnston20171104@gmail.com](mailto:johnston20171104@gmail.com)

☎ 傳真: 2764 7288

## 注意事項

註: 根據《放債人條例》年利率最高不超過60厘。

供款期由4個月至96個月

常見還款例子: 年利率為18%情況下的貸款HK\$10,000, 還款期數12期, 每期還款額為 HK\$917

"Warning: You have to repay your loans. Don't pay any intermediaries."

「忠告: 借錢便要還, 咪俾錢中介」

# Feedback from the Industry



- Unlike banks, money lenders can opt not to join the TU as it is not mandatory.
- Fast growth among young generations in unsecured balance and credit card advances, money lenders focus on the prime to subprime markets, and banks focus on loans for prime plus and super prime groups.
- Credit score does not cover borrowing records from non-TU members.
- Marketing claims on free credit assessment could attract applicants with higher credit risks.
- Code of conduct of the self-regulatory money lending practice of LMLA only covers 42 members out of 2000+ licensed money lenders. Few complaint cases to LMLA probably due to low public awareness.
- Estimated 300 active money lenders in Hong Kong. Online advertising is an effective channel to reach out to prospects.
- Suggestions for strengthening industry governance:
  - Licensing requirements on capital, experience, professionalism
  - Industry transparency
  - Regulations on intermediaries and registration of debt collectors
  - Consumer education by the Government



# REGULATORY REGIMES IN OTHER JURISDICTIONS



## Overview of Regulatory Framework for Money Lenders in selected jurisdictions\*

Jurisdiction	Australia	Mainland China	Singapore	Taiwan	UK
<b>Legislation</b>	National Consumer Credit Protection Act	N/A	Moneylenders Act	Banking Act Civil Code	Financial Services and Markets Act
<b>Rules/Guidance</b>	National Credit Code National Consumer Credit Protection Regulations	Guiding Opinions of China Banking Regulatory Commission and the People's Bank of China on the Pilot Operation of Small-sum Loan Companies  Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Private Lending Cases  Notice of the Supreme People's Court on Issuing the Several Opinions on Further Strengthening Financial Trials	Moneylenders Rules	Regulations Governing Institutions Engaging in Credit Card Business  Regulations Governing the Cash Card Business of Financial Institutions	Consumer Credit Sourcebook
<b>Regulatory body</b>	Australian Securities and Investments Commission	Provincial government authorities	Registry of Moneylenders	Financial Supervisory Commission	Financial Conduct Authority
<b>Licensing body</b>	Australian Securities and Investments Commission	Provincial government authorities	Registrar of Moneylenders	Financial Supervisory Commission	Financial Conduct Authority
<b>Fit and proper person requirement</b>	Yes	Yes	Yes	-	Yes



## Overview of Regulatory Framework for Money Lenders in selected jurisdictions (cont'd)

Jurisdiction	Australia	Mainland China	Singapore	Taiwan	UK
Capital requirement	Need adequate financial resources	RMB5 mil for limited liability company RMB10 mil for company limited by shares	Minimum paid up capital of SG\$100,000	Need adequate financial resources	Need adequate financial resources
Responsible lending requirement/Credit assessment	Yes	Not provided under the Guiding Opinions	Yes	Yes	Yes
Credit reference agency	No designated agencies	Credit Reference Center under the People's Bank of China	Moneylenders Credit Bureau	Joint Credit Information Center	Independent credit reference agencies authorised by FCA
Pre-contractual disclosure requirements	Yes	Yes	Yes	-	Yes
Interest cap	48% per annum	36% per annum	4% per month	20% per annum	Nil *
Advertising restrictions	Yes	Not provided under the Guiding Opinions	Yes	Yes	Yes
Enforcement	Criminal and disciplinary	To be handled by the relevant department of the provincial government.	Criminal and disciplinary	Criminal and administrative	Criminal and disciplinary

Remark:

The information provided in this Table is for reference purpose only. Whilst the Council endeavours to ensure the accuracy of the information hereof, no express or implied warranty is given by the Council as to the accuracy of the information.

\* UK - Except for high-cost short-term credit which has an initial daily cost cap at 0.8%.



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# REGULATORY PROBLEMS





# Gaps in Existing Regulatory Framework

## 1. Lack of a sector specific regulator

- No sector specific regulator to identify systemic risks and problems, provide regulatory guidance, timely intervention and prevention of problems
- Police takes actions after receiving complaints, too late to rectify as harm has already been done
- Other jurisdictions:
  - Regulators are in place to supervise the industry and have an enforcement role
  - They are also empowered to make binding rules from time to time when they see fit



## Gaps in Existing Regulatory Framework (cont'd)

### 2. Inadequate vetting on licence applications

- Low threshold and inadequate vetting (e.g., on-going and concluded investigations) leads to inconsistent quality of the money lenders
- Fit and proper person criteria. No specification of minimum requirements e.g., work experience and education level
- No prior approval required for subsequent changes in directors/management
- No adequate financial resources requirement in the existing MLO
- Inadequate due diligence give rise to “phoenixing”
- Other jurisdictions:
  - Clear and detailed guidelines on the fit and proper criteria and adequate financial resources requirement with some specifying a fixed amount

### 3. Inadequate regulation on the conduct of money lenders

- Neither Police nor Registrar have power to make binding rules to regulate the industry
- Debt collectors are under-regulated
- Other jurisdictions:
  - Regulators require money lenders to comply with a wide range of obligations, e.g., pre-contractual disclosure, credit assessment, responsible lending, consumer credit data sharing, advertising restrictions, regulatory reporting and observe good sales practices



## Gaps in Existing Regulatory Framework (cont'd)

### 4. Lack of prudent credit assessment

- Lack of prudent credit assessment of borrower's repayment ability led to consumers' over-indebtedness
- LMLA's Code of Practice has similar requirement but of voluntary nature. Compliance rate is unknown
- Other jurisdictions:
  - Prudent credit assessments of borrowers' repayment ability are mandatory in most of the jurisdictions and so are responsible lending conduct obligations
  - Consumer credit data is shared with authorised agencies which help money lenders make loan decisions

### 5. Abuse of referee's personal data

- Amended licensing conditions only require money lenders to obtain consent from referees that they agree to become a referee
- Referees' personal data can be easily abused since their consent to the use of their personal data for marketing and other purposes is not required



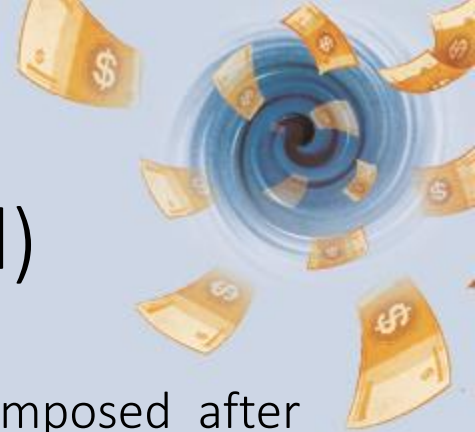
## Gaps in Existing Regulatory Framework (cont'd)

### 6. High Interest cap

- Under MLO, 2-tier structure
  - Interest rate over 60% - illegal and prohibited
  - Interest rate between 48% and 60% presumed to be extortionate allowing the loan transaction to be reopened, this fuels uncertainty
- Other jurisdictions:
  - Given current market rate, interest cap is generally lower than HK

### 7. Excessive and misleading advertising

- Minimal restrictions on MLO, except that a requirement for a risk warning statement together with the money lenders' name and licence number to be displayed in the advertisements. No mention of accuracy of advert content
- Other jurisdictions:
  - Detailed guidance on the content of advertisement stipulating that there should not be any misleading representations which create unjustified expectations
  - Requirement that advertisements should not be disproportionately light-hearted or to trivialise seriousness of taking out loans
  - Requirement that advertisements have clear and easily understood risk warning statements



## Gaps in Existing Regulatory Framework (cont'd)

### 8. Limited enforcement tools and consumer redress

- Non-compliance of MLO or licensing conditions is an offence, sanctions are only imposed after successful criminal conviction
- Neither the Registrar nor the Police has power to impose sanctions in the absence of a criminal conviction, leading to inadequate protection for consumers
- Other jurisdictions:
  - Non-compliance or breaches of the regulatory requirements will attract civil, administrative, disciplinary actions and criminal prosecutions

### 9. Low market transparency

- In Hong Kong, there is currently a shortage of credit data relating to the industry e.g. total amount of new loans/outstanding loans, arrears, default rate etc.
- Lack of publicly available enforcement statistics
- Other jurisdictions:
  - Consumer credit data is mandatorily collected (Singapore, Taiwan and UK) for use by money lender for credit assessment and by relevant authorities for policy review
  - Enforcement statistics are published in reports or regular updates by the relevant authorities and available to the public

# Conclusion of the Study

- The existing regulatory framework governing money lenders in Hong Kong is obviously outdated and falls short of international standards of other jurisdictions.
- Money lending market in Hong Kong is highly active and sizeable, thus deserves to have independent and dedicated regulatory oversight to create a transparent and fair marketplace for borrowers.
- Over-indebtedness of consumers can be minimised with consumer education and easy access to help and advice for those in financial difficulties.





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# RECOMMENDATIONS

# Proposed Recommendations

## (1) Strengthen Consumer Education and the Provision of Advisory Services

The Government should take a lead role to coordinate with the NGOs and the trade to formulate effective strategies and roll out a platform to deliver timely and handy consumer education, information and advice on debt management, as well as help consumers explore alternatives.

For Education, consumers need:

- Easy access to information and the ability to understand that information.
- Financial management guidance and assistance especially at those points when they are most vulnerable to over-indebtedness (such as losing a job or facing long-term illness).



For Advisory Services, they should include:

- General information and budgeting advice, support in managing and repaying debts, and specialised legal advice.
- Loan searching facilities and explore alternatives for credit provision.



# Proposed Recommendations (cont'd)

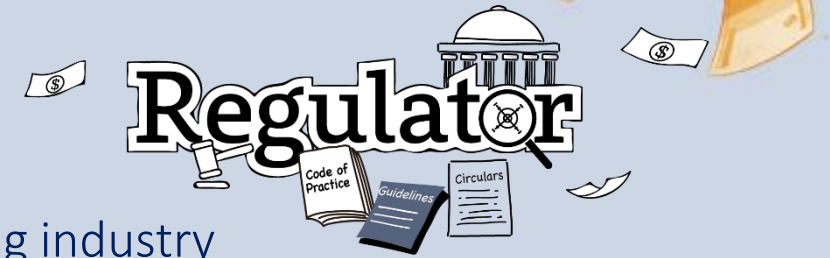
## (2) Amend Existing Legislation

a) **Establish a Sector Specific Regulator** to oversee the money lending industry

- To consolidate the regulatory function of the three separate bodies governing money lenders into a industry-specific regulator.

b) **Impose a duty of carrying out Prudent Credit Assessment**

- To ensure responsible lending, money lenders be obliged to conduct prudent credit assessments before loan granted. Once duty in place, issuance of guidelines by the regulator on how various obligations should be discharged.





# Proposed Recommendations (cont'd)

## c) Adjust the Interest Cap to a maximum of 48%



- A 2 tiered interest cap has remained at 60% and 48% since 1980. A universal cap is adopted in other jurisdictions with no differentiation between secured and unsecured loans.
- Maximum rate of 48% seems more appropriate.

## d) Additional requirements on Advertising Practices

- To prohibit misleading content in advertisements.
- Should not imply that credit is available regardless of the borrower's financial status or trivialise the seriousness of taking out a loan; nor should it be disproportionately light-hearted.
- Should have mandatory guidelines in place requiring a clear and easy to understand warning statement to be displayed throughout the entire advertisement irrespective of the duration, together with a clear read out for at least 3 seconds.
- A common approach be adopted in calculating and presenting the interest rates to enable easy comparison. It is suggested that APR calculation may be used across the board.



# Proposed Recommendations (cont'd)

## (3) Recommendations for the **New Sector Specific Regulator**

### a) Strengthen vetting process of licence applications and to raise the bar for entry requirements and introduce a fit and proper criteria

- Set guidelines for threshold requirements e.g. requisite professional standards and integrity requirements for applicants, such as work experience and education level.
- Capital requirement.
- Extending background checks to include ongoing or concluded investigations/judgments.
- Approval requirements for subsequent changes in directors and management.



### b) Lay down regulations/guidelines for prudent credit assessment

- To enable money lenders to carry out this exercise more easily, regulator to consider putting in place requirement for mandatory collection of consumer credit data and for the data to be placed into a central data repository to be shared amongst relevant stakeholders.



## Proposed Recommendations (cont'd)

### c) Introduce best practices and eliminate unscrupulous trade practices through use of strengthened licensing conditions and regulations

- To incorporate the current voluntary COP of LMLA into licensing conditions to promote best practices, e.g. information disclosure requirements.
- To introduce regulations to address unscrupulous practices e.g. unchecked use of debt collectors and abusive use of personal data of referees for marketing or other purposes.
- Mandatory to inform and disclose to the borrowers the possibility of sub-mortgage of their properties as security before entering into loan agreements.

### d) Enhance enforcement and handle complaints

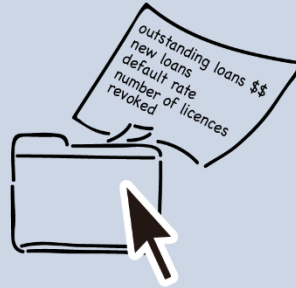
- To empower the Regulator with additional enforcement tools such as public reprimand, enforcement notices, pecuniary penalty, ban from engaging in money lending business, remediation order, disciplinary actions etc.
- The Regulator should also set up a department to handle complaints.





## Proposed Recommendations (cont'd)

### (4) Improving market transparency



- a) The Regulator to collect loan profiles from money lenders on a systematic and regular basis, such as total amount of new loans, outstanding loans, average tenor, general demographics of borrowers, arrears and default rate.
  
- b) Enforcement statistics to be published on a regular basis to enhance regulatory transparency, such as number of objections made, number of licences revoked/suspended, number of inspections made, reasons for objection/suspension/revocation, number of warnings/advisory letters issued, number of complaints received, etc.



## Concluding Remarks

- There is no moralising on the rights and wrongs of borrowing and it is acknowledged that money lenders have a legitimate role and function in the society.
- The Council advocates the importance of striking a balance to maintain reasonable access to credit from money lenders and enhancing consumer protection.
- The introduction of a sector specific regulator would lead to better governance of the industry, ensuring fairness between money lenders and borrowers, as well as enhanced consumer protection.
- To develop a culture of healthy and responsible borrowing for Hong Kong, consumer education on financial management and prudent access to credit should be strengthened.



Thank You!