



公 司 註 冊 處
COMPANIES REGISTRY

**Guidelines on
Licensing Conditions
of Money Lenders Licence**

August 2019

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Introduction

Under the Money Lenders Ordinance (Cap. 163) (“MLO”), no person shall carry on business as a money lender without a licence granted under section 11 of the MLO. A licence shall be subject to such conditions as the licensing court may impose.

In recent years, there have been increasing public concerns that deceptive tactics are being used by fraudsters who claim themselves to be financial intermediaries for money lending to induce intending borrowers to engage them for arranging loans with money lenders and charge very high fees under different pretexts in the process.

To combat the problem, ten additional licensing conditions have been imposed on money lenders since 1 December 2016. The additional licensing conditions seek to facilitate effective enforcement of the statutory ban on separate fee charging by money lenders and their connected parties, ensure better protection of the personal privacy of intending borrowers, enhance transparency and disclosure, and promote the importance of prudent borrowing.

Further, to better regulate the money lending business and to protect the interests of loan referees and to ensure compliance with the Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Licensed Money Lenders, the Registrar of Money Lenders has imposed two more licensing condition on all money lenders’ licences on the grant or renewal of a licence since 11 October 2018.

This set of Guidelines aims to provide guidance to money lenders who hold a licence granted under the MLO to carry on business as a money lender in Hong Kong (the “licensees”) on the requirements of the licensing conditions. It should be read in conjunction with the Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Licensed Money Lenders, which provides guidance to licensees on the implementation of effective measures to mitigate the risks of money laundering and terrorist financing.

The Guidelines are without prejudice to the requirements of the MLO and licensees should continue to comply with all the provisions of the MLO and all other laws in Hong Kong as are applicable to them.

In cases of doubts, licensees are advised to seek independent legal advice as they see fit.

Registrar of Money Lenders
August 2019

Licensing Conditions 1, 2, 3, 4, 5 and 13¹

Condition 1

Before entering into any agreement for loan, the money lender

- (a) shall ask the intending borrower to state whether or not he has entered into or signed any agreement (“the third party agreement”) with any person (“third party”) for or in relation to the procuring, negotiation, obtaining or application of the loan, guaranteeing or securing the repayment of the loan (other than an agreement with solicitors instructed by the intending borrower for the provision of legal services solely);
- (b) shall state in writing the intending borrower’s reply in relation to Condition 1(a) above in the loan agreement; and
- (c) if the intending borrower’s reply in relation to Condition 1(a) above is in the affirmative, shall further
 - (i) obtain from the intending borrower the name and address of the third party;
 - (ii) state in writing in the loan agreement the name and address of the third party and whether the money lender is in any way related to the third party and the nature of such relationship;
 - (iii) ask the intending borrower to personally provide a copy of the third party agreement; and
 - (iv) attach the third party agreement to the loan agreement.

Condition 2

The money lender shall not grant or agree to grant any loan to any intending borrower if the intending borrower’s reply in relation to Condition 1(a) above is in the affirmative, unless the third party as identified in Condition 1(c) above:

- (a) is a person appointed by the money lender (“appointed third party”) for or in relation to granting a loan to any intending borrower or any specified class of intending borrower, whether as to the procuring, negotiation, obtaining, application, guaranteeing or securing the repayment of such a loan; and

¹ References in the licensing conditions and this Guideline to the masculine gender include the feminine gender.

(b) has, specifically in respect of the loan, confirmed in writing to the money lender that

(i) he has not charged, recovered, demanded or received and will not charge, recover, demand or receive any fees, charges, reward or consideration, however named, from such intending borrower for or relating to the procuring, negotiation, obtaining or application of the loan or guaranteeing or securing the repayment of the loan; and

(ii) he has not otherwise agreed with the intending borrower that the intending borrower pay or would pay any fees, charges, reward or consideration, however named, to any other party whether for the purchase of any goods or services or not.

Condition 3

For the purposes of Condition 2,

(a) the money lender shall provide in writing to the satisfaction of the Commissioner of Police and the Registrar of Money Lenders the name, address and identification number (including identification card/passport, business registration and company number as applicable) of any appointed third party; and

(b) the third party as identified in Condition 1(c) above is not considered as an appointed third party until after the name and address of the appointed third party appear on the Register kept by the Registrar of Money Lenders.

Condition 4

- (a) The money lender shall not knowingly allow or permit any person, whether the money lender, or his partner, employer, employee, principal or agent or any person acting for him or any appointed third party, to charge, recover, demand or receive any fees, charges, reward or consideration, however named, from any borrower or intending borrower for or relating to the procuring, negotiation, obtaining or application of a loan or guaranteeing or securing the repayment of a loan.
- (b) The prohibition in Condition 4(a) above also covers any fees, charges, reward or consideration, however named, to be paid by the borrower or intending borrower to the appointed third party or any other person as agreed between the borrower/intending borrower and the appointed third party, whether for the purchase of any goods or services or not.

Condition 5

Before entering into any agreement for loan, the money lender must give explanation to the intending borrower of all the terms of the agreement, in particular the terms in relation to repayment, namely,

- (a) the interest rate expressed as a rate per cent per annum and the total amount of interest payable under the agreement;
- (b) amounts of repayments, periodically and in total, under the agreement;
- (c) the possible consequences for any default in repayment, including –
 - (i) the taking into possession and sale of any security involved (including the property charged, if any); and
 - (ii) any overriding right of the money lender to demand an immediate repayment.

The money lender must also keep written or video or audio records which show that he complies with the requirements under this condition.

Condition 13

Where any referee is provided in respect of the loan application, the money lender shall, before entering into any agreement for loan,

- (i) ask the intending borrower to provide the written consent signed by the referee(s) confirming his/her agreement to act as referee for the intending borrower in respect of the loan application (“the written consent”); and
- (ii) attach the written consent to the loan agreement.

For the purposes of this Condition, a referee is a person who provides, on a voluntary basis and upon request by the money lender, information about the intending borrower in respect of the loan application.

1. Conditions 1, 2, 3, 4, 5 and 13 set out the obligations of licensees to undertake due diligence checks before entering into a loan agreement with an intending borrower.

Ascertaining the existence of third parties for or in relation to the loan

2. Before entering into any loan agreement, a licensee should ascertain from an intending borrower as to the existence of any third party involved in a loan transaction.
3. The licensee should ask the intending borrower whether he has entered into or signed any agreement, (“third party agreement”) with any third party (“third party”) for or in relation to the procuring, negotiation, obtaining or application of the loan, guaranteeing or securing the repayment of the loan.
4. The licensee should explain to the intending borrower that whether one will be regarded as a third party will depend on whether the intending borrower has entered into or signed any agreement with this party for or in relation to the procuring, negotiation, obtaining or application of the loan, guaranteeing or securing the repayment of the loan. To help the intending borrower understand the question, the licensee may specifically enquire if there is any of the following persons involved in any way in connection with the loan transaction:

- (a) a person who claims to provide professional (e.g. accounting or legal) or financial assessment services (e.g. stress test, debt restructuring, property valuation or improving credit records, etc.) for facilitating the intending borrower to arrange the loan;
- (b) a person who claims to be a representative of a bank or a money lender who can arrange a loan for the intending borrower;
- (c) a person who requests the intending borrower to deposit a portion of the loan that would be obtained from the licensee with him for custody (whether as proof of the intending borrower's cash flow allegedly to help improve the latter's credit record for increasing the chance of arranging a low-interest loan later or otherwise); or
- (d) a person who requests the intending borrower to pay a portion of the loan that would be obtained from the licensee to him or any other party under different pretexts allegedly for the purchase of goods or services, e.g. purchasing an "investment fund", or otherwise.

The above list is not exhaustive, and licensees are encouraged to seek other necessary clarification from the borrower as appropriate.

5. The licensee should explain to the intending borrower that the disclosure of the existence of any third party is to protect the intending borrower's interests, as this is one of the measures to help ensure that the intending borrower would not be subject to separate fee charging by any third party.
6. Licensees must not do any act to dissuade or deter an intending borrower from disclosing the existence of a third party involved in the loan transaction.

Illustrative examples for reference

Case 1 – car dealers

If a car dealer introduces and refers vehicle loans provided by a licensee to an intending borrower and has entered into or signed an agreement for the purpose with the latter, he will be considered a third party even if the car dealer only receives a commission from the licensee and does not charge the intending borrower any fee. The licensee will have an obligation to register this car dealer with the Registrar of Money Lenders. On the other hand, if the car dealer does not enter into any separate agreement with the intending borrower for or in relation to the loan, he will not be considered as a third party under the Licensing Conditions.

Case 2 – friends and relatives

If the intending borrower is referred to the licensee by his friend or relative where the borrower has entered into any agreement with his friend or relative for or in relation to the procuring, negotiation, obtaining or application of the loan or guaranteeing or securing the repayment of the loan, such agreement should be regarded as a third party agreement and his friend or relative will be regarded as a third party under the Conditions.

Case 3 – authorised sales agents of licensees

A licensee may have employed sales agents for soliciting business for them. If the sales agent does not enter into or sign any separate agreement between himself and the intending borrower for or in relation to the procuring, negotiation, obtaining or application of the loan or guaranteeing or securing the repayment of the loan with the licensee concerned, that sales agent is not to be considered as a third party.

Case 4 – multiple referrals

In some cases, more than one third parties may be involved (e.g. an intending borrower engages Person A in applying for a loan. Person A then refers the case to Person B. Person B eventually refers the borrower's application to the licensee.). As long as any party has entered into an agreement with the intending borrower for or in relation to the procuring, negotiation, obtaining or application of the loan or guaranteeing or securing the repayment of the loan, he will be regarded as a third party. For instance, if only Person A enters into an agreement with the intending borrower while Person B has never entered into any agreement with the intending borrower, only Person A will be considered as a third party.

7. An agreement between the intending borrower and a solicitor in connection with the loan agreement is not regarded as a third party agreement if the solicitor is instructed by the intending borrower to solely provide legal services (e.g. vetting of the loan documentation). But if the solicitor also provides an intermediary service in relation to the granting of the loan, he is a third party and licensees must follow the required steps as stated in paragraphs 10 - 23 below. The licensee should explain this clearly to the intending borrower.
8. The intending borrower's response to the above question should be stated in writing and form part of the loan agreement. For easy reference, a sample form on the disclosure of the existence of any third party in relation to the loan can be found at **Annex 1**.

Where no third parties are involved

9. Where the intending borrower confirms that he has not entered into or signed any relevant agreement with any third parties, the licensee should state this in writing in the loan agreement. If a licensee has done any act to dissuade or deter an intending borrower from disclosing the existence of a third party, the licensee may be regarded as having breached Condition 1.

Third parties disclosed by intending borrowers

10. If the intending borrower confirms that he has entered into or signed an agreement with a third party for or in relation to the loan, the licensee should ask the intending borrower to personally provide a copy of the third party agreement.

Explanatory note

This is to ensure that the licensee can take appropriate steps to ascertain that the third party involved is his appointed third party who is registered with the Registrar of Money Lenders and that the third party agreement does not contain any clause that breaches the requirement on no separate fee charging.

11. The licensee should explain to the intending borrower that such third party agreement should be personally provided by the latter (and must not be through the appointed third party or any person connected with the third party), and that this is to ensure that the intending borrower is in full picture of what he has agreed with the third party.
12. The licensee should withhold from entering into a loan agreement with the intending borrower if the intending borrower fails to **personally** provide a copy of the third party agreement to the licensee so that he is unable to attach a copy of the third party agreement to the loan agreement.

13. A licensee should carefully check the name and address of the third party shown on the third party agreement provided by the intending borrower against the list of appointed third parties maintained by the Registrar of Money Lenders (“the Registrar”) [see paragraphs 24 to 31].
14. If the third party as shown on the third party agreement is not an appointed third party of the licensee whose appointment has been registered by the Registrar and appears in the Register kept by the Registrar, the licensee shall not enter into any loan agreement with the intending borrower.
15. Where the third party involved is an appointed third party of the licensee, the licensee should state in writing in the loan agreement:
 - (a) the name and address of the third party;
 - (b) whether the licensee is in any way related to the third party; and
 - (c) the nature of relationship between the licensee and the third party. (e.g. appointed third parties and, where applicable, parent company, subsidiary, fellow subsidiary etc.).

A sample form on recording the particulars of appointed third party involved in a loan agreement can be found at **Annex 2**.

16. The third party agreement obtained should then be attached to the loan agreement. In this regard, licensees should ensure that their appointed third parties are aware of this requirement and adopt proper practice in their course of dealings with intending borrowers so that there will not be any difficulty for intending borrowers to obtain and provide to the licensees a copy of the third party agreement.

Prohibition of fee charging by licensee’s staff, agents and appointed third parties etc.

17. A licensee should not allow or permit any person, whether the licensee, his staff, agents, appointed third parties and other persons acting for the licensee to charge, recover, demand or receive any fees, charges, reward or consideration, however named, from any borrower or intending borrower for or in relation to the procuring, negotiation, obtaining or application of a loan or guaranteeing or securing the repayment of a loan.

18. Nor should a licensee allow or permit any appointed third party to, for or in relation to the loan, enter into or sign an agreement with the borrower or intending borrower under which the borrower or intending borrower shall pay any fees, charges, reward or consideration to any party, whether for the purchase of goods or services or not.
19. A licensee should not simply adopt a passive stance without taking appropriate steps to ascertain compliance with the licensing conditions and the MLO by his appointed third parties. In particular, he should check and ensure that there is no fee charging provision in the third party agreement provided by the intending borrower. He should also ensure that his appointed third parties are aware of and comply with the prohibition on charging prospective borrowers any fees under the licensing conditions and the MLO.
20. A licensee should not enter into the loan agreement with the borrower if the third party agreement contains any term/provision which shows that the third party has charged or intends to charge the borrower any fee (under whatever pretexts and however the fee is named), whether it is for the purchase of goods or services from the third party or another party. If a licensee is aware that an intending borrower has been charged any fees by his appointed third party, he should liaise with the appointed third party concerned for rectifying the problem and such third party agreement should be rescinded. If the appointed third party refuses, the licensee should terminate the appointment and bring the matter to the attention of Police and report the termination of appointment to the Registrar.

Illustrative example for reference

If the borrower is required by the third party to make a payment to another party after the loan has been granted, say, for the purchase of an investment fund unit, a licensee should not enter into a loan agreement with the borrower, and review whether the third party should continue to be appointed by him.

21. For each proposed loan transaction, a licensee should, before entering into the relevant loan agreement, obtain a written confirmation from the appointed third party involved that the appointed third party:

- (a) has not charged, recovered, demanded or received and will not charge, recover, demand or receive any fees, charges, reward or consideration, however named, from the intending borrower for or in relation to the procuring, negotiation, obtaining or application of the loan or guaranteeing or securing the repayment of the loan; and
 - (b) has not otherwise agreed with the intending borrower that the intending borrower pay or would pay any fees, charges, rewards or consideration, however named, to any other party whether for the purchase of any goods or services or not.
22. In addition to the requirement under paragraph 21 above, a licensee should check and ensure there is no fee charging provision in the third party agreement.
23. For ready reference, a sample form on the written confirmation to be provided by the appointed third party can be found at **Annex 3**.

Reporting of appointed third parties

24. Licensees should keep an updated list of all their appointed third parties.
25. The Registrar has provided the following forms for use by licensees to report about their appointed third parties:
- (a) Notice of Particulars of Third Party Appointed by Licensed Money Lenders in relation to Granting of Loans (Form ML-ATP-1);
 - (b) Notice of Changes in Particulars of Appointed Third Party of Licensed Money Lenders (Form ML-ATP-2);
 - (c) Notice of Termination of Appointment of Appointed Third Party of Licensed Money Lenders (Form ML-ATP-3)

Samples of these forms can be found at **Annex 4**.

26. All forms should be properly completed and signed by the licensees.
27. For the purpose of reporting, a licensee should provide the name, address and identification number of any person appointed by him for or in relation to the granting of loans.

28. For an appointed third party who is an individual, a copy of his Hong Kong Identity Card or Passport (in the absence of a Hong Kong Identity Card) should be provided together with the relevant form.
29. Particulars of appointed third party reported to the Registrar will generally be registered in two working days after receipt of the relevant form. Completed forms should therefore be delivered to the Registrar for registration as early as possible. A licensee should not grant a loan to an intending borrower if the loan involves an appointed third party whose particulars have not yet appeared on the Register kept by the Registrar.
30. Any subsequent changes in the particulars of an appointed third party should also be reported in writing to the Registrar within 21 days after the change by using Form ML-ATP-2 and the Registrar may in respect of any such change enter such particulars, or alter any particulars entered, in the Register as the Registrar thinks fit.
31. It will be in the licensees' own interest to report any cessation of their appointment of any third party to the Registrar as soon as possible, and in any case the licensee should report to the Registrar within 21 days after the cessation takes place by using Form ML-ATP-3. The Registrar will then update the list of appointed third parties of licensees kept in the Register of Money Lenders.

Written consent of referee

32. Where referee(s) is / are provided in respect of a loan application, the licensee should, before entering into any loan agreement, ask the intending borrower to provide a written consent of the referee. The written consent should be attached to the loan agreement and form part of the loan agreement.
33. For easy reference, a sample form on the written consent given by referee for a loan application can be found at **Annex 5**.

Pre-contractual explanation to intending borrowers

34. Before entering into any loan agreement, the licensee should clearly explain to the intending borrower all the terms and conditions of the loan agreement, in particular the terms of repayment, including:
- (a) the interest rate expressed as a rate per cent per annum;
 - (b) the maximum amount of interest payable under the agreement;
 - (c) the amounts of repayments periodically under the agreement;
 - (d) the amount of repayment in total (sum of the principal and maximum amount of interest payable) under the agreement;
 - (e) all the possible consequences for any default in repayment, in particular the licensee's taking into possession and sale of any security involved (including the property charged, if any); and
 - (f) the overriding right (if any) of the licensee to demand an immediate repayment.

Explanatory note

This is to ensure that the intending borrower understands the terms and conditions of the loan agreement so that he is able to make a conscious decision whether to sign the loan agreement.

35. Even where the intending borrower states that there is no need for an explanation, the licensee should still comply with the requirement to provide an explanation before entering into any loan agreement.
36. Licensees should keep records which show their compliance with the requirement of giving explanation to the intending borrowers of all the terms and conditions of the agreement. The records can be kept in either one of the three formats: written, video or audio form. The records should show in details what have been explained to the intending borrowers. A mere acknowledgement by the intending borrower that the terms of the agreement have been explained to him is not sufficient.

Illustrative example for reference

If a licensee chooses to keep written records to show compliance with the requirement of explaining to an intending borrower, he should not ask the intending borrower to sign an acknowledgement simply declaring that the terms of the agreement have been explained to him.

The licensee may prepare a document with notes of the explanations given to the intending borrower with the date, time, and venue when the explanation takes place duly recorded, and a copy of the document signed by the licensee and the intending borrower should be given to the latter for retention and reference.

A sample form on the written record of explanation of terms of loan agreement given to intending borrower can be found at **Annex 6**.

Licensing Condition 6

Condition 6

The money lender shall not obtain or collect personal data of any person from another person or use such personal data obtained or collected from another person for the purpose of or in relation to the money lender's business (a) without the written confirmation from that other person that the disclosure/provision of such personal data by that other person for such use of the money lender is not in contravention of the provisions of the Personal Data (Privacy) Ordinance, Cap. 486; or (b) when the money lender has knowledge, or has reasonable grounds to believe, that the disclosure/provision of the personal data by that other person for such use of the money lender is likely to be in contravention of the provisions of the Personal Data (Privacy) Ordinance, Cap. 486. The money lender must also keep records which show that he complies with this requirement and the provisions of the Personal Data (Privacy) Ordinance.

Explanatory note

The above condition requires licensees to take steps to ensure that when collecting or receiving personal data from another person, they will not take part in any unlawful disclosure or use of personal data.

37. For the purpose of the money lending business, if licensees want to obtain or collect the personal data of any person from another party or use such data, they must:

- (a) obtain written confirmation from that party that the disclosure / provision of such personal data by that party for such use of the licensee is not in contravention of the provisions of the Personal Data (Privacy) Ordinance (Cap. 486);

AND

- (b) satisfy themselves that there is no reasonable ground to believe that the disclosure / provision of the personal data by that party for such use of the licensee is likely to be in contravention of the provisions of the Personal Data (Privacy) Ordinance.
38. For compliance with Condition 6(b), licensees must not merely rely on the written confirmation provided by that party without going through a proper procedure to satisfy themselves that the disclosure or provision of the personal data is not likely to be in contravention of the provisions of the Personal Data (Privacy) Ordinance. Generally speaking, licensees should, among other things –
- (a) request that party to explain how the personal data are obtained;
 - (b) ascertain whether that party may have access to the personal data in his current or previous employment(s);
 - (c) if so, ask that party to provide appropriate proof showing that the latter has been duly authorised to disclose or provide the personal data to the licensees; and
 - (d) if in doubt, licensees should contact the relevant employer(s) of the party to verify.
39. Licensees should be particularly vigilant if the party providing the personal data appear to be employed or has been employed by telecommunication service providers or financial institutions (such as banks, insurance companies and securities brokers).
40. For the purpose of Condition 6(a), licensees may accept a confirmation from the other parties covering the full duration of their service contracts instead of requiring a written confirmation from the other parties each time they collect or receive personal data from them.
41. Licensees must keep record of the written confirmation obtained and any other records which show their compliance with Condition 6 and the provisions of the Personal Data (Privacy) Ordinance. On record-keeping, licensees may refer to paragraphs 66 to 67 under Condition 12 for more practical guidance.

Illustrative example for reference

When a licensee is offered or provided with bulk personal data by a person who is a former employee of a bank, he should take reasonable steps to ascertain that person has the right to access and transfer the personal data concerned, e.g. ask that person for an appropriate proof of authorisation by the bank or consents given by the relevant customers of the bank to the disclosure or use of their personal data by the licensee.

Licensing Condition 7

Condition 7

The money lender shall not accept a subsidized flat provided by the Hong Kong Housing Authority as collateral unless the borrower has produced to the money lender either–

- (a) a written confirmation from the Hong Kong Housing Authority that the necessary premium for removing the restrictions on alienation on the said flat has been fully paid; or
- (b) the written approval of the Director of Housing to mortgage or charge the said flat.

42. Before entering into a loan agreement which involves accepting a subsidized flat as collateral, the licensee must obtain from the borrower either of the following:

- (a) a written confirmation from the Hong Kong Housing Authority that the necessary premium for removing the restrictions on alienation on the relevant flat has been fully paid; or
- (b) the written approval of the Director of Housing to mortgage or charge the relevant flat.

The use or acceptance of a subsidized flat provided by Hong Kong Housing Authority as collateral without first removing the restrictions on alienation on the flat or obtaining the Director of Housing's relevant prior approval would render the licensee and the intending borrower liable to prosecution for an offence under the Housing Ordinance (Cap. 283) and the charge or mortgage concerned shall be void.

Licensing Condition 8

Condition 8

The Chinese version of any advertisement issued or published by the money lender for the purpose of the money lender's business as a money lender must clearly show the Chinese characters “放債人牌照號碼” immediately followed by the number of the money lender's licence.

43. Licensees must ensure that the number of the money lender's licence must be clearly shown in any advertisement issued or published for the purpose of the money lender's business.
44. While section 26(3) of the MLO requires that advertisements issued or published for the purpose of the money lender's business must clearly show the words, “Money Lender's Licence No.” immediately followed by the number of the licence of the money lender, Condition 8 further provides that the Chinese characters “放債人牌照號碼” must be clearly shown in the Chinese version of any such advertisement and be immediately followed by the number of the money lender's licence.

Licensing Condition 9

Condition 9

Any advertisement in relation to the money lending business of a money lender issued or published by the money lender, in his own name or through any other person, whether in textual, audio or visual form, must contain the money lender's telephone hotline for handling complaints and a risk warning statement (in the same language as that of the advertisement or the relevant part thereof) as set out below, both of which must be prominent and easily legible in the written or visual part of the advertisement. The risk warning statement must also be clearly audible in the audio part of the advertisement:

- "忠告：借錢梗要還，咪俾錢中介"
- "Warning: You have to repay your loans. Don't pay any intermediaries."

Content of the advertisement

45. Any advertisement in relation to the money lending business of a licensee issued or published by the licensee, in his own name or through any other person (including but not limited to the licensee's agents and appointed third parties), must contain:

- (a) the licensee's telephone hotline for handling complaints; and
- (b) a risk warning statement :

["忠告：借錢梗要還，咪俾錢中介"]

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

46. In particular, if the licensee asks any other person, e.g. the licensee's agents or appointed third parties, to issue an advertisement about the licensee's money lending business, irrespective of whether or not such advertisement is issued in the name of the licensee, the requirement under Condition 9 will still apply to such advertisement and the licensee should ensure compliance with the Condition.

47. The display or broadcast of the required information as stated in paragraph 45 must be prominent and easily legible in the written or visual part of the advertisement and clearly audible in the audio part of an advertisement (as the case may be).
48. The risk warning statement must be displayed or broadcast in the same language as that of the advertisement itself (or the relevant part thereof). The use of a single language for display or broadcast of warning statement is acceptable for monolingual advertisements.
49. Practical guidance as to how the risk warning statement should be displayed or broadcast in different forms of advertisements so as to meet the requirements is set out in **Annex 7**.
50. For the telephone hotline for handling complaints, it should be displayed (but not necessarily read out) in audio-visual advertisements. However, for audio advertisement with no visual display, such telephone hotline should be audible and clearly read out in a voice-over in the same pace as the other contents of the advertisement.

Licensing Condition 10

Condition 10

- (a) The money lender and his debt collectors shall not try to recover debts, whether directly or indirectly, from anyone unless such person is in law indebted to him.
- (b) The money lender shall take all practicable steps and measures to ensure that personal data collected in the course of his business are protected against unauthorized or accidental access, processing, erasure or other use by any debt collectors, and shall at all times comply with the Personal Data (Privacy) Ordinance, Cap 486, Laws of Hong Kong, in the collection, use, holding and processing of such information or personal data.
- (c) The money lender and his debt collectors shall not, while trying to locate the whereabouts of debtors, harass anyone, adopt unlawful or improper debt collection practices.
- (d) The money lender shall, so far as reasonably practicable, maintain and monitor proper systems and procedures for handling complaints and/or inquiries relating to the loans lent by him in the ordinary course of business and the debt collection activities arising therefrom.
- (e) The money lender shall, so far as reasonably practicable, keep updated and accurate records of the debt collection activities of his debt collectors during the term of the licence.

- 51. Condition 10 sets out the obligation of licensees in connection with debt collection activities.
- 52. Licensees must not try to recover debts from anyone unless such person is in law indebted to him.
- 53. Licensees must take all practicable steps and measures to safeguard personal data collected in the course of business against unauthorised or accidental access, processing, erasure, loss or use by any debt collectors.
- 54. Licensees must not adopt any unlawful or improper debt collection practices. Licensees must also ensure that his debt collectors do not adopt any unlawful or improper practices in their debt collection activities.
- 55. Licensees should keep and maintain updated records of the debt collection activities of their debt collectors.

Licensing Condition 11

Condition 11

The money lender shall provide information relating to his money lending business during the term of the licence as may be required by the Registrar of Money Lenders or the Commissioner of Police and such information shall be provided within such time as the Registrar of Money Lenders or the Commissioner of Police may specify.

56. Licensees must provide information relating to their money lending businesses as required by the Registrar or the Commissioner of Police during the term of the respective licences.
57. Licensees must provide the required information within such time as specified by the Registrar or the Commissioner of Police.

Licensing Condition 12

Condition 12

The money lender must establish and maintain proper systems and procedures to ensure that the money lender, or his partners, employers, employees, principals or agents, any persons acting for him and any appointed third parties shall be informed of and observe the licensing conditions and the provisions of the Money Lenders Ordinance.

58. Licensees should establish and maintain proper systems and procedures to ensure that they themselves, their employees, agents, any persons acting for them and any appointed third parties are informed of and observe the licensing conditions and the provisions of the MLO.

Management and supervision

59. Detailed policies and procedures pertaining to authorisations and approvals, as well as the authority of key positions for the compliance of statutory obligations should be clearly defined and communicated to and followed by staff, agents, appointed third parties and any persons acting for the licensees.
60. Reporting lines should be clearly identified with supervisory and reporting responsibilities assigned to appropriate staff members.
61. Licensees should establish procedures to ensure the proper handling of customers' complaints and that appropriate remedial actions are taken. They should ensure that all their staff, agents, appointed third parties and other persons acting for them who deal with intending borrowers or borrowers are aware of the complaint procedures and are able to provide customers with correct information about the procedures.

Personnel and training

62. Appropriate personnel recruitment and training policies should be established with adequate consideration given to training needs to ensure compliance with the licensee's operational and internal control policies and procedures and all applicable legal and regulatory requirements to which the licensee is subject. In particular:-
- (a) Licensees should ensure that, for compliance with the MLO and the licensing conditions, adequate training suitable for the specific duties which their staff perform is provided to these persons both before they commence their duties and on an ongoing basis. Their staff should be made aware of how the licensing conditions apply to their duties, the licensee's statutory obligations and the possible consequences for failure to comply with the licensing conditions or statutory requirements.
 - (b) Managerial staff should have specific training on their responsibilities for supervising or managing staff, agents, appointed third parties and other persons acting for the licensee and performing random checks in the daily operations of the licensee to ensure compliance with the licensing conditions and relevant statutory provisions.
63. Licensees should also take appropriate steps to ensure that their agents, appointed third parties and other persons acting for them are aware of how the licensing conditions apply to their duties, the licensee's statutory obligations and the possible consequences for failure to comply with the licensing conditions or statutory requirements before they commence their duties.
64. Licensees are encouraged to consider using a mix of training techniques and tools in delivering training, depending on the available resources and learning needs of their staff, agents, appointed third parties and other persons acting for them. These techniques and tools may include on-line learning systems, focused classroom training, videos as well as paper-based or intranet-based procedural manuals.

Review of appointed third parties

65. Licensees should from time to time ascertain the appointed third parties' continuous compliance with the relevant requirements for the purposes of the licensees' continuous compliance with the licensing conditions and the provisions of the MLO, in particular should ensure that the appointed third parties do not charge borrowers or intending borrowers any fees for or in relation to the loans granted by licensees.

Record keeping

66. Licensees should keep adequate and up-to-date documentation regarding the licensees' compliance with licensing conditions and the statutory provisions of the MLO.
67. In particular, licensees should maintain proper records as required under the various licensing conditions including but not limited to:
 - (a) Particulars of their appointed third parties;
 - (b) Appointed third parties' written confirmations on not charging borrowers or intending borrowers any fees for or in relation to loans granted by licensees;
 - (c) Written confirmations from any party from which personal data is obtained or collected that the disclosure / provision of such personal data is not in contravention of the provisions of the Personal Data (Privacy) Ordinance;
 - (d) Records which show the licensees' compliance with the requirement on providing explanations to intending borrowers of the terms of the loan agreements;
 - (e) Written confirmations or approvals by the relevant authorities produced by borrowers for loan agreements involving the acceptance of subsidized flats as collateral;
 - (f) Written consents of referees confirming their agreements to act as referees for the intending borrowers in respect of the loan applications.

Licensing Condition 14

Condition 14

The money lender shall comply with the Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Licensed Money Lenders.

68. Licensees must comply with the Guideline on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for Licensed Money Lenders, which provides practical guidance to licensees and their senior management in devising and implementing policies, procedures and controls in relevant operational areas by reference to the anti-money laundering and counter-terrorist financing requirements under Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615.

Annex 1

Licensing Condition 1(b)
Sample form on disclosure of
the existence of third parties by intending borrower

Disclosure of the existence of third parties by intending borrower

Confirmation from [_____] (intending borrower)

To: (*Name of licensee*)

I / We, (*Name of the intending borrower*), holder of [Hong Kong Identity Card No. _____] / [BR Certificate No. _____] / [Company Number _ _____] * at (*address*) refer to my / our application to you for a loan and hereby confirm that:

(1) I / We

* [have entered into or signed an agreement with a third party]

* [have not entered into or signed any agreement with any third party]
for or in relation to the procuring, negotiation, obtaining or application of the loan, guaranteeing or securing the repayment of the loan (other than any agreement with solicitors instructed by me / us for the provision of legal services solely);

(2) The name and address of the third party are as follows:

Name of third party 1: _____

Address of third party 1 : _____

Name of third party 2: _____

Address of third party 2 : _____

(Please set out particulars of other third parties on a separate sheet signed by the intending borrower bearing the same date if there are more than two third parties)

I / We hereby provide a copy of each of the agreement with the third party or parties and understand that such agreement(s) will be attached to the loan agreement.

IMPORTANT NOTE:

Please note that it is an offence for a person to fraudulently induce a money lender to lend money by false or misleading statement or dishonest concealment of material facts.

You should make full and honest disclosure of the above information on the involvement of any third parties in relation to the loan for the protection of your own interests.

Signature:

Name:

Date:

**Delete where appropriate*

Licensing Condition 1(c)(ii)
Sample form on recording the particulars of
appointed third party involved in a loan agreement

Particulars of appointed third party involved in a loan agreement

I / We (*Name of Money Lender*) confirm that :

Please tick the relevant box

The following third party is involved in the loan agreement

Name of third party : _____

Address of third party : _____

I / We have appointed the above third party.

I am / We are related to the appointed third party

Nature of my / our relationship with the appointed third party :

(Please select at least one item below)

Holding company of the Money Lender

Subsidiary of the Money Lender

Fellow subsidiary (i.e. subsidiary of the holding company of the Money Lender)

Others : (please specify)

Signature : _____

Name : _____

Position : _____

Name of Money Lender : _____

Date : _____

(Please record particulars of each appointed third party on a separate sheet.)

Annex 3

Licensing Condition 2(b)
Sample form on confirmation by
appointed third party on the charging of fees

Confirmation from appointed third party

To: *(Name of licensee)*

I / We *(Name of appointed third party)* refer to the application of *(Name of intending borrower)* (“the intending borrower”) for a loan from you and hereby confirm that:

- (a) I / We have not charged, recovered, demanded or received and will not charge, recover, demand or receive any fees, charges, reward or consideration, however named, from the intending borrower for or relating to the procuring, negotiation, obtaining or application of the loan or guaranteeing or securing the repayment of the loan; and
- (b) I / We have not otherwise agreed with the intending borrower that, for or relating to the loan, the intending borrower pay or would pay any fees, charges, reward or consideration, however named, to any other party whether for the purchase of any goods or services or not.

Signature:

Name:

Date:

Annex 4

Licensing Condition 3 Sample form on reporting by licensees of particulars or changes in particulars of or termination of appointment of appointed third parties of licensees
List of Forms
(1) Form ML – ATP-1 Notice of Particulars of Third Party Appointed by Licensed Money Lenders in relation to Granting of Loans
(2) Form ML – ATP-2 Notice of Changes in Particulars of Appointed Third Party of Licensed Money Lenders
(3) Form ML – ATP-3 Notice of Termination of Appointment of Appointed Third Party of Licensed Money Lenders

持牌放債人為批出貸款而委任的第三方詳情通知書
Notice of Particulars of Third Party Appointed by
Licensed Money Lenders in relation to Granting of Loans

放債人檔案號碼 MLR Number

1 持牌人姓名／名稱 Name of Money Lender Licensee

2 持牌人提供的電話查詢號碼 Licensee's Enquiry Telephone Number

3 持牌人委任的第三方的詳情

Particulars of the third party appointed by the Licensee

姓名／名稱 Name

地址 Address

身分證明 Identification

(A) 適用於個人 For Individual

(香港身分證／護照副本必須連同本表格一併交付 A copy of Hong Kong Identity Card / Passport must be delivered with this Form)

(i) 香港身分證號碼 Hong Kong Identity Card Number

OR

(ii) 護照簽發國家／地區及號碼
Passport Issuing Country/Region and Number

(B) 適用於獨資、合夥或其他非法人團體

For Sole-proprietorship, Partnership and unincorporated body of persons

商業登記證號碼 Business Registration Certificate Number

(C) 適用於法人團體 For Body Corporate

公司編號 Company Number

簽署 Signed :

姓名 Name :

持牌放債人 Money Lender Licensee /
持牌放債人的授權代表 Authorised Person of Licensee*

日期 Date:

日 DD / 月 MM / 年 YYYY

*請刪去不適用者 Delete whichever does not apply

提交人資料 Presentor's Reference

姓名 Name :

電話 Telephone :

傳真 Fax No. :

持牌放債人委任的第三方的詳情更改通知書
Notice of Changes in Particulars of Appointed Third Party
of Licensed Money Lenders

放債人檔案號碼 MLR Number

1 持牌人姓名／名稱 Name of Money Lender Licensee

2 持牌人提供的電話查詢號碼 Licensee's Enquiry Telephone Number

3 持牌人委任的第三方的詳情更改

Changes in Particulars of the Appointed Third Party of the Licensee

A. 現時在放債人登記冊登記的詳情

Particulars Currently Registered in the Register of Money Lenders

姓名／名稱 Name

地址 Address

身分證明 Identification

(a) 適用於個人 For Individual

(i) 香港身分證號碼 Hong Kong Identity Card Number

OR

(ii) 護照簽發國家／地區及號碼

Passport Issuing Country/Region and Number

(b) 適用於獨資、合夥或其他非法人團體

For Sole-proprietorship, Partnership and unincorporated body of persons

商業登記證號碼 Business Registration Certificate Number

(c) 適用於法人團體 For Body Corporate

公司編號 Company Number

B. 更改詳情 Details of Change(s)

只須填報有更改的項目 Please complete item(s) with change(s) only

姓名／名稱 Name

地址 Address

身分證明 Identification

(a) 適用於個人 For Individual

(i) 香港身分證號碼 Hong Kong Identity Card Number

OR

(ii) 護照簽發國家／地區及號碼
Passport Issuing Country/Region and Number

(b) 適用於獨資、合夥或其他非法人團體

For Sole-proprietorship, Partnership and unincorporated body of persons

商業登記證號碼 Business Registration Certificate Number

(c) 適用於法人團體 For Body Corporate

公司編號 Company Number

簽署 Signed :

姓名 Name : _____

日期 Date: _____

持牌放債人 Money Lender Licensee /
持牌放債人的授權代表 Authorised Person of Licensee*

日 DD / 月 MM / 年 YYYY

*請刪去不適用者 Delete whichever does not apply

提交人資料 Presentor's Reference

姓名 Name :

電話 Telephone :

傳真 Fax No. :

持牌放債人委任的第三方的終止委任通知書
Notice of Termination of Appointment of
Appointed Third Party of Licensed Money Lenders

放債人檔案號碼 MLR Number

1 持牌人姓名／名稱 Name of Money Lender Licensee

2 持牌人提供的電話查詢號碼 Licensee's Enquiry Telephone Number

3 現通知放債人註冊處處長，下述人士已於 _____年 _____月 _____日停任上述持牌人為批出貸款而委任的第三方。

I / We * hereby notify the Registrar of Money Lenders that the following person has ceased to be the appointed third party of the abovenamed Money Lender Licensee in relation to the granting of loans with effect from the date of _____.

4 停任持牌人委任的第三方的人士的詳情

Particulars of the person who ceased to be the appointed third party of the Licensee

姓名／名稱 Name

地址 Address

身分證明 Identification

(A) 適用於個人 For Individual

(i) 香港身分證號碼 Hong Kong Identity Card Number

OR

(ii) 護照簽發國家／地區及號碼
Passport Issuing Country/Region and Number

(B) 適用於獨資、合夥或其他非法人團體

For Sole-proprietorship, Partnership and unincorporated body of persons

商業登記證號碼 Business Registration Certificate Number

(C) 適用於法人團體 For Body Corporate

公司編號 Company Number

簽署 Signed :

姓名 Name :

日期 Date:

持牌放債人 Money Lender Licensee /
持牌放債人的授權代表 Authorised Person of
Licensee*

日 DD / 月 MM / 年 YYYY

*請刪去不適用者 Delete whichever does not apply

提交人資料 Presentor's Reference

姓名 Name :

電話 Telephone :

傳真 Fax No. :

Licensing Condition 13
Sample form on written consent by referee for loan application

Written Consent by Referee for Loan Application

To: (*Name of licensed money lender*) ("**money lender**")

(1) Referee's Information

Name	
Address	
Contact Telephone Number	
Relationship with Intending Borrower	

(2) Intending Borrower's Information

Name	
Contact Telephone Number	

(3) Details of the Loan Application

Type of loan	
Loan amount	HKD

1. I, the above-named referee, hereby consent to act as the referee for the above intending borrower in respect of the above loan application.
2. I understand that my role as a referee is confined to providing, on a voluntary basis and upon request by the money lender, information about the intending borrower in respect of the above loan application. I have no legal or moral liabilities in respect of the loan as a referee.

Signature of the Referee: _____

Name: _____

Date: _____

Licensing Condition 5
Sample form for recording explanation of terms
of loan agreement given to intending borrower

Confirmation of explanation of loan agreement by money lender

I confirm that I have explained to the intending borrower at the time and place set out below all the terms of the following loan agreement, in particular the terms in relation to repayment, namely,

- (a) the interest rate expressed as a rate per cent per annum and the total amount of interest payable under the agreement;
- (b) amounts of repayments, periodically and in total, under the agreement;
- (c) the possible consequences for any default in repayment, including –
 - (i) the taking into possession and sale of any security involved (including the property charged, if any); and
 - (ii) any overriding right of the money lender to demand an immediate repayment.

Loan agreement / Contract no. / Reference No.	
Name of Intending Borrower	
Date of explanation	
Time	
Venue	

Signature of staff : _____

Name of staff : _____

Position of staff : _____

Name of Money Lender : _____

Acknowledged by intending borrower

Signature : _____

Name of Intending
Borrower : _____

Date : _____

Annex 7

Licensing Condition 9 Guidance for meeting the requirements on the display / broadcast of risk warning statement for different types of advertisements	
Form of advertisement	Manner of display / broadcast accepted as meeting the requirements
Audio advertisement with no visual display (e.g. Radio broadcast)	<ul style="list-style-type: none"> ● The warning statement should be audibly and clearly read out in a voice-over at the end of each broadcast. ● The warning statement should be read out in the same pace as other contents of the advertisement.
Audio-visual advertisement (including television, cinema or video clips on internet)	<ul style="list-style-type: none"> ● Where the warning statement appears in an independent screenshot, the statement should be displayed visually at the end of the advertisement for at least 3 seconds together with a clear read-out for the same duration. <p style="text-align: center;"><u>OR</u></p> <ul style="list-style-type: none"> ● The warning statement should be shown clearly at the bottom of the screen throughout the entire advertisement with the height of each Chinese character of the statement be at least 1/15 of the screen and / or height of the capital letters of the English statement be at least 1/20 of the screen, together with a clear read-out in the same pace as other contents of the advertisement. ● The warning statement should be displayed in darker colour than the background and there should be clear contrast in colour between the background or backdrop of the advertisement and the warning statement.
Advertisement in print	<ul style="list-style-type: none"> ● The warning statement should be displayed in text in at least 50 per cent of the font size, same font type and colour as the other contents of the

Form of advertisement	Manner of display / broadcast accepted as meeting the requirements
	advertisement that bear the largest font size.
Internet advertisement	<ul style="list-style-type: none"> ● For a website banner which links to another website, it is acceptable for the warning statement to be shown on the landing page instead of in the banner. The warning statement should be displayed in text in at least 50 per cent of the font size, same font type and colour as the other contents that bear the largest font size on the landing page. ● For advertisements with a static screen on the internet, the guidance above for advertisement in print applies. ● For audio-visual advertisement on the internet, the guidance above for the display of warning statement in audio-visual advertisements applies.
SMS advertising message on mobile phones	<ul style="list-style-type: none"> ● The warning statement should be displayed as an independent paragraph in the SMS message. ● Where the SMS message links to another advertising website, it is acceptable for the warning statement to be shown on the landing page instead of in the SMS message. In that case, the warning statement should be displayed in text in at least 50 per cent of the font size, same font type and colour as the other contents that bear the largest font size on the landing page.