



公 司 註 冊 處
COMPANIES REGISTRY
(放 債 人 註 冊 辦 事 處)
(MONEY LENDERS SECTION)

香港金鐘道六十六號
金鐘道政府合署十三樓

QUEENSWAY GOVERNMENT OFFICES
13TH FLOOR, 66 QUEENSWAY
HONG KONG
www.cr.gov.hk

覆函請註明本處檔號：

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In reply please quote this Ref.:

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致所有持牌放債人的信件

先生／女士：

就外籍家庭傭工貸款應特別注意的放債人牌照條件

放債人註冊處處長(下稱「處長」)一直密切留意放債業務的整體監管，以及持牌放債人(下稱「放債人」)就牌照條件的遵規情況。由於注意到近期有關外籍家庭傭工(下稱「外傭」)貸款所引發的問題，包括外傭僱主受到放債人或其委任的收數人士滋擾，處長現提醒放債人必須特別注意以下相關的牌照條件。

根據放債人牌照條件第 9 條，放債人的所有廣告必須公正合理，不含誤導成分，及包含該放債人處理投訴的熱線電話號碼等資訊。廣告不應誇大借錢容易或淡化借貸成本。放債人亦應確保廣告所載的資料及傳遞的信息準確無誤，並且沒有掩飾、遺漏、縮小或混淆任何相關的事實。

根據放債人牌照條件第 15 條，在訂立任何無抵押個人貸款協議或在無抵押個人貸款協議下批出任何大幅增加的貸款額之前，放債人須評估借款人按照貸款協議還款的負擔能力，以及充分考慮負擔能力方面的評估結果。在進行評估時，放債人須根據充足的資料考慮借款人現時的收入及開支，及按照貸款協議還款的能力。

根據放債人牌照條件第 5 條，在訂立任何貸款協議之前，放債人必須向擬借款人解釋協議的全部條款，特別是關於還款的條款，包括貸款利率、利息總額、總共須償還的款額及任何拖欠還款行為的可能後果等。放債人應清晰告


知擬借款人貸款協議的詳情，以便擬借款人能夠審慎地決定究竟應否簽訂貸款協議。

根據放債人牌照條件第13條，在貸款申請時有提供諮詢人的情況下，放債人須在訂立任何貸款協議之前，要求擬借款人提供諮詢人所簽署，確認其接受為擬借款人擔任該貸款申請的諮詢人的同意書，並在貸款協議內夾附該同意書。就此，放債人應審慎處理貸款所涉的諮詢人同意書。就外傭貸款而言，放債人應以積極主動的態度去判定諮詢人的書面同意書是否真正由該諮詢人簽署，也必須注意在任何情況下，諮詢人對償還貸款並無任何法律或道義上的責任。在外傭提出貸款申請時提供了其僱主作為其諮詢人的情況下，放債人如獲告知或知悉貸款諮詢人的書面同意書並非由該諮詢人所簽署，必須立即停止使用該諮詢人的資料。若外傭僱主沒有書面同意成為其外傭的貸款諮詢人，放債人更不應就外傭的貸款事宜聯絡該僱主。

另一方面，根據放債人牌照條件第10條，放債人及其收數人士只可向法律上被視作欠下放債人債項的人士追討債項，不得試圖直接或間接地向其他任何人追討債項。放債人及其收數人士在試圖尋找債務人時，不得騷擾任何人，也不得採取不合法或不當的收數手法。放債人及其收數人士必須依法行事，並在其收數活動中遵從放債人牌照條件第10條。收數人士在收數活動中有否遵從第10條條件所載的有關規定是決定放債人是否經營放債人業務的適當人選的因素之一。放債人必須謹慎及努力行事，以監察其收數人士的收數活動。放債人亦必須採取所有切實可行的步驟和措施，以確保在其業務運作中所收集的個人資料受到保障而免受未獲授權或意外的查閱、處理、刪除或遭任何收數人士使用於其他方面；放債人並須在該等資料或個人資料的收集、使用、保存和處理方面時刻遵守《個人資料(私隱)條例》(第486章)的規定。

根據《放債人條例》(第163章)第29(1)條，放債人若違反牌照條件經營業務，即屬犯罪。一經定罪，最高可被罰款100,000元及監禁兩年。另外，放債人註冊辦事處(下稱「辦事處」)及警方如認為放債人不再是經營放債人業務的適當人選，可向牌照法庭申請將其牌照撤銷。辦事處及警方在處理放債人牌照續期申請時，亦會考慮所有相關因素，包括放債人是否曾被投訴、警告或檢控等，以決定是否就牌照續期申請向牌照法庭提出反對。因此，若有人投訴放債人不當地滋擾外傭的僱主，有關投訴可能會成為處長或警方向牌照法庭申請將其牌照撤銷或反對其續牌的理據。

放債人註冊處處長

(江建民  代行)

2024年6月27日



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27 June 2024

Letter to all licensed money lenders

Dear Sir/Madam,

**Licensing Conditions of Money Lenders Licence Requiring Special Attention
for Loans to Foreign Domestic Helpers**

The Registrar of Money Lenders (“the Registrar”) has been keeping a close watch on the overall regulation of money lending business and the compliance with licensing conditions by licensed money lenders (“money lenders”). Noting the recent problems arising from loans to foreign domestic helpers (“FDHs”), including harassment of employers of FDHs by money lenders or debt collectors appointed by them, the Registrar now reminds money lenders of the need to pay special attention to the following relevant licensing conditions.

According to **Condition 9** of the Money Lenders Licence, all advertisements by a money lender must be **fair and reasonable and not contain misleading information**, and must contain such information as the money lender’s telephone hotline for handling complaints. An advertisement should not overstate the ease of borrowing or understate the costs of borrowing. The money lender should also ensure that the information contained in or the message conveyed by the advertisement is accurate and does not disguise, omit, diminish or obscure any relevant fact.

According to **Condition 15** of the Money Lenders Licence, a money lender shall, before entering into any agreement for unsecured personal loan or before granting any significant increase in the amount of loan under an agreement for unsecured personal loan, **undertake an assessment of the borrower’s ability to make repayments under the loan agreement affordably and have due regard to the outcome of the assessment in respect of affordability**. In carrying out the assessment, the money lender shall, based on sufficient

information, consider the borrower's current income and expenditure, and his ability to make repayments under the loan agreement.

According to **Condition 5** of the Money Lenders Licence, before entering into any loan agreement, 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**, which include the interest rate, total amount of interest, amounts of repayments in total, and possible consequences for any default in repayment. The money lender should clearly inform the intending borrower of the details of the loan agreement so that he can make a conscious decision as to whether he should sign the loan agreement.

According to **Condition 13** of the Money Lenders Licence, where any referee is provided in respect of a loan application, the money lender shall, before entering into any loan agreement, ask the intending borrower to provide the written consent signed by the referee confirming his agreement to act as the referee for the intending borrower in respect of the loan application, and attach the written consent to the loan agreement. In this regard, the money lender should be prudent in handling the written consent of the referee involved in the loan application. For loans to FDHs, a money lender should be proactive in determining whether the written consent of a referee is indeed signed by the referee. The money lender should also note that **in no event shall the referee be legally or morally liable for repayment of the loan**. Where the employer of an FDH has been provided as the referee in a loan application made by the FDH, **if the money lender is informed or aware that the written consent of the referee was not signed by the referee, the money lender shall immediately cease to use the information of the referee. If the employer of the FDH has not given the written consent to act as the FDH's referee, the money lender should not contact the employer for the FDH's loan.**

Besides, according to **Condition 10** of the Money Lenders Licence, a money lender and his debt collectors **shall only recover debts from such person who is in law indebted to him but shall not try to recover debts, whether directly or indirectly, from anyone else. The money lender and his debt collectors shall not, while trying to locate the whereabouts of debtors, harass anyone or adopt unlawful or improper debt collection practices.** The money lender and his debt collectors must act within the law and comply with Condition 10 of the Money Lenders Licence in their debt collection activities. Whether the debt collectors comply with the relevant requirements under Condition 10 in their debt collection activities is a factor for determination of whether the money lender is a fit and proper person to carry on business as a money lender. The money lender must exercise proper care and diligence to monitor the debt collection activities of his debt collectors. The money lender shall also 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 uses by any debt collectors, and shall **at all times comply with the Personal Data (Privacy) Ordinance (Cap. 486)** in the collection, use, holding and processing of such information or personal data.

Under section 29(1) of the Money Lenders Ordinance (Cap. 163), a money lender who carries on business in violation of any condition of his licence commits an offence and

shall be liable on conviction to a maximum fine of \$100,000 and imprisonment for two years. If the Money Lenders Section (“the Section”) and the Police consider that a money lender has ceased to be a fit and proper person to carry on business as a money lender, they may apply to the Licensing Court for revocation of his licence. Also, in handling an application for renewal of a money lenders licence, the Section and the Police will take into account all relevant factors, including whether the money lender has been the subject of any complaint, warning, prosecution, etc., when deciding whether to make an objection to the Licensing Court in respect of the licence renewal application. Hence, if there is any complaint against a money lender for improperly harassing the employer of an FDH, the complaint may serve as a ground for the Registrar or the Police to apply to the Licensing Court for revocation of his licence, or make an objection against his licence renewal application.

Yours faithfully,



(Kenny KONG)
for Registrar of Money Lenders