Ref: B9/32C

17 February 2011

Policy 21 Limited
Room 1101-02, 11/F, Times Tower
928-930 Cheung Sha Wan Road
Kowloon, Hong Kong

Dear Sir/Madam,

**<u>The Sharing of Mortgage Data for Credit Assessment Consultation Document (“Consultation Document”) – Supplementary Submission</u>**

Further to our Mr Arthur Yuen’s letter of 8 February 2011 providing you with the HKMA’s views on the Consultation Document, I am writing to provide you with supplementary information in relation to the positive mortgage data sharing proposal (the industry proposal) to dispel a few misconceptions we noticed in a press report in the Hong Kong Economic Journal dated 9 February 2011 quoting the former Privacy Commissioner, Mr Roderick Woo, on his views in relation to the industry proposal. We feel obliged as the banking regulator in Hong Kong with knowledge of the actual situation during the property downturn from 1997 to 2003 to correct any misconceptions created by his comments.

First, there is a comment saying that mortgage loans, unlike other unsecured consumer credits, are secured by properties and thus credit providers can rely on the security of the mortgage loans to mitigate possible losses in the event of a default. As such, sharing of positive mortgage data is not necessary. This comment fails to recognize that the intended purpose of the industry proposal is for better credit assessment to facilitate prudent lending and more effective credit risk management by credit providers, thereby preventing over-borrowing by consumers and over-lending by credit providers.

This is because although mortgage loans are collateralised, we have to recognize that repossession and subsequent liquidation of the repossessed properties which from the collateral would only be undertaken as a last resort by credit providers as selling such properties in a depressed market would only cause prices to slump further. Indeed, there is concrete evidence from the last financial crisis to show that not only did borrowers suffer but credit providers also suffered losses when borrowers defaulted on mortgage loans that were in negative equity. Furthermore, from a risk management perspective, the HKMA is of the view that it is crucial that credit assessment should not be conducted merely based on the availability of collateral. Rather, regardless of whether a new loan is collateralised, the credit provider when deciding whether to approve a loan application should first and foremost assess the applicant's repayment ability. Given the current low interest rate environment, some property buyers may over-leverage themselves irresponsibly by making excessive mortgage borrowings to finance their property investments or speculative activities. Introducing positive mortgage sharing, which helps facilitate more accurate assessment of borrowers' repayment ability, could help promote responsible borrowing and lending, thereby reducing the risk of over-borrowing by consumers and increase their ability to withstand the pressure of interest rate hikes coupled with a fall in property prices during the next downturn.

Another misconception relates to the risk of improper disclosure of the positive mortgage data given the long tenor of mortgage loans. Our previous study indicated that although the mortgage may be for 20 years the effective tenor of mortgage loans is generally 7 to 8 years because mortgage borrowers normally dispose of their mortgaged properties for one reason or another after 7 to 8 years. The important point is that the data is not held for longer than necessary as provided in Data Protection Principle 2. In addition, we have to emphasize that the necessary safeguards have already been built into the Code of Practice on Consumer Credit Data (Code) which was issued by the Office of the Privacy Commissioner for Personal Data to prevent misuse of consumer credit data. The Code specifies that access to consumer credit data can be made only for legitimate purposes such as assessing credit applications, conducting credit reviews and monitoring borrowers who are in default. Section 2.12 of the Code further provides that a credit provider is prohibited from accessing the consumer credit data of an individual held by a credit reference agency (CRA) for direct marketing purpose. In view of these safeguards already built into the Code, we believe that the Code achieves an appropriate balance between the use of consumer credit data and the privacy of borrowers. Similar safeguards will no doubt be applied to positive mortgage data sharing when the Code is amended. It is also important to note that a credit provider will only be able to access the proposed positive mortgage data in future with the consent of the borrower.

Above all, I wish to reiterate that the industry proposal strikes an appropriate balance between individuals' right to data privacy and the broader public interest. I hope you find the above supplementary information helpful to the public consultation exercise.

Yours faithfully,

Meena Datwani
Executive Director (Banking Conduct)

c.c. The Chairman, Consumer Credit Forum
The Chairman, HKAB
The Chairman, DTCA
FSTB (Attn: Miss Natalie Li)