



HONG KONG MONETARY AUTHORITY  
香港金融管理局

Our ref: B1/15C  
B9/67C

25 October 2010

The Chief Executive  
All Authorized Institutions

Dear Sir/Madam,

**Collection, Use and Transfer of Personal Data in Direct Marketing**

Further to the HKMA circulars of 12 August and 3 September 2010, I am writing to draw to your attention to the Privacy Commissioner for Personal Data's final report on his investigation on the Octopus Rewards Program (the "final report") and new Guidance on the Collection and Use of Personal Data in Direct Marketing (the "guidance note"), both published on 18 October 2010. Copies of the final report and the guidance note are attached for your ease of reference.

Authorized Institutions (AIs) should study the final report and guidance note carefully, and review their practices on the handling of customer's personal data to ensure that they comply with the requirements of the Personal Data (Privacy) Ordinance (PDPO) and all applicable codes of practice and guidances. AIs should pay particular attention to the following areas:

- Collection of personal data for direct marketing of products and services has to be related to the original purpose of data collection;
- Excessive personal data should not be collected;
- Data subjects should be informed that it is voluntary for them to supply additional personal data required for direct marketing purposes;
- Collection of personal data should be made by lawful and fair means, avoiding deceptive or misleading means and "bundled consent";
- Personal Information Collection Statement ("PICS") should be effectively communicated to the data subject, taking into account factors like layout and presentation of PICS (including the font size, spacing, underlining, use of headings, highlights and contrasts), language used etc.;
- "Purpose of use" of personal data and "classes of data transferees" should be defined with a reasonable degree of certainty;
- Recommended good practice for use of personal data collected from public registers for direct marketing;
- Requirements for managing customers' opt-out requests under section 34(1) of the PDPO;
- Control of direct marketing activities carried out by agents, contractors or

- business partners;
- Recommended good practice for the maintenance of an opt-out list;
- Guidance for data users transferring customers' personal data to a third party (for direct marketing of third party's products and services) in return for monetary gains.

In the circulars of 12 August and 3 September 2010, AIs were asked to review all their practices with regard to the handling of customers' personal data in the light of the Privacy Commissioner's interim report on the Octopus case and the Administrative Appeals Board's decision in another case. AIs should now conduct further review in the light of the final report and the guidance note. While the guidance note focuses on direct marketing activities, some of the principles (in particular, the issue of font size) also apply to the collection and use of data for other purposes. AIs should therefore also cover those practices in their review. These reviews should be completed as soon as possible and, in any event, not later than the end of November 2010, and AIs should inform the HKMA that such reviews have been completed and of any steps taken or to be taken to address any issues identified in the reviews and of the timing of implementation of any such steps. If any individual AI foresees any difficulty in complying with this timeframe, it should write to the HKMA to explain those difficulties.

In the circular of 12 August 2010, the HKMA asked AIs to suspend the transfer of personal data to unrelated third parties for marketing purposes. Such suspensions should remain in effect unless AIs have determined, after obtaining legal or other professional advice as necessary, that the resumption of such activities would be in full compliance with the PDPO and all applicable codes of practice and guidance in particular the final report and the guidance note. AIs should inform the HKMA through the normal contact channels of any such activities that are re-commenced following such determination.

Yours faithfully,

Meena Datwani  
Executive Director (Banking Conduct)

Encl.