Hong Kong Corporate Insights

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Hogan Lovells

Contents

Equity Capital Markets

Hong Kong Exchanges and Clearing Limited (HKEx) to launch new Sustainable and Green Exchange (STAGE)

On 18 June 2020 the HKEx announced plans to launch the HKEX Sustainable and Green Exchange (STAGE), a new information platform which will act as a central hub for data and information on sustainable and green finance investments in Asia.

To be launched online as early as later this year, STAGE is initially intended to be home to a repository of information on sustainability, green and social bonds, and environmental, social, and government-related Exchange Traded Products (ETPs) listed on HKEx. Issuers with products that meet international standards or principles, and provide post-issuance reports annually, will be invited to join STAGE without the need to pay any fees and to display their products on the platform. Investors will be able to access the platform for a comprehensive database of sustainable and green investment options that are available on Hong Kong's securities markets.

HKEx aims to further develop STAGE in response to the evolving market landscape, and in the future may consider expanding its coverage to introduce more asset classes and product types. Sustainable and green investment funding in the region has been an area of considerable growth in recent years, with green bond issuances in Asia-Pacific hitting record levels in 2019.

Click here to view the full article.

(HKEx, 18 June 2020)

Government announces mechanism for directors and executives of specified listed companies to apply for exemption from compulsory quarantine arrangement

Pursuant to section 4(1)(b) of the Compulsory Quarantine of Certain Persons Arriving at Hong Kong Regulation (Cap. 599C), directors or executives of certain companies listed on the Stock Exchange of Hong Kong (SEHK) may apply for exemption from the compulsory quarantine arrangement when they arrive in Hong Kong from the mainland.

The scheme covers companies that are listed on the SEHK and included in the Hang Seng Index, Hang Seng China Enterprises Index, or Hang Seng Composite LargeCap, MidCap or SmallCap Index. Directors or executives of these listed companies who (i) travel from the Mainland to Hong Kong for essential business activities or (ii) return from the Mainland to Hong Kong after completing essential business activities, and satisfy certain eligibility criteria may apply for exemption.

Applications will be considered on a task-specific basis. During any calendar month, each of the eligible companies could nominate at most two persons for the exemption. The visit must be for performing duties related to the essential operation of the listed companies, such as attending board meetings, attending business review meetings, executing legal documents, etc.

Each nominated director/executive may (i) travel from the mainland to Hong Kong or (ii) return to Hong Kong from the Mainland one time in each calendar month with the compulsory quarantine waived.

The period of stay should be kept to the minimum. For eligible directors or executives travelling to Hong Kong from the Mainland, the date of arriving in Hong Kong should not be earlier than the day immediately before the relevant date on which the essential business activities are performed. For eligible directors or executives returning to Hong Kong from the Mainland, the date of arriving in Hong Kong should not be later than the day immediately after the completion of the essential business activities.

The exempted executives or directors must only travel to and stay in the Mainland area where the specified duties are performed. They must take precautionary measures and will be subject to medical surveillance arranged by the Department of Health for 14 days.

Click here to view the Financial Services and the Treasury Bureau (FSTB) press release.

(FSTB, 8 June 2020)

HKEx welcomes first listing of commodity Leveraged and Inverse Product (L&I Product) in Hong Kong market

On 5 June 2020 the HKEx announced the first listing of a commodity L&I Product in the Hong Kong market – CSOP Gold Futures Daily (2x) Leveraged Product (stock code: 7299).

The launch of the gold futures leveraged product is meant to complement HKEx's existing gold Exchange Traded Funds (ETFs), further enrich the product diversity of Hong Kong's ETPs market, and provide investors with an additional tool to gain leveraged exposure to gold as an investment asset.

Click here to view the full article.

(HKEx, 5 June 2020)

Financial Services Regulation

Regulatory updates

SFC circular to licensed corporations on revised financial return form

The Securities and Futures Commission (SFC) published a draft revised form of the return required to be submitted by licensed corporations (LCs) under section 56 of the Securities and Futures (Client Securities) Rules (Cap. 571N) (FRR).

In light of the rapidly changing operating environment and increasing business complexity, the financial return form has been revised to collect additional data from LCs to enable the SFC to identify risks in a timely manner, take prompt supervisory actions, and protect investors.

To allow time for transition, the revised form shall only be used for accounting periods starting on or after 1 July 2021. While the revised form may be subject to further non-substantive amendments, LCs are strongly advised to familiarize themselves with it, start gathering the newly required data, and enhance their systems where necessary.

Click here to view the SFC circular.

(SFC, 26 June 2020)

Annual update to the list of Financial Services Providers under the clearing obligation for over-the-counter derivative transactions

The Hong Kong Monetary Authority (HKMA) and the SFC issued joint consultation conclusions on the annual update to the list of Financial Services Providers (FSP List) under the clearing obligation for over-the-counter (OTC) derivative transactions.

In view of market feedback, the HKMA and the SFC will remove an entity that no longer conducts OTC derivatives business from their proposed FSP List.

Click here to view the SFC news.

(SFC & HKMA, 24 June 2020)

Regulation of online crowdfunding activities

Online crowdfunding activities have become increasingly prevalent over the past few years. Depending on the purposes and nature of the crowdfunding activities, they may be under the respective ambit of relevant existing regulations.

For example, where the crowdfunding activity involves an offer to the public to purchase securities, they may be subject to the provisions of the Securities and Futures Ordinance (SFO) (Cap.571) and the Companies (Winding Up and Miscellaneous Provisions) Ordinance (CWUMPO) (Cap. 32).

A document offering shares in or debentures of a company to the public is subject to prospectus registration requirements under the CWUMPO unless an exemption applies. Even where an exemption applies to an offer of investment, such as where the offer is only made to professional investors, crowdfunding platform operators may still be subject to the SFC's licensing requirements if it is an investment-based crowdfunding.

On the other hand, if there is a lending element in the crowdfunding activity, the provisions under the Money Lenders Ordinance (Cap. 163) may apply.

Click here to view the press release of the FSTB.

(FSTB, 17 June 2020)

Passage of the Occupational Retirement Schemes (Amendment) Bill 2019

Occupational Retirement Schemes (ORSO Schemes) are a type of employment-based retirement scheme outside the Mandatory Provident Fund (MPF) system, voluntarily offered by employers to their employees, which is regulated under the Occupational Retirement Schemes Ordinance (Cap. 426) (ORSO).

The Occupational Retirement Schemes (Amendment) Bill 2019 passed by the Legislative Council on 17 June 2020 (the Amendment Bill) enhanced the regulatory power of the Mandatory Provident Fund Schemes Authority (MPFA) and improves governance of ORSO Schemes.

Applicants applying for registered or exempted schemes after the effective date of the new ORSO are required to submit an additional statement to prove that their schemes are genuinely employment-based, namely that the membership of the ORSO Scheme is limited to employees of the relevant employer or former employer in respect of which a transfer has been made to the scheme. As for applications for exemption certificates, the relevant ORSO Schemes must be registered under or approved by relevant regulators outside Hong Kong whose functions are largely the same as those of the MPFA.

The new ORSO has taken effect upon its gazettal on 26 June 2020.

Click here for the MPFA press release.

(MPFA, 17 June 2020)

Insurance Authority extends the validity of temporary facilitative measures to 30 September 2020

In view of the latest developments of the COVID-19 pandemic, the Insurance Authority (IA) announced on 15 June 2020 the extension of temporary facilitative measures for non-face-to-face distribution of specific insurance products for another three months to 30 September 2020. The scope of products covered and the implementation details of the measures remain unchanged.

Click here for the IA circular.

(IA, 15 June 2020)

OTC derivatives licensing regime: SFC concludes consultation on regulatory scope and competence requirements

The SFC released consultation conclusions on proposals to refine the scope of regulated activities and competence requirements under the OTC derivatives licensing regime. More specifically, it proposed narrowing the scope of the expanded Type 9 (asset management) and the new Type 11 (dealing or advising in OTC derivative products) regulated activities, such that they do not capture corporate treasury activities of non-financial groups. The SFC also proposed to carve out provision of post-trade multilateral portfolio compression services from Type 11.

Responses from industry associations, market participants, professional services firms, and other stakeholders were generally positive. The SFC will work with the Government to finalize the necessary legislative changes, such as the precise definition of "financial group," "financial services," "multilateral portfolio compression cycle," etc.

The consultation conclusions also set out the competence and continuous professional training requirements which will apply to those licensed or applying to be licensed under the regime.

Click here for the SFC news.

(SFC, 10 June 2020)

Application for Exemption for Submission of Audited Financial Statements and Auditor's Report

The Professional Insurance Brokers Association (PIBA) reminds its members that pursuant to section 73(1) of the Insurance Ordinance (Cap.41), a licensed insurance broker company must, within six months after the end of each financial year, provide the IA with its audited financial statements, an auditor's report on its financial statements, and an auditor's report stating whether the auditor is of the opinion that the broker company has continued to comply with the Insurance (Financial and Other Requirements for Licensed Insurance Broker Companies) Rules (Cap.41L).

In light of the impact of COVID-19, the IA has allowed broker companies to apply for an exemption from submitting the required documents within the six-month statutory submission deadline. Companies which anticipate the need to obtain such exemption should lodge with the IA their applications in writing together with the supporting documents by 30 June 2020.

Click here for the PIBA circular.

(PIBA, 9 June 2020)

SFC proposes changes to the Code on Real Estate Investment Trusts

On 9 June 2020 the SFC began a two-month consultation on proposals to amend the Code on Real Estate Investment Trusts (REITs) to offer Hong Kong REITs more flexibility in making investments. The public is invited to submit their comments to the SFC on or before 10 August 2020.

The proposed amendments include:

- Allowing REITs to invest in minority-owned properties.
- Allowing REITs to invest in property development projects in excess of the existing limit of 10 percent of gross asset value (GAV) subject to the unitholders' approval.
- Increasing the borrowing limit for REITs from 45 percent to 50 percent of GAV.
- Broadly aligning the requirements for REIT's connected party transactions and notifiable transactions with the requirements for listed companies, in line with existing policy and practices.

The proposed amendments will enable Hong Kong to host more listings, ensure investor protection, and facilitate the long-term growth of the REITs market. The SFC reiterated the importance of ensuring that REITs operate primarily as recurrent rental income generating vehicles.

Click here to view the SFC news.

(SFC, 9 June 2020)

Key observations and good practices in AML/CTF for remote customer onboarding initiatives

On 3 June 2020 the HKMA shared observations and good practices in anti-money laundering and counter-financing of terrorism (AML/CFT) control measures in relation to remote customer onboarding initiatives by Authorized Institutions (AIs), technology firms in the Fintech Supervisory Sandbox (FSS) and Chatroom, as well as virtual banks.

The HKMA has the following high-level regulatory expectations of such remote onboarding initiatives:

- AIs should adequately assess money laundering /terrorist financing (ML/TF) risks associated with a

remote onboarding initiative prior to its launch.
- AIs should apply a risk-based approach in the design and implementation of AML/CFT control measures for remote onboarding initiatives.
- AIs should monitor and manage the ability of the technology adopted to meet AML/CFT requirements on an ongoing basis.
- Ongoing monitoring should take into account vulnerabilities associated with the product and delivery channel.

So far, more than 10 AIs have launched remote onboarding while others are considering or testing similar initiatives. Such an option has become increasingly important in light of COVID-19 and the need for social distancing. The HKMA also welcomes AIs to make use of the FSS to test applications leveraging on the government's "iAM Smart3" to enhance the efficiency of customer due diligence processes and improve customer experience.

Click here to view the HKMA circular.

(HKMA, 3 June 2020)

Practice Notes supplementing Standards and Practices 5.4 and 7.1 of the Code of Conduct for Licensed Insurance Brokers

The IA issued two Practice Notes which supplement Standards and Practices 5.4 and 7.1 of the Code of Conduct for Licensed Insurance Brokers (IA Code of Conduct).

The first Practice Note, which supplements Standard and Practice 5.4 in the IA Code of Conduct, sets out the minimum information that the IA expects a licensed insurance broker company to include in the terms and conditions of its client agreements for linked long-term business. They are namely:

- Full name and address of the client.
- Full name and address of the licensed insurance broker company.
- Description of nature of business and services to be provided by the licensed insurance broker company.
- Remuneration.
- Client servicing representative.
- Notification.
- Amendment to and termination of client agreement.
- Governing law.

The second Practice Notice, which supplements Standard and Practice 7.1 of the IA Code of Conduct, sets out the minimum information that the IA expects a licensed insurance broker company to disclose to a client with respect to remuneration received from an insurer for arranging an insurance policy with the insurer on behalf of the client.

Click here to view the PIBA circular.

(PIBA, 2 June 2020)

Updates on the implementation of eMPF platform and related legislative proposals

The FSTB released an information paper on the implementation of the eMPF platform, providing updates and outlining key features of the related legislative proposals.

The legislative proposals are to prepare for the launch and smooth operation of the eMPF platform. The eMPF platform will be implemented through legislative amendments to the Mandatory Provident Fund Schemes Ordinance (Cap.485) (MPFSO) and related subsidiary legislation, for example, matters of administrative nature will be provided in operating rules and guidelines (rather than legislation, as they currently are). It is expected that as a result of the implementation of the eMPF platform, some manual procedures will be simplified and automated. In addition, the roles, functions, powers, responsibilities, and interface of the Government, the MPFA, the new eMPF platform entity, trustees, and other stakeholders will be clearly delineated.

The government aims to complete building and testing the eMPF platform by 2022 at the earliest, and the gradual onboarding to the eMPF platform by all trustees will happen within the subsequent two to three years.

Click here to view the FSTB press release.

(FSTB, 1 June 2020)

Enforcement news

SFC bans former responsible officer of Guosen Securities (HK) Brokerage Company, Limited for 12 months

The SFC prohibited Ms. Joanna Chu Lai Wa, former responsible officer (RO), director, and head of dealing of Guosen Securities (HK) Brokerage Company, Limited (Guosen) from re-entering the industry for 12 months. The disciplinary action follows the SFC's sanctions against Guosen over its failure to comply with AML/CFT regulatory requirements between November 2014 and December 2015.

The SFC found that Guosen's breaches were attributable to Chu's failure to discharge her duties as an RO and a member of senior management, particularly in:

- Failing to rectify deficiencies in Guosen's internal control in relation to third-party deposits.
- Failing to take action or escalate the matter to senior management upon revealing records which shows that, contrary to Guosen's purported policy, it processed a significant number of third-party deposits for its clients.
- Failing to ensure that Guosen's staff adhered to the procedures for assessing and documenting clients' ML/TF risks when handling account opening.

Click here to view the statement of disciplinary action.

(SFC, 23 June 2020)

SFC reprimands and fines Guotai Junan Securities (Hong Kong) Limited $25.2 million for breaches relating to AML, handling of third-party fund transfers and placing activities, as well as detection of wash trades and late reporting

Third party fund transfers: the SFC found that Guotai Junan Securities (Hong Kong) Limited (Guotai Junan) failed to put in place appropriate safeguards to mitigate the risks of ML and TF in processing third-party deposits or withdrawals for its clients. For example, when taking deposits, it had failed to document the identities of the depositors, their relationships with the account holders, and the reasons for these third-party deposits, contrary to the firm's written policies and procedures.

Placing activities: while acting as the placing agent for the global offering of a Hong Kong listed company's shares, Guotai Junan failed to take reasonable steps to ascertain whether the clients' subscription applications were consistent with its knowledge of their background and source of funds, and to make appropriate enquiries when there were grounds for suspicion.

Detection of wash trades and reporting obligation: Guotai Junan failed to detect 590 potential wash trades in a timely manner between 2014 and 2016 due to lack of adequate written trade monitoring procedures or guidelines and technical failure of its transaction pattern monitoring system.

The SFC came to the view that Guotai Junan's conduct failed to comply with regulatory requirements under the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap.615); the Guidelines for Anti-Money Laundering and Combating the Financing of Terrorism; Management, Supervision, and Internal Control Guidelines for Persons Licensed by or Registered with the Securities and Futures Commission; and the Code of Conduct for Persons Licensed by or Registered with the SFC (SFC Code of Conduct).

Click here to view the statement of disciplinary action.

(SFC, 22 June 2020)

SFC publicly criticizes CICC Financial Trading Limited and China International Capital Corporation Limited for breaches of Takeovers Code

The SFC found that in transactions related to mandatory general offers for the H shares of Dalian Port (PDA) Company Limited and Maanshan Iron & Steel Company Limited in 2019, CICC Financial Trading Limited and China International Capital Corporation Limited failed to make timely disclosure of their dealings, contrary to Rule 22 of the Code on Takeovers and Mergers (Takeovers Code).

The SFC stresses that the disclosure obligations in the Takeovers Code are intentionally onerous to reflect the fact that a high degree of transparency is essential to the efficient functioning of the market in the critical period of an offer or possible offer for a company's shares. Timely and accurate disclosure of information in relation to relevant dealings, including those of advisers, plays a fundamental role in ensuring that takeovers are conducted within an orderly framework and that the integrity of the markets is maintained.

Click here to view the executive statement.

(SFC, 18 June 2020)

SFC publicly censures Fu Kwan for breach of the Takeovers Code

The SFC publicly censured Fu Kwan, the chairman of Macrolink Capital Holdings Limited (Macrolink Capital), for acquiring the company's shares within six months after the close of an offer at prices above the offer price in breach of Rule 31.3 of the Takeovers Code.

On 1 August 2018 Macrolink Group Limited, as the offeror, made an unconditional mandatory general offer in cash for the shares of Macrolink Capital at an offer price of HK$0.6217 per share.

On 8 and 9 November 2018, within the six-month period after the close of the offer, Fu made a series of on-market acquisitions of 3,990,000 shares of Macrolink Capital at prices above the offer price, ranging from HK$0.63 to HK$0.72 per share. Fu is a director of the offeror and therefore a person acting in concert with the offeror.

Click here for the SFC news.

(SFC, 11 June 2020)

SFC reprimands and fines Potomac Capital Limited HK$800,000 for breaching Financial Resources Rules

The SFC reprimanded and fined Potomac Capital Limited (Potomac) HK$800,000 for failures to comply with section 35(a) of the FRR, and for breaching the SFC Code of Conduct.

An SFC investigation found that Potomac overstated its liquid capital in its financial returns from November 2016 to May 2017 by incorrectly including certain fees receivables from two clients accumulated since around April 2013 when the aged fee receivables should not qualify as liquid assets under the FRR.

Click here for the statement of disciplinary action.

(SFC, 8 June 2020)

Jail sentence for false claim for MPF withdrawal

An MPF scheme member was sentenced to seven days' imprisonment, suspended for two years recently after being convicted of breaching the MPFSO by making a false or misleading statement to an MPF trustee.

In 2007 the defendant's claim to an MPF trustee for early withdrawal of MPF on the ground of permanent departure from Hong Kong was approved. In March 2017 he applied to another MPF trustee for early withdrawal of MPF on the same ground. The MPFA was informed by the trustee about the application. Upon investigation, MPFA discovered that the defendant had made a false or misleading statement in the statutory declaration.

Click here to view the MPFA press release.

(MPFA, 5 June 2020)

Court convicts and fines former director and shareholder of Wonderful Wealth Group Limited for unlicensed activities

The Eastern Magistrates' Court convicted Mr. Chong Kin Ting, former director and shareholder of Wonderful Wealth Group Limited (WWGL), of holding out as carrying on a business in a regulated activity without a license from the SFC, contrary to section 114(1)(b) of the SFO. He was fined HK$8,000 and ordered to pay the SFC's investigation costs.

The SFC found that between June and September 2012, he represented to two investors that WWGL operated a business of trading in futures contracts and options and solicited them to invest in a WWGL-operated investment scheme, which guaranteed a monthly rate of return of five percent in three months' time.

Investors are reminded to check the SFC's Public Register of Licensed Persons and Registered Institutions on the SFC website before investing to ensure that the people who provide dealing services in futures contracts and asset management are properly licensed.

Click here to view the SFC news.

(SFC, 4 June 2020)

Data Protection

Privacy Commissioner provides security tips relating to cybersecurity risks during COVID-19

The Privacy Commissioner for Personal Data (PCPD) stated that there has been a rise in cybersecurity crimes during COVID-19 due to the increased use of video conferencing and online applications to facilitate work-from-home policies.

As society's focus has been on public health and safety risks, individuals and corporations have lowered their guard on protecting internet safety. Companies have diverted resources away from cybersecurity protection to combat the financial challenges brought on by the pandemic. Cybercriminals have taken this as an opportunity to commit online fraud, engage in phishing activities, and attack various individuals' and organizations' internet infrastructures.

The PCPD explained that whilst information technology has made everyday life more convenient during the pandemic, staying online for longer periods of time will increase risks to personal data leakage and heightened exposure to hacking attacks, malware, and phishing websites or emails.

The PCPD further stressed that public and private institutions must comply with the Personal Data (Privacy) Ordinance (PDPO) and implement effective security systems to ensure that personal data is not accessed, processed, erased, lost, and/or used without permission or by accident. Otherwise such conduct may violate the Data Protection Principles (DPP) in the PDPO.

Click here to read the media statement (only Chinese version is available).

(PCPD, 26 June 2020)

Privacy Commissioner organises online workshop updating businesses on developments of global privacy regulations

As part of the Privacy Awareness Week 2020, the PCPD hosted an online workshop "From Principles to Practice – Personal Data Protection for Enterprises" (Chinese version only). The content of the workshop includes the following:

- How to conduct privacy impact assessment and implement privacy by design, and the essence of data ethics and its practice.
- Updates on the two-year enforcement of the General Data Protection Regulation of the European Union (GDPR) and the latest privacy-related regulations in the mainland.
- Privacy issues relating to COVID-19, including protection of privacy when using video conferencing applications, safeguards for employees' personal data under the pandemic, etc.

In addition, the PCPD introduced the newly published, comprehensive publication "From Principles to Practice — SME Personal Data Protection Toolkit." This toolkit aims at helping small and medium-sized enterprises in Hong Kong to navigate compliance and governance work, as well as enhancing their knowledge in protecting personal data.

Click here to read the media statement.

(PCPD, 24 June 2020)

Privacy Commissioner revises guidance on election activities relating to personal data

In response to the personal data privacy issues related to the upcoming Legislative Council Elections on 6 September 2020, the PCPD issued a revised version of the "Guidance on Election Activities for

Candidates, Government Departments, Public Opinion Research Organizations and members of the Public" (revised Guidance) to remind various stakeholders to comply with the PDPO when collecting and handling voters' personal information.

The PCPD believed the authorities' use of video-recording facilities in polling stations is practical and not too excessive. Where personal information is being collected, the activation of video recording facilities ensures that the data collected is used for legitimate purposes (e.g., for record keeping and to protect the safety of individuals in the polling stations). The authorities must inform affected persons (e.g., voters, polling station staff etc.) that the video recording function is activated, by e.g., posting notices.

In view of the large-scale data leakage incidents in recent elections, the revised Guidance suggested that in order to monitor and review the implementation of security measures, authorities must establish transmission procedures, access mechanisms and file inspection procedures to properly record election documents.

The revised Guidance also detailed the means to deal with personal data in public opinion surveys. The PCPD stated that it is not necessary for organizations to collect personal data (such as name, identity card number, phone number, and exact address) to understand voting preferences. If requested to disclose the above information, the PCPD advised data subjects to check the purpose of data collection before they consider disclosing their personal data voluntarily.

Click here to read the media statement (only Chinese version is available).

(PCPD, 18 June 2020)

Privacy Commissioner responds to the data breach incident of the University of Hong Kong

In response to media enquiries about a data breach incident of the University of Hong Kong involving students' personal data, the PCPD issued the following responses:

- The PCPD received a data breach notification from the university concerned. As of 6:00 p.m. of 17 June 2020, the PCPD received one related complaint.
- The PCPD would conduct a compliance check in accordance with established procedures to find out the relevant facts.
- The PCPD encouraged organizations to make notifications when data breach incidents occur. Filing of data breach notifications is conducive to collaboration between the PCPD and the organizations concerned to minimize the potential harm that the incidents may cause to those affected and to identify improvement measures for effectively avoiding the recurrence of similar incidents.

Click here to read the media statement.

(PCPD, 17 June 2020)

Privacy Commissioner updates the booklet "European Union General Data Protection Regulation 2016"

Since the implementation of the GDPR, the PCPD has received a number of GDPR enquiries from the public and a few GDPR-related complaints against Hong Kong companies.

The PCPD updated the booklet "European Union General Data Protection Regulation 2016" to assist organizations and businesses to better understand the implementation of the GDPR.

The major enhancements in the revised version of the booklet include an overview of the implementation of the GDPR in the past two years, with related guidelines explained and concrete examples drawn from official sources (i.e. the European Commission, European Data Protection Board, and EU supervisory authorities) and significant sanction cases on GDPR quoted.

Click here to read the media statement.

(PCPD, 12 June 2020)

Privacy issues relating to Government's Cash Payout Scheme

Following a number of media enquiries about data privacy issues relating to the Government's Cash Payout Scheme (Payout Scheme), the PCPD has, from the perspective of the PDPO, responded as follows:

- In accordance with DPP3, the PCPD noted the Personal Information Collection Statement for the Payout Scheme will clearly state that the information collected will mainly be used for the purposes of effecting cash handouts under the Payout Scheme and effecting cash/non-cash handouts/refunds (if any) under schemes administered by the government in the future that are aimed at encouraging local consumption, relieving people's financial burden, and/or returning wealth to the people.
- The government and participating banks of the Payout Scheme must obtain voluntary and explicit consent from data subjects if they wish to use the data collected for a new purpose.
- The PCPD accepted that the Payout Scheme's data retention period of seven years is reasonable and meets the practical needs of the original purpose in accordance with DPP2. If the government continues to retain the personal data, there should be justifiable reasons such as keeping the data for similar cash or non-cash disbursement schemes in future which are directly related to the Payout Scheme.
- Banks that have offered incentives to attract customers to register for the Payout Scheme are required to comply with the PDPO. In accordance with DPP1, banks should collect non-excessive personal data from data subjects in a lawful and fair manner and the purpose of their collection should be directly related to their functions or activities (e.g., banking services, assistance in registering for the Payout Scheme).
- The PCPD noted that according to the government, the computer systems for and the process of handling registration and payment have passed the privacy impact assessment conducted by an independent consultant, thus ensuring that the business flow and related system design of the Payout Scheme are in compliance with statutory requirements.
- The PCPD believed that the Payout Scheme will meet the requirements of the PDPO.
- The PCPD advised the public to exercise extra caution when providing sensitive personal data such as identity card numbers and bank account numbers, and pay attention to official announcements to avoid

phishing websites and fraudulent calls.

Click here to read the media statement.

(PCPD, 9 June 2020)

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