HONG KONG MONETARY AUTHORITY
香港金融管理局

Banking Supervision Department *銀行監理部*

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16 July 2008

Miss Polly Yeung
Clerk to Panel on Financial Affairs
Legislative Council
Legislative Council Building
8, Jackson Road, Central,
Hong Kong

Dear Miss Yeung,

Panel on Financial Affairs
Leakage of Client Data

I refer to your letter of 4 July 2008 addressed to Mr Joseph Yam requesting our response to the issues raised by Hon Chan Kam-lam, Chairman of the Panel on Financial Affairs, regarding the loss of client data by Hong Kong and Shanghai Banking Corporation Limited. Mr Yam has referred the matter to me for reply. Our response is set out as follows:

(a) Details of the loss of the digital tape and the extent of unauthorized disclosure of data

According to the bank concerned, it sent 55 digital tapes containing encoded customer conversations from its Group Service Centre in Guangzhou to its headquarters in Hong Kong via a courier service provider on 17 June 2008. When the shipment arrived at the bank's headquarters on 19 June 2008, it was found that one of the tapes was missing.

The missing tape is a back-up tape which contains approximately 25,000 calls recorded between 18 and 24 April 2008. According to the latest assessment of the bank, the total number of customers affected is about 15,000. These calls are mostly related to credit card enquiries, enquiries on Business Internet Banking from commercial banking customers and general outbound calls to customers. Some of the conversations involved customer information such as date of birth, HKID number, Business Internet Banking account ID, account numbers and transaction details. It is confirmed that the conversations recorded in the tape do not contain any customer PINs or security passwords and the data stored in the tape is encoded using a proprietary format. So far the bank concerned does not notice any suspicious or unauthorised transactions in the affected customers' accounts since the occurrence of the incident.

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(b) *The consequences of the incident, including the loss, if any, caused to clients and whether any form of compensation is to be effected*

The missing tape is digitally recorded and encoded using a proprietary format and access to its content would require specialized hardware and software. So far the bank concerned has not received any reports or claims of any losses suffered by customers arising from this incident. Nevertheless, the bank has confirmed that customers will not be liable for any financial losses arising from fraudulent activities due to this incident.

(c) *Details of investigation and remedial action*

Since the tape was found missing on 19 June 2008, the bank concerned has been working closely with the courier service provider to investigate and search for the missing tape. The bank received verbal confirmation from the courier service provider on 5 July 2008 that it was unable to locate the missing tape. Meanwhile, the bank has stopped all shipments of tapes from Mainland China to Hong Kong.

In future, the bank concerned has decided to deliver recorded calls information from Mainland China to Hong Kong by electronic rather than physical means, through the bank's own electronic network system. Preparation work for this has already started.

The bank concerned has completed listening to the master tape. It has also commenced notifying the affected customers from 10 July 2008 and has enhanced its transaction monitoring of these customer's accounts for suspicious activities.

(d) *The existing regulatory framework and requirements regarding protection of personal data of bank customers, specifically, the applicable legislation, the supervisory guidelines or circulars issued by the HKMA on the subject and measures to ensure compliance*

Banks are required to comply with the Personal Data (Privacy) Ordinance, which is administered and enforced by the Office of the Privacy Commissioner for Personal Data, in the collection, use and holding of customer information, including taking all practicable steps to ensure the security of personal data. The HKMA, as a bank supervisor, expects banks to put in place adequate control systems to ensure compliance with all relevant legislations that are applicable to them. In relation to customer data privacy and protection, the HKMA has issued a number of circulars and guidelines[1] requiring banks to put in place adequate security policies and controls for storing and protecting customer information.

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[1] Including circulars on "Personal Data (Privacy) Ordinance" (1996), "Safeguarding Customer Assets and Information" (2004), "Examinations on Controls over Customer Data Protection" (2006), and "Customer Data Protection" (2008), and Supervisory Policy Manuals on "Outsourcing" (2001) and "General Principles of Technology Risk Management" (2003).

The HKMA attaches great importance to AIs' compliance with these requirements. In addition to making sure that AIs have adequate control procedures to ensure compliance through our on-going supervisory efforts, the HKMA requires major banks, including all retail banks, to perform annual control self-assessment on the adequacy of security policies and controls for storing and protecting customer information. The control self-assessment process, which is required to be signed off by the chief executive of the bank, helps ensure that banks assess the adequacy of their internal control environment on an on-going basis and make necessary enhancements.

(e) *Given that this is reported the second major leakage by HSBC this year, the actions taken/to be taken by the regulators (e.g. HKMA and the Office of the Privacy Commissioner for Personal Data) and government bureaux/departments (e.g. the Police)*

The bank concerned reported the incident to the HKMA verbally on 2 July and in writing on 3 July. In view of the large number of transactions involved, the HKMA requested the bank to issue a press release on this incident immediately. The bank did so on 3 July 2008.

We are deeply concerned about the two data leakage incidents of the bank concerned and have required it to:

i) conduct thorough investigations to identify the root cause of the incidents;
ii) institute necessary enhancements to avoid the recurrence of similar incidents in future;
iii) review comprehensively the adequacy of policies and procedures for safeguarding customer data confidentiality; and
iv) strengthen the escalation procedures for reporting data leakage incidents to ensure that they are promptly reported to the Office of the Privacy Commissioner and Personal Data and the HKMA, including the assignment of appropriate senior staff to co-ordinate the handling and reporting of customer data leakage incidents.

Furthermore, the HKMA issued a circular letter on "Customer Data Protection" on 10 July 2008 to reiterate to the banking industry the importance of putting in place adequate controls for safeguarding sensitive data and the timely reporting of data leakage incidents to the HKMA.

Yours sincerely,

Arthur Yuen
Executive Director (Banking Supervision)
Hong Kong Monetary Authority