

For Information
On 27 July 2010

Legislative Council Panel on Financial Affairs Special Meeting

Octopus Cards Limited

Purpose

This paper sets out the Hong Kong Monetary Authority's (HKMA) regulatory policy on Octopus Cards Limited (OCL) and the supervisory measures it has taken in respect of OCL's handling of customer data following public concern about data privacy issues involving the Octopus rewards scheme.

Regulatory policy on OCL

2. The HKMA authorized OCL, the issuer of the Octopus Card, as a deposit-taking company under the Banking Ordinance on 25 April 2000 and has been supervising it as such since. The primary supervisory objective of the HKMA on OCL is to ensure the safety and soundness of the institution so as to protect the interests of cardholders, who are akin to depositors in the case of a deposit-taking entity.

3. In addition to the regulatory requirements under the Banking Ordinance, OCL has to comply with the Code of Practice for Multi-Purpose Stored Value Card Operation (the "Code"). The Code requires OCL to put in place appropriate management control measures and procedures to ensure the safety and efficiency of the Octopus system. The HKMA monitors OCL's compliance with the Banking Ordinance and the Code through various supervisory means including on-site examinations and off-site reviews.

Protection of customer data

4. OCL's handling of customer data is subject to the HKMA's supervision. Under the Code of Banking Practice, all authorized institutions, including OCL, should at all times comply with the Personal Data (Privacy)

Ordinance (Cap. 486) (PDPO) in the collection, use and holding of customer data. They should also comply with any relevant codes of practice issued or approved by the Privacy Commissioner for Personal Data (PCPD) giving practical guidance on compliance with the PDPO. Moreover, the Code of Practice for Multi-Purpose Stored Value Card Operation requires system operators, including OCL, to ensure the appropriate degree of confidentiality of all cardholder and transaction information. In accordance with the Code, OCL is required to establish proper internal control procedures to safeguard the confidentiality of personal information of cardholders and prevent the information from being used improperly. The HKMA seeks to ensure OCL's compliance with the relevant data privacy requirements through various supervisory means.

Data privacy relating to the Octopus reward scheme

5. In the light of recent public concerns about data privacy issues involving the reward scheme operated by Octopus Rewards Limited (ORL), the HKMA wishes to clarify that OCL is an entity separate from ORL. OCL, which operates a multiple-purpose stored value card (the Octopus card), is supervised by the HKMA and governed by the Banking Ordinance as well as other applicable laws and regulations. ORL, which does not operate any multi-purpose cards scheme, is not authorized under the Banking Ordinance and is not subject to the supervision of the HKMA. Following reports about data privacy issues surrounding ORL, the HKMA has taken action to collect from OCL further information about its dealings with ORL.

6. The HKMA is aware that the PCPD is examining data privacy issues related to ORL. The HKMA has asked OCL to provide full co-operation to the PCPD in his examination. The HKMA has also contacted the PCPD to understand more about his examination and offered to provide assistance.

7. On 22 July 2010, the Monetary Authority (MA) issued a notice to OCL under section 59(2) of the Banking Ordinance, requiring OCL to submit to the MA a report prepared by external auditors to be appointed by OCL and approved by the MA. The scope of the report will be to establish whether OCL has passed any Octopus cardholders' personal data to third parties and, if so whether the use of such personal data was in accordance with the applicable laws, codes and regulations. The auditors are expected to submit their report to the MA within 10 weeks after the commencement of the review.

8. The HKMA will consider whether and if so, what further supervisory actions on OCL are necessary in the light of the report findings. If there is evidence to suggest that OCL may have contravened any data privacy laws and regulations, the HKMA will make a report to the PCPD. The HKMA will also discuss with OCL and the external auditors with a view to setting out the findings of the report in an appropriate form for public reference.

Hong Kong Monetary Authority
26 July 2010