



中華人民共和國香港特別行政區政府總部教育局  
Education Bureau  
Government Secretariat, The Government of the Hong Kong Special Administrative Region  
The People's Republic of China

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22 December 2011

Ms Amy YU  
Clerk to Panel  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Yu,

**Panel on Education**

**Follow-up to Meeting on 14 November 2011**

Thank you for your letter dated 17 November 2011. I am writing to update Members on the meeting between the Government and the Privacy Commissioner for Personal Data (PCPD) on “Review of non-means-tested loan schemes – Phase 2 Public Consultation”.

We met with PCPD together with the Student Financial Assistance Agency on 23 November 2011. We exchanged views on the Government’s proposal to share negative data of defaulters with the credit reference agency under clearly defined circumstances, as a deterrent against prolonged defaulting.

We informed PCPD that we saw the need to adopt additional and more deterrent measures to tackle the default problem. We expressed our concern that our proposal to temporarily reduce the risk-adjusted factor to zero would effectively mean that the loss arising from irrecoverable default loans would have to be absorbed by taxpayers. There are currently around 13 000 defaulters representing over 13% of all loan borrowers, involving around \$213 million in arrears and total outstanding loan amount of around \$650 million. With the continued development of the self-financing post-secondary sector, the number of borrowers and the amount of loans might increase over time.

We expressed that our proposal should be similar to the on-going sharing of negative credit data of defaulters with the existing credit reference agency amongst licensed banks and financial institutions, which is being regulated under the Personal Data (Privacy) Ordinance, but with a more restricted scope. Specifically, our initial proposal on the provision of negative credit data by SFAA was restricted to the relatively more serious cases, say, those which owed more than \$100,000 and had ceased repayment for more than a year and who had failed to respond to our reminders or to provide any reasonable justification for delayed repayments. We further advised PCPD that as of now, there were only about 600 such cases out of 13,000 default cases, as all loan borrowers who had reached agreement with SFAA on deferment arrangements would not be classified as defaulters. We were also prepared to subject SFAA to a series of more stringent regulatory measures than those currently applicable to licensed banks and financial institutions on the handling of consumer credit data.

PCPD reiterated his reservations about this proposal, mainly for fear of opening up the existing closed system to similar requests from other Government departments in future. He had also asked us to pursue alternative measures which were less privacy-intrusive.

We consider that, given the similarity between SFAA's student loans and the unsecured clean loans offered by licensed banks and financial institutions (and probably to the same loan borrowers too), it should be in the overall public interest to prevent defaults involving Government loans (hence public money), in the same way as we were protecting the private sector from excessive lending by allowing licensed banks and financial institutions to share negative credit data of defaulters with the existing credit reference agency under the Personal Data (Privacy) Ordinance. This was especially so when the latest default rate of 13.84% on non-means-tested loans was substantially higher than the average delinquency rate of credit card lending<sup>1</sup> of around 0.32% in 2007 to 2011 (up to the third quarter end). Not to pursue the proposal might inadvertently send a wrong message that public funds were less deserving of prudent use than private sector funds.

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<sup>1</sup> *Source:* The website of the Hong Kong Monetary Authority (<http://www.hkma.gov.hk>). The delinquency ratio is measured by the total amount of credit card receivables overdue for more than 90 days and remaining unpaid at the last day of the reporting month as a percentage of total credit card receivables. Credit card receivables are classified as overdue when a payment is past due on the last day of the reporting month.

As we are conducting Phase 2 Public Consultation, which lasts until 2 February 2012, on the entire package of proposals to improve the non-means-tested loan scheme, we would take into account the views of PCPD, stakeholders and the public, before deciding the way forward. In the meantime, we would continue to discuss this proposal with PCPD, with a view to devising appropriate ways and means of addressing the relevant data privacy concerns.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Esther Leung", with a long horizontal flourish extending to the right.

( Ms Esther Leung )  
for Secretary for Education

c.c. Controller, SFAA