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Legislative Council Panel on Financial Affairs

Latest Developments in Relation to Positive Mortgage Data Sharing in Hong Kong

PURPOSE

This paper sets out the Administration's response to the letter dated 4 April 2011 from the Panel on Financial Affairs ("FA Panel"), requesting us to provide an update on the latest developments of the positive mortgage data sharing ("PMDS") in Hong Kong.

BACKGROUND

2. The purpose of PMDS is to enable the credit reference agency ("CRA") to build up a comprehensive positive mortgage database available for use by credit providers including authorized institutions ("AIs") in assessing the credit worthiness of mortgage loan applicants. This will enhance AIs' credit risk management capability, thereby promoting banking and financial stability. In January 2011, the Privacy Commissioner for Personal Data conducted a public consultation in relation to the banking industry's proposal for PMDS and highlighted six privacy issues for the public to comment on (please refer to [Annex](#) for details). On 21 March 2011, the Office of the Privacy Commissioner for Personal Data ("PCO") released its report on the public consultation. The PCO determined that the banking industry's proposal for PMDS would lead to responsible borrowing and lending and therefore the Code of Practice on Consumer Credit Data ("the Code") was revised on 1 April 2011 so as to allow for the implementation of PMDS. To provide an update on PMDS to Members, the ensuing paragraphs will first outline the key features of PMDS and then set out the latest developments in this regard.

KEY FEATURES OF PMDS SCHEME

Types of mortgage loans to be covered

3. The PMDS scheme covers the limited sharing of positive credit data on the following types of mortgage loans -

- (a) loans for purchasing residential or non-residential properties; and
- (b) loans secured by residential or non-residential properties.

Scope of data to be contributed and shared

4. The following personal data items of individuals with the mortgage loans mentioned in paragraph 3 are, subject to obtaining customers' prescribed consent, to be contributed to the CRA by the credit providers including AIs that are members of the CRA -

- (a) full name;
- (b) capacity in respect of the mortgage loan (i.e. borrower, mortgagor or guarantor);
- (c) Hong Kong Identity Card number (or travel document number);
- (d) date of birth;
- (e) correspondence address;
- (f) mortgage account number;
- (g) type of facility;
- (h) mortgage account status; and
- (i) mortgage account closed date (if any).

When responding to a PMDS enquiry from a credit provider on an individual applying for a mortgage loan, only the Mortgage Count (i.e. the number of mortgage loans held by an individual as borrower, mortgagor or guarantor, respectively) is to be disclosed by the CRA to the credit provider.

Sharing of pre-existing positive mortgage data

5. Under the revised Code, the sharing of pre-existing positive mortgage data requires the prescribed consent of existing mortgage customers.

Use of the Mortgage Count and data protection

6. There are strict rules and regulations on the use of positive mortgage data stipulated under the revised Code. Consistent with the existing framework laid down in the revised Code, AIs are prohibited from accessing the positive mortgage data for marketing purpose. There are also comparable security and data protection measures in the Supervisory Policy Manual module IC-6, *"The sharing and use of consumer credit data through a credit reference*

agency”, issued by the Hong Kong Monetary Authority (“HKMA”) that AIs need to observe in relation to the sharing and use of consumer credit data through a CRA. Similar to the practice in 2003 when positive credit database comprising primarily of credit cards and unsecured loans was introduced, a 24-month transitional period has been introduced for PMDS. During the transitional period, credit providers are prohibited from accessing and using the Mortgage Count for the purposes of reviewing the existing credit facilities of borrowers except where immediate access is required because the customer is in financial difficulties and in need of debt restructuring. After the transitional period expires on 31 March 2013, a credit provider which has obtained an individual’s written consent may access his Mortgage Count at the CRA to review mortgage loans granted to that individual.

LATEST DEVELOPMENTS

7. Following the recent amendments to the Code on 1 April 2011, the industry and the HKMA have been taking steps to implement PMDS. The HKMA has recently issued a circular to all AIs, setting out the steps they need to take to implement PMDS. The HKMA expects all AIs engaged in mortgage loan business to, with effect from 1 April 2011, share and use positive mortgage data through the CRA within the framework laid down in the revised Code.

8. For the purpose of setting up a comprehensive database by the CRA and to comply with the PCO’s requirement, AIs are required to comply with the following requirements in relation to pre-existing mortgage data and new mortgage loan applications.

Pre-existing mortgage data

9. As a first step to build up a comprehensive mortgage loan database, since 1 April 2011, AIs have been sending letters to their existing mortgage customers (i.e. borrowers, mortgagors or guarantors) to seek their prescribed consent for the uploading of their pre-existing mortgage data to the CRA. Although a person may have a mortgage with more than one bank and may therefore receive multiple forms, he or she needs only to return one form as the consent sought is a comprehensive all-in-one consent.

New mortgage loan applications

10. The HKMA expects AIs to make full use of the PMDS scheme and to verify the information declared by mortgage applicants in respect of their

pre-existing mortgage loans through the CRA database, thus deterring mortgage applicants from providing false information to AIs during the mortgage loan application process. It is noted that the uploading of pre-existing mortgage data requires the prescribed consent of existing mortgage customers and a comprehensive database will take considerable time to build up. In order to ensure a resilient banking system, there is a need to introduce an appropriate arrangement to verify the mortgage applicants' declarations in relation to their pre-existing mortgages.

11. As a result, the HKMA has agreed with the banking industry that declarations made by mortgage applicants in relation to their pre-existing mortgages when they apply for new mortgages need to be verified. All applicants for mortgage loans will therefore be requested to sign a consent form for sharing data of their pre-existing mortgages as well as for uploading of data on their applied mortgage after completion of the loan drawdown. The prescribed consent will mainly cover the following -

- (a) Bank A that receives a mortgage loan application from an individual is allowed to transfer to the CRA the individual's full name, Hong Kong Identity Card number (or if applicable travel document number), date of birth and the fact that he/she has made a mortgage loan application;
- (b) the CRA is allowed to transfer to all its members (i.e. credit providers in Hong Kong) the individual's full name, Hong Kong Identity Card number (or if applicable travel document number), date of birth and the fact that he/she has made a mortgage loan application to check whether the individual holds any existing mortgage loan(s) with any of the members;
- (c) each of the CRA members including Bank A, if applicable, with whom the individual has any existing mortgage loan(s) (whether as a borrower, mortgagor or guarantor) as of the date of the mortgage loan application with Bank A is allowed to contribute his/her mortgage data (as mentioned in paragraph 4) to the CRA to enable the CRA to compile his/her Mortgage Count;
- (d) the CRA is allowed to provide the individual's Mortgage Count to Bank A; and
- (e) Bank A is allowed to contribute to the CRA the individual's mortgage data relating to the mortgage loan under application after the loan drawdown.

Where a mortgage applicant chooses not to give his/her consent, the AI will still continue to process the mortgage loan application by obtaining additional relevant information from the applicant to assess the applicant's repayment ability. The AI will then decide whether it has sufficient information to conduct the credit assessment of the customer and whether additional measures are required to mitigate the potential credit risk involved.

Transitional arrangement

12. While the HKMA expects AIs to accord priority to the development work of information technology system that is required to fully automate the process of verifying customer declarations as soon as practicable, full automation will take some months to complete. As a transitional arrangement, the HKMA has required the banking industry to conduct daily manual sample checking to verify mortgage loan applicants' declarations of their existing mortgages when they apply for new mortgage loans from 1 April 2011 until the verification process can be fully automated.

13. To ensure a level playing field and the comprehensiveness of the CRA database, the HKMA will, as and when appropriate, monitor through regular surveys and enquiries to ensure that AIs are seeking the prescribed consent of all customers and not just doing so on a selective basis, and collect statistics on the prescribed customer consent received by AIs. The HKMA will also consider following up with the PCO to set the threshold for non-mortgage related credit facilities to allow AIs to access the Mortgage Count for the purpose of assessing non-mortgage related loan applications.

**Financial Services and the Treasury Bureau
Hong Kong Monetary Authority
18 April 2011**

Summary of the Privacy Commissioner's determinations on the six privacy issues raised in the 2011 consultation document

Privacy Issue 1

The issue is whether the sharing of the Additional Mortgage Data (i.e. positive mortgage data for residential properties as well as both positive and negative data for non-residential properties) is necessary and not excessive for the purpose of credit risk assessment. The Privacy Commissioner has concluded in the affirmative.

Privacy Issue 2

The issue is whether the items of mortgage data proposed to be shared between the CRA and the credit providers are not excessive for the latter's credit assessment purposes. The Privacy Commissioner accepts that they are not excessive except that 'gender' could be deleted from the data collection list as it contributes only marginal enhancement to the reliability of customer identification by the CRA.

Privacy Issue 3

The issue is whether it is appropriate for the Additional Mortgage Data in respect of pre-existing mortgages at the time of the implementation of the proposal to be contributed by the credit providers to the CRA, with or without prior explicit notification to the consumers. The Privacy Commissioner supports the Industry proposal of sharing pre-existing mortgage data for negative mortgage data but not for positive mortgage data unless prescribed consent is obtained from the consumers.

Privacy Issue 4

The issue is whether it is appropriate to permit, subject to the consumers' written consent, access to the Additional Mortgage Data by the credit providers to evaluate not only mortgage loan applications but also to assess other new consumer credit applications as well as review and renewal of the consumers' existing credit facilities.

The Privacy Commissioner has concluded that sharing of mortgage data for credit assessment of non-mortgage related credit facilities, irrespective of the amount of the credit, would be excessive in the case of positive data but not excessive in the case of negative data. He considers that a threshold amount of the credit facility involved should be set under which no access to positive mortgage data by the credit provider should be allowed. Pending the Industry's submission of such a threshold to the satisfaction of HKMA and PCPD, he would restrict the sharing of positive mortgage data to mortgage loan application and review of existing mortgage loans only.

Privacy Issue 5

The Industry proposal is to incorporate a 24-month transitional period before access to the Additional Mortgage Data is allowed for general portfolio reviews of consumers'

credit-worthiness. The Privacy Commissioner is pleased to accept the proposal.

Privacy Issue 6

The issue is what and how additional privacy safeguards should be imposed upon the CRA and the credit providers consequent to an enlarged credit database and greater sharing and use of the mortgage data.

The Privacy Commissioner notes that the consultation exercise has aroused the community's interest in the existing system of sharing of consumer credit data between the CRA and the credit providers. People are generally concerned about whether the CRA is measuring up to their expectations. The consensus view collected supports the Privacy Commissioner's suggestions that additional privacy safeguards should be imposed upon the CRA consequent to the proposed enlarged credit database and greater sharing of the mortgage data. Accordingly, the Privacy Commissioner will revise the Code to incorporate additional post-implementation safeguards.