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Ms Joanne Mak
Clerk to Panel on Constitutional Affairs
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

10 May 2017

Dear Ms Mak,

**Follow-up actions arising from the meeting of the Panel on
Constitutional Affairs on 20 March 2017**

Under agenda item V of the meeting of the Panel on Constitutional Affairs on 20 March, Hon Alice MAK requested the Government to provide information on the protection of personal data in records of the Land Registry (“LR”). Hon CHAN Chi-chuen requested information on our work in relation to section 33 of the Personal Data (Privacy) Ordinance (“PDPO”). Whereas section 33 of the PDPO will be the subject of the Panel’s agenda item IV on 15 May, the ensuing paragraphs provide the requested information relating to the LR.

2. The LR is a public office responsible for registration of instruments affecting land and provision of land records for public search in accordance with the Land Registration Ordinance (“LRO”) and the Land Registrations Regulations (“LRR”). The purposes of keeping the Land Register and providing land records for public search are to prevent secret and fraudulent

conveyances, and to provide means whereby the title to real and immovable property maybe easily traced and ascertained. According to the LRR, the Land Registrar shall upon request and payment of the prescribed search fees, make available records of the LR to any person.

3. Personal data contained in records of the LR are subject to the provisions of the PDPO. Under the PDPO, without voluntary and express consent by the data subject, personal data must only be used for the purpose for which the data is collected or for a directly related purpose. In case of contravention, the Office of the Privacy Commissioner for Personal Data (“PCPD”) is empowered under the PDPO to serve enforcement notices directing the data user to remedy and prevent any recurrence of the contravention. A data user who contravenes an enforcement notice served on them commits an offence and is liable to fine and imprisonment under the PDPO. Besides, disclosure of personal data without the consent of data subject to obtain gain or to cause loss is an offence punishable by 5 years’ imprisonment and a fine of HK\$1,000,000. A data user who uses personal data in direct marketing without the consent of data subject commits an offence and is liable to imprisonment of 3 years and a fine of HK\$500,000.

4. To enhance the awareness of users of the LR’s search services about the proper use of its records and compliance with the PDPO, the LR has put in place a number of administrative measures over the years, including requiring users of online services and self-service terminals to first indicate their agreement to accept the “Terms and Conditions” of using the services, which include a restriction that the information obtained from the searches shall not be used for any activities in violation of any provisions of the PDPO. The LR has also reminded searchers through different channels, including putting up notices at the LR offices and adding a statement in the land record documents that the use of information provided in the land records is subject to the provisions of the PDPO.

5. To further enhance the protection of personal data in its records, the LR has extended the measure applicable to on-line users and users at the self-service terminals to users of counter services with effect from 29 August 2016, so that all users will be required to acknowledge the

purposes for establishing the land registers and the land records, the restrictions of use and the consequences of any abusive use of data before their search requests are accepted. The LR will continue to explore with the PCPD possible ways to enhance the protection of personal data in the records of the LR. When there is a need to amend the LRO and the LRR in future, LR will also consider whether a more specific formulation of the purposes of keeping the Land Register can be adopted, the declaration of the purposes of the search required to be made by searchers and the imposition of liability for abuse of personal data on the Land Register.

6. There has been public concern that some financial intermediaries for money lending have been using deceptive tactics to induce prospective borrowers to engage them for arranging loans and charging very high fees in the process. The Government implemented a four-pronged approach in 2016 to tackle the problem, viz. enhanced enforcement, enhanced public education and publicity, enhanced advisory services to the public, and more stringent conditions on all money lender licences. In particular, one of the additional licensing conditions requires that all money lenders must take appropriate safeguard measures before obtaining or collecting any personal data of borrowers from another party or using such personal data for the purposes of their money lending businesses. The key features of the measures have been set out in detail in the relevant Legislative Council paper (LC Paper No. CB(1)736/15-16(03) and LC Paper No. CB(1)221/16-17(01) refer) prepared by the Financial Services and the Treasury Bureau.

Yours sincerely,



(Britney Choi)

for Secretary for Constitutional and Mainland Affairs