

**立法會**  
**Legislative Council**

LC Paper No. CB(1)714/18-19  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/FA

**Panel on Financial Affairs**

**Minutes of meeting held on  
Monday, 7 January 2019, at 10:00 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present** : Hon Christopher CHEUNG Wah-fung, SBS, JP  
(Chairman)  
Hon Kenneth LEUNG (Deputy Chairman)  
Hon James TO Kun-sun  
Hon Abraham SHEK Lai-him, GBS, JP  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon CHAN Kin-por, GBS, JP  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon WU Chi-wai, MH  
Hon Charles Peter MOK, JP  
Hon Dennis KWOK Wing-hang  
Hon Martin LIAO Cheung-kong, SBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Alvin YEUNG  
Hon CHU Hoi-dick  
Hon HO Kai-ming  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon CHAN Chun-ying, JP

**Members attending** : Hon Michael TIEN Puk-sun, BBS, JP  
Dr Hon Elizabeth QUAT, BBS, JP  
Hon AU Nok-hin

**Members absent** : Hon Starry LEE Wai-king, SBS, JP  
Hon CHEUNG Kwok-kwan, JP  
Hon LUK Chung-hung, JP

**Public officers attending** : Agenda Item III

Ms Noel TSANG  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services) Insurance and  
Retirement Scheme

Mr Leslie TANG, JP  
Commissioner for Census and Statistics

Ms Marion CHAN, JP  
Deputy Commissioner for Census and Statistics

Ms Iris LAW  
Assistant Commissioner for Census and Statistics  
(Social)

Agenda Item IV

Miss Carrie CHANG  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services)<sup>1</sup>

Miss CHENG Sze Ling  
Assistant Secretary for Financial Services and the  
Treasury (Financial Services)<sup>(1)1</sup>

Agenda Item V

Mr Chris SUN  
Deputy Secretary for Financial Services and the  
Treasury (Financial Services)

Ms Eureka CHEUNG  
Principal Assistant Secretary for Financial Services and  
the Treasury (Financial Services)

Mr Jacky LUM  
Principal Assistant Secretary for Constitutional and  
Mainland Affairs

Mr Jason PUN  
Assistant Government Chief Information Officer (Cyber  
Security & Digital Identity)  
Office of the Government Chief Information Officer

Mr Stephen WONG  
Privacy Commissioner  
Office of the Privacy Commissioner for Personal Data

Ms Joyce LAI  
Chief Personal Data Officer (Compliance)  
Office of the Privacy Commissioner for Personal Data

Mr Arthur YUEN  
Deputy Chief Executive  
Hong Kong Monetary Authority

Mr Alan AU  
Executive Director (Banking Conduct)  
Hong Kong Monetary Authority

**Attendance by invitation** : Agenda Item IV

Ms Christina CHOI  
Executive Director (Investment Products Division)  
Securities and Futures Commission

Ms Grace CHAN  
Director (Investment Products Division)  
Securities and Futures Commission

Ms Fiona TSE  
Associate Director (Investment Products Division)  
Securities and Futures Commission

Agenda Item V

Mr Xiaomin RONG  
Acting Chairman  
The Hong Kong Association of Banks

Ms Neona WANG  
Chief Executive Officer, Hong Kong  
TransUnion Limited

Mr Mohit KAPOOR  
Global Chief Information Officer  
TransUnion Limited

Ms Courtney BRINKMAN  
Senior Vice President, Consumer Interactive,  
International Markets  
TransUnion Limited

**Clerk in attendance:** Ms Connie SZETO  
Chief Council Secretary (1)4

**Staff in attendance :** Miss Sharon LO  
Senior Council Secretary (1)9

Ms Sharon CHAN  
Legislative Assistant (1)4

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**I Information papers issued since the regular meeting on 18 December 2018**

(LC Paper No. CB(1)376/18-19(01) — Third quarterly report of 2018  
on "Employees  
Compensation Insurance —  
Reinsurance Coverage for  
Terrorism"

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LC Paper No. CB(1)391/18-19(01) — Administration's paper on "Inland Revenue Ordinance (Cap. 112) – Exemption from Profits Tax (People's Bank of China Debt Instrument) Order")

Members noted the information papers issued since the regular meeting held on 18 December 2018.

**II Date of next meeting and items for discussion**

(LC Paper No. CB(1)398/18-19(01) — List of outstanding items for discussion

LC Paper No. CB(1)405/18-19(01) — List of follow-up actions)

2. Members agreed to discuss the following items proposed by the Administration at the regular meeting scheduled for 19 February 2019:

- (a) Briefing on the work of the Hong Kong Monetary Authority ("HKMA");
- (b) Budget of the Securities and Futures Commission ("SFC") for the financial year of 2019-2020; and
- (c) Proposed enhancements to the Investor Compensation Regime and wind-up of the Dealers Deposit Scheme.

**III Plan for the 2021 Population Census**

(LC Paper No. CB(1)398/18-19(02) — Administration's paper on "Plan for the 2021 Population Census"

LC Paper No. CB(1)398/18-19(03) — Background brief on the Plan for the 2021 Population Census prepared by the Legislative Council Secretariat)

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Briefing by the Administration

3. With the aid of powerpoint presentation, the Assistant Commissioner for Census and Statistics (Social) ("AC for C&S (Social)") briefed members on the background and details of the 2021 Population Census ("the 21C"), including the sampling scheme, means of data collection, data collection period, data topics and related computer equipment and services. Members noted that the Administration planned to seek funding approval from the Finance Committee ("FC") for the costs of the computer systems and services for the 21C in February 2019.

*(Post-meeting note: The powerpoint presentation material (LC Paper No. CB(1)422/17-18(01)) was issued to Members vide Lotus Notes e-mail on 7 January 2019.)*

Discussion

*Improvement to the data collection approach*

4. Given the rapid advancement in technology, Mr CHAN Chun-ying was concerned whether the multi-modal data collection approach (i.e. collecting data through e-Questionnaires ("eQ"), telephone interviews, postal returns and conventional face-to-face interviews) for the 21C had evolved with time, whether the approach would meet international standards, and whether the Administration had made reference to the latest data collection approaches for population censuses adopted by other jurisdictions. In light of the initiative to promote Hong Kong into a smart city, he further enquired if the Administration had considered adopting the big data readily available in the public and private sectors (e.g. personal particulars collected by the Inland Revenue Department, Hospital Authority, schools, and utilities and telecommunications companies etc.) for conducting population censuses/by-censuses in the future so as to reduce the costs for collecting data and further enhance accuracy of the data.

5. The Commissioner for Census and Statistics ("C for C&S") advised that the Census and Statistics Department ("C&SD") had made reference to international practices for conducting population censuses in formulating the approach for the 21C, and the multi-modal approach of the 21C was similar to that commonly used by other countries for conducting population censuses. For instance, C&SD had introduced eQ which allowed respondents to provide data using their smart phones or mobile tablets anytime and anywhere. On the proposal of using big data in population censuses and by-censuses, C for C&S said that with the advancement of technology, there were plans to use more administrative data collected from other sources in the 21C to reduce the number

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of questions in the questionnaires and the time required to complete the questionnaires, as well as to enhance data quality.

6. Mr CHU Hoi-dick noted that the United Kingdom was exploring the feasibility of using administrative data in the public sector (such as medical records in the public health system, land registration records etc.) as part of the data for population censuses/by-censuses with a view to enhancing the quality of the data. He suggested that C&SD should study the feasibility of data-sharing among Government bureaux/departments so as to pave the way for wider use of administrative data in future population censuses/by-censuses in the light of the global trend. C&SD should also explore means to address public concerns about privacy issues associated with the wider application of administrative data.

7. C for C&S said that in jurisdictions where linking of administrative data was more acceptable to the public, various types of administrative data including medical records and social welfare records could be merged using one identifier (e.g. identity card or social security number) to form a valuable data bank. While C&SD very much welcomed introduction of a similar data collection approach in Hong Kong, given Hong Kong people's high sensitivity in protecting their privacy, they might be reluctant to support such an approach.

8. Ir Dr LO Wai-kwok noted that enumerators would be deployed to conduct household interviews in pairs to ensure their personal safety and agreed that the arrangement was necessary. He enquired about measures C&SD would take to protect respondents against impersonated enumerators. Dr LO expressed concern that impersonators might attempt to obtain respondents' personal data via telephone calls, or enter the residence of respondents for illegal activities.

9. C for C&S advised that apart from protecting the personal safety of enumerators, conducting household interviews in pairs would allow more efficient division of labour of the enumerators (e.g. each enumerator could interview two respondents in parallel in a household of four persons) and shorten the duration required for an interview, and ultimately provide more convenience to respondents. He said that C&SD attached importance to the prevention of impersonation of census enumerators. Respondents of population censuses/by-censuses would receive a notification letter by post signed by C for C&S. If members of the public were requested to provide personal data under census without receiving the notification letter beforehand, it would be impersonation of enumerators.

10. Ir Dr LO Wai-kwok noted that respondents could opt for self-enumeration in the 21C. He opined that as some questions might involve complex concepts and definitions, C&SD should deploy resources to enhance respondents'

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understanding of the questionnaires so as to ensure that they could provide accurate data. C for C&S noted the suggestion.

*The quality of data on housing characteristics*

11. To ensure the quality of data collected for sub-divided units ("SDUs"), Mr CHAN Chun-ying suggested that C&SD should increase the sampling fraction in industrial buildings to more than one-tenth as applied to an ordinary housing estate, as nowadays industrial buildings had a large cluster of SDUs. Mrs Regina IP expressed similar concerns and enquired about measures C&SD would take to ensure accurate data would be collected on SDUs.

12. C for C&S advised that experienced census officers in C&SD would be deployed to update the sampling frame for the 21C including collection of information on industrial buildings and SDUs based on various peripheral signs outside the quarters. The prevalence of SDUs in different geographical areas would be taken into account in the sampling frame so as to ensure the quality of the census results.

13. Mr HO Kai-ming pointed out that conducting interviews in buildings with SDUs was generally more time-consuming than in ordinary residential buildings because more households were involved and many of these buildings were old and did not have lifts. He urged C&SD to deploy more enumerators for buildings known to have a large number of SDUs (including tenement buildings, industrial buildings and commercial buildings) and allow more time for enumerators to conduct interviews in such buildings.

14. C for C&S responded that C&SD had continued to update the sampling frame for population censuses/by-censuses in recent years, which would aid in the estimation of enumeration workload in different areas. C&SD appreciated that due to the unique conditions of SDUs and the buildings they were situated, enumerators might need more time to conduct interviews with the respondents in SDUs. C&SD would take these factors into account in the assignment of work among the enumerators in conducting interviews.

15. Mr CHU Hoi-dick related that there were misconceptions that many of the residential units were either vacant or not used for residential purpose, given that the total number of living quarters was larger than that of households by around 10% in Hong Kong. He urged C&SD to take the opportunity of the 21C to collect quality data on the housing and household characteristics in Hong Kong so that academics and related sectors could use the data for analyzing housing issues in Hong Kong. C for C&S took note of the views and suggestion.



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*Suggestions on data topics*

16. Mrs Regina IP noted that "internal migration characteristics" was among the data topics in the 2016 Population By-census ("the 16BC"). She enquired about the findings on the background, education level and occupation of the new arrivals from the Mainland in recent years.

17. C for C&S advised that compared to the data collected in past rounds of population censuses/by-censuses, data collected in the 16BC showed that the education level of the new arrivals from the Mainland had increased considerably and the gap between them and local people had narrowed. He added that the Thematic Report titled "Persons from the Mainland Having Resided in Hong Kong for Less Than 7 Years", published by C&SD after each population census/by-census and available on the C&SD website, had provided comprehensive data on new arrivals.

18. Mr Michael TIEN enquired whether the user consultation on data topics in the 21C covered suggestions on new data topics in addition to assessing the usefulness of existing data topics. He noted that some parties had suggested including a data topic on sexual orientation and gender identity. He opined that there were other possible data topics that were of equal, if not more, importance to the public (e.g. religions, and first-generation university graduates so as to track their social mobility) but had not been included in population censuses/by-censuses.

19. C for C&S said that respondents in the user consultation exercise for the 21C had been invited to make suggestions on new topics to be included. As for the data topic of sexual minorities, there would be accuracy issues with the data collected. Since C&SD had the mission to compile accurate data for use by the public, there was no plan to include this data topic in the 21C at this moment.

20. In response to Mr SHIU Ka-fai's enquiry about the options for gender identity in the questionnaires for the 21C, C for C&S advised that following the practice adopted by other jurisdictions in conducting population censuses/by-censuses, respondents would be given the choice of "male" and "female" for the question on sex in the 21C. Respondents could answer the question according to his/her self-identification and C&SD would not check the selected choices against the persons' identity cards.

*Cost of computer systems and services for the 2021 Population Census*

21. Regarding the estimated cost of some \$203 million for the computer equipment and services for the 21C, Mrs Regina IP enquired whether the sum would cover manpower expenses, such as the cost of hiring enumerators.

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22. C for C&S replied that the non-recurrent cost of some \$203 million would cover the provision of equipment and services for enhancement/development of computer sub-systems to support the census operations, with a significant portion spent on providing each enumerator with a mobile tablet for field operation, and strengthening information technology security. The manpower cost for the 21C operation was not included in the provision of \$203 million.

23. Mr Michael TIEN noted that the cost of computer systems and services for the 16BC was about \$80 million and the cost would rise to over \$200 million for the 21C. He enquired about the reason for the increase in the cost.

24. AC for C&S (Social) advised that the budget for computer equipment and services was approximately \$88 million in the 16BC. The increase in budget to \$203 million in the 21C was mainly due to the expansion in scale. In the 16BC, a sample of about one-tenth of households in Hong Kong were selected for data collection, and only "Long Form" questionnaires were used. On the other hand, the results of a feasibility study on the required computer equipment and services for the 21C indicated that while computer sub-systems would be re-used as far as possible, some sub-systems would need to be substantially strengthened for supporting the 21C, which involved all households and the use of both "Long Form" and "Short Form" questionnaires. Secondly, the large number of mobile tablets for enumerators in face-to-face interviews had contributed to a significant part of the increase.

*The use and disposal arrangements of mobile tablets for the 2021 Population Census*

25. Taking into account the time required for conducting a face-to-face interview during the 21C, Mr HO Kai-ming urged C&SD to ensure the battery life of mobile tablets used in the 21C was sufficient so that enumerators could complete household interviews in a smooth manner. Noting that the mobile tablets used in the 16BC had been either redeployed within the Government or donated to non-governmental organizations for educational use, Mr HO enquired about the disposal arrangements for the mobile tablets used in the 21C.

26. AC for C&S (Social) advised that the mobile tablets used in the 21C would be redeployed within the Government as far as possible. Preliminary discussion had also been held with the Education Bureau ("EDB"). Should there be any remaining mobile tablets, the EDB would assist to liaise with suitable publicly-funded schools for donation of the mobile tablets for educational use.

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Conclusion

27. The Chairman concluded that the Panel had no objection to the Administration's proposal of submitting the funding proposal related to the 21C for FC's consideration in February 2019.

**IV Implementation of the Securities and Futures Commission's Code on Real Estate Investment Trusts**

(LC Paper No. CB(1)398/18-19(04) — Administration's paper on "Implementation of the Securities and Futures Commission's Code on Real Estate Investment Trusts")

Briefing by the Administration

28. At the invitation of the Chairman, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services)1 ("PAS(FS)1") and Executive Director (Investment Products Division), Securities and Futures Commission ("ED(IPD)/SFC") briefed members on the background and implementation of SFC's Code on Real Estate Investment Trusts ("REIT Code") by highlighting the salient points in the paper provided jointly by the Administration and SFC. PAS(FS)1 said that the Administration and SFC were not in a position to interfere with the commercial decisions of individual Real Estate Investment Trusts ("REITs") provided that the REITs were in compliance with the requirements laid down in the REIT Code. As such, the Administration and SFC would not comment on the operation of individual REITs at the meeting.

Discussion

Admin 29. With the Chairman's consent, a submission from Hon AU Nok-hin was tabled at the meeting. In the submission, Mr AU expressed views on the REIT Code and requested the Administration and SFC to: (a) review the REIT Code in light of the impact of the amendments to the REIT Code in 2014 ("the 2014 REIT Code amendments") on the society; and (b) examine the need of revising the REIT Code.

*(Post-meeting note: Mr AU's submission (LC Paper No. CB(1)419/18-19(1) and in Chinese version only) was issued to members vide Lotus Notes e-mail on 7 January 2019.)*

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*Impact of amendments to the Securities and Futures Commission's Code on Real Estate Investment Trusts in 2014*

30. Mrs Regina IP expressed strong disappointment at the Administration's position that it would not comment on the operation of individual REITs as pointed out in PAS(FS)1's opening remarks. She remarked that the 2014 REIT Code amendments were made having regard to the recommendations of the Financial Services Development Council's ("FSDC") research report entitled "Developing Hong Kong as a Capital Formation Centre for Real Estate Investment Trusts". Pointing out that only one REIT (i.e. the Link Real Estate Investment Trust ("The Link")) enjoyed substantial growth in market capitalization since the implementation of the 2014 REIT Code amendments, Mrs IP cast serious doubt on the claimed benefits brought by the amendments to the development of Hong Kong's financial market. She further sought information on the number of new REITs listed in Hong Kong and whether there had been diversification on the types of REITs listed in Hong Kong since 2014. Moreover, Mrs IP said that REITs were required under the REIT Code to manage their real estate properly. She questioned whether the existing REITs including The Link failed to meet such a requirement.

31. Mr AU Nok-hin concurred that the Administration should not evade from responding to questions on the Link's operation given the dominant position of The Link in the local REIT market with a market capitalization significantly larger than that of the remaining nine REITs in Hong Kong. The 2014 REIT Code amendments had enabled The Link to reap more profits by permitting it to engage in active property development activities. Indeed, The Link had increased its property investments in the Mainland since 2014. Mr AU further criticized that the public consultation exercise for the 2014 REIT Code amendments had not been conducted in an objective manner. The Chief Executive Officer of The Link was involved in the drafting of FSDC's research report as he was a member of FSDC in 2010s. Mr AU further pointed out that according to paragraph 3.2(b) of the REIT Code, "active trading" of real estate was restricted for a REIT seeking authorization from SFC. He enquired about the definition of "active trading", and whether The Link had breached the requirement concerned.

32. PAS(FS)1 explained that it would be inappropriate for the Administration to comment on the operation of individual REITs in public. She added that the formulation of the 2014 REIT Code amendments was not solely based on FSDC's recommendations in its research report. SFC had made reference to the practices of the international financial community then in drawing up the 2014 REIT Code amendments. As for the benefits brought by REITs to Hong Kong's financial market, she pointed out that some relevant information was set out in paragraph 5 of the paper. On the impact of the 2014 REIT Code amendments, she said that the requirements in the REIT Code applied to all REITs in Hong Kong. Further, even

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before the introduction of the amendments, subject to compliance with a REIT's constitutive documents and the requirements under the REIT Code, the REIT could adjust its investment portfolios (through, for example, the sale and purchase of its properties) in accordance with its investment strategies. Regarding the definition of "active trading", ED(IPD)/SFC advised that unless unit holders' approval had been obtained, a REIT must, under the REIT Code, hold its property for at least two years after acquisition or development. SFC would monitor the transactions carried out by REITs on an on-going basis.

*Review of the Securities and Futures Commission's Code on Real Estate Investment Trusts*

33. Mr AU Nok-hin opined that it was inappropriate for the Administration and SFC to compare the REIT markets in other jurisdictions with that of Hong Kong given that overseas REIT markets were more diversified while Hong Kong's REIT market was dominated by The Link. There were also comments in some investment banks' research reports that The Link had maintained its profits through the monopoly of non-discretionary consumption in Hong Kong. Mr AU reiterated his concern that the 2014 REIT Code amendments had incentivized REITs to engage in active property development business. While one of the objectives for the Hong Kong Housing Authority to divest the retail and carparking facilities in the public rental housing ("PRH") estates through The Link was to enhance the management of such facilities, the objective was not achieved as The Link had only focused on maximizing its financial returns at the expense of the interests of PRH residents and tenants. He called on the relevant authorities to take heed of the interests of various stakeholders instead of just the investors of REITs, and to study the impact of the 2014 REIT Code amendments on the society and what could be done about such impact including the need of revising the relevant requirements in the REIT Code.

34. ED(IPD)/SFC responded that under the 2014 REIT Code amendments, REITs were only allowed to engage in a limited extent of property development activities, with the property development costs capped at 10% of the REIT's gross asset value ("10% Cap requirement"). The 10% Cap requirement was more stringent than similar requirements in other jurisdictions including Singapore and Malaysia (which were 25% and 15% respectively). Further, pursuant to the REIT Code, a SFC-authorized REIT must have dedicated investment in real estate that generated recurrent rental income (i.e. at least 75% of the REIT's gross asset value should be invested in such real estate at all times). ED(IPD)/SFC stressed that the management companies of REITs had to act in the best interests of investors given that REITs were collective investment schemes. PAS(FS)1 and ED(IPD)/SFC also stressed that SFC was a securities regulator and its statutory role was to protect investors and promote the development of Hong Kong's securities and futures markets.

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35. Pointing out that certain REITs had high gross asset values, the Chairman enquired whether SFC had, apart from the 10% Cap requirement, imposed a fixed quantitative limit on REITs' property development costs.

36. ED(IPD)/SFC advised that the gearing of individual REITs was limited as a REIT: (a) had to distribute a significant portion of its income (i.e. not less than 90% of its audited net income after tax) to unit holders in the form of regular dividends; and (b) was subject to a maximum borrowing limit at 45% of its gross asset value. The purpose of a property development activity of a REIT must be for developing a property for its own rental-income generating purpose. She stressed that it would be difficult for REITs to become property developers with the restrictions prescribed in the REIT Code.

*Promoting new types of real estate investment trusts*

37. Mr Dennis KWOK criticized the Link for failing to fulfill its corporate social responsibility. He observed that some jurisdictions were developing new types of REITs. For instance, Belgium was contemplating the establishment of social REITs (which fulfilled their corporate social responsibilities by operating on the basis of non-profit principles). He called on the Administration and SFC that they should keep abreast of the latest international developments and proactively promote new types of REITs taking into account the needs of the society.

38. ED(IPD)/SFC responded that there were no regulatory barriers in Hong Kong's regime for investment products with a focus on environmental, social and corporate governance to be launched if there was market demand. SFC was aware that there were collective investment schemes in the market which included objectives to fulfill social responsibility, such as green funds. SFC would keep in view the developments in overseas markets, the needs of Hong Kong's financial market, and the views of various stakeholders.

**V Personal data protection issues relating to credit reference agencies**

(LC Paper No. CB(1)403/18-19(01) — Paper provided by TransUnion Limited

LC Paper No. CB(1)398/18-19(05) — Administration's paper on "Personal data protection issues relating to credit reference agencies"

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- LC Paper No. CB(1)398/18-19(06) — Background brief on personal data protection issues relating to credit reference agencies prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)304/18-19(01) — Letter dated 29 November 2018 from Hon Charles MOK on personal data protection issues relating to credit reference agencies (Chinese version only)
- LC Paper No. CB(1)304/18-19(02) — Letter dated 30 November 2018 from Dr Hon Elizabeth QUAT on personal data protection issues relating to credit reference agencies (Chinese version only)

Briefing by the Administration

39. At the invitation of the Chairman, the Deputy Secretary for Financial Services and the Treasury (Financial Services) ("DS(FS)") briefed members on the follow-up actions taken by the relevant government agencies and the Office of the Privacy Commissioner for Personal Data ("PCPD") in response to the recent incident concerning online security of consumer credit data maintained by TransUnion Limited ("TransUnion") ("the Incident"). He said that PCPD had commenced a compliance investigation against TransUnion pursuant to the Personal Data (Privacy) Ordinance (Cap. 486) ("PDPO"). HKMA together with the Hong Kong Association of Banks had liaised closely with TransUnion following the Incident, and the Cyber Security and Technology Crime Bureau of the Hong Kong Police Force was investigating the Incident after receiving TransUnion's report on the Incident. PCPD would conduct a comprehensive review of the Code of Practice on Consumer Credit Data ("Code of Practice"), which regulated the handling of personal credit data by credit reference agencies ("CRAs"), having regard to the findings of the compliance investigation, and would consider the need for further revisions to improve the operation of the Code of Practice. The Administration, together with PCPD, was also reviewing the relevant stipulations and penalties under PDPO, and would consider how the regulation of data protection could be enhanced.

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Briefing by TransUnion Limited

40. Upon the Chairman's invitation, Ms Neona WANG, Chief Executive Officer, Hong Kong, TransUnion Limited said that TransUnion very much regretted the Incident. She then briefed members on the Incident which involved unauthorized access to the consumer credit reports of three government officials through TransUnion's online platform in October and November 2018. She apologized to the three individuals concerned and to the public for the concern the Incident had caused. She said that TransUnion had immediately launched an investigation after the Incident and temporarily suspended its customer credit reports online service while TransUnion was working on the enhancements to its system. Moreover, TransUnion had engaged an independent third party to conduct a review of its security and application architecture and implementation. She stressed that TransUnion would only resume its online service after TransUnion, its regulator and stakeholders were satisfied that the solutions had addressed the relevant security issues.

Discussion

*Protection of consumers' data by credit reference agencies*

41. Dr Elizabeth QUAT expressed concern about the possible security loopholes in the procedures for TransUnion's customers in obtaining their credit reports through TransUnion's online platform, which had recently enabled an unauthorized party to access credit information and personal data of some customers in TransUnion's database. She noted that at present, the handling of personal data in Hong Kong was governed by PDPO, and PCPD's Code of Practice regulated the handling of personal credit data by CRAs and credit providers. She enquired whether the Administration would consider introducing a specific regime to regulate CRAs in the handling of personal data including the provision of data to CRAs' business partners for profit. In particular whether HKMA, as the regulator of banks, would consider bringing CRAs under its regulatory regime given that banks were both the information providers and service users of CRAs.

42. Mr Charles MOK and Mr Dennis KWOK enquired whether the Administration and HKMA would consider regulating CRAs directly, as CRAs, unlike other commercial organizations, maintained a vast amount of personal and sensitive data. Mr KWOK also sought information on the possible consequences if CRAs failed to comply with the requirements of the Code of Practice.

43. The Privacy Commissioner for Personal Data ("Privacy Commissioner") advised that PCPD was responsible for promoting and enforcing compliance with PDPO in order to protect the privacy of individuals with respect to personal data.



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Related security incidents involving criminal activities or operating models not involving personal data might fall outside the scope of PDPO. PCPD, in collaboration with the Administration, was reviewing the relevant stipulations and penalties under PDPO, and would consider how the regulation of data protection could be enhanced. In the light of the Incident, PCPD would conduct a comprehensive review of the Code of Practice with reference to the findings of the compliance investigation, and would consider improvements to the operation of the Code where necessary.

44. With regard to the regulation of CRAs, DS(FS) and Deputy Chief Executive, Hong Kong Monetary Authority ("DCE/HKMA") stressed that PDPO had clear provisions governing the protection of personal data privacy, and the handling of personal data by CRAs including the collection, accuracy, use, security, access and correction of data, was regulated by the Code of Practice. From the perspectives of financial market regulation and development, DS(FS) said that the Administration had no plan to introduce a specific regulatory regime for CRAs. He reiterated that the Incident was an issue pertaining to personal data protection, and the Administration, together with PCPD, would consider how the regulation of data protection could be further enhanced under the existing legal framework. DCE/HKMA supplemented that only about half of the information providers to TransUnion were banks. Also, apart from CRAs, there were other third-party service providers in the market which would have access to and process personal data of bank customers, and they were not regulated by HKMA. Whether these third-party service providers should be regulated was a complicated question. That said, HKMA would make reference to the outcome of PCPD's compliance investigation on the Incident, and work together with the banking industry to consider ways to further strengthen the arrangements between banks and CRAs.

45. Mr Charles MOK expressed disappointment to the Administration's responses which showed reservation about introducing a specific regulatory regime for CRAs in respect of handling of personal data and provision of consumer credit information. He reiterated that CRAs maintained a large amount of sensitive data provided by financial institutions ("FIs") including banks, and urged the Administration to consider the feasibility of developing a regulatory regime for CRAs.

46. In response to Dr Elizabeth QUAT's enquiries on privacy protection relating to online credit information services and the relevant penalties under PDPO, Privacy Commissioner reiterated that PCPD, together with the Administration, had commenced a review of the relevant regulation and penalties of PDPO with a view to strengthening the protection of personal data. PCPD would also enhance public awareness of privacy protection through various publicity and public education programmes. In view of the public interest relating

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to the Incident, PCPD might consider making public the findings of its compliance investigation on TransUnion.

47. Mr WU Chi-Wai sought information on the services provided by TransUnion to FIs, in particular how TransUnion would handle an FI's request for credit information if the individual concerned did not consent to passing his/her credit information to the FI. He also enquired if TransUnion would provide credit information obtained from FIs to other organizations/companies. Noting that in general, the clauses of the personal information collection statement ("PICS") of banks stated that the personal data provided by customers might be passed to other relevant third parties (e.g. companies in the same banking group, their agents and service providers, etc.) for marketing of financial products and services purposes, Mr WU enquired about the policy governing the transfer of personal data to third parties.

48. DCE/HKMA said that when collecting personal data directly from customers, banks were required to provide PICS to customers setting out the details including purposes for which the collected data would be used and the classes of persons to whom the data might be transferred. DCE/HKMA and Privacy Commissioner further pointed out that if a bank intended to use, or provide to third parties, its customers' personal data for direct marketing activities, it must obtain prior consent from the customers concerned. Privacy Commissioner added that data users, regardless of the types of businesses they were engaged in, must observe the relevant requirements under PDPO on the protection of the personal data privacy of their customers. The Code of Practice was designed to provide practical guidance to CRAs and credit providers on the handling of consumer credit data.

*Follow-up actions taken by TransUnion Limited and the Privacy Commissioner for Personal Data*

49. Mr Charles MOK sought details on PCPD's compliance investigation conducted against TransUnion, and PCPD's views on the business model of TransUnion including the provision of paid services for consumers to access their own credit information.

50. Privacy Commissioner said that according to PDPO, data users were allowed to charge a requestor for costs which were directly related to and necessary for accessing the requested data (i.e. the costs should not be excessive). PCPD would follow up on the issue on charges imposed by data users.

51. Mr Charles MOK and Mr Dennis KWOK sought clarification on whether the transfer of consumers' personal data and credit information by TransUnion to its business partners was in compliance with the law. Mr MOK enquired whether

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TransUnion had identified any other unauthorized access to its credit information data in the past. Mr KWOK sought TransUnion's views on measures to prevent recurrence of similar unauthorized access incidents in the future.

52. Ms Courtney BRINKMAN, Senior Vice President, Consumer Interactive, International Markets, TransUnion Limited said that the consumer had to give consent before a business partner received any data from TransUnion. As such, the consumers had to choose whether or not the partner could access their data and they gave their permission for accessing their data. The consumers gave that consent because of the value they perceived to receive from those third party products. The provision of credit information service by TransUnion and relevant services by its partners benefited people by providing them different channels to access their credit information (e.g. their credit records, credit scores and features, etc.). This had helped people understand their credit status, and facilitated their access to financial products and make informed financial decisions. Providing access for consumers to their own credit data was important to a healthy economy.

53. Mr CHAN Chun-ying pointed out that the knowledge-based authentication ("KBA") process for verifying a consumer's identity for accessing credit reports in TransUnion's online platform might pose security risks to the online services. He enquired about the measures TransUnion had adopted or planned to adopt to plug the security loopholes, and whether TransUnion would explore other authentication technologies to enhance the security of its online system, such as notifying the individual concerned through SMS about a request for accessing his/her credit information.

54. Ms WANG advised that TransUnion's online system had adopted a multi-layered and multi-factor authentication solution and KBA was one component of its solution. In view of the Incident, TransUnion was working on multiple enhancement solutions and introducing additional and sophisticated checks, to enhance the security level of its online system. For customers who had already registered for the online services, TransUnion was re-verifying the existing customer base leveraging one-time passwords and an updated account enrolment process, and also implementing a two-factor authentication for account login. Moreover, TransUnion had engaged an independent third party to conduct a review of the enhancement solutions and might introduce additional security measures where necessary.

*Business model of and online services provided by TransUnion limited*

55. In response to Mr CHAN Chun-ying's enquiry about TransUnion's business partners, Ms WANG said that TransUnion performed due diligence on business partners including the imposition of security requirements and the right

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to audit. Business partners were audited for their ability to meet TransUnion's standards and were continuously monitored between audits. Any risks identified were tracked for remediation, with governance processes to monitor progress at all levels of management.

56. Dr Elizabeth QUAT sought clarification on whether the sale of personal data by data users for profit was permissible under PDPO, and whether consumers and HKMA could request banks not to pass consumers' personal data and credit information to TransUnion.

57. Privacy Commissioner said that PDPO had provisions governing the actions required (such as notification) for the sale of personal data for financial gain, and a data subject could oppose to such an arrangement. DCE/HKMA responded that from the risk management perspective, the sharing of consumer credit information enabled banks to make informed and risk-based decisions when assessing credit applications from customers for loans and other credit facilities and conducting credit reviews, and hence it was not advisable for consumer credit information not to be made available to banks.

58. As regards providing consumer credit data to TransUnion's business partners, Ms WANG said that enabling consumers to access their credit information was beneficial to the people of Hong Kong as with access to the information they were more likely to make better and more prudent financial decisions. Enabling people of Hong Kong to access their credit information through TransUnion or its business partners would also benefit people by providing them more channels to access their credit information.

59. Given that at present TransUnion was the only CRA in Hong Kong, Mr CHAN Chun-ying enquired whether HKMA would consider introducing competition in the market, as well as prescribing standards and requirements for CRAs operating in Hong Kong. He referred to "MyInfo", a government-backed digital vault developed by the Singaporean government for consolidating residents' personal data, and enquired if the Administration and HKMA would consider developing a central database for maintaining consumer credit information after implementation of the one-stop online system for the provision of electronic identity, with a view to replacing the paid services currently provided by commercial CRAs.

60. DCE/HKMA advised that under the current legal framework, CRAs were not regulated by HKMA. HKMA, as a regulator of banks, had been consulting the banking industry since the second quarter of 2018 on ways to further enhance the current mechanism on sharing and utilization of customers' credit information through CRAs. The consultation had covered, among others, the need of having more than one CRA in Hong Kong and the possible risks that might arise from an

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increasing number of CRAs operating in Hong Kong. HKMA would continue to communicate with the banking industry on the future development of CRAs.

Motions

61. At 11:38 am and 11:51 am, the Chairman informed the Panel that he had received a proposed motion from Mr Charles MOK, and considered the motion directly related to the agenda item. He invited members to consider whether the Panel should proceed dealing with the motion. Members agreed and the Chairman said that the Panel would deal with the motion after members had finished asking questions on the agenda item. At 12:23 pm, the Chairman said that the Panel would proceed to deal with Mr Charles MOK's proposed motion.

62. Mr Charles MOK said that Mr CHAN Chun-ying proposed an amendment to his motion and he agreed with the proposed amendment. Mr MOK read out the amended motion. The terms of the motion were as follows –

"目前信貸提供者和信貸資料庫的行為只有實務守則規管，對消費者權益保護非常不足。鑒於信貸資料服務機構持有大量消費者信貸紀錄等敏感個人資料，本會促請政府研究對信貸資料服務機構的規管，加強監察收集、持有、處理或使用客戶個人信貸資料的活動，令將來運用創新科技提供個人信貸資料更加透明、安全，完善法例以提升社會對信用評級資料服務的信心。"

(Translation)

"Currently, as the conduct of credit providers and credit databases is only regulated under a code of practice, the protection of consumer rights and interests is very inadequate. Given that credit reference agencies are in possession of a large amount of sensitive personal data such as consumer credit records, this Panel urges the Government to study the regulation of credit reference agencies, strengthen the monitoring of the collection, holding, handling or use of customers' personal credit data, increase the transparency and security of using innovative technologies to provide personal credit data in the future, and refine the legislation to enhance the community's confidence in credit rating reference services."

63. The Chairman then put Mr Charles MOK's motion as amended by Mr CHAN Chun-ying to vote. Mr Charles MOK requested the voting bell be rung for five minutes to notify Panel members of the voting and a division of the votes. The voting bell rang for five minutes. Seven members voted for, no member voted against the motion, and no member abstained. The Chairman declared that

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the amended motion was passed. The votes of individual members were as follows:

*For*

Mr WU Chi-wai

Mr Dennis KWOK

Mr CHU Hoi-dick

Mr CHAN Chun-ying

(7 members)

Mr Charles MOK

Mr Alvin YEUNG

Mr SHIU Ka-fai

*(Post-meeting note: The terms of the motion were circulated to members vide LC Paper No. CB(1)421/18-19(01) on 7 January 2019. The Administration's written response to the motion was circulated to members vide LC Paper No. CB(1)510/18-19(02) on 23 January 2019.)*

*(At 12:24 pm, the Chairman ordered that the meeting be extended for 10 minutes to 12:40 pm. Members agreed.)*

**VI Any other business**

64. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 1  
Legislative Council Secretariat  
15 March 2019