HONG KONG MONETARY AUTHORITY
香港金融管理局

Our Ref: B9/32C

2 September 2011

The Chief Executive
All Authorized Institutions

Dear Sir / Madam,

Supervisory Policy Manual (SPM)
Revised Module IC-6 – The Sharing and Use of Consumer Credit Data through a Credit Reference Agency (CRA)

I am writing to inform you that, following consultation with the Office of the Privacy Commissioner for Personal Data (PCPD) and the two industry associations, the Monetary Authority is today issuing a revised version of the above-mentioned SPM module as a statutory guideline by notice in the Gazette under section 16(10) of the Banking Ordinance.

This module sets out the minimum standards that AIs should observe in relation to the sharing and use of consumer credit data through a credit reference agency (CRA). This module should also be read in conjunction with the Code of Practice on Consumer Credit Data (the Code) issued by the PCPD as the Code provides practical guidance to credit providers and CRAs in the handling of consumer credit data.

Following the public consultation on the sharing of mortgage data for credit assessment as proposed by the financial industry in January 2011, the Privacy Commissioner for Personal Data was convinced that positive mortgage data sharing (PMDS) would lead to responsible borrowing and lending. Consequently, the Code was revised on 1 April 2011 to allow for the implementation of PMDS[1]. Many of the amendments incorporated in the revised module relate to the recent introduction of PMDS. The following provides a brief summary of the key requirements AIs should observe in relation to pre-existing mortgage data and new mortgage loan applications (please refer to section 4 of the revised module for details).

[1] Other than the amendments relating to PMDS, the latest version of the Code has also incorporated amendments relating to other matters (please refer to the relevant media statement issued by the PCPD for further details, http://www.pcpd.org.hk/english/infocentre/press_20110331.html).

- For the purpose of setting up a comprehensive mortgage loan database by the CRA and to comply with the requirement of the Personal Data (Privacy) Ordinance, AIs are required to seek the prescribed consent of their existing mortgage customers and mortgage loan applicants before uploading their pre-existing mortgage data to the CRA. Pre-existing mortgage data refers to the mortgage account general data of any account relating to a mortgage loan which already existed prior to 1 April 2011 and continues to exist after that date.

- As a first step to building up a comprehensive mortgage loan database, AIs should have conducted a one-off exercise to issue consent seeking forms from 1 April 2011 onwards to seek the prescribed consent of existing mortgage customers (i.e. borrowers, mortgagors or guarantors) for the uploading of their pre-existing mortgage data to the CRA.

- Following amendments to the Code on 1 April 2011 and subject to AIs' compliance with the notification requirement under clause 2.1A of the Code, AIs have the right to upload to the CRA the mortgage account general data of new mortgage loans whose applications are received on or after 1 April 2011. AIs should ensure compliance with the relevant notification requirement in this regard.

- In order to make full use of the PMDS scheme, for all relevant mortgage loan applications received on or after 1 April 2011, AIs should, as part of the mortgage loan application process, seek to obtain from mortgage loan applicants prescribed consent for the uploading of their pre-existing mortgage data to the CRA. AIs should explain to the mortgage loan applicants that the prescribed consent applies to the pre-existing positive mortgage data and such consent will be addressed to all credit providers who are members of the CRA and to the CRA.

- AIs should make appropriate use of the mortgage count information obtained from the CRA in verifying the applicant's declaration in respect of his/her existing mortgage loan(s). AIs should have clear and detailed policies and procedures on the mortgage count verification process and the lines of action that they should take in case of any discrepancy especially where the declared mortgage count is smaller than the mortgage count obtained from the CRA.

- Where prescribed consent is not obtained, the AI may 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 has to decide whether it has sufficient information to conduct a credit assessment of the customer and whether additional measures are required to mitigate the potential credit risk involved. In this regard, AIs should comply with the requirements stipulated in the relevant guidelines or circulars pertaining to PMDS and mortgage loan business issued by the HKMA from time to time.

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 relevant customers instead of only doing so on a selective basis.

On-line access to the SPM module is available to AIs under the icon for "Supervisory Policy Manual" on the HKMA's public (http://www.info.gov.hk/hkma) and private (http://www.stet.finnet.hk/index.htm) websites.

Should you have any questions relating to the module, please contact Mr Francis Lau at 2878 8268 or Miss May Cheung at 2878 1501.

Yours faithfully,

Meena Datwani
Executive Director (Banking Conduct)

Encl.

c.c. Office of the Privacy Commissioner for Personal Data (Attn: Ms Brenda Kwok)
The Hong Kong Association of Banks (Attn: Ms Eva Wong)
The DTC Association (Attn: Mr P C Lund)
FSTB (Attn: Miss Natalie Li)