

Our Ref.: G4/32C (96)

25 March 1996

The Chief Executive
All authorized institutions

Dear Sir/Madam,

Personal Data (Privacy) Ordinance

Further to our letter dated 23 February 1996 on the above subject, I am writing to clarify a point made in paragraph 3 of the letter regarding the implications of section 4 of the Personal Data (Privacy) Ordinance ("the Ordinance").

Section 4 of the Ordinance provides that a data user shall not do an act, or engage in a practice, that contravenes a data protection principle unless the act or practice, as the case may be, is required or permitted under the Ordinance. Our earlier letter indicated that such contravention would be an offence. The Secretary for Home Affairs has since clarified that contravention of a data protection principle is not, of itself, an offence. Institutions should, however, be aware that section 66 of the Ordinance provides that an individual who suffers damage, including injury to feelings, by reason of a contravention of the Ordinance in relation to his or her personal data shall be entitled to compensation from the data user concerned.

As mentioned in our earlier letter, you should seek your own legal advice on the legal interpretation of the provisions of the Ordinance, and on the practical implications of the Ordinance for your institution's business operations.

Yours faithfully,

(Peter S. T. Pang)
Executive Director (Banking Policy)

c.c. Secretary for Financial Services
Secretary for Home Affairs