

Hong Kong Corporate and Regulatory Insights

January 2021



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Equity Capital Markets

The Stock Exchange of Hong Kong Limited (SEHK) publishes results of latest review of issuers' annual report disclosure

SEHK published a report on the findings and recommendations from its annual review of issuers' annual reports for the financial years ending between 1 January and 31 December 2019.

As part of its strategic technology-empowered initiatives, SEHK has recently introduced artificial intelligence, including machine learning, pattern recognition, and natural learning processing, to assist in reviewing issuers' annual reports and their compliance with the Rules Governing the Listing of Securities on the Stock Exchange of Hong Kong Limited (Listing Rules) governing annual report disclosure vetting.

SEHK has made the following recommendations to issuers:

- **Disclosure on the impact of the COVID-19 pandemic in issuers' business review and Management Discussion and Analysis (MD&A) section** – Issuers should disclose in their next annual reports (i) the effect of the COVID-19 pandemic on their operations, and the relevant risks or uncertainties that will materially affect their future performance; (ii) quantitative measures of the financial or operational impact of the COVID-19 pandemic; (iii) assessments of the liquidity positions and working capital sufficiency with reference to their operations and capital commitments; and (iv) measures to manage the impact of the COVID-19 pandemic.
- **Financial statements with auditors' modified opinion** – Issuers should continuously review their liquidity positions and funding needs, and formulate and implement action plans to address

such needs in a timely manner. Where there are material changes in the reporting items, issuers should develop appropriate and supportable estimates for these items, document key judgments made, and consider retaining experts if necessary. They should also engage in early discussions with their auditors and agree in advance the timing, form, and approach of the assessment of these estimates as early as practicable.

- **Continuing connected transactions** – Independent nonexecutive directors (INEDs) play an important role in providing checks and balances over the issuers' corporate affairs, business operations and transactions, and in particular, in the monitoring of continuing connected transactions (CCTs). Issuers should have in place appropriate internal controls and mechanisms to monitor and assist INEDs in overseeing their CCTs, and their INEDs should review the appropriateness of these internal control procedures.
- **Material intangible assets** – Issuers should perform proper analysis and carefully consider the impact of the COVID-19 pandemic on impairment tests and update the assumptions used to reflect the latest available information and evidence.
- **Material level three financial assets** – Issuers should develop robust disclosure on level three fair value measurements, in particular providing the qualitative and quantitative information to the extent necessary for an understanding of the valuation techniques and the underlying unobservable inputs.

Click [here](#) to view the report.

HKEx, 29 January 2021

SEHK publishes revised Listing e-Forms and guidelines for Main Board and Growth Enterprise Market (GEM) issuers and new applicants

The revised Listing e-Forms for Main Board issuers (MB), GEM issuers (GEM), and new applicants (NA) are as follows:

| | Content | MB | GEM | NA |
|-------------------|--|----|-----|----|
| e-Forms | | | | |
| CF006 | Size Tests for Notifiable Transactions and Connected Transactions | ✓ | ✓ | |
| FF004 | Contact details form for Director/ Supervisor/ Authorised Representative s/ Company Secretary/ Compliance Officer | ✓ | ✓ | ✓ |
| SE001 | Sponsor Engagement Notification | | | ✓ |
| M103 | Main Board – IPO – Form A1 – Listing Application Form (for Equity Securities & Debt Securities) | | | ✓ |
| G103 | GEM Board – IPO – Form 5A – Listing Application Form (Equity Securities of an issuer no part of whose share capital is already listed) | | | ✓ |
| Guidelines | | | | |
| M103 | (see above) | | | ✓ |
| G103 | (see above) | | | ✓ |
| CF006 | (see above) | ✓ | ✓ | |
| CF093 | Trading Arrangement Form | ✓ | ✓ | |
| DU003M | Declaration and Undertaking with regard to Directors | ✓ | | ✓ |
| DU004M | Declaration and Undertaking with regard to Directors of an issuer incorporated in the PRC | ✓ | | ✓ |
| DU005M | Declaration and Undertaking with regard to Supervisors of an issuer incorporated in the PRC | ✓ | | ✓ |
| DU003G | Director's Declaration, Undertaking | | ✓ | ✓ |

| | | | | |
|---------|---|---|---|---|
| | and Acknowledgement | | | |
| DU004G | Director's Declaration, Undertaking and Acknowledgement (PRC issuer) | | ✓ | ✓ |
| DU005G | Supervisor's declaration, undertaking and acknowledgement in respect of an issuer incorporated in the PRC | | ✓ | ✓ |
| FF004 | (see above) | ✓ | ✓ | ✓ |
| FF201G | Application Form – Equity Securities (of an issuer part of whose share capital is already listed) | | ✓ | |
| FFD001M | Formal Application (for Equity Securities) | ✓ | | |

HKEx, 23 January 2021

The Listing Committee of SEHK (Listing Committee) takes disciplinary action against Sandmartin International Holdings Limited (stock code: 482) and eight of its current and former directors for breaches

The Listing Committee censures:

Company

- Sandmartin International Holdings Limited (Company) for failing to announce a connected transaction in a timely manner pursuant to Rules 14.34, and 14A.35 of the Listing Rules, and for disclosing inaccurate, incomplete, misleading, and/or deceptive information in announcements and circulars pursuant to Rule 2.12(2) of the Listing Rules.

Relevant Directors

- Mr. Hung Tsung Chin (Mr. Hung), executive director (ED) of the Company, and Ms. Chen Mei Huei (Ms. Chen), former ED of the Company, for failing to (i) fulfill their fiduciary duties expected of them of

their knowledge and experience and holding their office within the Company under Rule 3.08(f) of the Listing Rules, and (ii) comply to the best of their abilities with the Listing Rules, and (iii) use their best endeavors to procure the Company's compliance with the Listing Rules pursuant to their Declaration and Undertaking with regard to Directors (Undertaking).

- Mr. Liao Wen I Tiger (Mr. Liao), former ED of the Company, for failing to (i) cooperate with SEHK's investigation and (ii) use his best endeavors to procure the Company's compliance with the Listing Rules pursuant to his Undertaking.

And criticizes:

- Mr. Frank Karl-Jeinz Fischer (Mr. Fischer), former ED of the Company, for failing to (i) use his best endeavors to procure the Company's compliance with the Listing Rules in respect of independent third party disclosures and (ii) ensure that the Company had adequate and effective internal control pursuant to his Undertaking.
- Mr. Chen Wei Chun (Mr. Chen), ED of the Company, Mr. Wu Chia Ming (Mr. Wu), independent non-executive director (INED) of the Company, Mr. Han Chien Shan (Mr. Han), former INED of the Company, and Mr. Lee Chien Kuo Thomas (Mr. Lee), former INED of the Company, for failing to use their best endeavors to ensure that the Company had adequate and effective internal control pursuant to their Undertakings.

This case involves the Company's relationship and transactions with MyHD Media FZ LLC (MyHD) and Emiratinvest Limited (Emiratinvest).

MyHD

MyHD is owned by a friend and business associate of Mr. Hung and Ms. Chen. The Company acquired MyHD and made a series of loans to MyHD. MyHD became a 51 percent owned subsidiary of the Company when certain loans were capitalized. However, the Company failed to announce the acquisition, which is a connected transaction, in a timely manner.

Emiratinvest

Emiratinvest is solely owned by a former non-executive director of the Company, who is also a sibling of the owner of MyHD. Emiratinvest became a connected person of the Company when MyHD became a subsidiary of the Company, due to the sibling relationship between the owners. The Company made a series of loans to Emiratinvest but failed to announce the loans in a timely manner.

In addition, Emiratinvest owns 80 percent of Simple Media Network Pvt Ltd. (Simple Media). Mr. Hung's son and daughter-in-law were directors of Simple Media, which also makes Simple Media a connected party to the Company.

The Company disclosed in subsequent announcements that (a) "to the best knowledge of the Company, [Emiratinvest] is not related to [MyHD]" and (b) "Emiratinvest is an independent third party not connected with the Group." The Company further disclosed in a circular in respect of expected sales that "as advised by the management of Emiratinvest, Simple Media plans to place order of 55,000 units to 80,000 units of set-top-box in the sum of US\$1.1 million to US\$1.6 million from the Group in the second half of 2017."

Such disclosures were inaccurate because Mr. Hung and Ms. Chen were aware of the sibling relationship between the owners of MyHD and Emiratinvest. Mr. Hung, Ms. Chen, and Mr. Fischer were also aware of the positions held by Mr. Hung's son and daughter-in-law within

Simple Media. Mr. Hung, Ms. Chen, and Mr. Fischer failed to appreciate the importance of such relationships with connected party implications, and failed to report such relationships to the Company.

Further, Mr. Hung and Ms. Chen failed to ensure that certain figures relating to expected sales used in the circular were accurate and up-to-date. They were both aware that no set-top boxes had been sold by the Company to Simple Media in 2016 or in 2017 and that the expected figure of 55,000 to 80,000 units had been provided by Emiratinvest six months before the publication of the circular. The Company actually only sold 100 units of set-top boxes to Simple Media for the whole of 2017.

As a result, Mr. Hung and Ms. Chen failed to discharge their directors' duties and Undertakings to comply with the Listing Rules to the best of their ability. Mr. Hung, Ms. Chen, and Mr. Fischer failed to use their best endeavors to procure the Company's compliance with the Listing Rules.

The Listing Committee also found that the Relevant Directors failed to take an active role in implementing, reviewing, and monitoring the effectiveness of the Company's internal control procedures and placed excessive reliance upon the company secretary for Listing Rule compliance.

Directors are expected to be familiar with the connected transactions provisions of the Listing Rules, including the identification of connected parties. These rules are designed to protect the investing public, safeguard minority shareholders, and to dispel any conflict or perception of conflict in respect of transactions entered into by the Company.

The Listing Committee further directed:

- The Company to retain an independent professional adviser to review and make recommendations to improve the Company's internal controls.
- Mr. Hung, Mr. Chen, and Mr. Wu to attend 26 hours of training on regulatory and legal topics including Listing Rule compliance and directors' duties.
- As a prerequisite of any future appointments as director of any listed company, Ms. Chen, Mr. Fischer, Mr. Han, and Mr. Lee to attend 26 hours of training on regulatory and legal topics including Listing Rule compliance and directors' duties.

Click [here](#) to view the statement of disciplinary action.

HKEx, 22 January 2021

SEHK publishes Listing Newsletter

SEHK published the second issue of the Listing Newsletter (Newsletter). The Newsletter covers various topics, including SEHK's efforts in digitalizing the initial public offering settlement process (such as e-listing forms and new listing subscriptions through electronic channels only), market consultation to raise the profit requirement for entry into the Main Board, and the implementation of artificial intelligence to review disclosures in issuers' annual reports.

Click [here](#) to view the Newsletter.

HKEx, 14 January 2021

The Listing Committee criticizes Xinming China Holdings Limited (stock code: 2699) and its executive director Mr. Chen Cheng Shou for breaches

The Listing Committee criticizes:

- Xinming China Holdings Limited (Company) for failing to comply with the announcement, reporting, circular, and shareholders' approval requirements applicable to a major transaction carried out by its subsidiary pursuant to Rules

14.34, 14.38A, 14.40 and 14.41 of the Listing Rules.

- Mr. Chen Cheng Shou (Mr. Chen), executive director, chairman, and chief executive officer of the Company, for failing to fulfil his fiduciary duties expected of him of his knowledge and experience and holding his office within the Company under Rule 3.08(f) of the Listing Rules, and failing to comply to the best of his ability with the Listing Rules and to use his best endeavors to procure the Company's compliance with the Listing Rules pursuant to his Declaration and Undertaking with regard to Directors.

This case involves Mr. Chen, on behalf of a subsidiary of the Company, entering into a guarantee agreement with an independent third party. Following the guarantee agreement, Mr. Chen on behalf of the relevant subsidiary entered into seven pledge contracts with a bank to facilitate the independent third party's application for a letter of credit. By reason of the failure of the independent third party to settle the payments as agreed, the pledge contracts were terminated. The pledge contracts constituted a major transaction.

Mr. Chen entered into the pledge contracts without notification to or authority from the board of directors of the Company. He did not take steps to ensure the Company would comply with the applicable procedural requirements under the Listing Rules after the pledge contracts were entered into. Further, the pledge contracts exposed the Company to substantial financial risk and Mr. Chen did not take adequate steps to safeguard the assets of the relevant subsidiary that were pledged.

Click [here](#) to view the statement of disciplinary action.

HKEx, 8 January 2021

Financial Services Regulation

Inland Revenue (Amendment) (Tax Concessions for Carried Interest) Bill 2021 (the Bill) gazetted

The Bill was published in the Gazette on 29 January 2021. The purpose of the Bill is to amend the Inland Revenue Ordinance (Cap. 112) to provide tax concessions for carried interest distributed by eligible private equity (PE) funds which operate in Hong Kong.

According to the Financial Services and Treasury Bureau (FSTB), the proposed tax concessions for carried interest in the Bill are expected to attract more PE funds to operate and be managed in Hong Kong, and at the same time to boost more investment management and related activities which will create business opportunities in relation to professional services.

Broadly speaking, carried interest refers to a return linked to the performance of an investment of a PE fund, typically upon the disposal of the investment after it has been held for a period of time. For tax concessions under the Bill to apply, qualifying carried interest recipients must provide investment management services in Hong Kong and fulfill substantial activities requirements, and carried interest must arise from eligible transactions in private companies and be distributed by a fund certified by the Hong Kong Monetary Authority (HKMA) or the Innovation and Technology Venture Fund Corporation set up by the government.

Click [here](#) to view the FSTB news.

FSTB, 29 January 2021

Report on "AML/CFT Regtech: Case Studies and Insights"

The HKMA issued a report that promotes regulatory technology (Regtech) adoption in the anti-money laundering and counter-financing of terrorism (AML/CFT) area in the

banking sector. The report comprises examples of how banks of different sizes and business scopes used AML/CFT Regtech, and aims to help identify an adoption process that is applicable to the particular circumstances of an institution.

Stored Value Facility (SVF) licensees and Authorised Institutions (AIs) are encouraged to study the report and draw insights from the use of AML/CFT Regtech as a way to enhance effectiveness and efficiency in light of evolving risks, and to develop appropriate approaches to the wider use of technology in their conduct of business and risk management.

Click [here](#) to view the HKMA circular to SVF licensees and [here](#) to view the HKMA circular to AIs.

Click [here](#) to view the report.

HKMA, 21 January 2021

Mutual recognition of funds (MRF) between Thailand and Hong Kong

The Securities and Futures Commission (SFC) and the Securities and Exchange Commission of Thailand entered into the Memorandum of Understanding concerning Mutual Recognition of Covered Funds and Covered Management Companies and related cooperation (MOU) on 20 January 2021, which is subject to amendment from time to time. The MOU allows eligible Hong Kong and Thai public funds to be distributed in each other's market through a streamlined process.

The MOU establishes a framework for exchange of information, regular dialogue, as well as regulatory cooperation in relation to the cross-border offering of eligible Hong Kong and Thai funds. The two regulators have also agreed to expedite the approval process of local feeder funds which invest in MRF-eligible Thai or Hong Kong master funds and to clarify how they may be operated in a streamlined manner.

The cooperation arrangements set out in the MOU have already come into effect since 20 January 2021, except for the mutual recognition of funds scheme which is expected to be implemented within six to twelve months from 20 January 2021.

Click [here](#) to view the SFC circular and [here](#) to view the annex to the circular.

SFC, 20 January 2021

Consultation conclusions on the Insurance (Special Purpose Business) Rules (SPB Rules)

The Insurance Authority (IA) published consultation conclusions on the draft SPB Rules in respect of restrictions on the sale of insurance-linked securities (ILS) issued in Hong Kong.

The draft SPB Rules impose restrictions on the sale of ILS, which are useful and effective risk management tools that enable insurers and reinsurers to offload insured risks to the capital markets by way of securitization but unsuitable for ordinary retail investors. The said restrictions include the requirement to spell out the scope of eligible ILS investors, a minimum investment sum, and penalties for contraventions of sales restrictions.

Respondents of the public consultation were generally supportive of the draft SPB Rules but proposed a lower minimum investment sum to facilitate market development, maintain liquidity in the secondary market, and make Hong Kong a competitive ILS domicile. Considering the response received, the IA proposes to change the threshold to US\$250,000.

Click [here](#) to view the IA circular, [here](#) to view the consultation conclusions, and [here](#) to view the consultation paper.

Click [here](#) to view the FSTB news.

IA, 19 January 2021; FSTB, 15 January 2021

Profits tax concessions for insurance-related businesses to commence on 19 March 2021

The Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Business) Ordinance 2020 (the Ordinance), which was enacted in July 2020, reduces the profits tax rate by 50 percent for all general reinsurance business of direct insurers, selected general insurance business of direct insurers, and selected insurance brokerage business. For the purpose of effecting the profits tax concessions, the government gazetted the following subsidiary legislations on 15 January 2021:

- The Inland Revenue (Amendment) (Profits Tax Concessions for Insurance-related Businesses) Ordinance 2020 (Commencement) Notice, which appoints 19 March 2021 to be the date for the ordinance to become effective.
- The Inland Revenue (Profits Tax Concessions for Insurance-related Businesses) (Threshold Requirements) Notice, which prescribes threshold requirements for determining whether the relevant activities of the specified insurance-related business are, or are arranged to be, conducted in Hong Kong.

Click [here](#) to view the FSTB news.

FSTB, 15 January 2021

Revised form for application for approval to become an Executive Officer (EO) of a Registered Institution under section 71C of the Banking Ordinance (Cap. 155)

The HKMA has recently revised the application form and supplemental forms (collectively,

Application Form) for consent to become an EO of a Registered Institution with a view to enhance the efficiency of the application process.

The information requested in the revised Application Form remains largely the same as those in the old form. Major changes include:

- A new feature that requests applicants to indicate their acceptance of certain standard condition(s) which would be attached to a consent being applied for where given circumstances apply.
- A new requirement for applicants who intend to apply for conditional exemption(s) from taking relevant local regulatory framework paper(s) under paragraph 10 of Appendix E to the "Guidelines on Competence" issued by the SFC to enclose a letter of undertaking.

The HKMA also reminded AIs to provide complete, relevant, and accurate information, and specifically to refer to the relevant SFC guidelines and statutes when completing the Application Form. The HKMA will continue to accept the old form until 11 February 2021, after which any application will have to be made with the Application Form.

Click [here](#) to view the HKMA circular.

IA, 12 January 2021

Prescribed scenarios for long term insurance business (Prescribed Scenarios) in relation to Guideline on Enterprise Risk Management (GL21)

The Prescribed Scenarios in relation to GL21 were published on 11 January 2021, which shall be adopted for the first Own Risk and Solvency Assessment (ORSA) Report that is required for the financial year ended 31 December 2021. The IA will review the Prescribed Scenarios for

the next ORSA Report and may revise some of the scenarios in the future having regard to market conditions.

The Prescribed Scenarios are designed for a long term insurer to consider in its ORSA Report the risk to its capital position of multiple severe events or stresses happening at the same time, and the management actions it would take in such extreme events or stresses. The IA may request insurers to test scenarios in addition to the Prescribed Scenarios. Details of the Prescribed Scenarios, namely the market risk scenario, life insurance risk scenario, market risk with life insurance risk scenario and compound scenario, together with the reporting and other relevant requirements, are set out in the appendix to the circular.

Click [here](#) to view the IA circular and [here](#) to view the appendix to the circular.

IA, 11 January 2021

Self-assessment of compliance with the Code of Banking Practice 2020 (Code)

The HKMA published a circular on 11 January 2021 to remind AIs to submit electronically the annual self-assessment of compliance with the Code by 30 April 2021, covering the period from 1 January 2020 to 31 December 2020. The electronic file of the reporting template and submission instructions will be sent to AIs via the HKMA's Submission Through Electronic Transmission system (also known as the STET system).

The reporting requirements specified in the reporting template are the same as those from last year. AIs are required to commission their internal audit department, compliance department, or other equivalent unit to conduct the self-assessment and issue a self-assessment report. The self-assessment report should be approved and signed by the chief executive of the AI. Where an instance of

noncompliance is identified that is a recurrence of similar instances identified in previous exercises, a full account should be provided.

Click [here](#) to view the HKMA circular and [here](#) to view the annex to the circular.

HKMA, 11 January 2021

Applications for new insurance intermediaries licenses by deemed licensees

Since 23 September 2019, the IA has taken over the regulation of insurance intermediaries. Under the new regime, all insurance agents and brokers are required to be licensed with the IA. Insurance agents and brokers who were previously registered with the self-regulatory bodies prior to 23 September 2019 are considered "deemed licensees" for a period of three years, until 22 September 2022 (Transitional Period). During the Transitional Period, each deemed licensee needs to apply for a new license from the IA if they wish to continue to carry on regulated activities after 22 September 2022. Further details can be found in our [August issue of the Hong Kong Corporate Insights](#).

On 8 January 2021, the IA officially announced in a circular the launch of the licence application process for deemed licensees. The IA explained in the circular that it expects significant progress to be made in processing licence applications during the course of 2021. It is expected that in early 2022, the IA will announce a cut-off date and if an application is not submitted by an intermediary by the cut-off date, the IA will not be able to guarantee the processing of such licence application before 22 September 2022.

Click [here](#) to view the IA circular.

IA, 8 January 2021

The Process Review Panel in relation to the regulation of Mandatory Provident Fund Intermediaries (PRP) publishes 2020 Annual Report

The PRP published its 2020 Annual Report which covered work of the PRP from 1 May 2019 to 30 April 2020. The PRP is an independent panel established by the Chief Executive of Hong Kong, which is tasked to review and advise the Mandatory Provident Fund Schemes Authority (MPFA) on the adequacy and consistency of its internal procedures and operational guidelines governing the actions taken and operational decisions made by the MPFA and its staff in the performance of its regulatory functions in relation to the regulation of Mandatory Provident Fund (MPF) intermediaries and associated matters. Its work focuses on procedural propriety in the regulatory regime rather than the merits of the MPFA's decisions and actions.

The PRP reviewed the follow-up actions undertaken by the MPFA in light of the PRP's recommendations made in the previous year. It also reviewed 5 out of 13 closed conduct cases relating to allegations against MPF intermediaries including inadequate internal control, failure to provide necessary information clearly and accurately to the client, and unauthorized transfer of MPF account information or collection of such information by impersonating a client. The PRP made observations and recommendations to the MPFA as follows:

- To set up and make available to the industry a defined set of guidelines to determine the type of actions and level of penalties based on the severity and nature of the substantiated allegations, and to list the relevant factors that will be considered when making decisions in relation to these actions and penalties.

- To streamline the clearance process for revising draft reports and issuing reminder letters and closure letters to improve overall efficiency in case handling.
- To devise ways to speed up investigation findings, devote further efforts to improving key performance indicators (KPIs) by developing internal operating protocols and special communication protocols, and to keep a formal record of reasons why KPIs were not met in cases.

Click [here](#) to view the FSTB news and [here](#) to view the 2020 Annual Report.

FSTB, 6 January 2021

Data Protection

Privacy Commissioner reports on work of the PCPD in 2020

The Privacy Commissioner for Personal Data (PCPD) reported on work of the office of the PCPD in 2020 and released the results of a survey to gauge attitudes and views of the public and organizations on the protection of personal data privacy in a media briefing held on 28 January 2021.

Summing up 2020, the PCPD said "2020 was a year fraught with challenges. To address the personal data privacy issues arising from the COVID-19 pandemic, the PCPD had striven to provide comprehensive views, opinions or guidance to our stakeholders in a timely manner."

Doxxing

The handling of doxxing cases continued to be an important task for the PCPD in 2020. Over 1,190 cases were handled, of which around 1,000 cases were discovered in 2020. The PCPD stresses, "It is saddening to see the harm caused by doxxing. Other than being morally wrong, doxxing acts may also lead to serious legal consequences." In 2020, five defendants were convicted of doxxing offenses, two of whom were sentenced to immediate imprisonment for contravention of the Personal Data (Privacy) Ordinance (Cap. 486) (PDPO).

Going forward, the PCPD will step up its publicity and educational efforts, and continue to conduct proactive online patrols and collaborate with the Hong Kong police to combat doxxing behavior. The PCPD has set up a hotline to answer enquiries and complaints relating to doxxing.

Data breach incidents

In 2020, the PCPD received 103 personal data breach notifications from organizations. These involved hacking, system misconfiguration, unauthorized access, loss of documents,

inadvertent disclosure, and accidental erasure of personal data, etc.

Survey results

The PCPD commissioned the Social Science Research Centre of the University of Hong Kong to conduct a survey to gauge public awareness on the protection of personal data privacy.

The survey found that:

- The public were prudent in protecting their personal data, 80 percent of respondents are aware of their privacy settings on social media accounts, of which 80 percent checks their privacy settings.
- Out of the population that installs instant messaging apps on their mobile phones, a large majority were aware that the apps had access to the contact information on their phone, a large majority of this population considers this privacy invasive, and 34 percent considers this a serious invasion of privacy.
- Respondents show support for amendments to the PDPO to introduce administrative fines and a mandatory data breach notification.

Looking forward, the PCPD will continue to take a multi-pronged approach, to enhance enforcement and strengthen cooperation with educational institutions. The PCPD will also work with the Hong Kong government to formulate concrete proposals in amending the PDPO, and will strive to provide necessary input to the government in the legislative amendment exercise.

Click [here](#) to read the media statement.

PCPD, 28 January 2021

Privacy Commissioner urges users to carefully consider new terms of use in instant messaging apps

The PCPD noted that a widely used instant messaging app in Hong Kong had recently announced changes to its Terms of Service and Privacy Policy (the Terms). Users will need to agree to share certain information with the parent company of the messaging app and its subsidiaries, otherwise they cannot continue using the app.

The PCPD is concerned that the data to be shared includes a substantial amount of personal data, and urges users to be aware of the changes in the Terms. The PCPD reminds users to carefully consider the new Terms and take note of the type of data which will be shared and how they will be used.

The PCPD said users should "consider, in particular, whether they are willing to transfer their personal data to companies associated with the messaging app for storage and use. If users choose not to give their consent, they should make preparations to back up their data."

Given the wide usage of the messaging app by the general public in Hong Kong, the PCPD appeals to the messaging app to, amongst other things:

- Clearly explain to users the arrangement for sharing of personal data, the type of personal data involved, and how the data will be used.
- Extend the period for to allow users ample time to consider the new Terms.
- Consider providing practical alternative to users who do not agree to the new Terms so they can continue using the service of the messaging app.

According to the updates announced by the messaging app, user information will be shared

with the messaging app's parent company and its subsidiary to help operate, provide, improve, understand, customize, support and market its services and related products. According to the messaging app's announcement, the information which will be shared include:

- Account registration information (i.e. users' phone number).
- Transaction data.
- Service-related data.
- Information on how users interact with others (including businesses) when using their services.
- Users' mobile device information.
- Users' IP address.
- Other information to be collected as identified in the Privacy Policy or obtained upon notice to users or based on users' consent.
- Information about users provided by third parties, third party service providers and/or other associated companies.

Following the original media statement released by the PDPO on 11 January 2021, the PCPD released a follow-up statement on 16 January 2021 noting that the instant messaging app had announced to extend the deadline for users to accept to its new Terms from 8 February 2021 to 15 May 2021. The PCPD welcome the new arrangement as it allows users more time to consider the new Terms.

Click [here](#) to view the media statement dated 11 January 2021, and click [here](#) to view the media statement dated 16 January 2021.

PCPD, 16 January 2021

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