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HKMA ENHANCED CONSUMER PROTECTION IN THE USE OF GENAI BY AUTHORIZED INSTITUTIONS IN HONG KONG

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The Hong Kong Monetary Authority (HKMA) has imposed additional principles on the use of big data analytics and artificial intelligence (BDAI) and specifically, generative artificial intelligence (GenAI) by authorized institutions.

These additional principles to the existing BDAI Guiding Principles¹ were set out in a Circular on 19 August 2024 to all authorized institutions.

The additional principles aim to ensure that authorized institutions put in place appropriate safeguards for consumer protection when they deploy generative artificial intelligence (GenAI) in customer-facing applications.

Potential customer-facing applications include customer chatbots, customised product and service development and delivery, targeted sales and marketing, and robo-advisors in wealth management and insurance.

GenAI is a form of BDAI that enables generation of new content such as text, image, audio, video, code or other media, based on vast amounts of data. That being the case, the HKMA expects all authorized institutions to apply and extend the Existing BDAI Guiding Principles to the use of GenAI – and continue to adopt a risk-based approach commensurate with the risks associated with using GenAI.

While GenAI shares similar risk dimensions as BDAI, other potential risks arising from its use of complex models include lack of explainability and hallucination – namely, generating output that seems realistic but is factually incorrect, incomplete and lacking either important information or relevance to the context. These risks could cause even more significant impact on customers.

The HKMA recognises the potential of BDAI and GenAI for product-feature optimisation and customer segmentation to the individual level, enabling its authorized institutions to design and promote products matching specific products with specific customers.

Yet while realising business potential and opportunities, the HKMA also encourages authorized institutions to explore the use of BDAI and GenAI in enhancing consumer protection. Examples given by the HKMA include identification of vulnerable customers or other customers who may need more protection or more information or explanation to better understand product features and risks; or sending fraud alerts to customers who conduct transactions with potentially higher risks.

The Circular sets out the following additional principles under the four major areas of the Existing BDAI Guiding Principles:

1. GOVERNANCE AND ACCOUNTABILITY

The board and senior management of authorized institutions should remain accountable for all GenAI-driven decisions and processes. They should have thoroughly considered the potential impact of GenAI applications on customers through an appropriate committee under the authorized institutions' governance, oversight and accountability framework.

They should ensure, among others:

1. Scope of customer-facing GenAI applications is clearly defined to avoid usage in unintended areas;
2. Proper policies and procedures are developed on the responsible use of GenAI in customer-facing applications and related control measures are implemented; and
3. Proper validation of the GenAI models are put in place, in particular during the early stage of deploying customer-facing GenAI applications. Authorized institutions should also adopt a "human-in-the-loop" approach, with a human retaining control in the decision-making process ensuring accuracy of the model-generated output.

2. FAIRNESS

Authorized institutions should ensure GenAI models produce objective, consistent, ethical and fair outcomes to customers.

For example:

1. The model-generated outputs would not lead to unfair bias or disadvantage against any customers or groups of customers. This can be achieved by taking into account different approaches, such as anonymising certain categories of data; deploying datasets that are comprehensive and fair representation of the population; and making adjustments to remove bias during the validation and review process (e.g. by adopting "human-in-the-loop").
2. During the early stage of deployment, customers are provided with the option to opt out of using GenAI and request human intervention on GenAI-generated decision, at their discretion as far as practicable. Where an "opt-out" option cannot be provided, authorized institutions should provide channels for customers to request review of GenAI-generated decisions.

3. TRANSPARENCY AND DISCLOSURE

Authorized institutions should provide an appropriate level of transparency to customers regarding their GenAI applications through proper, accurate and understandable disclosure.

To meet this requirement, they should disclose the use of GenAI to customers, and, among others, communicate with customers on the use and purpose of adopting the GenAI models, as well as the limitations of such models to enhance customer understanding.

4. DATA PRIVACY AND PROTECTION

Authorized institutions should implement effective protection measures to safeguard customer data. In particular, if personal data are collected and processed by GenAI applications, authorized institutions should comply with the Personal Data (Privacy) Ordinance (Cap. 486).

They should also pay due regard to relevant recommendations and good practices issued by the Office of the Privacy Commissioner for Personal Data related to GenAI, including the "Guidance on the Ethical Development and Use of Artificial Intelligence" published on 18 August 2021² (PCPD Guidance Note), and the "Artificial Intelligence: Model Personal Data Protection Framework" published on 11 June 2024 (PCPD Model Framework)³.

The PCPD Guidance Note recommends three fundamental data stewardship values and seven ethical principles which any organisation should consider when it develops and uses artificial intelligence, namely:

1. Data Stewardship Values

1. Be Respectful
2. Be Beneficial
3. Be Fair

2. Ethical Principles

1. Accountability
2. Human Oversight
3. Transparency and Interpretability
4. Data Privacy
5. Fairness
6. Beneficial AI
7. Reliability, Robustness and Security

The PCPD Model Framework is an extension of the PCPD Guidance Note, offering a comprehensive checklist for integrating artificial intelligence tools into operations. It reflects the expectations of the PCPD and outlines the investigative approach that would be taken in the event of a data breach linked to the use of artificial intelligence. Please see our Legal Update on the PCPD Model Framework.⁴

Link to the Circular:

[Consumer Protection in respect of Use of Generative Artificial Intelligence \(hkma.gov.hk\)](https://www.hkma.gov.hk/en/our-work/circulars/circulars-2024/circular-2024-01-consumer-protection-in-respect-of-use-of-generative-artificial-intelligence)

¹ See: [Consumer Protection in respect of Use of Big Data Analytics and Artificial Intelligence by Authorized Institutions \(hkma.gov.hk\)](https://www.hkma.gov.hk/en/our-work/circulars/circulars-2024/circular-2024-01-consumer-protection-in-respect-of-use-of-generative-artificial-intelligence)

² See: https://www.pcpd.org.hk/english/resources_centre/publications/files/guidance_ethical_e.pdf

³ See: https://www.pcpd.org.hk/english/resources_centre/publications/files/ai_protection_framework.pdf

⁴ See: [Hong Kong PCPD Issues Model Personal Data Protection AI Framework](https://www.hkma.gov.hk/en/our-work/circulars/circulars-2024/circular-2024-01-consumer-protection-in-respect-of-use-of-generative-artificial-intelligence)

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