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Is complying with the PDPO enough for the purposes of GDPR – An overview of the compliance requirements and risks under Hong Kong PDPO and EU GDPR

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LexisNexis

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- Overview of Hong Kong PDPO and EU GDPR
- Cross-border investigation, litigation and enforcement
- Regulatory investigations
- Internal investigations – issues
- Privilege issues

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GDPR

Common questions

- Does it apply (how does it apply)?
- Does it apply to us in Asia?
- If it applies, how would it be enforced?

Analogy: Long arm jurisdiction of FCPA and UK Bribery Act

Why do business care?

- Application
- Sanctions and penalties
- Enforcement – long arm jurisdiction

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Overview of Hong Kong PDPO and EU GDPR*

Main differences between PDPO and GDPR:

- Extra-Territorial Application
- Accountability and Governance
- Mandatory breach notification
- Sensitive personal data
- Consent
- Data processor obligations
- New or enhances rights of data subjects/profiling
- Certification/seals and personal data transferred outside jurisdictions
- Sanctions

*Privacy Commissioner for Personal Data, HK

Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Overview of Hong Kong PDPO and EU GDPR*

Extraterritorial Application

- Data users who, either alone or jointly or in common with other persons, controls the collection, holding, processing or use of the personal data in or from HK [s.2(1)] - PDPO

GDPR

- Data processors or controllers:
  - With an establishment in the EU; or
  - Established outside the EU, that offer goods or services to individuals in the EU, or monitor the behaviour of individuals in the EU

*Privacy Commissioner for Personal Data, HK

Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Overview of Hong Kong PDPO and EU GDPR*

- Accountability principle and related privacy management tools not explicitly stated [PDPO]

GDPR

- Risk-based approach to accountability – data controllers are required to:
  - Implement technical and organizational measures to ensure compliance
  - Data protection by design
  - Data protection impact assessment for high-risk processing
  - Designate Data Protection Officers (for some organizations)

*Privacy Commissioner for Personal Data, HK

Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Overview of Hong Kong PDPO and EU GDPR*

Mandatory breach notification

- No mandatory breach notification requirement (but recommended)[PDPO]

GDPR

- Data controllers are required to notify the authority about a data breach within 72 hours
- Data controllers are required to notify affected data subjects unless exempted

*Privacy Commissioner for Personal Data, HK

Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Overview of Hong Kong PDPO and EU GDPR*

Sensitive personal data

- No distinction between sensitive and non-sensitive personal data [PDPO]

GDPR

- Expand the category of sensitive personal data.
- Processing of sensitive personal data is allowed only under specific circumstances

*Privacy Commissioner for Personal Data, HK
Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Overview of Hong Kong PDPO and EU GDPR*

- Consent is not a pre-requisite for the collection of personal data, unless the personal data is used for a new purpose [PDPO]

GDPR

- Needs to be one of the 6 lawful bases for processing
  - Consent of the data subject to the processing for one or more specific purposes;
  - Performance of a contract with the data subject or to take steps preparatory to such a contract;
  - Compliance with a legal obligation;
  - Protecting the vital interests of a data subject or another person where the data subject is incapable of giving consent;
  - Performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller;
  - Purposes of legitimate interests
- Consent must be
  - Freely given, specific and informed; and
  - An unambiguous indication of a data subject's wishes, by statement of by clear affirmative action, which signifies agreement to the processing of his personal data.

*Privacy Commissioner for Personal Data, HK

Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Overview of Hong Kong PDPO and EU GDPR*

Data Processor obligations

- Data processors are not directly regulated
- Data users are required to adopt contractual or other means to ensure data processors comply with data retention and security requirements [PDPO]

GDPR

- Data processors are imposed with additional obligations, such as:
  - Maintaining records of processing
  - Ensuring security of processing
  - Reporting data breaches
  - Designating data protection officers etc.

*Privacy Commissioner for Personal Data, HK

Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Overview of Hong Kong PDPO and EU GDPR*

Rights of Data Subjects

- No right to erasure, data portability or right to object to processing (including profiling) but may opt out from direct marketing activities

GDPR

- Right to be forgotten
- Right to access
- Breach notification
- Data portability
- Privacy by Design
- Right to object to processing (including profiling)
- Data protection Officers

*Privacy Commissioner for Personal Data, HK

Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Overview of Hong Kong PDPO and EU GDPR*

Certifications and cross-border transfers

- No certification/privacy seal mechanism for demonstrating compliance [PDPO]

GDPR

- Explicitly recognise privacy seals and establishes certification mechanism for demonstrating compliance by data controllers and processors.
- Certification as one of the legal bases for cross-border data transfer

*Privacy Commissioner for Personal Data, HK

Booklet: European Union General Data Protection Regulation 2016 (Effective 25 May 2018]

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Does it Apply?

Article 3 – Territorial Scope

3.2 - GDPR applies to the processing of personal data of data subjects who are in the EU by a controller or processor not established in the EU, where the processing activities are related to:

(a) The offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the EU; or

(b) The monitoring of their behaviour as far as their behaviour takes place within the EU.

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Does it Apply?

Some definitions (Article 4):

- Personal data – any information relating to an identified or identifiable natural person (data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person

- Processing – means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction

Does it Apply?

Some definitions:

- Controller – means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of processing of personal data; where the purposes and means of such processing are determined by the EU or Member state law, the controller or the specific criteria for its nomination may be provided for by the EU or Member state law.

- Processor – a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

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Does it Apply?

GDPR applies (even if you are in Asia):

- If you have clients that are EU citizens
- If you are marketing or selling products or services into the EU
- If you have employees that are EU citizens

Example:

- A HK company selling goods online: a non EU incorporated company that sells goods through its official website could be subject to the GDPR if it sells to, say, a Hungarian national in Hungary.

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Does it Apply?

So if you don't have any EU customers or employees, you don't' sell online to EU customers and you don't offer any goods or services to EU customers, does it mean that you are safe from GDPR violations?

Consider this situation:

- You are a licensed money service operator (MSO) in Hong Kong that offers wire transfer services.
- You serve and deal with parties that are in Asia.
- You don't have any EU customers or staff.
- Your clients are individuals, corporations and also other MSOs.
- You do, however, received orders from other MSOs to help them send funds to beneficiaries in the EU region. But these beneficiaries are not your clients or customers.
- Sometimes, you might pass a transaction to other MSOs to release funds to a beneficiary in the EU.

Does GDPR apply?

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Does it Apply?

- GDPR provides that it applies to the processing of personal data of data subjects who are in EU by a controller or processor not established in the EU, where processing activities are related to the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the EU.

- ‘processing’ means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- ‘processor’ means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

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Does it Apply?

- If the beneficiary is a EU citizen and the beneficiary's personal data is processed, GDPR will apply to the MSO as a processor.

- For the other scenario, the MSO may be a controller (if it has the power to direct the purpose of the personal data processing) or a processor engaging another processor for carrying out specific processing activities on behalf of the controller.

What does this mean?

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Does it Apply?

GDPR requirements:

- The MSO has the obligation to ensure that the same data protection obligations as set out in the contract between the controller (the head MSO) and the MSO shall be imposed on the MSO's processor by way of a contract under EU or EU member state law, in particular providing sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing will meet the requirements of GDPR.

- Where the other MSO fails to fulfil its data protection obligations, the initial processor MSO shall remain fully liable to the controller for the performance of that other processor's obligations. Hence the MSO should ensure that the other MSO is GDPR-compliant.

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Does it Apply?

GDPR requirements:

A processor has the following direct responsibilities under the GDPR:

- only act on the written instructions of the controller (Article 29);
- not use a sub-processor without the prior written authorisation of the controller (Article 28.2);
- co-operate with supervisory authorities (such as the Information Commissioners' Office of UK (equivalent to the office of Privacy Commissioner) in accordance with (Article 31));
- ensure the security of its processing in accordance with (Article 32);
- keep records of its processing activities in accordance with (Article 30.2);
- notify any personal data breaches to the controller in accordance with (Article 33)
- If the personal data processing is occasional, then it will not be necessary to appoint (in writing) a representative within the EU. Otherwise, say there will be high volume of personal data processing or sensitive personal data processing then the overseas processor will need to appoint a representative within the EU pursuant to GDPR.

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Does it Apply?

If a processor fails to meet the obligations, or acts outside or against the instructions of the controller, then it may be liable to pay damages in legal proceedings, or be subject to fines or other penalties or corrective measures.

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Right to be Erased

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Cross-border investigation, litigation and enforcement

- Personal data – any information relating to an identified or identifiable natural person (data subject); an identifiable natural person is one who can be identified, directly or indirectly [Art.4 GDPR]
- The following identifiers can be personal data of a natural person
  - Name
  - Identification number
  - Location data
  - Online identifier
  - The natural person is identifiable by reference to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

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Cross-border investigation, litigation and enforcement

What is a personal data breach?*

A breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data. This includes breaches that are the result of both accidental or deliberate causes. It also means that a breach is more than just about losing personal data.

Examples:

- Access by an unauthorised 3rd party
- Deliberate or accidental action (or inaction) by a controller or processor
- Sending personal data to an incorrect recipient
- Computing devices containing personal data being lost or stolen
- Alteration of personal data without permission
- Loss of availability of personal data (ransomware)

*Guide to the GDPR, Information Commissioner's Office

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Cross-border investigation, litigation and enforcement

First GDPR Ruling Issued in German Courts

- 9 July – a German court, in the first decision applying the GDPR, ruled that data collection that exceeds what is necessary to achieve legitimate business purposes breaches one of the basic principles of the GDPR.

Multiple breaches?

Multiple jurisdictions (28 Member states + European Economic Area (EEA) states)? Civil/Continental law and Common law

Multiple Investigations? Multiple Enforcements?

Cross border investigations (EU + HK)?

Cross border enforcements?

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Cross-border investigation, litigation and enforcement

For data breach incidents, you should have:

- Robust personal data breach detection capabilities
- Investigation and internal reporting procedures

You must keep a record of any personal data breaches, regardless of whether you are required to notify.

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Cross-border investigation, litigation and enforcement

When reporting a breach, you must provide:

- A description of the nature of the personal data breach including, where possible:
  - The categories and approximate number of individuals concerned; and
  - The categories and approximate number of personal data records concerned;
- The name and contact details of the DPO (if your organization has one) or other contact point where more information can be obtained;
- A description of the likely consequences of the personal data breach; and
- A description of the measures taken, or proposed to be taken, to deal with the personal data breach, including, where appropriate, the measures taken to mitigate any possible adverse effects.

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Cross-border investigation, litigation and enforcement

You need to report a notifiable breach to the Data Protection Authority without undue delay, but not later than 72 hours after becoming aware of it. If you take longer than this, you must give reasons for the delay [Article 33].

When does a controller become “aware”?*

When the controller has a reasonable degree of certainty that a security incident has occurred that has led to personal data being compromised. The emphasis should be on prompt action to investigate an incident to determine whether personal data have indeed been breached, and if so, to take remedial action and notify if required.

*Article 29 Data Protection Working Party-Guidelines on Personal data breach notification under GDPR

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Cross-border investigation, litigation and enforcement

What if the breach affects individuals in different EU countries?

Whenever a breach affects the personal data of individuals in more than one EU state and notification is required, the controller will need to notify the lead supervisory authority.

If the controller has any doubt as to the identity of the lead supervisory authority then it should, at a minimum, notify the local supervisory authority where the breach has taken place.

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Cross-border investigation, litigation and enforcement

Identify the lead supervisory authority

- Guidelines for identifying a controller or processor's lead supervisory authority

- Para 3.3 of the Guidelines – Companies not established within the EU
  - If the controller does not have an establishment in the EU, it must deal with local supervisory authorities in every Member State they are active in, through their local representative.
- The overseas controller or processor shall have a local representative in the EU [Article 27] unless:
  - The processing is occasional and does not include, on a large scale, processing of special categories of personal data
  - And is unlikely to result in a risk to the rights and freedoms of natural persons, taking into account the nature, context, scope and purposes of the processing

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Cross-border investigation, litigation and enforcement

- Failing to notify a breach when required to do so can result in a significant fine up to 10 Million Euros or 2% of your global turnover.
- The fine can be combined with the DPA's other corrective powers under Article 58.

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Regulatory Investigations

- Regulators will have a range of other powers and sanctions at their disposal. This includes investigative powers, such as the ability to demand information from controllers and processors, and to carry out audits. They will also have corrective powers enabling them to issue warnings or reprimands, to enforce an individual's rights and to issue a temporary or permanent ban on processing.
- Each Member State shall provide by law that its DPA shall have the power to bring infringements of GDPR to the attention of judicial authorities and where appropriate, to commence or engage otherwise in legal proceedings, in order to enforce the provisions of GDPR.

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Regulatory Investigations

Confidentiality of Information obtained by the regulator – UK Data Protection Act 2018

A disclosure is made with lawful authority if (Section 132(2)):

- the disclosure was made with the consent of the individual or of the person for the time being carrying on the business,
- the information was obtained or provided as described in subsection (1)(a) (information obtained in the course of, or for the purposes of, the discharging of the Commissioner's functions) for the purpose of its being made available to the public (in whatever manner),
- the disclosure was made for the purposes of, and is necessary for, the discharge of one or more of the Commissioner's functions,

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Regulatory Investigations

- the disclosure was made for the purposes of, and is necessary for, the discharge of an EU obligation,
- the disclosure was made for the purposes of criminal or civil proceedings, however arising, or
- having regard to the rights, freedoms and legitimate interests of any person, the disclosure was necessary in the public interest.

Disclosure to other DPAs?

Disclosure to other LEAs or regulatory bodies?

Disclosure to other authorities of other countries?

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Regulatory Investigations

PCPD to maintain secrecy – s.46 of PDPO

Subject to exceptions, PCPD and every prescribed officer shall maintain secrecy in respect of all matters that come to their actual knowledge in the performance of their functions and the exercise of their powers (including investigative powers) under the PDPO.

Exceptions:

- May, for the proper performance of PCPD's functions or the proper exercise of PCPD's powers under PDPO, disclose such matters or disclose such matters to an authority of a place outside Hong Kong that performs a relevant function, if –

(a) That authority has undertaken to be bound by the secrecy requirements imposed by the PCPD; and

(b) any of the conditions specified in subsection (10) of PDPO is satisfied

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Regulatory Investigations

Relevant function – in relation to an authority of a place outside Hong Kong, means a function relating to investigation into a suspected contravention, and enforcement, of legal or regulatory requirements in that place concerning the protection of privacy of individuals in relation to personal data.

Subsection 10 conditions include:

- In the opinion of the PCPD, there is in force in that place any law which is substantially similar to, or serves the same purposes as, PDPO
- the Commissioner has reasonable grounds for believing that, in all the circumstances of the case—

(i) the disclosure is for the avoidance or mitigation of adverse action against the data subject;

(ii) it is not practicable to obtain the consent in writing of the data subject to that disclosure; and

(iii) if it was practicable to obtain such consent, the data subject would give it;

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Regulatory Investigations

PCPD will also strengthen international cross-border cooperation with overseas data protection regulators, to establish constructive dialogues and leverage each other's expertise in tackling challenging privacy issues. – opening remarks by PCPD at the 66th American Bar Association Antitrust Law Spring Meeting 2018

Hong Kong and many EU Members are members of the Global Privacy Enforcement Network (GPEN) – cooperation in the exchange of enforcement information and handling cross-jurisdictional cybersecurity and data breach cases.

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Regulatory Investigations

Data Breach – may involve

- Hacking/Cybercrime
- Unauthorized access
- Theft of intangible property IP rights
- Money Laundering

Mutual Legal Assistance in Criminal Matters Ordinance (Cap 525)

- France
- UK
- Italy
- Portugal
- Ireland
- Netherlands
- Belgium

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Enforcement

For HK companies with a physical establishment in the EU – GDPR can be enforced directly against them by EU regulators

For HK companies subject to the GDPR that lack a physical presence in the EU – Article 27 of the GDPR provides that a local EU representative must be appointed unless an exemption in Article 27 applies. The EU representative may be held liable for non-compliance of overseas entities, although the contract with the representative may shift liability back to the HK company.

For HK companies with no EU physical location or local representative – EU regulators will have to rely on HK Courts to enforce GDPR noncompliance.

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Enforcement

Foreign Judgment in favour of EU regulators or data subjects for violation of GDPR

- Enforcement of foreign judgment in HK
    - Statutory regime based on reciprocity under the Foreign Judgments (Reciprocal Enforcement)(Cap 319)(FJ(RE))
    - Under common law

- FJ(RE) (registration and enforcement) Applies to:
    - Belgium
    - France
    - Germany
    - Italy
    - Austria
    - Netherlands

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Enforcement

- A data subject can claim a controller or processor in Court (Article 79) and ask for compensation against the controller or processor for suffering material or non-material damage as a result of the GDPR infringement (Article 82)

- Proceedings against a controller or processor shall be brought before the Courts of the EU Member State where the controller or processor has an establishment. Alternatively, such proceedings may be brought before the courts of the EU Member State where the data subject has his/her habitual residence, unless the controller or processor is a public authority of a EU Member State acting in the exercise of its public powers.

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Enforcement

Requirements of the foreign judgment:

- A “judgment” means a judgment or order given or made by a court in any civil proceedings; or a judgment or order given or made by a court in any criminal proceedings for the payment of a sum of money in respect of compensation or damages to an injured party
- It must be from a superior court that has unlimited jurisdiction in civil and criminal matters
- The judgment must not have been wholly satisfied
- If the judgment has been satisfied in part, the judgment shall be registered only in respect of the balance remaining payable as at the date of registration of the judgment
- The judgment must be enforceable by execution in the country of the original court
- The judgment is final and conclusive between parties; and
- The judgment is for a sum of money
- The application must be made within 6 years of the date of the original judgment

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Enforcement

- Apply to the Court of First Instance
- Ex parte
- For registration of the judgment
- If the judgment is registered, the judgment debtor would be informed of the registration
- The judgment debtor may apply to the Court to set aside the registration

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Enforcement

- DPA can impose an administrative fine pursuant to Article 83 [Article 58(2.(i)]
- Administrative fines up to 10M Euro or up to 2% of the total worldwide annual turnover of the preceding financial year, whichever is higher
- More serious breaches (including breach of the data subjects' rights) subject to administrative fines up to 20M Euro, or up to 4% of the total worldwide annual turnover of the preceding financial year, whichever is higher.
- If fined, is this "a judgment or order given or made by a court in any civil proceedings"?
- The exercise by the DPA of its powers under Article 83 (impose administrative fines for breach of GDPR) shall be subject to appropriate procedural safeguards in accordance with EU and Member State law, including effective judicial remedy and due process.

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Enforcement

- If the EU Member state system does not provide for administrative fines, Article 83 may be applied in such a manner that the fine is initiated by the DPA and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by DPAs.

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Enforcement

Not covered by FJ (RE) – can apply under common law by a judgment creditor

- Issuing fresh proceedings based on the foreign judgment
- The foreign judgment is:
  - Final and conclusive upon the merits of the claim in the foreign jurisdiction; and
  - A claim for a fixed sum.

Challenging recognition of foreign judgment under common law

- The foreign court had no jurisdiction over the claim;
- The foreign judgment is not final and/or conclusive over the merits of the claim; or
- The claim is not for a fixed sum

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Internal Investigations

The importance of being:

- Able to identify a breach
- To assess the risk to individuals
- Then notify if required

Notification requirement of a breach within 72 hours after having become aware of the breach.

To be aware means having a reasonable degree of certainty that a security incident has occurred that has led to personal data being compromised.

GDPR emphasize prompt action to investigate an incident to determine whether personal data have indeed been breached.

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Internal Investigations

After first being informed of a potential breach by an individual, the media or another source, or when the controller itself has detected a security incident, the controller may undertake a short period of investigation in order to establish whether or not a breach has in fact occurred.

During this period of investigation the controller may not be regarded as being “aware” (hence does not need to report).

- But the initial investigation should begin as soon as possible and establish with a reasonable degree of certainty whether a breach has taken place; a more detailed investigation can then follow.

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Internal Investigations

Example

- An individual informs the controller that they have received an email impersonating the controller which contains personal data relating to his (actual) use of the controller's service, suggesting that the security of the controller has been compromised.
- The controller conducts a short period of investigation and identifies an intrusion into their network and evidence of unauthorized access to personal data.
- Does the controller need to notify?

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Internal Investigations

May need to involve:

- IT/Technical personnel (inside or outside the company)
- Business and operational people
- Management including senior management
- Legal
- HR
- Compliance
- Internal audit
- Law enforcement agency/Regulator
- Insurance broker/Insurer

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Internal Investigations

Flow of a breach incident

- Breach is discovered
- Assemble a response team and activate breach assessment and action plan
- Alert any technical or organizational staff whose expertise may be required
- Carry out initial investigation and assessment
  - Summary of facts
  - Type, sensitivity and volume of personal data involved
  - Cause
- If you have cyber or crime insurance, consider notifying the insurer
- Documentation of the breach and record all details
- Consider notifying the authorities (DPA, regulators etc)
- Consider notifying the data subject
- Consider whether anyone else need to be notified (e.g. customers, media, business partners etc)
- Consider reporting the matter to the police

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Privilege issues

- Investigations
  - Internal
    - Dealing with different people and generating reports and records
  - External – LEA and regulators
- Claims
  - Civil actions (class actions)
    - Discovery
- Public enquiries
  - Commission of Enquiry
  - LegCo

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Legal professional privilege

- Litigation Privilege
  - Protects documents and communications from disclosure if they are brought into existence for the sole or dominant purpose of actual or contemplated litigation (including communications between a client and 3rd parties)
- Legal Advice Privilege
  - Protects documents and communications made in confidence between a lawyer in his/her professional capacity and his/her client for the purpose of giving or seeking legal advice

Legal professional privilege

- Basic Law article 35: confidential legal advice
- S.60 of PDPO: Personal data is exempt from the provisions of DPP and s.18(1)(b)[Data access request] if the data consists of information in respect of which a claim to legal professional privilege could be maintained in law.
- Overseas jurisdictions may have different privilege laws

Refusing Production of Documents - Legal Professional Privilege

The Case of Lehman Brothers ("LB")

- 24 Sept 2008: SFC announced its decision to commence investigation into allegations that Lehman Brothers-related retail structured notes may have been misrepresented to Hong Kong investors in the selling process

- June 2009: SFC applied to the High Court for an order directing LB to comply with an SFC Notice to produce all documents relating to assessments of Minibonds by an Internal LB committee called the New Product Review Committee

- Liquidators of LB objected the production of 17 documents in their entirety on the ground that those documents were the subject of a claim of LPP

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Refusing Production of Documents - Legal Professional Privilege

The Case of Lehman Brothers ("LB")

- The SFC brought the application to vindicate the request for disclosure and compel the production of the documents

- After reviewing the documents in question in chambers, the Court held that certain section of seven documents were not subject to valid claims of privilege and should be produced to the SFC

- The SFC commented: *"the SFC respects valid claims of legal professional privilege. However, the SFC will not hesitate to challenge claims that it considers do not have a valid foundation*"

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Q&A

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