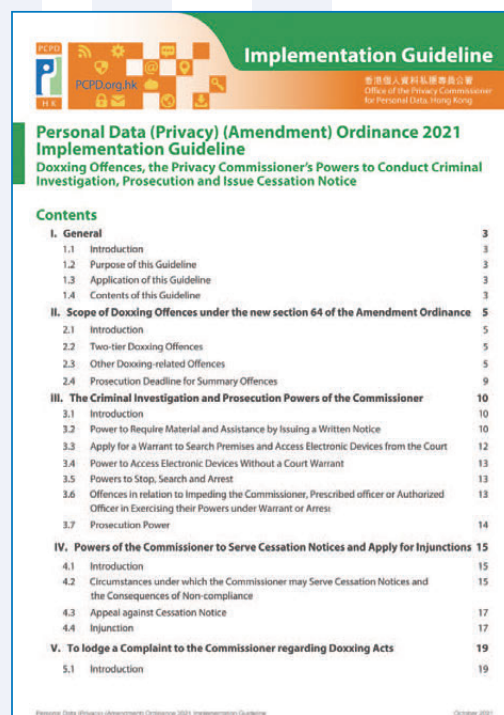


本年重點工作 Highlights of the Year





立法及實施《2021年個人資料(私隱)(修訂)條例》

不遺餘力 致力打擊「起底」

自2019年年中以來，侵犯個人資料私隱的「起底」行為在香港變得猖獗。過去三年，私隱公署分別處理了4,707、957及1,351宗與「起底」有關的案件。被「起底」的受害人士來自社會各階層，包括法官、政府官員、立法會議員、警務人員、名人及公眾人士。

Legislating for and Implementing the Personal Data (Privacy) (Amendment) Ordinance 2021

Sparing No Effort in Combatting Doxxing

Doxxing acts, which are intrusive to personal data privacy, have become rampant in Hong Kong since mid-2019. For the past three years, the PCPD handled 4,707, 957 and 1,351 doxxing-related cases respectively. The victims falling prey to the doxxing acts came from all walks of life, including judges, government officials, Legislative Council members, police officers, celebrities and members of the public.

《個人資料(私隱)條例》的修訂

為加強私隱公署打擊「起底」的能力，政制及內地事務局局長於2021年7月向立法會提交《2021年個人資料(私隱)(修訂)條例草案》(《條例草案》)。私隱專員及私隱公署在政府的支持下積極參與了草擬及修訂法例工作。立法會隨後成立《條例草案》委員會並審議草案，《條例草案》經過多次委員會會議後獲得通過，《2021年個人資料(私隱)(修訂)條例》(《修訂條例》)亦於2021年10月8日正式刊憲生效。

《修訂條例》的主要目的是修訂《私隱條例》，以(1)訂立未經同意下披露個人資料的兩級制罪行；(2)賦權予私隱專員對「起底」相關罪行進行刑事調查及提出檢控；及(3)賦予私隱專員法定權力發出停止披露通知，要求移除「起底」訊息。任何人未經資料當事人同意而披露他的個人資料，並有意圖或罔顧是否會導致當事人或其家人蒙受指明傷害，例如滋擾、騷擾、纏擾、威脅或恐嚇，或對當事人或其家人造成身體、心理傷害或財產受損，便可構成「起底」罪行。

Amending the Personal Data (Privacy) Ordinance

To enhance the PCPD's capabilities to combat doxxing, the Secretary for Mainland and Constitutional Affairs introduced the Personal Data (Privacy) (Amendment) Bill 2021 (the Bill) to the Legislative Council in July 2021. The Privacy Commissioner and the PCPD proactively participated in the drafting and legislative process in support of the Government. A Bills Committee was formed by the Legislative Council to scrutinise the Bill, and after rounds of meetings of the Bills Committee, the Personal Data (Privacy) (Amendment) Ordinance 2021 (Amendment Ordinance) was enacted and came into effect on 8 October 2021.

The main objectives of the Amendment Ordinance are to amend the PDPO to (1) create a two-tier offence for disclosing personal data without consent; (2) empower the Privacy Commissioner to carry out criminal investigations and institute prosecutions for doxxing-related offences; and (3) confer on the Privacy Commissioner statutory powers to issue cessation notices to request the removal of doxxing messages. Anyone who discloses the personal data of another person without consent, whether recklessly or with intent to cause specified harm to the person or his family, such as harassment, molestation, pestering, threat, intimidation, bodily or psychological harm or damage to property, commits the offence of doxxing.



在《修訂條例》生效前的工作

由2021年4月1日至2021年10月7日，私隱公署共處理423宗與「起底」有關的個案，跟進行動包括：

- 去信涉事的18個網站、社交媒體平台及討論區的營運商共104次，要求移除共1,749條「起底」訊息；
- 尋求本地及外地監管機構合作，合力打擊社交媒體平台上的「起底」行為；
- 轉介36宗涉及違例的個案予警方進行刑事調查及考慮檢控；及
- 轉介六宗可能違反有關「起底」的臨時禁制令的個案予律政司跟進。

Work before the Amendment Ordinance Came into Effect

From 1 April 2021 to 7 October 2021, the PCPD handled a total of 423 doxxing-related cases, and the follow-up actions included:

- Wrote 104 times to request the operators of 18 websites, social media platforms and discussion forums to remove a total of 1,749 doxxing messages;
- Sought the cooperation of local and foreign regulatory authorities to jointly combat doxxing on social media platforms;
- Referred 36 cases of possible contraventions to the Police for criminal investigation and consideration of prosecution; and
- Referred six cases of possible violations of interim injunction orders relating to doxxing to the Department of Justice for follow-up actions.



加大執法力度 推廣修訂條例

Stepping Up Enforcement and Promotion under the Amendment Ordinance

由《修訂條例》生效至2022年3月31日，私隱公署共處理928宗與新「起底」罪行相關的個案，作出下列跟進行動：

From the commencement of the Amendment Ordinance to 31 March 2022, the PCPD handled a total of 928 cases related to the new doxxing offences, and took these follow-up actions, among others:

- ❖ 行使了《修訂條例》新賦予的權力，向13個網站、社交媒體平台及討論區發出602份停止披露通知，要求它們移除3,110項「起底」訊息；
- ❖ 就65宗個案展開了刑事調查；
- ❖ 於2021年12月13日首度就一宗涉嫌違反「起底」罪行的個案拘捕一名人士；及
- ❖ 轉介兩宗涉嫌違反新修訂「起底」條例的較嚴重個案予警方進行刑事調查及考慮檢控。

- ❖ Exercised the newly conferred powers under the Amendment Ordinance and issued 602 cessation notices to 13 websites, social media platforms and discussion forums, requesting them to remove over 3,110 doxxing messages;
- ❖ Commenced criminal investigations into 65 cases;
- ❖ Made the first arrest for a suspected doxxing offence on 13 December 2021; and
- ❖ Referred two cases of more serious contraventions of the new doxxing offences to the Police for criminal investigation and consideration of prosecution.



同時，私隱公署亦已展開一系列的宣傳及教育活動，以增進公眾對《修訂條例》的認識及協助他們遵從相關規定：

In parallel, the PCPD also launched a series of publicity and education activities to raise public awareness of the Amendment Ordinance and compliance with relevant requirements:

- 設立「『起底』罪行」專題網站；
 - 發布《修訂條例》執行指引；
 - 發出與《修訂條例》有關的新聞稿、宣傳單張、海報及社交媒體帖文；
 - 製作及播放短片、電視宣傳短片及電台宣傳聲帶；
 - 舉辦18場實體或網上講座闡明《修訂條例》的要求，共2,800多人參加；
 - 於專業期刊及報章發表有關《修訂條例》的文章。
- Launched a thematic website on “Doxxing Offences”;
 - Published an implementation guideline for the Amendment Ordinance;
 - Issued media statements, publicity leaflets, posters and social media posts relating to the Amendment Ordinance;
 - Produced and broadcast short films, television videos and radio announcements;
 - Organised 18 seminars or webinars to explain the key provisions of the Amendment Ordinance, with over 2,800 attendees; and
 - Published articles about the Amendment Ordinance in professional journals and newspapers.



推廣慎用社交媒體

使用社交媒體及即時通訊軟件已成為香港人日常生活的一部份。然而，這亦為用戶的個人資料私隱帶來不容忽視的風險。由於大部份在網上分享的資料都會留下永久的數碼足跡，因此假如社交媒體用戶經常分享資訊，包括相片、日常生活瑣事、習慣及身處位置，便會不知不覺地披露比預期更多的個人資料。這些看似無關痛癢的資料，一旦被彙集，便可被用作分析用戶個性，甚至可用於網絡欺凌、「起底」及身份盜竊。

與此同時，尤其在2021年年初發生了數宗涉及不同社交媒體平台的資料外洩事故，及一受歡迎的即時通訊軟件更改使用條款以後，公眾對由使用社交媒體衍生的個人資料私隱風險日益關注。使用社交媒體為個人資料私隱帶來風險，當中可能包括個人資料被濫用、擷取或外洩。公開的個人資料被其他人彙編後可用作「起底」、網絡欺凌或「網絡釣魚」，以至其他不法行為，導致受害人蒙受財產損失，甚至身體或心理傷害。

Promoting the Smart Use of Social Media

The use of social media and instant messaging apps is very much part of the everyday life for Hong Kong people. However, it also carries inherent yet non-negligible risks to users' privacy in relation to personal data. Given that most materials shared online can leave a perpetual digital footprint that is hard to remove, users of social media who frequently share information, including photos, stories of everyday life, their habits and locations, could unwittingly disclose more personal data than they anticipate. When pieced together, this kind of innocuous data can be used to profile the users and potentially manipulated for cyberbullying, doxxing and identity theft.

Meanwhile, the public has become increasingly aware of the personal data privacy risks related to the use of social media in recent years, particularly following several data breach incidents allegedly involving different social media platforms and the changes in the terms of use of a popular instant messaging app in early 2021. The risks posed to personal data privacy arising from the use of social media may include abuse of personal data, data scraping or data leakage. Personal data which is openly available may also be used by others for the purposes of doxxing, cyberbullying, phishing, or other illegal activities, leading to property loss and even physical or psychological harm of the victims.



鑑於使用社交媒體帶來的私隱風險，私隱公署於報告年內採取迅速行動，加強其教育工作以推廣慎用社交媒體，當中包括：

In the light of the privacy risks related to the use of social media, the PCPD took swift action in the reporting year to strengthen its education efforts to promote the smart use of social media, including:

- 發布《保障個人資料私隱 — 使用社交媒體及即時通訊软件的指引》；
 - 舉辦網上講座「社交媒體與你」；
 - 於期刊「香港律師」及本地報章上發布與使用社交媒體及即時通訊軟件時個人資料私隱保障相關的文章；及
 - 製作海報宣傳慎用社交媒體。
- Publishing the “Guidance on Protecting Personal Data Privacy in the Use of Social Media and Instant Messaging Apps”;
 - Organising webinars on “Social Media and You”;
 - Publishing articles on the Protection of Personal Data Privacy in the Use of Social Media and Instant Messaging Apps in the journal “Hong Kong Lawyer” and local newspapers; and
 - Producing posters on the smart use of social media.



《保障個人資料私隱 — 使用社交媒體及即時通訊軟件的指引》

為了向公眾人士提供實用建議以減低使用社交媒體的風險，私隱公署於2021年4月發表了《保障個人資料私隱 — 使用社交媒體及即時通訊軟件的指引》，並呼籲公眾在網上交流時要提高警覺。該指引建議社交媒體用戶應：

“Guidance on Protecting Personal Data Privacy in the Use of Social Media and Instant Messaging Apps”

With the aim of providing the public with practical advice to mitigate the privacy risks associated with the use of social media, the PCPD issued the “Guidance on Protecting Personal Data Privacy in the Use of Social Media and Instant Messaging Apps” (the Guidance) in April 2021, urging the public to exercise greater vigilance when they communicate online. The Guidance recommended that users of social media should, among others,:

- ◆ 查閱私隱政策以了解相關社交媒體平台如何處理其個人資料。每當私隱政策或服務條款有變更時，在接受相關更改前，應清楚了解有關的更改詳情；
- ◆ 定期檢視他們的私隱設定，從而決定自己的哪些資料會被分享，以及如何廣泛地與他人分享；
- ◆ 限制社交媒體平台如何使用用戶的個人資料(如面容識別、定位功能等)；
- ◆ 在社交媒體分享或發出任何資料前，用戶都應三思；
- ◆ 尊重他人的私隱，以及在相片中「標注」別人時或分享別人的資料時應更小心謹慎；及
- ◆ 加強提防網上騙案，例如一些要求用戶登入或提供個人資料的惡意超連結。
- ◆ Take steps to understand how social media platforms handle their personal data by examining their privacy policies, and whenever there are changes to the privacy policies, clearly understand those relevant changes before accepting the changes;
- ◆ Regularly review their privacy settings to retain control over what information will be disclosed to other users and how widely the information is disclosed;
- ◆ Limit the permissions granted to social media platforms on how their personal data, such as facial images and location data, can be used;
- ◆ Think twice before sharing or sending any information on social media;
- ◆ Respect others’ privacy and be cautious about tagging other people in photos or sharing information about other people; and
- ◆ Be vigilant about online scams, such as malicious hyperlinks that request users to “log-in” or provide personal data.

推廣開發及使用人工智能的道德標準

本港機構，包括商業、政府部門及公共機構，在其營運上更常利用到人工智能。雖然人工智能在促進生產力及經濟增長方面有巨大潛力，但是人工智能的應用亦對私隱及保障個人資料帶來挑戰。有見及此，私隱公署於2021年8月發出《開發及使用人工智能道德標準指引》（《指引》），以協助機構在開發及使用人工智能時，能明白及遵從《私隱條例》的相關規定。

《指引》建議機構在開發及使用人工智能時奉行三項基本數據管理價值，分別是以尊重、互惠及公平的方式對待持份者。根據國際標準，《指引》列出七項人工智能的道德原則。《指引》亦提供一套按照一般業務程序而撰寫的實務指引，協助機構管理它們的人工智能系統。

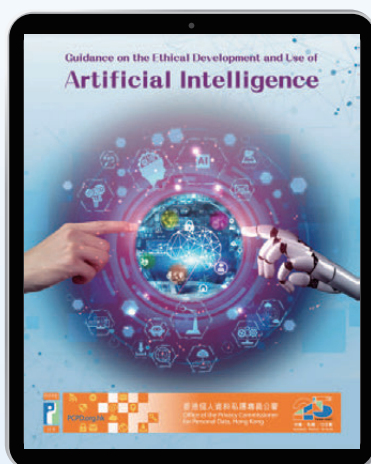
私隱公署舉辦或參與了不同的論壇、網上講座和活動以宣傳《指引》，其中值得注意的是於2021年9月13日舉辦的「開發及使用人工智能道德標準指引」網上講座。這個網上講座吸引超過240名來自政府部門、專業團體，以及銀行、保險、教育、零售及地產的業界人士參加，並取得圓滿成功。

Promoting Ethical Development and Use of Artificial Intelligence

There is a growing trend for organisations in Hong Kong, including business entities, government departments and public bodies, to use artificial intelligence (AI) in their operations. While AI has huge potential in boosting productivity and economic growth, the use of AI also brings about challenges to privacy and protection of personal data. Against this backdrop, the PCPD issued the “Guidance on the Ethical Development and Use of Artificial Intelligence” (the Guidance) in August 2021 to help organisations understand and comply with the relevant requirements of the PDPO when they develop and use AI.

The Guidance recommends that organisations embrace three fundamental Data Stewardship Values when they develop and use AI, namely, being respectful, beneficial and fair to stakeholders. In line with international standards, the Guidance sets out seven ethical principles for AI. It also provides a set of practice guide, structured in accordance with general business processes, to assist organisations in managing their AI systems.

The PCPD organised or participated in various forums, webinars and events to promote the Guidance, with a notable one being the webinar on “The Ethical Development and Use of Artificial Intelligence” organised by the PCPD on 13 September 2021. The webinar was held with great success and attracted more than 240 participants from government departments, professional associations and various industries from banking, insurance, and education to retail and real estate.



有關2019冠狀病毒病的建議及指引資料

世界各地受2019冠狀病毒病的衝擊已超過兩年。各地政府亦持續制定不同政策和解決方案來遏制疫情及應對其帶來的挑戰，例如追蹤曾與確診者接觸的人士、對跨境出行實施管制、推行疫苗接種計劃和「疫苗通行證」等。在落實這些措施的過程中，必然會涉及處理市民和旅客的個人資料。對各地政府以及相關持份者而言，在整個數據管理週期下妥善尊重及保護個人資料尤其重要。

私隱公署一直密切留意本港及國際在這方面的最新進展，並從保障個人資料私隱的角度向相關持份者，包括政府，在推行新措施以遏制疫情和復常的道路上提供建議及指引。

參加疫苗抽獎活動 保障個人資料私隱

為支持政府推行的全港性2019冠狀病毒病疫苗接種計劃，本港不同機構在2021年年中舉辦了各種抽獎活動，讓已接種疫苗的市民參與。由於大部分抽獎活動均涉及收集參加人士的個人資料，私隱公署於2021年7月發出建議，呼籲公眾在提供個人資料以參加相關活動時需格外小心欺詐網站並提高警覺。

同時，私隱公署亦提醒主辦單位在進行抽獎活動時，應謹慎處理市民的個人資料，並注意《私隱條例》有關個人資料的收集、保留、處理及使用方面的規定。

Advisories and Guidance Notes in relation to COVID-19

For over two years, different parts of the world have been hard hit by the COVID-19 pandemic. Governments worldwide have been formulating various policies and solutions to combat the pandemic and address the challenges posed by it, such as contact tracing, imposition of regulations on cross-border travels, implementation of vaccination campaigns and Vaccine Pass, and the like. Inevitably, the process of putting these measures into practice involved the handling of personal data of citizens and visitors. It is important that governments around the world, as well as relevant stakeholders, respect and protect the personal data privacy of individuals in the entire data management cycle.

The PCPD has been keeping abreast of the developments both internationally and in Hong Kong in this regard. We provided advice and guidance from the perspective of the protection of personal data privacy to relevant stakeholders, including the Government, in the introduction of new initiatives to combat the pandemic and on our road to recovery.

Safeguarding Personal Data Privacy in Vaccination-related Lucky Draw Activities

In support of the Government's initiative to implement a territory-wide COVID-19 vaccination programme, different organisations across Hong Kong launched a series of lucky draw campaigns around mid-2021 for vaccinated citizens. As most of the lucky draw activities involved the collection of participants' personal data, the PCPD issued an advisory in July 2021 appealing to the public to beware of fraudulent websites and pay extra caution when they submitted their personal data to take part in such activities.

Meanwhile, the PCPD also urged the organisers to pay heed to the relevant requirements of the PDPO when they handled participants' personal data in implementing the lucky draw campaigns, ranging from the collection, holding, processing, to the use of personal data.

「香港健康碼」系統下的個人資料保障

為配合粵港澳三地免檢疫通關的安排，政府於2021年12月推出「香港健康碼」系統。在提供所需的個人資料並從「安心出行」流動應用程式上傳出行記錄後，申請人可以申請「香港健康碼」，從而獲批准免檢疫入境廣東或澳門。

私隱公署就「香港健康碼」符合《私隱條例》規定方面向不同政府決策局及部門提供意見，以妥善保障資料當事人的私隱權益。

「疫苗通行證」保障私隱的特點

政府於2022年2月24日推出了「疫苗通行證」計劃，以促進社會在疫情下恢復運作並遏止疫情進一步爆發。處所負責人可使用特定的流動應用程式來驗證訪客的疫苗通行證。私隱專員對「疫苗通行證」的設計和功能作出審視，並留意到其運作安排及「疫苗通行證」的設計符合《私隱條例》的規定。

私隱專員在其給予不同媒體刊登的文章上特別指出，「疫苗通行證」採取了數項私隱保障的設計，例如(1)處所負責人的流動裝置內不會顯示任何個人資料；(2)所有個人資料均會以不可辨識的形式儲存在處所負責人的流動裝置上；及(3)加密和有限保留到訪紀錄。私隱專員滿意「疫苗通行證」採取了不同的技術特點並以資料最少化的原則來推行，在需要進行接觸追蹤和保障資料當事人的利益之間達致平衡。

Personal Data Protection in the Hong Kong Health Code System

The Government launched the Hong Kong Health Code system in December 2021, as part of its drive to facilitate quarantine-free travel between Guangdong, Hong Kong and Macao. Upon provision of the required personal data and uploading visit records from the “LeaveHomeSafe” mobile app, an applicant could apply for a Hong Kong Health Code, so as to be granted entry to Guangdong or Macao with quarantine exemption.

The PCPD offered its advice to various government bureaux and departments concerning compliance with the requirements of the PDPO in the context of the Hong Kong Health Code initiative, with a view to duly safeguarding the privacy interests of individual data subjects.

Privacy-protecting Features of the Vaccine Pass

To help facilitate the city’s recovery from the pandemic and guard against further outbreaks, the Government rolled out the Vaccine Pass arrangements on 24 February 2022. Venue operators could use an official mobile app to verify visitors’ Vaccine Passes. Upon examining the design and functionality of the Vaccine Pass, the Privacy Commissioner noted that the operational arrangements and design of the Vaccine Pass were in compliance with the requirements of the PDPO.

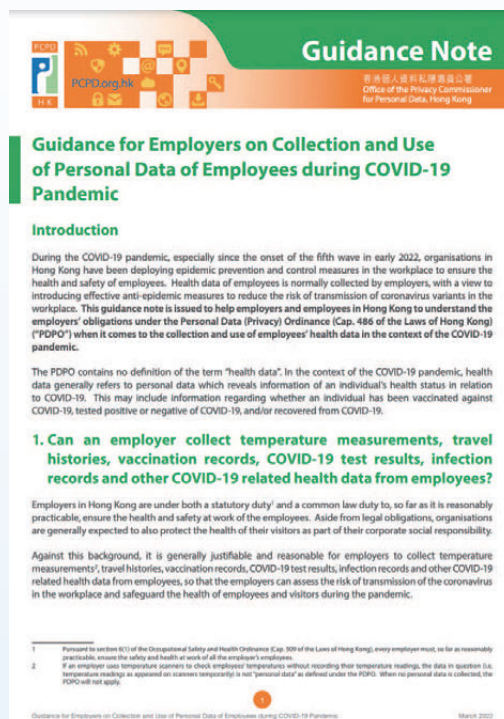
In particular, the Privacy Commissioner contributed articles to the media to point out that the Vaccine Pass adopted a number of privacy-protecting features, such as (1) no display of personal data in a venue operator’s mobile device; (2) de-identification of personal data in the mobile device of the venue operator; and (3) encryption and limited retention of visit records. The Privacy Commissioner was satisfied that the Vaccine Pass had adopted various technical features in accordance with the data minimisation principle and had struck a reasonable balance between the need for contact tracing and safeguarding the interests of individual data subjects.

《僱主在2019冠狀病毒疫情期間收集及使用僱員個人資料的指引》

自2022年年初香港爆發第五波新冠病毒疫情至今，本港機構一直在工作場所落實更多的防疫抗疫措施，以保障僱員的健康及安全。為實施有效的防控措施，僱主普遍會收集僱員的健康狀況資料，以減低新冠變種病毒於工作場所內的傳播風險。私隱公署同期接獲近17,000宗查詢。為協助在工作場所的持份者了解在《私隱條例》下，僱主於疫情期間收集及使用僱員健康狀況資料時須履行的責任，私隱公署於2022年3月發出《僱主在2019冠狀病毒疫情期間收集及使用僱員個人資料的指引》。指引亦就僱主收集僱員健康狀況資料的必要性、透明度、及準確性等方面作出建議。

“Guidance for Employers on Collection and Use of Personal Data of Employees during COVID-19 Pandemic”

Since the onset of the fifth wave of COVID-19 pandemic in early 2022, organisations in Hong Kong have stepped up epidemic prevention and control measures in the workplace to ensure the health and safety of their employees. Health data of employees was normally collected by employers for implementing effective anti-epidemic measures to reduce the risk of transmission of coronavirus variants in the workplace. The PCPD received nearly 17,000 enquiries during the period. With a view to helping relevant stakeholders understand employers’ obligations under the PDPO when it comes to the collection and use of employees’ health data in the context of the pandemic, the PCPD issued the “Guidance for Employers on Collection and Use of Personal Data of Employees during COVID-19 Pandemic” in March 2022. The Guidance also makes recommendations on, among other matters, the necessity, transparency and accuracy in relation to the collection of employees’ health data.



促進對私隱領域發展的認識

世界各地的資料保障規定不斷推陳出新，這無可避免對個人資料在全球使用和轉移帶來一定的影響。私隱公署注意到，本港的公眾及企業對明白及如何掌握這萬變的資料保障形勢日益關注。

內地的《個人信息保護法》於2021年11月1日起實施。為幫助公眾及本港企業加深了解內地個人信息保護的監管制度，私隱公署於2021年11月出版了《內地〈個人信息保護法〉簡介》。

私隱公署亦透過網上講座、與持份者的會議、私隱公署網頁及電子通訊，與公眾分享內地保護個人信息制度的最新發展。

Promoting Understanding of Developments in the Privacy Landscape

The introduction of new or updated data protection regulations around the world has inevitably given rise to implications on how personal data is used and transferred globally. The PCPD notes that individuals and businesses in Hong Kong have found it increasingly important to understand and navigate the evolving data protection landscape.

The Personal Information Protection Law (PIPL) of the Mainland has come into operation since 1 November 2021. In November 2021, the PCPD published a booklet entitled “Introduction to the Personal Information Protection Law of the Mainland” to help the general public and businesses in Hong Kong better understand the regulatory regime on the protection of personal information on the Mainland.

The PCPD also shared with the public the latest developments on the personal information protection regime on the Mainland through webinars, meetings with stakeholders, PCPD’s website and e-newsletters.



另外，歐盟委員會採納了一套有關轉移個人資料至非歐盟地區的新版標準合約條款（新版標準合約條款）。由2021年9月27日起，資料輸出者及資料輸入者只可就跨境個人資料轉移簽訂採納了新版標準合約條款的合約。私隱公署於2021年9月發布一系列有關的常見問題資料，介紹新版標準合約條款的實施框架和簽訂包含新版標準合約條款的跨境資料轉移協議時各合約方的責任，以供公眾參考。

同時，歐盟委員會及美國於2022年3月25日宣布雙方原則上已就一個新的跨大西洋數據私隱框架達成協議（新框架），以期重新建立一個從歐盟轉移個人資料至美國的法律機制，取代以往歐盟與美國之間建立，而於2020年7月被歐洲聯盟法院裁定為無效的「私隱保護盾」。私隱公署隨後於其網站內提供有關新框架的最新資訊予公眾參考。

The European Commission adopted a new set of Standard Contractual Clauses (New SCCs) for the transfer of personal data to non-EU regions. From 27 September 2021 onwards, data exporters and data importers can only conclude contracts incorporating the New SCCs for the transfer of personal data out of the European Union. In September 2021, the PCPD published, for public reference, a set of frequently asked questions and answers on the implementation framework of the New SCCs and the obligations of parties entering into cross-border data transfer agreements using the New SCCs.

Meanwhile, the European Commission and the United States announced on 25 March 2022 that they had reached an agreement in principle on a new Trans-Atlantic Data Privacy Framework (New Framework), with a view to re-establishing a new legal mechanism for the transfer of personal data from the European Union to the United States in place of the previous “Privacy Shield”, which was invalidated by the Court of Justice of the European Union in July 2020. The PCPD provided updates regarding the New Framework on its website for public reference.

