

GIBSON DUNN

Financial Regulatory Update

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Hong Kong Monetary Authority Issues Guidance on Gen-AI Use in Customer-Facing Applications and Use of Artificial Intelligence in Tackling ML/TF

This guidance reflects the increasing willingness of Hong Kong financial regulators to regulate the use of artificial intelligence.

In recent weeks, the Hong Kong Monetary Authority (“**HKMA**”) has been active in releasing guidance to authorized institutions (“**AIs**”) regarding their use of artificial intelligence in both customer-facing applications as well as in relating to detection of money laundering and terrorist financing (“**ML/TF**”). This guidance reflects the increasing willingness of Hong Kong financial regulators to regulate the use of artificial intelligence. We consider that this is reflective of the significant interest of financial institutions in Hong Kong in exploring the use of generative artificial intelligence (“**GenAI**”) in particular, with 39% of AIs surveyed by the HKMA earlier this year reporting that they either have already adopted GenAI in the provision of general banking products and services as well as daily operations, or that they plan to do so. Given this, we expect other Hong Kong regulators to issue guidance in this space in the coming months.

This client briefing covers:

1. The guiding principles issued by the HKMA on August 19, 2024 (“**GenAI**”) in customer-facing applications (“**GenAI Guidelines**”).^[1] The GenAI Guidelines build on a previous HKMA circular “*Consumer Protection in respect of Use of Big Data Analytics and Artificial*

Intelligence by Authorized Institutions” dated November 5, 2019 (“**2019 BDAI Guiding Principles**”) and provide specific guidelines to AIs on the use of GenAI;^[2] and

2. The circular issued by the HKMA on September 9, 2024 requiring AIs with significant operations in Hong Kong to (a) undertake a study to consider the feasibility of using artificial intelligence in tackling ML/TF, and to (b) submit the feasibility study and an implementation plan to the HKMA by the end of March 2025 (“**ML/TF Circular**”).^[3]

I. Background to GenAI Regulation by the HKMA

GenAI is a form of big data analytics and artificial intelligence (“**BDAI**”) that enables generation of new content such as text, image, audio, video, code or other media, based on vast amounts of data. GenAI’s ability to generate new and original content sets it apart from other forms of traditional artificial intelligence, which is focused on analyzing information and automating processes. While its content-generating ability gives GenAI tremendous potential to streamline business processes and improve efficiency, this ability also creates risks such as hallucination risk (i.e. where a GenAI model generates incorrect or misleading results due to insufficient training data, incorrect assumptions or biases made by the model).

This content-generating ability, combined with the growing interest in GenAI adoption within the banking sector, has prompted the HKMA to issue the GenAI Guidelines. According to a recent survey on the use of BDAI (including GenAI) by AIs conducted by the HKMA, 39% of surveyed AIs reported adopting or planning to adopt GenAI in the provision of general banking products and services, as well as daily operations. While the majority of the current reported use cases in GenAI are in relation to internal business functions, such as summarisation and translation, coding and internal chatbots, the HKMA has stated that it considers that:

- the content-generating capability of GenAI lends itself to increased uptake and deployment in relation to customer-facing activities; and
- the prospective increase in the use of GenAI in customer-facing activities raises consumer protection concerns due to risks such as lack of explainability and hallucination risks, which in the HKMA’s words ‘*could cause even more significant impact on customers*’ than the use of less complex BDAI.

Given this, while the HKMA expects all AIs to continue to apply the 2019 BDAI Guiding Principles, the HKMA also expects all AIs to adhere to the additional principles in the GenAI Guidelines in order to ensure appropriate safeguards are in place when GenAI is adopted for customer-facing applications.

II. Summary of the HKMA’s GenAI Guidelines

Using the 2019 BDAI Guiding Principles as a foundation, the GenAI Guidelines adopts the same core principles of governance and accountability, fairness, transparency and disclosure, and data privacy and protection, but introduces additional requirements to address the specific challenges presented by GenAI.

Core Principles	Requirements under GenAI Guidelines
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<p>Governance and Accountability</p>	<p>The board and senior management of AIs should remain accountable for all GenAI-driven decisions and processes, and should thoroughly consider the potential impact of GenAI applications on customers through an appropriate committee which sits within the AI's governance framework.</p> <p>The board and senior management should ensure the following:</p> <ul style="list-style-type: none"> • Clearly defined scope of customer-facing GenAI applications to avoid GenAI usage in unintended areas; • Proper policies and procedures and related control measures for responsible GenAI use in customer-facing applications; and • Proper validation of GenAI models, including a “human-in-the-loop” approach in early stages, i.e. having a human retain control in the decision-making process, to ensure the model-generated outputs are accurate and not misleading.
<p>Fairness</p>	<p>AIs are responsible for ensuring that GenAI models produce objective, consistent, ethical, and fair outcomes for customers. This includes:</p> <ul style="list-style-type: none"> • That model generated outputs do not lead to unfair outcomes for customers. As part of this, AIs are expected to give consideration to different approaches that may be deployed in GenAI models, such as (a) anonymizing certain data categories; (b) using comprehensive and fair datasets; and (c) making adjustments to remove bias during validation and review; and • During the early deployment stage, provide customers with an option to opt out of GenAI use and request human intervention on GenAI-generated decisions as far as practicable. If an “opt-out” option is unavailable, AIs should provide channels for customers to request review of GenAI-generated decisions.
<p>Transparency and Disclosure</p>	<p>AIs should:</p> <ul style="list-style-type: none"> • Provide appropriate transparency to customers regarding GenAI applications; • Disclose the use of GenAI to customers; and • Communicate the use, purpose, and limitations of GenAI models to enhance customer understanding.
<p>Data Privacy and Protection</p>	<p>AIs should:</p> <ul style="list-style-type: none"> • Implement effective protection measures for customer data; and

	<ul style="list-style-type: none">• Where personal data are collected and processed by GenAI applications, comply with the Personal Data (Privacy) Ordinance, including the relevant recommendations and good practices issued by the Office of the Privacy Commissioner for Personal Data, such as the “<i>Guidance on the Ethical Development and Use of Artificial Intelligence</i>” issued on August 18, 2021,[4] and the “<i>Artificial Intelligence: Model Personal Data Protection Framework</i>” issued on June 11, 2024.[5]
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Notably, the HKMA has also expressed support for proactive use of BDAI and GenAI in enhancing consumer protection in the banking sector. Examples of suggested use cases include identification of customers who are vulnerable and require more protection and education; identification of customers who may need more information or clarifications to better understand product features, risks, and terms and conditions in the disclosure; or issuance of fraud alerts to customers engaging in transactions with potentially higher risks.

III. Summary of the HKMA Circular

Consistent with the HKMA’s recognition of the potential use of GenAI in consumer protection in the GenAI Guidelines, the HKMA Circular also indicates that the HKMA recognizes the considerable benefits that may come from the deployment of artificial intelligence in monitoring ML/TF. In particular, the HKMA Circular notes that the use of artificial intelligence powered systems ‘*take into account a broad range of contextual information focusing not only on individual transactions, but also the active risk profile and past transaction patterns of customers...These systems have proved to be more effective and efficient than conventional rules-based transaction monitoring systems commonly used by AIs.*’[\[6\]](#)

Given this, the HKMA has indicated that AIs with significant operations in Hong Kong should:

- give due consideration to adopting artificial intelligence in their ML/TF monitoring systems to enable them to stay effective and efficient;
- undertake a feasibility study in relation to the adoption of artificial intelligence in their ML/TF monitoring systems and, based on the outcome of that review, should formulate an implementation plan.

The feasibility study and implementation plan should be signed off at the board level and submitted to the HKMA by the end of March 2025.[\[7\]](#)

The HKMA has also indicated that it intends to support the use of artificial intelligence by AIs in this space through the establishment of a dedicated team to provide feedback and guidance to assist AIs, as well as through organisation of an experience sharing forum in November 2024 to allow firms to share regarding their use of artificial intelligence in relation to ML/TF monitoring.

IV. Conclusion

The issue of the GenAI Guidelines and HKMA Circular by the HKMA reflect the HKMA's awareness of both the considerable potential of GenAI as well as the prospective risks associated with its deployment. Given the HKMA's interest in this space, we recommend that AIs review and update their policies and procedures in relation to the use of GenAI to ensure compliance with the GenAI Guidelines. As part of this, AIs should ensure that the use of GenAI in customer-facing activities are thoroughly considered at a board and senior management and governance committee level.

Further, it is important more generally that AIs develop the necessary expertise in understanding the artificial intelligence model that is being adopted. This will not only assist senior management in its decision making process with respect to their deployment of artificial intelligence, but will also aid in the development of appropriate internal systems and controls with respect to the use of artificial intelligence. For instance, AIs can consider implementing staff training on the features and risks of artificial intelligence, to ensure that issues caused by artificial intelligence models are adequately escalated and addressed.

[1] "Consumer Protection in respect of Use of Generative Artificial Intelligence", published by the HKMA on August 19, 2024, available at: <https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2024/20240819e1.pdf>

[2] "Consumer Protection in respect of Use of Big Data Analytics and Artificial Intelligence by Authorized Institutions", published by the HKMA on November 5, 2019, available at: <https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2019/20191105e1.pdf>

[3] "Use of Artificial Intelligence for Monitoring of Suspicious Activities", published by the HKMA on September 9, 2024, available at <https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2024/20240909e1.pdf>

[4] "Guidance on the Ethical Development and Use of Artificial Intelligence", published by the Office of the Privacy Commissioner for Personal Data on August 18, 2021, available at: https://www.pcpd.org.hk/english/resources_centre/publications/files/guidance_ethical_e.pdf

[5] "Artificial Intelligence: Model Personal Data Protection Framework", published by the Office of the Privacy Commissioner for Personal Data on June 11, 2024, available at https://www.pcpd.org.hk/english/resources_centre/publications/files/ai_protection_framework.pdf

[6] "Use of Artificial Intelligence for Monitoring of Suspicious Activities", published by the Hong Kong Monetary Authority on September 9, 2024, available at <https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2024/20240909e1.pdf>

[7] Ibid. The HKMA will communicate with AIs on an individual basis regarding the exact timing for the feasibility study and implementation plan and the format in which they should be provided, and will consider further engagement and follow up in due course. Reference should also be made to:

(a) “Report on AML/CFT Regtech: Case Studies and Insights Volume 1” published on 21 January 2021, available at <https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2021/20210121e1a1.pdf>;

(b) “Report on AML/CFT Regtech: Case Studies and Insights Volume 2” published on 25 September 2023, available at https://www.hkma.gov.hk/media/eng/doc/key-functions/banking-stability/aml-cft/AMLCFT_Regtech-Case_Studies_and_Insights_Volume_2.pdf ; and

(c) “Thematic Review of Transaction Monitoring Systems and Use of Artificial Intelligence” published on 17 April 2024, which sets out insights for design, implementation and optimisation of transaction monitoring systems, available at <https://www.hkma.gov.hk/media/eng/doc/key-information/guidelines-and-circular/2024/20240417e1a1.pdf>.

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Gibson Dunn’s lawyers are available to assist in addressing any questions you may have regarding these developments. If you wish to discuss any of the matters set out above, please contact any member of Gibson Dunn’s Financial Regulatory team, including the following members in Hong Kong:

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