

# COMPIAS TIMES

Issue #08-2021

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If you have any suggestions, feedback and/or topics you would like us to cover, please drop us a note at [compliance@pias.asia](mailto:compliance@pias.asia)

We look forward to hearing from you!

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# Amendments To The Personal Data Protection Act [“PDPA”]

## Background Information

On 29 January 2021, the Personal Data Protection Commission (PDPC) announced that certain sections of the Personal Data Protection (Amendment) Act 2020 (the PDPA Amendments) will take effect from 1 February 2021. The enhanced measures address evolving business needs, empowering business to grow through data use and innovation, while safeguarding consumers’ interests.



## High Level Summary Of Key Changes

### Introduction to offences concerning mishandling of personal data and anonymized information by individuals

- I. Individuals will be held accountable for knowing or reckless mishandling of personal data and anonymized information through the introduction of new criminal offences on the unauthorized disclosure of personal data, use of personal data for a wrongful gain or loss to any person and re-identification of anonymized data.
- II. The prescribed penalty for the above offences is a fine not exceeding S\$5,000 or imprisonment for a term not exceeding 2 years or both.

### Mandatory Data Breach Notification

- I. Organisations must notify the PDPC of any data breach that: (i) results in, or is likely to result in, significant harm to the affected individuals; or (ii) is of a significant scale (i.e., involves personal data of 500 or more individuals). Affected individuals must be notified if the data breach is likely to result in significant harm to them.
- II. Prescribed personal data or classes of personal data include full name, full national identification number, networth, credit card information, salary information, terms and conditions of any accident and health policy or life policy etc.
- III. Notifications to the PDPC must be made as soon as is practicable, but in any case no later than 3 calendar days after the day the organisation makes the assessment that a data breach is a notifiable data breach. Notifications to individuals must be made as soon as practicable, at the same time or after notifying the PDPC.

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# Amendments To The Personal Data Protection Act [“PDPA”]

## Case Studies

### Case study #1 – Legitimate Interests Exception to Collect, Use or Disclose Personal Data

#### Example: Fraud detection and prevention purposes by a company

An insurance company intends to collect, use and disclose personal data about its customers’ past insurance claims for fraud detection and prevention.

The insurance company conducts an assessment of legitimate interests, and assesses that the benefits of the collection, use and disclosure of personal data outweigh any adverse effect to the individual. Insurance company states in its data protection policy on its website that it is relying on the legitimate interests exception to collect, use and disclose personal data for fraud detection and prevention purposes.

In this case, the insurance company may rely on the legitimate interests exception to collect, use or disclose personal data for detecting and preventing fraud.

### Case study #2 – Obtain Written Consent after the Initial Contact over Telephone

#### Example: Written consent after signing up for services over the telephone

An individual wishes to sign up for certain services with a service provider over the telephone. The service provider may request the individual’s consent for the collection and use of his personal data for the service provider’s purposes and obtain the personal data from the individual over the telephone.

It would be good practice for the service provider to subsequently contact the individual and confirm his consent in writing. For example, by sending an email to the individual setting out the description of the personal data provided by the individual, and recording his consent to the collection, use and disclosure by the service provider for the service provider’s purposes (which may be set out in its terms and conditions and/or other information provided in the email).

Source: <https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Advisory-Guidelines/AG-on-Key-Concepts/Advisory-Guidelines-on-Key-Concepts-in-the-PDPA-1-Feb-2021.pdf?la=en>

### Case study #3 – Proper Disposal of Data as part of Data Protection

#### Example: Obligation to protect personal data even after cessation of employment

In *Re Ang Rui Song*, the respondent was a financial consultant who had improperly disposed of his clients’ insurance policy documents. These documents contained sensitive personal data. Based on his representations, the respondent had simply put the documents into a plastic bag and placed them into a trash bin, and had not shredded the documents themselves. The PDPC found that the respondent had breached the PDPA by failing to take reasonable security arrangements to protect the personal data contained in the documents.

On the facts, the respondent in *Re Ang Rui Song* had ceased working as a financial consultant at the time of his disposal of the documents. However, adopting a similar line of reasoning to that taken in *Re Chua Boon Yong Justin*, the PDPC found that the respondent remained obliged to protect the personal data in the documents, even after he had ceased to be a financial consultant. Having obtained the personal data in the course of his business as a financial consultant, the respondent could not “unilaterally change the capacity” in which he possessed the personal data.

Source: <https://www.pdpc.gov.sg/-/media/files/pdpc/pdf-files/resource-for-organisation/2020-personal-data-protection-digest.pdf>

## Key Takeaways:

### “Do”s:

- Do handle personal data and anonymised information properly (including proper disposal of the collected data)
- Do obtain written consent for collection and use of personal data

### “Don’t”s:

- No unauthorized disclosure of personal data, use of personal data for a wrongful gain or loss to any person and re-identification of anonymized data



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# Basis Of Recommendation [“BOR”] For Investment Products

## Introduction



**PIAS expect all PIAS Representatives to document the BOR for recommended Funds in the PIAS Financial Planner.**

## Common Misconceptions

A PIAS Representative is unable to give investment advice as we understand that there are companies that forbid the Representatives from doing so.



This is to avoid being liable when Clients alleged mis-selling and claimed for any losses on investment value.



This results in PIAS Representatives not documenting the BOR for the recommended funds leading to Balanced Scorecard (BSC) infractions.





# Basis Of Recommendation [“BOR”] For Investment Products

## Elements Required To A Good BOR

<b>Reasons/ Features/ Benefits For Recommending The Funds</b>	<p>Reasons may include but not restricted to:</p> <ul style="list-style-type: none"> <li>• Fund house, Fund size</li> <li>• Stability of the Fund performance</li> <li>• Availability of potential dividends from the funds</li> <li>• Fund sector/ industry/ country/ region</li> <li>• Use of CPF-IS/ SRS</li> </ul>
<b>Client Risk Profile Versus Product Risk Class</b>	<ul style="list-style-type: none"> <li>• Ensure that the funds/portfolio recommended to Clients are within their risk appetite</li> <li>• Check the fund risk class against PIAS Approved Product Listing in DocuShare</li> </ul>
<b>Risks &amp; Limitations/ Fee &amp; Charges</b>	<ul style="list-style-type: none"> <li>• Risks, disadvantages and limitations of the product recommendation</li> <li>• Fee and charges involved e.g. upfront fee, wrap fee, management fee</li> </ul>



## Question: What’s Missing In the below BOR?

**OBJECTIVE:** A financial review was conducted on discussing about your objective of planning for Savings for other purposes.

**SITUATION:** From the calculations performed, financial shortfalls were uncovered as such: Savings for other purposes - \$191262.

**NEEDS:** As part of the discussion, Product types Unit Trusts were discussed as options to address the shortfalls identified in this financial review.

**RISK PROFILE and TIME HORIZON:** You have some prior investment experience and you wish to grow your wealth within a targeted 8 year period. Your risk profile is Balanced but you have chosen your risk profile as Aggressive for the purpose of this review.

**AFFORDABILITY:** The lump sum investment amount of \$140K is line with your affordability and not more than 50% of your total assets.

**PRODUCT RECOMMENDED:** Taking into consideration your budget, affordability and risk profile of Aggressive, Aviva Navigator is recommended based on your needs.

You agree with my recommendation as you like the flexibility in the main plan. I will review your shortfall again in a year’s time.



# Basis Of Recommendation [“BOR”] For Investment Products

## Example Of A Good BOR

Based on your needs analysis, you wish to provide for:  
Savings for Other Purpose: \$40000

For Savings for Other Purpose,  
You are willing to set aside \$20,000 out of \$60,000 from your savings to fulfill this need.

1. Unit Trust investment on Aviva Navigator (Wrap account)
2. Unit Trust investment on iFast (Wrap account)

Between the two Unit Trust platforms, you chose iFast (Wrap account) because the fund choices available of iFast platform is more extensive than that of Aviva Navigator (Wrap account). It will provide more options for funds allocations without the hassle of maintaining separate UT platform if certain funds are not available on Navigator Platform.

As your investment risk profile is also Aggressive, you wish to allocate this \$20,000 lumpsum towards equity into 4 equity funds, 1 gold fund & 1 bond fund. The equity funds are into Healthcare, Technology sectors as you are bullish on these sectors in the long run. Another one will be the China A region as you want to take the current market opportunity to invest into China market when its undervalued and you see the potential in China economy growing.

Hence I have recommended the following funds, based on your requirement as stated above.

- 1) Blackrock World Healthscience Fund SGD (risk rating 5): 20%

Blackrock World Healthscience Fund SGD was recommended because it is one of the major fund houses and its health fund has total fund size of over \$5 billion USD.

- 2) Blackrock World Technology Fund SGD (risk rating 5): 20%

Blackrock World Technology Fund SGD was recommended because this technology fund is within the top 5 in terms of 10-year annualized return of 15.15% under PIAS Approved Fund List.

(this fund is a replacement of Janus Henderson Global Technology Fund as this was removed from platform)

Product risk classes are  
within Client’s risk profile

Features/ benefits of the  
recommended funds

How the recommended funds  
meet Client’s objectives?

## Answer: What’s Missing in the BOR on Page 5?

Missing information in the BOR:

- Which are the recommended funds?
- Why are the funds recommended to Client?
- What are the features of recommended funds?
- How does the recommended fund meet the Client’s needs?
- What are the risks & limitations/ fees & charges for the recommended funds?

