

**Responses to the Consultation Paper on Approaches to Managing Personal Data in the Digital Economy**

**Date: 2 October 2017**

**RESPONSE TO CONSULTATION PAPER**

<b>Consultation Topic:</b>	Consultation Paper on Approaches to Managing Personal Data in the Digital Economy (the “ <b>Consultation Paper</b> ”)
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<b>Confidentiality</b>	
The Organisation wishes to keep the following confidential:	<i>(Please indicate any parts of your submission you would like to be kept confidential, or if you would like your identity to be kept confidential. Your contact information will not be published.)</i>

# Responses to the Consultation Paper on Approaches to Managing Personal Data in the Digital Economy

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## General comments:

The Bank of New York Mellon, Singapore Branch is encouraged by the consultation on the whole. In summary, the proposed changes seem appropriate and proportionate responses to the issues under consideration. If brought about, the changes will align the Personal Data Protection Act 2012 with other data protection laws/regulations globally that The Bank of New York Mellon (“**BNY Mellon**”) (including its affiliates and subsidiaries) is already subject to.

## Specific comments:

### 1. Notification of purpose can be sufficient

The key proposed changes in notification seem appropriate and proportionate to the issue. The proposal to permit the collection of personal data with notification of purpose in the absence of consent aligns with other data protection/privacy legislation and regulations with which BNY Mellon is required to comply.

The conditions attached to use of ‘notification of purpose’ as an appropriate basis for the processing of personal data where it is impractical to obtain consent, appear to offer a pragmatic solution to ensuring that the rights of the individuals are not negatively impacted by these changes. We seek clarification on what would constitute a situation where it is “impractical for the organisation to obtain consent” and what thresholds make it “impractical”. We also look to PDPC to provide more guidance in the framework of such risk and impact analysis that is proposed to be required.

### 2. Consent (or notification) not needed where it is for a legitimate purpose.

The proposed provision of “Legal or Business Purpose” as a basis for collecting, using and disclosing personal data without consent and notification also aligns with existing data protection legislation including the EU Directive and General Data Protection Regulation which comes into force in May 2018. The conditions applicable to the proposed 'legal or business purpose' approach seem to provide a pragmatic solution whilst ensuring that the rights of the individuals are not negatively impacted by these changes.

However, we seek clarification on the conditions under which an organisation may invoke the “Legal or Business Purpose” exception to obtaining consent (or notification). In our opinion, the test of “desirability” and “appropriateness” of obtaining consent should be an objective one.

Similarly, we also look to PDPC to provide more guidance in the framework of such risk and impact analysis that is proposed to be required.

**3. Mandatory data breach notifications**

The risk-based criteria for mandatory breach notification to affected individuals and the PDPC seems an appropriate and proportionate response to the need to strengthen protection for individuals and build confidence in organisations' management and protection of personal data. The approach, criteria and timelines for notification suggested appear to align with similar regimes to be brought in in the EU and Australia in 2018.