



SINGAPORE EXCHANGE LIMITED

**SUBMISSION TO THE PERSONAL DATA PROTECTION COMMISSION OF
SINGAPORE**

IN RESPONSE TO THE

**PUBLIC CONSULTATION ON APPROACHES TO
MANAGING PERSONAL DATA IN THE DIGITAL ECONOMY**

Contact: Christina Tham / Yvonne Quek
DID: 6713 6118 / 6236 8944
Email: christina.tham@sgx.com / yvonne.quek@sgx.com

INTRODUCTION

1. Singapore Exchange Limited (“**SGX**”) welcomes the opportunity to provide comments on the public consultation, and is supportive of the Personal Data Protection Commission’s (“**PDPC**”) proposal to update the Personal Data Protection Act (“**PDPA**”) to take into account global developments as well as technological advances, in particular the emerging digital economy.
2. Our comments on the relevant questions raised in the PDPC’s Public Consultation on Approaches to Managing Personal Data in the Digital Economy (“**Consultation Paper**”) are set out below.

COMMENTS

Question 2: Should the proposed Notification of Purpose approach be subject to conditions? If so, what are your views on the proposed conditions (i.e., impractical to obtain consent and not expected to have any adverse impact on the individual)?

3. We would request that the PDPC provide guidance and more clarity on:
 - (i) the areas or topics which need to be covered and included in a risk and impact assessment / data protection impact assessment to be carried out when relying on the proposed Notification of Purpose (see Paragraph 3.10 of the Consultation Paper); and
 - (ii) what would constitute “any adverse impact on the individual” because what qualifies as an adverse impact is highly subjective, and the use of the word “any” appears to render the 2nd condition in Paragraph 3.8(b) of the Consultation Paper nearly impossible to fulfil, thus undermining the utility of this basis for collecting, using and disclosing personal data without consent.

Question 4: Should the proposed Legal or Business Purpose approach be subject to conditions? If so, what are your views on the proposed conditions (i.e., not desirable or appropriate to obtain consent and benefits to the public clearly outweigh any adverse impact or risks to the individual)?

4. We similarly request that the PDPC provide guidance and more clarity on the areas or topics which need to be covered and included in a risk and impact assessment / data protection impact assessment to be carried out when relying on the proposed Legal or Business Purpose approach (see Paragraph 3.17 of the Consultation Paper).

Question 6: What are your views on the proposed concurrent application of PDPA’s data breach notification requirements with that of other laws and sectoral regulations?

5. Paragraph 6.3(a) of the Consultation Paper. We note that where the organisation is required to notify a sectoral regulator or law enforcement agency of a data breach under other written law, and that data breach meets the criteria for notifying the PDPC, it is proposed that the organisation shall notify PDPC concurrently with the sectoral regulator

or law enforcement agency in accordance with the notification requirements under the other written law.

6. The PDPC has further proposed that “[in] such cases, the organisation may submit to the PDPC the same notification or copy the PDPC in its notification to the sectoral [regulator] or law enforcement agency. This is to minimise the effort and cost involved to comply with notification requirements for the same data breach, while allowing PDPC to continue to be kept informed of data breaches of potential concern...”.
7. We seek confirmation that organisations will retain the flexibility to decide whether to use (i) the same notification (whether submitted to the PDPC directly and concurrently, or by copying the PDPC in its notification to sectoral regulator/law enforcement agency), or (ii) different notifications to the PDPC and the sectoral regulator/law enforcement agency, as long as the objective of notification of the data breach to the PDPC and such regulator/agency is met and the PDPC is concurrently notified.
8. There is a need for such flexibility as the PDPC and the relevant regulator(s) may assess the same data breach from different perspectives and it is necessary for organisations to be able to draft their notifications to provide the information which is most pertinent for their respective regulators.

Question 7: What are your views on the proposed exceptions and exemptions from the data breach notification requirements?

9. The PDPA currently authorises the collection, use or disclosure of personal data without consent in certain circumstances, including where it is necessary for any investigation or proceedings¹.
10. Paragraph 6.10(a) of the Consultation Paper. We note that the proposed exceptions to the requirement to notify affected individuals (“**Proposed Breach Notification Exceptions**”) include a law-enforcement exception, where a law enforcement agency may direct the organisation not to notify affected individuals of a data breach because it is likely to impede law enforcement investigations (“**Law-Enforcement Exception**”).
11. It is not clear whether “law enforcement agency” will be limited to “prescribed law enforcement agency” as currently defined in section 2 of the PDPA², which is a very restricted list, or whether the term includes any Singapore authority charged with the duty of investigating offences or charging offenders under written law.
12. SGX is of the view that the Proposed Breach Notification Exceptions should not be confined to law enforcement investigations but should extend to all investigations or proceedings (as these terms are defined in the PDPA).

¹ See paragraph 1(e) of the Second Schedule, paragraph 1(e) of the Third Schedule, and paragraph 1(f) of the Fourth Schedule of the PDPA.

² Read with the Personal Data Protection (Prescribed Law Enforcement Agencies) Notification 2014.

13. [Redacted]
14. [Redacted]
15. [Redacted]

CONCLUSION

16. SGX requests that the PDPC take account of our comments as it finalises the proposed amendments to the PDPA.