

Personal Data Protection: Whitelist for Certain Recipients of Personal Data Introduced by New Regulation 10A

On 28 May 2020, the Personal Data Protection Commission published the Personal Data Protection (Amendment) Regulations 2020 (“**Amendment**”) which introduced a new regulation 10A (Recipients holding specified certifications) (“**Regulation 10A**”) to the Personal Data Protection Regulations 2014. This new regulation came into operation on 1 June 2020.

Under the Personal Data Protection Act (“**PDPA**”), a party in Singapore who transfers personal data (“**Transferor**”) to an overseas recipient (“**Recipient**”) has a duty to ensure that the Recipient will ensure that the personal data will be conferred a standard of protection comparable to the requirements of the PDPA. To this end, the Transferor must take appropriate steps to, among other things, ensure that the Recipient is bound by legally enforceable obligations to provide the transferred personal data a standard of protection comparable to the requirements of the PDPA.

Regulation 10A introduces a whitelist which treats a Recipient as being bound by legally enforceable obligations which meet those requirements if the Recipient holds a specified certification that is granted or recognised under the law of that country or territory to which the personal data is transferred. Two such certifications that are now recognised are:

- (a) where the Recipient is a data intermediary (i.e., the Recipient processes personal data on behalf of the Transferor) – the Asia-Pacific Economic Cooperation (“**APEC**”) Privacy Recognition for Processors (“**PRP**”) System; and
- (b) in any other case – the APEC Cross Border Privacy Rules (“**CBPR**”) System.

The APEC PRP and CBPR Systems are voluntary, accountability-based systems that facilitate privacy-respecting data flows among the member economies of APEC. The APEC PRP and CBPR Systems require participating businesses to implement data privacy policies consistent with the APEC Privacy Framework, which aims to promote electronic commerce throughout the Asia-Pacific region.

The APEC PRP System applies to organisations (data processors) that process data on behalf of client organisations (data controllers), to demonstrate their ability to provide effective implementation of a data controller’s privacy requirements. The APEC CBPR System, on the other hand, applies only to data controllers.

The participating economies in the APEC PRP and CBPR Systems include USA, Mexico, Japan, Canada, Singapore, the Republic of Korea, Australia, Chinese Taipei, and the Philippines.

In carrying out due diligence to determine whether a Recipient is indeed certified under the APEC PRP System and/or APEC CBPR System, the Transferor will be taken to have satisfied its transfer obligations under the PDPA by referring to the list of certified organisations on the APEC website (www.cbprs.org).

Regulation 10A therefore effectively creates a whitelist which allows Recipients of personal data holding the appropriate APEC CBPR or PRP System certifications to receive personal data from Singapore, without the need to, for example, enter into data transfer agreements to meet the transfer obligations under the PDPA.

If you would like information or assistance on the above or any other area of law, you may wish to contact the Partner at WongPartnership whom you normally work with or any of the following Partners:



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