

**REPUBLIC OF SINGAPORE APPLICATION TO PARTICIPATE IN THE APEC PRIVACY RECOGNITION FOR  
PROCESSORS SYSTEM**

**CROSS BORDER PRIVACY RULES AND PRIVACY RECOGNITION FOR PROCESSORS SYSTEMS JOINT  
OVERSIGHT PANEL**

**FINDINGS REPORT**

**Submitted To:**

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Chair, APEC Electronic Commerce Steering Group  
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## OVERVIEW AND PURPOSE

The purpose of this findings report is to assess Republic of Singapore's (herein "Singapore") application to formally participate in the APEC Privacy Recognition for Processors (PRP) System. Paragraph 7.2 of the Charter of the APEC Cross Border Privacy Rules and Privacy Recognition for Processors Systems Joint Oversight Panel (herein "Charter") identifies the core functions of the Joint Oversight Panel (herein "JOP") and instructs the JOP to "Engage in consultations with those Economies that have indicated an intention to participate in the CBPR and/or PRP System and issue a report as to how the conditions set out in paragraph 2.1 and/or 3.1 have been met." This report details how the conditions in paragraph 3.1 have been met.

Conditions set out in paragraph 3.1 of the Charter require that the following be submitted to the Chair of the Electronic Commerce Steering Group (herein "ECSG"), the Chair of the Data Privacy Subgroup (herein "DPS") and the Chair of the JOP:

- A letter of intent to participate in the PRP System;
- Confirmation that a Privacy Enforcement Authority in that Economy is a participant in the Cross-Border Privacy Enforcement Arrangement (herein "CPEA");
- Confirmation that the Economy intends to make use of at least one APEC-recognized Accountability Agent subject to the procedures outlined in paragraph 7.2 of the Charter (*note: the Economy need not name a specific Accountability Agent at this point, only affirm its intention to use the services of an APEC-recognized Accountability Agent once it has been identified and approved*);
- An explanation of oversight and enforcement mechanisms available to ensure the effective oversight of processors recognised under the PRP.

Following is a findings report that details the consultative process undertaken with the relevant government representatives from Singapore and an explanation of how each of the conditions set out in paragraph 3.1 of the Charter has been met.

This report is to be circulated to all Member Economies by the APEC Secretariat and made publicly available on the APEC website as well as the CBPR System website.

## SUMMARY OF FINDINGS

In a letter dated 23 June 2017, Singapore's APEC Senior Official from the Ministry of Trade and Industry provided the Chair of the APEC ECSG *Singapore's Notice of Intent to Participate in the PRP System*. The letter contained confirmation of the following:

- 1) The Personal Data Protection Commission Singapore, a Privacy Enforcement Authority in Singapore, is a participant in the Cross-Border Privacy Enforcement Arrangement (CPEA); and
- 2) Singapore intends to make use of at least one APEC-recognized Accountability Agent subject to the procedures outlined in paragraph 7.2 of the Charter.

Appended to this Notice of Intent, under Annex A–C respectively, were the following documents:

- 1) A narrative description of the relevant domestic laws that may apply to any PRP certification-related activities of an Accountability Agent operating within Singapore's jurisdiction, and the enforcement authority associated with these laws (Annex A); and
- 2) A narrative explanation of oversight and enforcement mechanisms available to ensure the effective oversight of processors recognised under the PRP System in Singapore (Annex B); and
- 3) The completed APEC Privacy Recognition for Processors Enforcement Map (Annex C).

## FINDINGS OF THE JOINT OVERSIGHT PANEL

*Having verified the completeness of Singapore's Notice of Intent to Participate;  
Having consulted with representatives from the Ministry of Trade and Industry, and the Personal Data Protection Commission Singapore on the narrative description of domestic laws applicable to the certification-related activities of Accountability Agents operating in Singapore, and on the completed APEC Privacy Recognition for Processors Enforcement Map;  
Having verified with the Administrators of the APEC Cross Border Privacy Enforcement Arrangement (CPEA) that the Personal Data Protection Commission Singapore participates in the APEC CPEA;  
The Joint Oversight Panel finds that the conditions established in paragraph 3.1 (i-iii) of the Charter, establishing the requirements for recognition as a Participant in the Privacy Recognition for Processors System, have been met by Singapore.*

The Joint Oversight Panel invites the Chair of the APEC ECSG to notify Singapore that the conditions set out in paragraph 3.1 of the Charter have been met, and to advise them that they are hereby considered a Participant in the PRP System.

Once the notification has been given by the Chair of the ECSG, Singapore may nominate one or more Accountability Agents for APEC recognition or notify the JOP of a request by the Accountability Agent(s), for recognition under the PRP System.

Signed,



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Shannon Coe  
Chair, Joint Oversight Panel  
United States Department of Commerce



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Ahn Kun Young  
Member, Joint Oversight Panel  
Korea Communications Commission



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Shinji Kakuno  
Member, Joint Oversight Panel  
Ministry of Economy, Trade and Industry, Japan

## DISCUSSION OF FINDINGS

### ***Letter of Intent***

On 23 June 2017, the Chair of the APEC ECSG received a letter from Singapore's APEC Senior Official from the Ministry of Trade and Industry indicating Singapore's intent to participate in the APEC PRP System. The letter makes the following statements:

- 1) The Personal Data Protection Commission Singapore, a Privacy Enforcement Authority in Singapore, participates in the Cross-Border Privacy Enforcement Arrangement (CPEA); and
- 2) Singapore intends to make use of at least one APEC-recognized Accountability Agent subject to the procedures outlined in paragraph 7.2 of the Charter.

Appended to the letter were the following documents:

- 1) A narrative description of the relevant Singapore's laws that may apply to any PRP certification-related activities of an Accountability Agent operating within Singapore's jurisdiction and the enforcement authority associated with these laws and regulations (Annex A); and
- 2) A narrative explanation of oversight and enforcement mechanisms available to ensure the effective oversight of processors recognized under the PRP System in Singapore (Annex B);
- 3) The APEC Privacy Recognition for Processors Enforcement Map, completed by Singapore, outlining the identified enforcement authorities' ability to take enforcement actions under applicable laws that have the effect of protecting personal information consistently with the PRP System program requirements (Annex C).

### ***Confirmation of CPEA Participation***

In its 23 June 2017 *Notice of Intent to Participate* in the APEC PRP System, Singapore confirmed that: the Personal Data Protection Commission Singapore, a Privacy Enforcement Authority in Singapore, participates in the Cross-Border Privacy Enforcement Arrangement (CPEA).

On 09 August 2017, the JOP obtained confirmation of the participation of the Personal Data Protection Commission Singapore from the Framework Administrators of the APEC CPEA. Current CPEA membership can be found at:

<http://www.apec.org/Groups/Committee-on-Trade-and-Investment/Electronic-Commerce-Steering-Group/Cross-border-Privacy-Enforcement-Arrangement.aspx>

Based on consultations with Ministry of Trade and Industry and the Personal Data Protection Commission Singapore, and confirmation by the CPEA Administrators, the JOP finds that Singapore meets the corresponding requirement for Member Economy participation, as set out in paragraph 3.1 of the Charter.

### ***Stated Intent to Make Use of APEC-Recognized Accountability Agent(s)***

Singapore's *Notice of Intent to Participate* includes a confirmation that Singapore intends to make use of at least one APEC-recognized Accountability Agent, subject to the procedures outlined in paragraph 7.2 of the Charter. The JOP finds that this confirmation by Ministry of Trade and Industry

meets the corresponding requirement for Member Economy participation, as set out in paragraph 3.1 of the Charter.

Through the appropriate government agency, Singapore may forward to the ECSG, the DPS and the JOP, the relevant application and associated documentation of those organizations seeking APEC recognition as an Accountability Agent in the APEC PRP System.

***Relevant Laws, Regulations and Administrative Measures which may Apply to PRP- Certification-Related Activities of an Accountability Agent Operating in Singapore***

Annex A and Annex B of Singapore's Notice of Intent to Participate outlines certification-related activities that PRP System Accountability Agents operating in Singapore would be expected to engage in. The notice also outlines the laws and associated enforcement authority that may apply to these Accountability Agents in respect of their certification-related activities.

An accountability agent operating in Singapore would be expected to complete and sign the Recognition Application required of an applicant to become an APEC-recognized Accountability Agent; it would publicly communicate its participation in the PRP System; and publicly display a list of companies that it has certified as compliant with PRP Program requirements.

An Accountability Agent operating in Singapore may be subject to the Trade Marks Act in respect to any infringements regarding the use of the certification mark. Under the Trade Marks Act, a certification mark is a sign that is used, or is intended to be used, to distinguish goods or services that are certified. If the Accountability Agent is authorized to use a certification mark, it must be registered with the Registrar of Trade Marks. The registration of the mark may be revoked by the Registrar of Trade Marks or the Singapore High Court if (among other reasons) the Accountability Agent has begun to carry on a business involving the supply of goods or services of the kind certified; the manner in which the mark has been used by the proprietor has caused it to become liable to mislead the public as regards the character or significance of the mark; the proprietor has failed to observe, or to secure the observance of, the regulations governing the use of the mark; or the proprietor is no longer competent to certify the mark.

Consumer protection laws such as the Consumer Protection (Fair Trading) Act applies to an Accountability Agent if it knowingly abets, aids or permits a supplier to engage in unfair practices. This includes false claims that may result in a consumer being deceived or misled. Pursuant to section 10 of this Act, the District Court or High Court of Singapore may, on the application of the Standards, Productivity and Innovation Board, grant an injunction restraining a person from knowingly abetting, aiding, permitting or procuring a supplier to engage in an unfair practice, if the Court is satisfied that the person has done so or is likely to do so.

Also, depending on the circumstances, if the Accountability Agent gives indications that any methods it adopts are approved by any agency or international body, it may be subject to the Consumer Protection (Trade Descriptions and Safety Requirements) Act. In particular, section 14 of this Act provides that, if any person in the course of any trade or business gives by whatever means any false indication, direct or indirect, that any goods supplied by the person or any methods adopted by the person are or are of a kind supplied to or approved by any person including any government or government department or agency or any international body or agency whether in Singapore or abroad, that person shall, subject to the provisions of this Act, be guilty of an offence.

### ***APEC Privacy Recognition for Processors Enforcement Map***

Annex C of Singapore's *Notice of Intent to Participate* contains the completed APEC Privacy Recognition for Processors Enforcement Map. This Map describes Singapore's ability to take enforcement action and identifies provisions establishing a level of protection for personal information under Singapore's laws and regulations governing the handling of personal information. The *Personal Data Protection Act 2012 (No. 26 of 2012)* has the effect of protecting personal information consistent with the PRP program requirements. The JOP reviewed the Singapore submission and conducted consultations with the Ministry of Trade and Industry and the Personal Data Protection Commission Singapore to verify the applicability of the Law to the relevant program requirement (*see Appendix*).

### ***Consultation Process***

As instructed in the Charter and in the Joint Oversight Panel (JOP) Protocols document, the JOP engaged in consultations with relevant parties in preparation for the submission of this report to the Chair of the ECSG. The purpose of these consultations was to obtain further details and clarifications on certain elements of *Singapore's Notice of Intent to Participate* in the PRP System, including information provided in Annex A and Annex B, and to obtain confirmation of the identified Privacy Enforcement Authorities' participation in the CPEA. Consultations were undertaken with representatives of the Ministry of Trade and Industry, Personal Data Protection Commission Singapore and Administrators of the CPEA. These consultations took place via email.

## **SUSPENSION OR WITHDRAWAL OF PARTICIPATION**

Participation by Singapore in the PRP System may be suspended by a consensus determination by all APEC Member Economies (excluding both the requesting Economy and the Economy in question) that one or more of the following situations has occurred:

- Revocation, repeal or amendment of any domestic laws and/or regulations having the effect of making participation in the PRP System impossible (such as repeal of a law that has the effect of protecting personal information consistent with the PRP program requirements);
- The PRP Participant's Privacy Enforcement Authority as defined in paragraph 4.1 of the CPEA ceases participation pursuant to paragraph 8.2 of the CPEA; or
- Dissolution or disqualification of a previously recognized Accountability Agent where this function is provided in the APEC PRP Participant's Economy exclusively by that entity (note: certification of those organisations only certified by that Accountability Agent will be terminated until such time as the Economy is able to again fulfil the requirement for participation in the PRP System pursuant to the process described under paragraph 1-5 of the JOP Protocols, at which time any previously-certified applicant organisations should complete a new certification process. However, existing legal obligations may remain in effect under domestic law.).

Only PRP Participating Economies may initiate a request for a consensus determination that any situation identified above has occurred.

Singapore may cease participation in the PRP System at any time by giving one month's written notice (beginning from the date the notice is received) to the ECSG Chair.

If Singapore ceases participation (whether by way of withdrawal or suspension) in the PRP System, any certifications performed by APEC-recognized Accountability Agents operating in Singapore must be suspended at the same time as the cessation of the Singapore's participation in the PRP System. This requirement must be incorporated into the agreements between the Accountability

Agents and any organizations they certify as PRP-compliant. However, existing legal obligations may remain in effect under domestic law.

## RE-INITIATION OF PARTICIPATION

Any APEC Member Economy that has withdrawn or is suspended from participation in the PRP System may engage in consultations with the JOP to re-initiate participation pursuant to the process described in paragraphs 1-5 of the Protocols of the Joint Oversight Panel at any time