

1 April 2013

**Public Consultation on Proposed Advisory Guidelines on Key Concepts and Selected
Topics in the Personal Data Protection Act ("PDPA")**

Submitted by Clifford Chance Pte Ltd

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We set out below our comments on the Public Consultation Documents issued by the Personal Data Protection Commission ("PDPC") dated 5 February 2013.

Proposed Regulations on Personal Data Protection in Singapore

Paragraph 3.7(a) of Part II:

1. The paragraph states that the organisation shall make a reasonable effort to provide the individual with the personal data requested or if the personal data cannot be provided, a reasonable opportunity to examine the data. (Emphasis added)
2. It is not clear in what circumstances it would be considered that the personal data "*cannot be provided*". For example, section 21(3) of the PDPA specifies situations in which an organisation must not provide the personal data. Presumably, the expression "cannot be provided" should not extend to situations captured in section 21(3). We request that further clarification be given or that this phrase be amended.

Part III:

3. Part III sets out the requirements for transferring personal data outside Singapore. We note that the Second, Third and Fourth Schedules of the PDPA provide that the consent requirement is not necessary if the collection, use or disclosure of the personal data is "*necessary for any investigation or proceedings*".
4. We request that further clarification be given on two aspects:
 - a. Whether the "*investigation or proceedings*" referred to in the Second, Third and Fourth Schedules refer to foreign investigations or proceedings, too. If so, what type of foreign investigations or proceedings are covered under these Schedules.
 - b. If the "*investigation or proceedings*" in the Schedules do include foreign investigations or proceedings, could the personal data be transferred outside Singapore in circumstances where the foreign authority is free to use or further disclose the personal data? For example, it is clear in the Banking Act (Cap. 19) that customer information can only be disclosed to a parent supervisory authority if it is prohibited by laws applicable to it from disclosing the customer information unless compelled to do so by the laws or courts of its country. We request for

clarification on whether similar restrictions in the PDPA exist, where the transfer of personal data is made for the purposes of foreign investigation or proceedings.

Proposed Advisory Guidelines on Key Concepts in the PDPA

Para 5.22:

5. The example in the paragraph states that as the information disclosed was business contact information, the information can be collected, used and disclosed freely.
6. We seek clarification that this would be the case, even if subsequently the information was used for personal purposes of Damien. For example, if the information was used to sell Damien personal insurance, rather than for property sales purposes.

Para 13.12:

7. The paragraph indicates that an organisation must notify the individual of the collection of personal data via voice recording and seek his consent.
8. We request for clarification that this requirement only applies where the organisation is using voice recording to record the individual's verbal consent for the purposes of the PDPA and would not extend to all voice recordings per se. For example, it is typical for banks to record telephone conversations entered into by their traders. We assume that it is not the intention to require consent of such traders to record their telephone conversations – such requirement does not exist under Singapore law at this point in time.

Thank you.

Clifford Chance Pte Ltd