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INVESTMENT MANAGEMENT  
ASSOCIATION OF SINGAPORE

# FEEDBACK TO PDPC CONSULTATION PAPER

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PROPOSED REGULATIONS ON PERSONAL  
DATA PROTECTION IN SINGAPORE

MARCH 2013

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# FEEDBACK TO PDPC CONSULTATION PAPER ON THE PROPOSED REGULATIONS ON PERSONAL DATA PROTECTION IN SINGAPORE – MARCH 2013

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## INTRODUCTION

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The Personal Data Protection Commission (“PDPC”) issued a consultation paper on Proposed Regulations on Personal Data Protection in Singapore on 5 February 2013. The paper proposes the positions for regulations to be made under the Personal Data Protection Act 2012. The PDPC is soliciting feedback on these proposed positions.

The Investment Management Association of Singapore (“IMAS”), representing more than 100 investment managers in Singapore, has aggregated comments and feedback from our members, in response to the PDPC Consultation Paper.

Please note that not every individual response has been included. Where responses have been repetitive, those have been condensed into a single response. Also, some responses have been edited to make them more succinct.

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## ADMINISTRATION OF REQUESTS FOR ACCESS TO AND CORRECTION OF PERSONAL DATA

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Below please find feedback and clarification requests from IMAS members:

- **Personal Data Collection for Recruitment Processes.** To clarify the amount of information the organization is allowed to disclosed under Section 21(1)(b) using the following scenario: A candidate was unsuccessful in his application during a job recruitment process and the hiring organization decides to retain his personal data (e.g. candidate’s resume and contact information collected during recruitment process) for a period of time with the intention of using them for future positions. The personal data was subsequently viewed by a few other departments within the hiring organization for the purpose of evaluating the suitability of the candidate for openings within the respective departments. If the candidate were to make an access request within the year on how his personal data have been used or disclosed, how detailed should the hiring organisation’s response be? Would it be sufficient to simply state the departments which have reviewed the personal data and for what purpose e.g. Accounts and Compliance have viewed your resume for recruitment purposes within the past year, or does the response need to include details such as the roles for which the personal data was reviewed for and the names of personnel who have reviewed it?
- **Minimal Fee for Access Request.** It may be useful if the PDPC could set a norm of the amount of minimal fee that organisations can consider charging for such requests so as to ensure that a

certain standard is set across all organisations in Singapore consistently and through this, the possibility of disputes individuals may have can be potentially mitigated.

- **Use of personal data collected before the appointed day.** Is it required to inform existing clients their statutory right to withdraw consent or the right to obtain personal data policies, etc.?

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## TRANSFER OF PERSONAL DATA OUTSIDE SINGAPORE

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Below please find feedback and clarification requests from IMAS members:

- Stated in 7.1 of Proposed Regulations on Personal Data Protection in Singapore, organisations may transfer personal data outside Singapore provided it provides a standard of protection to personal data comparable to the Singapore PDPA protection. It would be useful if the PDPC can provide a list of jurisdictions where such “comparable standard of protection” exists. Having this list also helps in considering the types and degrees of safeguard measures organisations could potentially consider if data were to be transferred outside of Singapore.
- Stated under 7.12(c) the requirement to specify the “legally binding nature, both within the organisation’s group and externally” in the binding corporate rules. However, it is unclear what is expected in relation to the “legally binding nature” of the relevant personal data corporate rules. Even if a group policy is adopted by the Board (which might not always be the case), the policy would usually only be enforceable within the institution and not enforceable by other group members. Hence, we seek the PDPC’s clarification on the following:
  - Whether the “legally binding nature” is intended to facilitate the Singapore data transferring entity having the ability to sue the other group member which receives the personal data based on the binding corporate rules. If this were to happen, it appears a need for the relevant group entities to set in place separate agreements (signed by both parties) incorporating to the corporate rules. Is this the intention of the Guidelines?
  - What does “externally” under 7.12(c) intend to cover?
  - Do the content requirements under 7.12 only apply if the organisations seek to safeguard the personal data via binding corporate rules? That is, they will not apply if the organisations rely on binding contract between the transferring and receiving entities?

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## INDIVIDUALS WHO MAY ACT FOR OTHERS UNDER PDPA

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Below please find feedback and clarification requests from IMAS members:

- Paragraph 9.11 of the 'Proposed Positions for Regulations under the PDPA paper states that if two or more individuals share equal priority under the listings in paragraph 9.10, then the priority to exercise the rights and powers under the PDPA relating to the personal data of the deceased individual passes to the individual who is eldest of the individuals and descend in order of age, therefore we would like to understand our obligation to act on instructions given by parties who may act in relation to the personal data of deceased individuals. If, for example, the younger sister of the deceased client comes today to withdraw the consent given to us for their use of her deceased brother's personal data but the mother of the deceased client, someone in the same category as the younger sister but who is more senior, then comes the next day to grant us consent to use the personal data again, would it mean that we are able to use their deceased client's personal data again? As well, would the response to the scenario above be different if the scenario would be the other way around i.e. the mother of the deceased client comes first to withdraw consent and the younger sister comes the next day to grant consent? Should we ignore the younger sister's request?

In view of the above points raised, we prefer not to divide relatives into different categories, where the relatives in each category are given equal priority, as this may create confusion for companies when administering the provision of the PDPA. The listing proposed in paragraph 9.9 provides a clear order of priority which makes it easier for implementation.