

## **BNA Privacy Law Watch**

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### **Data Protection Singapore Moving on Data Protection Law; Early '12 Passage, Effective Date Delay Seen**

*by Newley Purnell*

The Singapore government Sept. 13 began soliciting public feedback on a proposal released the same day to establish for the first time an omnibus data protection framework law for businesses in the prosperous city-state.

The proposed data protection law “aims to protect consumers’ personal data through the regulation of the collection, use, disclosure, transfer and security of personal data,” the Ministry of Information, Communications and the Arts (MICA) said in a Sept. 13 statement.

Under the proposed framework, a data privacy commission would be established to oversee and enforce the law. The commission would monitor compliance with the act and could order organizations in violation of the law to pay fines of up to SGP 1 million (\$806,500).

#### **Public comment on the proposal is due by Oct. 25.**

Bryan Tan, director of the Singapore-based Keystone Law Corporation, told BNA Sept. 19 that public feedback is typical in Singapore, and that the data protection framework proposal is of wide public interest.

**“It’s not a formal proposal, but something the government has put out to the public and is sort of saying ‘let us know what you think,’” Manuel Maisog of Hunton & Williams LLP, in Beijing, told BNA Sept. 19.**

The process leading up to the call for public comment has taken nearly three years. In February 2009, Singapore government officials told BNA a review was underway to determine if omnibus data protection legislation should be introduced to bolster a patchwork of data protection regulations and industry and government rules and codes (24 PRA, 2/9/09).

Singapore also is interested in upping data protection to increase information handling outsourcing to the city-state.

After the public feedback period ends, a final bill will be introduced that would go through two or three readings before Singapore's Parliament, Tan said. The process could take more than three months.

Tan predicted the legislation will be enacted in early 2012.

#### Supplement to Current Sectorial Approach Patchwork

Noting that Singapore has no framework data protection law in place, the MICA said that it "hopes to introduce a basic broad-based DP [data protection] law applicable to private organisations to create a balance between the need to protect individuals' personal data vis-a'-vis the need for organisations to use the data for legitimate and reasonable purposes."

Singapore has a 1998 self-regulatory E-commerce Code for the Protection of Personal Information and Communications of Consumers of Internet Commerce that embraces industry bodies. It limits collection and unauthorized disclosure of personal information by private industry. Consumers also have some rights under that code, regarding the restriction of transfers of their personal data as well as some rights to correct and/or delete information on their personal data.

There is a voluntary 2002 Model Data Protection Code and some protection is provided through e-commerce legislation such as the Electronic Transactions Act, National Computer Board (Amendment) Act and the Computer Misuse (Amendment) Act (CMA). In addition, Singapore's first law governing spam, the Spam Control Act 2007, took effect in 2007 (115 PRA, 06/15/07).

The law is intended to supplement rather than replace sectorial laws that include privacy and data security elements that are in place and cover, among other things, financial and health data, according to the consultation draft call for public comment.

The proposed law would provide a baseline level of data protection for personal information and certain categories of more sensitive personal information, MICA said.

#### **No Breach Notice Provision in Draft Law**

The draft proposed law includes requirements that firms obtain consumer consent to use their personal data, collect only data needed for a particular specified purpose, take responsibility for ensuring the protection of privacy for information it transfers outside of Singapore, and provide reasonable safeguards to protect personal data. The framework also includes a proposal to create a national telemarketing do-not-call registry for unsolicited voice calls and texts.

The proposal does not, however, include a data breach notice mandate.

Tan said that since the framework has come out "late in the game," the government can learn from how other framework laws have developed and been amended. Singapore may consider adding provisions to the bill before it is filed in Parliament, and the obligation to notify

individuals of the breach of their information is one such area, he said. This is an issue that is “gaining prominence” of late, Tan said.

Tan said businesses likely will be focused on the framework proposal’s lack of specific definitions. He noted that those definition could be “buttressed by guidelines” that “define what is in and what is out, what is acceptable and what is not.”

In order to give businesses time to adjust their policies and practices to new obligations under the proposed law, the draft framework said “there will be a ‘sunrise’ period” of between one to two years “between the time the DP [Data Protection] Act is enacted and the time its provisions take effect.” The government specifically asked for public comment on what the appropriate length of a sunrise period should be.

### **Singapore Seeks Outsourcing Business**

The law is intended to bolster Singapore’s standing as a “trusted hub for business” and “create a conducive environment for the fast-growing global data processing and data management industries in Singapore,” the MICA statement said.

The consultation document seeking public comment emphasized that strengthening Singapore’s data protection regime is important, given ongoing efforts in the United States and European Union to strengthen their data security and online consumer data protection laws.

The European Commission said on its website that Singapore is the European Union’s most important trading partner in the Association of Southeast Asia Nations.

The Office of the U.S. Trade Representative said imports from Singapore totaled \$20 billion in 2009. “Singapore was the United States’ 10th largest export market in 2010” with just over \$29 billion in exports, according to the USTR.

The framework broadly follows European Union style data protection legislation, Tan said.

The proposal said that in developing its draft framework law the government looked to privacy principles of the Organization for Economic Cooperation and Development, the Asia-Pacific Economic Cooperation, as well as EU, U.S., Canadian, and New Zealand data protection laws.

Asked how the framework compares to other data protection legislation in the Asia-Pacific region, Tan called Singapore’s draft “a hybrid.” He said it has “principles” from the European Union, but the government is exempt from the proposed law, as it is in Malaysia’s draft omnibus data protection law (115 PRA, 6/15/11).