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ACCOUNTABILITY AGENT APEC RECOGNITION APPLICATION
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Enforceability

1. The Privacy Enforcement Authority (PEA) for the Republic of Singapore (“Singapore”) is the Personal Data Protection Commission (PDPC). PDPC is also a participant in the APEC Cross Border Privacy Enforcement Arrangement (CPEA) since 2014.

APEC Accountability Agent for Singapore

2. Singapore is nominating the **Info-communications Media Development Authority (IMDA)** as the APEC Accountability Agent for the APEC Cross Border Privacy Rules (CBPR) and Privacy Recognition for Processors (PRP) Systems.
3. IMDA is a statutory board of the Singapore government, under the Ministry of Communications and Information (MCI) and is governed by the Info-communications Media Development Authority Act 2016 (“IMDA Act”). The PDPC is also under MCI and is governed by the Personal Data Protection Act (PDPA). Under the PDPA, the IMDA is designated as the PDPC.¹ Although the IMDA and the PDPC are the same legal entity, there is in place an effective structural and organisational separation of the functions that IMDA performs.
4. The functions² of IMDA are primarily set out under the IMDA Act, and include, among other things, to promote the efficiency, competitiveness (including internationally) and development of the information, communications and media industry in Singapore, to promote and maintain fair and efficient market conduct and effective competition between persons engaged in commercial activities in connection with media services or telecommunication systems and services in Singapore or, in the absence of a competitive market, to prevent the misuse of monopoly or market power, to promote the use of the internet and electronic commerce in Singapore and to establish regulatory frameworks for that purpose. The IMDA maintains its own branding, name, style, as well as dedicated staff to carry out the functions and responsibilities under the name of IMDA.
5. The functions of the PDPC are set out under the PDPA.³ The Commission’s functions include, among other things, to administer and enforce the PDPA, to promote awareness of data protection in Singapore, to represent the Government internationally on matters relating to data protection. In relation to any function, duty or power of the Commission delegated to the Commissioner or Deputy Commissioner under section 38 of the IMDA Act, only the Commissioner or Deputy Commissioner can perform that function, duty or exercise that power in his name.⁴ This means that the powers delegated to the Commissioner or Deputy Commissioner cannot be exercised by IMDA in any way. Pursuant to this power of delegation⁵,

¹ PDPA Section 5(1) The Info-communications Media Development Authority is designated as the Personal Data Protection Commission, (2) (2) The Personal Data Protection Commission is responsible for the administration of this Act.

² IMDA Act Section 5(1) Functions of Authority.

³ The PDPA governs the collection, use and disclosure of personal data by the private sector. In this regard, PDPC is independent from its regulated entities when carrying out its roles and functions.

⁴ PDPA Section 8 Delegation.

⁵ Personal Data Protection Act 2012 (Act 26 of 2012) – Delegation of Powers (No. 3126). Pursuant to section 8(2)(c) of the Personal Data Protection Act 2012 (Act 26 of 2012) (hereinafter referred to as the Act), it is hereby notified for general information that the Info-communications Media Development Authority (hereinafter referred to as the Authority) has, with effect from 8 October 2016, delegated the exercise of the following statutory powers under the Act (hereinafter referred to as the specified powers) to the persons specified below:

(a) Power under section 8(1)(b) of the Act to appoint such number of Deputy Commissioners for Personal Data Protection, Assistant Commissioners for Personal Data Protection or inspectors as considered necessary.
Persons to whom the specified powers are delegated - The Commissioner for Personal Data Protection (hereinafter referred to as the Commissioner).

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powers of the PDPC under the PDPA have been delegated to the Commissioner and the Deputy Commissioner.⁶ The PDPC maintains its own branding, name, style, as well as a dedicated team of employees to conduct any functions and responsibilities under the name of the Commission. All PDPA-related investigations and enforcement decisions are administered and issued by the Commissioner or Deputy Commissioner and published on the official website www.pdpc.gov.sg.

- (a) Part VII of the PDPA provides for the enforcement of the Data Protection Provisions in the same Act. In brief, these include the following:
- Power to give directions to an organisation that is in contravention of Data Protection Provisions of the PDPA, including to pay a financial penalty of up to SGD \$1 million (section 29 of PDPA).
 - Power to refer a matter for mediation or to direct parties to resolve an individual's complaint by way of an alternative dispute resolution mechanism (section 27 of PDPA).
 - Power to review a failure to provide access or correct personal data (section 28 of PDPA).

- (b) Section 50 of the PDPA sets out the powers of investigation in relation to compliance with the PDPA, including that the Commission may, upon complaint or of its own motion, conduct an investigation. Accordingly, PDPC is a participant under the APEC CPEA, as well as the PEA for Singapore for the purposes of participating in the APEC CBPR and PRP systems.

6. The relevant oversight on IMDA as Singapore's Accountability Agent, including the legislative basis for oversight and governance, is elaborated as follows:

- (a) The Minister for Communications and Information ("Minister") is charged with the responsibility of IMDA and data protection regulation. This is set out under the Constitution of the Republic of Singapore (Responsibility of the Minister for Communications and Information) Notification 2018 (No. S352).

Constitution of the Republic of Singapore (Responsibility of the Minister for Communications and Information) Notification 2018

Responsibility of Minister for Communications and Information

It is notified for general information that the Prime Minister has, under Article 30(1) of the Constitution of the Republic of Singapore, directed that with effect from 1 May 2018, Mr S Iswaran is charged with the responsibility for the departments and subjects set out in the Schedule and designated as the Minister for Communications and Information,

The Schedule

Departments and Statutory Bodies

1. Info-communications Media Development Authority

Subjects

- (b) All powers under the Act and any regulations made thereunder (other than the powers of appointment under section 8(1)(a) and (b) and power that are non-delegable under section 38(3) of the Info-communications Media Development Authority Act 2016 (Act 22 of 2016)). *Persons to whom the specified powers are delegated* - The Commissioner, each Deputy Commissioner for Personal Data Protection (hereinafter referred to as a Deputy Commissioner) and each Assistant Commissioner for Personal Data Protection (hereinafter referred to as an Assistant Commissioner).

⁶ This excludes powers that are non-delegable under section 38(3) of the IMDA.

2. Data Protection Regulation

- (b) The appointment and removal of the Chief Executive of IMDA are subject to Minister's approval and prior concurrence of the Public Service Commission. This is set out under the IMDA Act (No. 22 of 2016) and the Public Sector (Governance) Act (No. 5 of 2018). The Public Service Commission is the key authority for appointment of officers to the Administrative Service, as well as appointments and promotions to senior management ranks. It also considers candidates for appointment as Chief Executive Officer of Statutory Boards.

IMDA Act (No. 22 of 2016)

Chief Executive, officers and employees, etc.

40. (1) There must be a Chief Executive of the Authority, whose appointment, removal, discipline and promotion must be in accordance with the Public Sector (Governance) Act 2018.

...

(3) The Authority may, subject to the Public Sector (Governance) Act 2018, appoint and employ, on such terms and conditions as it may determine, such other officers, employees, consultants and agents as may be necessary for the effective performance of its functions.

Public Sector (Governance) Act (No. 5 of 2018)

Appointment of chief executive

15. (1) Subject to subsection (2), the chief executive of a Group 1, Group 2A or Group 3 public body must be appointed by the public body, and no other.

(2) An individual must not be appointed as the chief executive of a Group 1, Group 2A or Group 3 public body except –

- (a) with the prior approval of the responsible Minister for the public body, in the case of a Group 1, Group 2A or Group 3 public body; and
- (b) with the prior concurrence of the Public Service Commission, in the case of a Group 1 public body.

(3) Where an individual has been appointed as the chief executive of a public body in contravention of subsection (2), the responsible Minister for the public body may issue a direction to the public body to remove the individual as its chief executive; and the public body must comply with that direction.

Removal of chief executive

16. (1) Subject to subsection (2), the chief executive of a Group 1, Group 2A or Group 3 public body must not be removed from that office except –

- (a) with the prior approval of the responsible Minister for the public body, in the case of a Group 1, Group 2A or Group 3 public body; and
- (b) with the prior concurrence of the Public Service Commission, in the case of a Group 1 public body.

(2) Subsection (1) does not apply where –

- (a) a direction is given by a responsible Minister under section 15(3); or
- (b) the Public Service Commission concurs under section 17 with a dismissal of a chief executive of a Group 1 public body.

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(3) To avoid doubt, this section does not prevent a resignation of an individual as a chief executive of a public body, or the acceptance by a public body of such a resignation.

First Schedule

Group 1 Public Bodies

...

17. Info-communications Media Development Authority

(c) The Minister may give directions to IMDA regarding the performance of its functions. This is set out under the IMDA Act (No. 22 of 2016) and the Public Sector (Governance) Act (No. 5 of 2018). This means there will be ministerial oversight and governance in respect of how IMDA operates. The ministerial oversight will be applied and extended to IMDA's role as an Accountability Agent. For instance, Minister is able to require IMDA to furnish information and report on its work as an Accountability Agent, including improvements to certification assessment methods etc.

IMDA Act (No. 22 of 2016)

Directions of Minister, etc.

8. (1) The Minister may give to the Authority any direction under section 5 of the Public Sector (Governance) Act 2018.

(2) To avoid doubt, the Minister is entitled –

- (a) to information in the possession of the Authority; and
- (b) where the information is in or on a document, to have, and make and retain copies of, that document.

(3) For the purposes of this section, the Minister may request the Authority –

- (a) to furnish information to the Minister; or
- (b) to give the Minister access to information.

(4) The Authority must comply with a request under subsection (3).

Public Sector (Governance) Act (No. 5 of 2018)

Directions by responsible Minister

5. (1) The responsible Minister for a Group 1 public body may give to the public body directions as to the performance by the public body of its functions

Limit to effect of directions

11. (1) A direction under section 4 or 5 must not be inconsistent with this Act or any other written law.

(2) A direction under section 4 or 5 is not binding on a Singapore public sector agency to the extent (if any) to which it would impede or affect the performance of –

- (a) a statutorily independent function of the Singapore public sector agency; or
- (b) a quasi-judicial function of the Singapore public sector agency or any of its officers in relation to a particular matter.

(3) This Part does not authorise any Minister to direct a Singapore public sector agency, or any member or officer of a public body, or any public officer, requiring –

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- (a) the performance or non-performance of a particular act or the bringing about of a particular result, in respect of a particular person or persons; or
- (b) the making of an employment decision relating to a particular individual.

(d) The ministerial oversight elaborated in sub-paragraph (c) above does not extend to directing a specific result in respect of particular persons. For example, it would not extend to directing whether or not a particular organisation obtains APEC CBPR or PRP certification.

- 7. The Public Service (Governance) Act (No. 5 of 2018) limits the effect of directions by the responsible Minister to the extent that such directions shall not be binding on a Singapore public sector agency (i.e. IMDA or PDPC) if it would impede or affect the performance of the statutory independence of the Singapore public agency, including all powers delegated to the Singapore public agency, as well as exercising statutory powers in decision making⁷.
- 8. The management of queries and complaints on the APEC CBPR/PRP certification is as follows:
 - (a) All queries and complaints relating to the performance of the appointed Accountability Agent will be directed to and handled by the oversight party (i.e. MCI) through dedicated communications channels;
 - (b) All queries and complaints on matters relating to, for instance, non-compliance of APEC certification programme requirements by organisations, false representation of obtaining APEC certification by organisations will be directed to and handled by the appointed Accountability Agent (i.e. IMDA) through dedicated communications channels.

Issuance of certification mark for APEC⁸ CBPR/PRP certifications in Singapore

- 9. Intellectual property laws may also apply to the Accountability Agent’s activities. IMDA has registered the certification marks of the APEC CBPR/PRP certifications (see attached samples of certification marks to be used for Singapore, **marked as confidential**). The certification mark is registered with the Registrar of Trade Marks, together with regulations governing use of the certification mark. IMDA will authorise successful applicants of the APEC CBPR/PRP certification to use the certification mark.
- 10. Pursuant to the Trade Marks Act, these regulations indicate who is authorised to use the mark, the characteristics to be certified by the mark, how IMDA as the certifying body is to test those characteristics and to supervise the use of the mark, as well as the procedures for resolving disputes. Overall, the Registrar of Trade Marks needs to be satisfied that there is adequate control over the use of the mark. The registration of the mark may be revoked by the Registrar of Trade Marks or the Singapore High Court if the registered proprietor, i.e. the Accountability Agent (among other things), has failed to observe, or to secure the observance of, the regulations governing the use of the mark.

⁷ Section 11 of the PSGA: Limit to effect of directions.

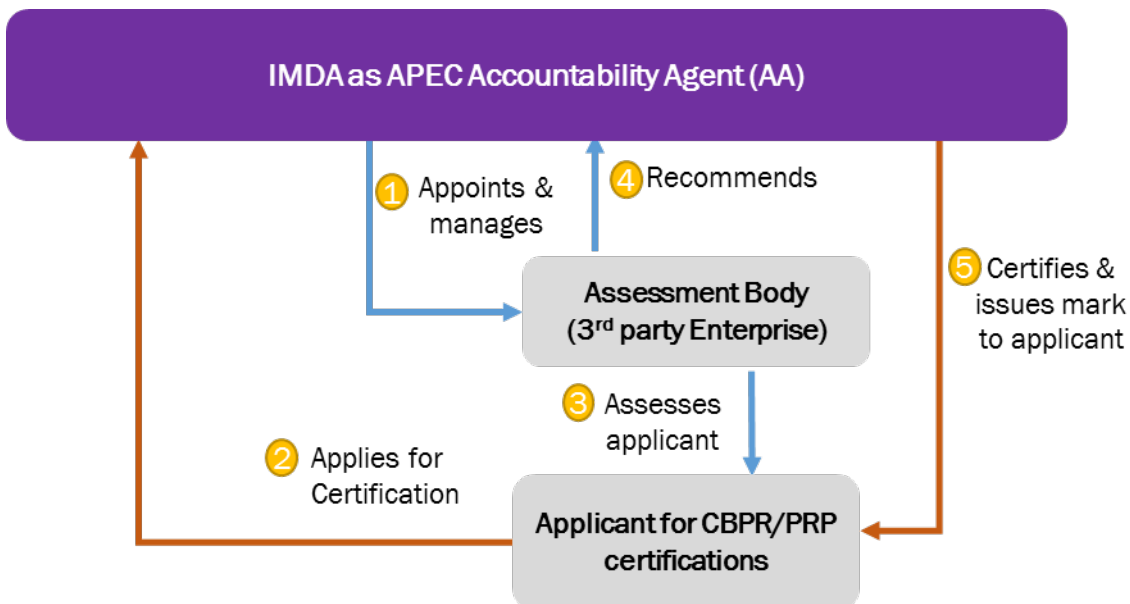
⁸ Pending confirmation from APEC Secretariat and its legal team on licensing, and use of the APEC abbreviation and full name “Asia Pacific Economic Cooperation” for Singapore’s certification mark.



Singapore-appointed Accountability Agent conducting its certification work

11. As the Accountability Agent for Singapore, IMDA is the certification body and maintains overall control of the certification standards, supervision of applicant organisations, APEC-certified organisations.

12. IMDA will authorise third party assessment bodies (“ABs”) to carry out the assessment of applicant organisations. The administrative and assessment functions are, therefore, distinct with specific entities responsible for the functions. This is elaborated below:



- (a) As the party overseeing the administrative functions, IMDA is responsible for ensuring the overall certification standards and certification compliance. IMDA will be the first point of contact to receive and process all APEC CBPR/PRP certification applications.
- (b) The certification auditing functions (i.e. assessing companies for APEC CBPR/PRP certification) are led by third-party ABs authorised by IMDA. IMDA will require all authorised ABs working on the APEC CBPR/PRP certifications to be accredited with ISO/IEC 17021-1 to ensure that they can provide assessment services in a competent, consistent and impartial manner.

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- (c) An authorised AB is contractually bound to maintain its impartiality and independence as the assessment body for the certification programmes. This includes, among other things, undertaking that it shall:
- not enter into any professional, legal or other commitment which would potentially conflict with or prevent it from performing its obligations under the agreement it enters into with the Accountability Agent;
 - not provide or offer to provide any services to any party where doing so would give rise to potential or actual conflicts of interest with its role as the AB;
 - have in place a proper structure, and internal procedures and controls to identify and address, promptly and appropriately, any potential and/or actual conflicts of interest.
- (d) The ABs are required to develop an assessment report for each APEC CBPR/PRP applicant organisation that includes its recommendations whether to issue the APEC certification. The assessment report will be sent to IMDA for consideration as the final approving authority where IMDA will determine whether or not to certify an applicant organisation.

Annex B

ACCOUNTABILITY AGENT RECOGNITION CRITERIA CHECKLIST

Conflicts of Interest

Q1: Applicant Accountability Agent should describe how requirements 1(a) and (b) in Annex A have been met and submit all applicable written policies and documentation.

Please also refer to our responses between pages 1 and 7 of this document.

1. Singapore is nominating the Info-communications Media Development Authority of Singapore (IMDA) as the APEC Accountability Agent for the Cross Border Privacy Rules (CBPR) and Privacy Recognition for Processors (PRP) Systems. IMDA is governed by the Info-Communications Media Development Authority Act 2016 (No. 22 of 2016) attached as **Annex I**.

Policies on declaration of conflict of interest

2. IMDA has established policies on conflict of interest for both its employees and Board of Directors.

Ref: Section 14.2 of IMDA Code of Conduct (attached as <u>Annex II</u>), Sections 3.10 and 3.11 of IMDA Code of Corporate Governance (attached as <u>Annex III</u>). These Annexes are <u>marked as "confidential"</u> and shall not be disclosed in the official APEC JOP recommendation report which will be published on the APEC and/or CBPR-related websites.

3. Employees/Officers from the IMDA (as described below) authorised to carry any work related to APEC CBPR/PRP certifications are required to abide by the IMDA Code of Conduct and have a continuing responsibility to make full and prompt disclosures of any actual, potential or perceived conflict of interest. Whenever an Employee/Officer determines that he/she is engaged in an activity, whether commercial or otherwise, that would cause a conflict of interest, the Employee/Officer is required to promptly disclose the full particulars of such conflict in writing as soon as practicable in accordance with the IMDA Code of Conduct. The Employee/Officer must not, without express written permission of the CEO or designate, take part in any discussion, evaluation or other transactions involving IMDA and the APEC CBPR/PRP applicant organisation. Any failure to abide by the IMDA Code of Conduct will result in disciplinary actions taken against the officer, and/or potential dismissal.
4. Likewise, Board Members are required to observe the IMDA Code of Corporate Governance and shall be guided by the principles of integrity, honesty, transparency, openness, independence, good faith and service to the public when assessing and determining a conflict of interest. A Board member who finds him/herself in a situation of actual or potential conflict of interest is required to disclose the nature of his/her conflict of interest to the Board as soon as practicable in accordance with the procedures of IMDA Code of Corporate Governance.

IMDA Trustmark Office

5. All work and matters relating to APEC CBPR/PRP certification will be handled by the Trustmark Office ("**TM Office**") within IMDA, with staff strength of 5 full-time employees. Apart from the APEC CBPR/PRP certification, the TM Office also administers the domestic Data Protection Trustmark (DPTM) certification scheme. The key functions of the TM Office include:

(a) **Operations:** To administer both the DPTM and APEC CBPR/PRP certification schemes;

- (b) **Business development and adoption programme:** To develop support programmes to increase adoption and uptake of DPTM and APEC CBPR/PRP certifications; and
- (c) **Communications and outreach:** To execute communications and outreach plans aimed at educating and increasing awareness of the certifications.

6. The TM Office does not provide consulting services that could impair its objectivity and fairness in performing the duties of an APEC Accountability Agent, with its functions restricted to administering the APEC CBPR/PRP certifications and relevant outreach and promotional activities.

IMDA Industry Development and Grants Disbursement

7. As the national agency spearheading efforts in the infocomm and media sectors, IMDA provides a wide range of programmes and grants to empower enterprises in capabilities building. These programmes/grants seek to level up enterprises to boost their competencies in areas like cloud, data analytics and infocomm security. More details of programmes can be found at www.imda.gov.sg/industry-development/programmes-and-grants.
8. The industry development programmes are administered by the Industry Development Group, which is functionally segregated from the TM Office. There are established approval processes for the industry development programmes, and disbursement of grants, support schemes. Each applicant for grant is evaluated on its own merit against a set of pre-determined programme/grant criteria.

Published information for APEC CBPR/PRP certified organisations

9. All APEC CBPR/PRP certified organisations will have the relevant information⁹ published on the IMDA website (www.imda.gov.sg). This information may include, but not limited to, name of organisation, business address, business contact information, type of APEC certification obtained (e.g. CBPR or PRP), start and end date of the APEC certification.
10. The IMDA website will also contain information relating to the APEC CBPR/PRP application process, certification standards, contact information of the assessment bodies and associated certification fees.

Mechanism for regular reporting to relevant public agencies on matters relating to certification, auditing and dispute resolution

Certification and auditing

11. Each application for the APEC CBPR/PRP certification is equally evaluated on its own merits. The TM Office will not factor in whether the applicant organisation is a (former and/or current) recipient of IMDA grant or its (former and/or current) interactions, dealings with IMDA into the APEC CBPR/PRP application assessment. Briefly, the APEC certification process encompasses:
- (a) IMDA TM Office will receive and process every APEC CBPR/PRP application for completeness;
 - (b) The application organisation will be asked to select an Assessment Body (AB) from the list of IMDA authorised panel of Assessment Bodies. The selected AB will then assess the applicant organisation for compliance with the APEC certification requirements;

⁹ To be referenced and aligned to the information that is published on the official APEC CBPR website (www.cbprs.org).
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(c) Upon completion of assessment, the AB is required to develop an assessment report that includes its recommendations whether to issue the APEC certification. This report will be submitted to IMDA as the final authority making a decision if an applicant organisation is successful; and

(d) All successful applicants will be issued the certification by IMDA.

Dispute resolution

12. For disputes between the applicant organisation and AB relating to the quality of assessment service (e.g. dissatisfaction about service, competence or professional conduct of the AB), the AB is bound by its contractual appointment with IMDA to put in place internal mediation procedures. In the event of unsuccessful mediation, the applicant organisation can pursue other forms of dispute resolution such as through litigation.

Please also refer to our responses in pages 15-16 (Q9).

Please refer to **Annex IV** for the Assessment Bodies' policies on dispute resolution of the companies. The Annex is **marked as "confidential"** and shall not be disclosed in the official APEC JOP recommendation report which will be published on the APEC and/or CBPR-related websites.

Q2: Applicant Accountability Agent should submit an overview of the internal structural and procedural safeguards to address any of the potential or actual conflicts of interest identified in 2(b) of Annex A.

Please refer to our response between pages 8-10 (Q1).

Q3: Applicant Accountability Agent should describe the disclosure/withdrawal mechanisms to be used in the event of any actual conflict of interest identified.

Please refer to our responses between pages 8-10 (Q1).

Programme Requirements

Q4: Applicant Accountability Agent should indicate whether it intends to use the relevant template documentation developed by APEC or make use of Annex C to map its existing intake procedures programme requirements.

13. IMDA will make use of the template documentations developed and endorsed by APEC Economies to assess applicant organisations when certifying organisations as CBPR-compliant and/or PRP-compliant. The CBPR/PRP template documentations will be published on IMDA website (www.imda.gov.sg) and we will also provide the URL of the official APEC CBPR website as reference.

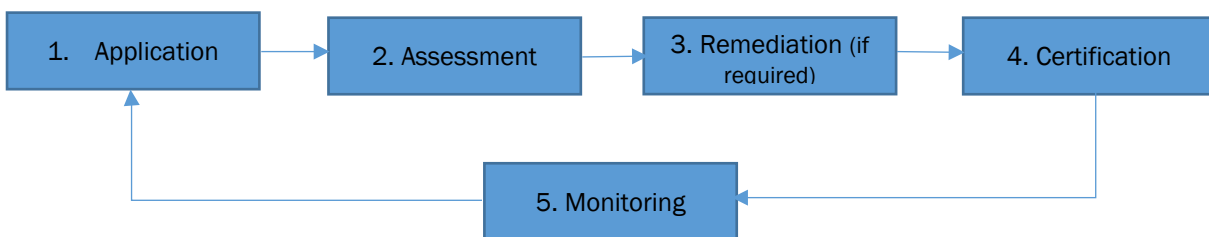
Certification Process

Q5: Applicant Accountability Agent should submit a description of how the requirements as identified in 5 (a) – (d) of Annex A have been met.

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14. IMDA conducted an open call for companies to participate as ABs for the domestic Data Protection Trustmark (DPTM) Certification in April 2018. Three ABs were appointed from the open call based on a set of published criteria. They are ISOCert Pte Ltd, Setsco Services Pte Ltd and TUV SUD PSB Pte Ltd.
15. ABs are appointed for a period of 24 months, with an option to renew for another 12 months. Apart from the DPTM Certification, IMDA included the APEC CBPR/PRP certification as an option in the same open call as it will be most efficient where the same appointed ABs can carry out work for all three certifications (i.e. DPTM, APEC CBPR, APEC PRP). The decision to appoint three (3) ABs was considered based on competition, market choice and operational reasons. The intent is to provide applicant organisations more choices in the selection of ABs, management of AB caseloads for DPTM/APEC certifications, and mitigate possibilities where an AB is unable to perform the APEC certification due to conflict of interest. IMDA will exercise its option to appoint the three (3) above-mentioned ABs as soon as the APEC Accountability Agent application is approved, and the APEC CBPR and PRP certifications are ready in Singapore.
16. The ABs will assess companies for compliance with the APEC CBPR/PRP certification requirements. The ABs will prepare and submit a recommendation report containing their findings with all relevant supporting information and documents to IMDA. As the Accountability Agent, IMDA will evaluate the report findings and be the final approving authority to decide on the issuance of APEC CBPR/PRP certifications. We have illustrated the certification process in **Figure 1**.

Figure 1 – Certification process for APEC CBPR/PRP



17. An organisation applying for APEC CBPR/PRP certification will be required to enter into a contractual agreement with IMDA.

The agreement will be substantially in the form attached as **Annex V**. This Annex is **marked as “confidential”** and shall not be disclosed in the official APEC JOP recommendation report which will be published on the APEC and/or CBPR-related websites.

Application for certifications

18. All applications for APEC CBPR/PRP are accepted online. An applicant organisation must first access the IMDA website to submit its application.
19. IMDA receives and processes the online application submitted by the applicant organisation and assesses that the organisation meets qualifying criteria such as (a) formed or recognised under the laws of Singapore (as the APEC participating economy), (b) resident, or having an office or place of business in Singapore and in any case, not a Public Agency.
20. Upon successful acceptance by IMDA, the applicant organisation will be informed of the application outcome via email. The same email will include instructions on selecting an AB to

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conduct the APEC CBPR/PRP assessment. Similarly, unsuccessful applicants will be notified via email, with an explanation on the reasons for rejection.

Selection of assessment bodies

21. The applicant organisation proceeds to select one AB from the panel of authorised ABs to conduct the assessment.
22. As required by ISO/IEC 17021-1:2015, all ABs shall perform an internal assessment on impartiality before accepting any contract. This is to ensure that its decision is based on objective evidence and not influenced by other interests or by other parties. If there is a conflict of interest, the AB shall recuse itself from accepting the assessment work and the applicant organisation will be instructed to choose from the remaining list of ABs.

5(a) Initial assessment of compliance

23. Stage 1: Combination of self-assessment and on-site assessment. The first stage involves reviewing the applicant organisation's self-assessment of its data protection/privacy policies and practises against the APEC CBPR/PRP programme requirements (using the template documentation developed and endorsed by APEC Economies to assess applicant organisations for CBPR or PRP compliance). The selected AB will perform the following:
- (a) Review the completed APEC-approved questionnaire by the applicant organisation against the relevant programme requirements;
 - (b) Requests for clarification regarding the processes and equipment used;
 - (c) Any supplemental documentation required from the applicant; and
 - (d) Evaluate readiness of applicant organisation for stage 2.
24. The stage 2 onsite assessment will evaluate the applicant organisation's implementation, including effectiveness and conformance of its data protection/privacy policies and practices to the APEC CBPR/PRP programme requirements.

5(b) Comprehensive report to applicant organisation regarding assessment findings

25. The applicant organisation will be given a report by the selected AB detailing its findings as to whether the organisation is in compliance with the APEC CBPR/PRP programme requirements. The AB will also convey to the applicant organisation the areas that do not meet the APEC CBPR/PRP programme requirements, share on possible best practices and allow the applicant organisation a reasonable timeframe to rectify the non-compliance identified by the AB.

Format of Assessment Findings Report is attached as Annex VI This Annex is marked as "confidential" and shall not be disclosed in the official APEC JOP recommendation report which will be published on the APEC and/or CBPR-related websites.

26. The applicant organisation shall take corrective actions to eliminate any detected non-compliance within the timeframe identified by the AB.

5(c) Verification that changes required under subsection (b) are properly completed by Applicant organisation

27. The AB shall review and verify the effectiveness of the corrective actions by the applicant organisation to ensure that APEC CBPR/PRP programme requirements are met. Once all the requirements are met, the AB will complete the assessment report with all the assessment findings, signed off by the applicant and submit to IMDA.

5(d) Certification that Applicant is in compliance with the Accountability Agent's programme requirements

28. IMDA will evaluate the assessment report and determine whether or not the applicant organisation is in compliance with the APEC CBPR/PRP programme requirements and should be awarded a certification.

On-going Monitoring and Compliance Review Processes

Q6: Applicant Accountability Agent should submit a description of the written procedures to ensure the integrity of the certification process and to monitor the participant's compliance with the program requirements described in 5 (a)-(d).

Please refer to our response to Q7.

Q7: Applicant Accountability Agent should describe the review process to be used in the event of a suspected breach of the program requirements described in 5(a)-(d) of Annex A.

29. IMDA has an established process to ensure integrity of the certification process and monitor continued compliance of the certified companies. The mechanisms include, but are not limited to the following avenues:

- (a) consumer complaints filed via email and hotlines (both listed in IMDA website);
- (b) review media coverage in established broadsheets (e.g. The Strait Times, Business Times) on the actions of applicant organisation that may cause it to breach the APEC CBPR/PRP programme requirements;
- (c) requirement of notification by the participant of a significant change as stipulated in the contractual agreement between IMDA and the applicant organisation (e.g. any changes which may affect the ability of the participant to comply with the programme requirements);
- (d) public disclosure by PDPC on non-compliance/enforcement cases; or
- (e) proactive scans of internet to check for misuse of marks.

30. An investigation will be initiated by IMDA to ascertain the authenticity of the complaint or report that the certified organisation has not complied with the APEC CBPR/PRP programme requirements.

In the event of a suspected non-compliance the APEC CBPR/PRP programme requirements, a review may be conducted. In particular, the certified organisation will be required to render full assistance to IMDA, including, but not limited to the following:

- (a) the certified organisation shall produce to IMDA, its employees, agents and/or authorised representatives all documents or information as may be specified in the notice, which IMDA

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considers to relate to the certified organisation's state of compliance with APEC CBPR/PRP programme requirements;

- (b) the certified organisation shall facilitate interviews with its employees and any other persons who may be relevant to or involved in the matter; or
- (c) if required in such notice, the certified organisation shall allow IMDA, its employees, agents and/or authorised representatives, to have access to the certified organisation's premises at all reasonable times.

31. In the event the inspection or audit reveals non-compliance of the APEC CBPR/PRP programme requirements, IMDA will require the certified organisation to rectify the non-compliance issues within a reasonable timeframe. The outcomes may be as follows:

- (a) Rectification is done within the stipulated time-frame, the certified organisation will be reviewed again to verify compliance with the programme requirements. The certified organisation retains its certification;
- (b) The certified organisation does not comply with the requirement of rectification. Certification may be terminated immediately; or
- (c) The certified organisation is not able to rectify within the stipulated timeframe. Certification may be suspended until such time the non-compliance issues are resolved or terminated.

32. There may be situations where a certified organisation's suspected non-compliance with APEC CBPR/PRP programme requirements is likely connected to a breach of the PDPA. If so, the Privacy Enforcement Authority (PEA) may investigate to determine whether or not enforcement action shall be taken against the certified organisation under the PDPA. In this case, the outcomes may be as follows:

- (a) The certified organisation will retain its certification if rectification done within the stipulated timeframe is verified to comply with the APEC programme requirements;
- (b) The certified organisation's certification will be suspended or terminated if it is unable to rectify the non-compliance within the stipulated timeframe or it does not comply with the requirement of rectification.

Re-Certification and Annual Attestation

Q8: Applicant Accountability Agent should describe their re-certification and review process as identified in 8 (a)-(d) of Annex A.

33. Certified organisations will be reviewed annually to ensure they adhere to the APEC CBPR and/or PRP programme requirements. Certified organisations will be notified six months prior to the expiry of the certification to submit their application to the Accountability Agent for re-certification. The entire certification process described in pages 10-12 (Q5) will be carried out.

34. In addition, there may be circumstances where an immediate review process will be initiated prior to the expiration of the APEC CBPR and/or PRP certification period. These include:

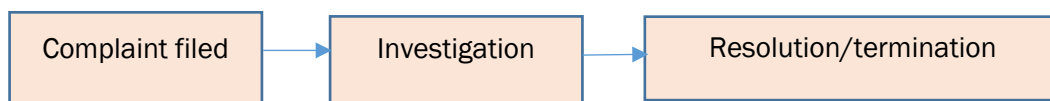
- (a) the certified organisation notifies IMDA of any alterations or updates to its data protection/privacy policy;
- (b) IMDA initiates the review process based on receipt of relevant and credible information through the following avenues –
 - (i) consumer complaint filed via email and hotline (both listed on the IMDA website);
 - (ii) media coverage in established broadsheets (e.g. The Strait Times, Business Times) on the actions of a certified organisation that may cause it to breach the APEC CBPR/PRP programme requirements;
 - (iii) requirement of notification by the participant of a significant change as stipulated in the contractual agreement between IMDA and the applicant organisation (e.g. any changes which may affect the ability of the participant to comply with the programme requirements); or
 - (iv) public disclosure by PDPC on non-compliance/enforcement cases.

Dispute Resolution Process

Q9: Applicant Accountability Agent should describe the mechanism to receive and investigate complaints and describe the mechanism for cooperation with other APEC recognised Accountability Agents that may be used when appropriate.

Complaints relating to certified organisation's non-compliance with APEC requirements

35. IMDA will be conducting and processing all complaints in-house via the TM Office. The process to address all complaints by individuals/other organisations relating to a certified organisation's non-compliance with APEC CBPR/PRP programme requirements is described in detail below.



- (a) **Receiving a complaint:** The dispute resolution process begins with a complaint filed against a certified organisation either to the organisation directly or to the TM Office. An investigation will be initiated at the receipt of a complaint or as a result of IMDA's monitoring, news report, or proactive scanning. IMDA will review the complaint to determine its validity and credibility. This generally takes up to 5 business days. The process may be expedited for critical cases such as IT system vulnerability.
- (b) **Investigating a complaint:** The TM Office will investigate all complaints to determine their validity and to ascertain any non-compliance of the APEC CBPR/PRP programme requirements. Clarifications from the certified organisation and complainant may be sought during the investigation. Consent will be obtained from the complainant before his/her personal data is shared with the certified organisation for the purposes of IMDA's investigations. The certified organisation and complainant will be notified by IMDA of the outcome of the investigations. Depending on the severity of the issue, the nature and duration of the investigation will vary.
- (c) **Resolving a complaint:** When there is any non-compliance of the APEC CBPR/PRP programme requirements, the TM Office requires the certified organisation to rectify issues of non-compliance within a reasonable timeframe. Once rectification is done within the stipulated timeframe, the certified organisation will be reviewed again (TM Office may

conduct the review itself or appoint the AB to do so) to verify compliance with the APEC CBPR/PRP programme requirements. Once the complaint is resolved, IMDA will send an email to inform both the complainant and certified organisation on conclusion and resolution of the complaint. A failure on the part of the certified organisation to rectify any non-compliance issues identified in a timely manner will result in termination from the programme.

Reporting complaint statistics and case notes

36. IMDA confirms that it will collate and provide information on the number of complaints and outcomes of such complaints and release case notes on a selection of resolved complaints illustrating typical or significant interpretations and notable outcomes yearly in its website.

Q10: Applicant Accountability Agent should describe how the dispute resolution process meets the requirements identified in 10 (a) – (h) of Annex A, whether supplied directly by itself or by a third party under contract (and identify the third party supplier of such services if applicable and how it meets the conflict of interest requirements identified in sections 1-3 of Annex A) as well as its process to submit the required information in Annexes D and E.

Please refer to our response on pages 10, 15-16 (Q9) under Dispute Resolution.

Mechanism for Enforcing Programme Requirements

Q11: Applicant Accountability Agent should provide an explanation of its authority to enforce its programme requirements against participants.

37. The programme requirements may be enforced against certified organisations in the following manner:

- (a) IMDA as the AA will enter into a contractual agreement with the applicant organisation. Various measures will be provided for under the contract, in the event there is a breach of the programme requirements. For example, the organisation may be required to:
 - (i) produce to IMDA all documents or information that IMDA considers to relate to the organisation's state of compliance;
 - (ii) facilitate interviews with the certified organisation's employees who may be relevant or involved in the matter;
 - (iii) allow IMDA to have access to the certified organisation's premises to inspect materials of the certified organisations for the purposes of conducting audits to determine the appropriate status of the organisation's certification (i.e. whether it should remain valid, be suspended or be terminated).

38. Further, IMDA may grant a certified organisation a licence to apply IMDA's certification mark for APEC CBPR/PRP based on the terms set out in the contractual agreement. If the certified organisation breaches the programme requirements and does not remedy the breach within the stipulated timeframe, IMDA can revoke the licence to use the mark.

Q12: Applicant Accountability Agent should describe the policies and procedures for notifying a participant of non-compliance with Applicant's programme requirements and provide a description of the processes in place to ensure the participant remedy the non-compliance.

Please see our responses between pages 13 and 14 (Q6, Q7).

Q13: Applicant Accountability Agent should describe the policies and procedures to impose any of the penalties identified in 13 (a) – (e) of Annex A.

a) Requiring Participant to remedy the non-compliance within a specified time period, failing which the Accountability Agent shall remove the Participant from its programme.

39. When IMDA investigations have confirmed and determined non-compliance of the APEC CBPR/PRP programme requirements, IMDA will require the certified organisation to rectify issues on non-compliance within a reasonable timeframe. The AB will be called in to validate the certified organisation has addressed/not addressed all non-compliance issues identified. The AB will then submit a recommendation report to IMDA, who will then review and assess if the certified organisation has remedied/not remedied the non-compliance.

40. If IMDA confirms that non-compliance has not been rectified satisfactorily, the certified organisation will be terminated from the APEC certification programme with immediate effect. The status of certification will be updated and reflected on the IMDA website and the PEA will be duly informed. IMDA will also require the certified organisation to remove all association of the APEC CBPR/PRP programme and cease referring itself as being APEC CBPR/PRP certified.

b) Temporarily suspending the Participant's right to display the Accountability Agent's seal.

41. Under the contractual agreement between IMDA and certified organisation, IMDA may suspend or terminate the appointment of the organisation as a certified organisation, and accordingly its right to use the seal, where:

- (a) the certified organisation commits a breach of its obligations under the contractual agreement with IMDA and does not remedy the breach within fourteen (14) days of receiving a written notice from IMDA;
- (b) the certified organisation commits an irremediable breach of the contractual agreement with IMDA; or
- (c) the certified organisation provides IMDA with any false or misleading information, or makes any misrepresentation during the term of its agreement with IMDA (which would include the period of certification), in connection with the certification, assessment and/or any subsequent review necessitated by a significant change.

c) Naming the Participant and publicizing the non-compliance.

42. A certified organisation that is suspended or terminated from the APEC CBPR/PRP programme will have its certification status disclosed publicly on the IMDA website.

43. Similar to its practice of publishing case decisions, any non-compliance or breach findings in relation to the APEC CBPR/PRP programme as determined by the PEA will be published on the PDPC website.

Please refer to **Annex VII** for an example of case decisions published by PDPC.

d) Referring the violation to the relevant public authority or privacy enforcement authority. [NOTE: this should be reserved for circumstances where a violation raises to the level of a violation of applicable law.]

44. Where there are reasonable grounds to believe that the Personal Data Protection Act 2012 (PDPA) is not complied with, IMDA will refer and/or escalate the complaint to the PDPC through the latter's dedicated channel and process for handling complaints.

e) Other penalties – including monetary penalties – as deemed appropriate by the Accountability Agent.

45. IMDA may refer egregious and intentional violations of data protection to the PEA which may result in imposition of financial penalties as determined by the PEA pursuant to the PDPA. These violations would be sent through the PEA's feedback section on their website. Monetary penalties would not be imposed by IMDA under the contractual agreement with the certified organisation.






Q14: Applicant Accountability Agent should describe its policies and procedures for referring matters to the appropriate public authority or enforcement agency for review and possible law enforcement action. [NOTE: immediate notification of violations may be appropriate in some instances].

46. Where there are reasonable grounds to believe that the Personal Data Protection Act 2012 (PDPA) is not complied with, IMDA will refer and/or escalate the matter to the PDPC through the latter's dedicated channel and process for handling complaints.

Q15: Applicant Accountability Agent should describe its policies and procedures to respond to requests from enforcement entities in APEC Economies where possible.

47. Where possible, when there are requests from enforcement entities in APEC Economies that reasonably relate to that Economy and to the CBPR/PRP-related activities of the Accountability Agent, IMDA will cooperate and furnish the necessary information. The entities can send their requests to IMDA via email (which will be stated on the IMDA website). Where appropriate, IMDA may refer and/or escalate the request to the PDPC, on a need-to basis. Consent would be sought from affected individuals before any personal data pertaining to the case is shared with the enforcement entity making the request for information.

-CONFIDENTIAL-
ACCOUNTABILITY AGENT APEC RECOGNITION APPLICATION
REPUBLIC OF SINGAPORE

Document	Attachment
Annex I - Info-Communications Media Development Authority Act 2016 (No. 22 of 2016)	 Annex I - IMDA Act 2016.pdf
Annex II – IMDA Corporate Policy: Conflict of Interest for Employees [Confidential]	 Annex II - Conflict of Interest Policy for
Annex III – IMDA Corporate Policy: Conflict of Interest for Board of Directors [Confidential]	 Annex III - Conflict of Interest Policy for
Annex IV – Assessment Bodies Policies on Dispute Resolution [Confidential]	 Annex IV - Assessment Bodies I
Annex VII – Example of PDPC grounds of decision	 Annex VII - Example of PDPC grounds of d