

**ABLI Data Privacy Forum**  
7 February 2018 8:30am – 6:30pm  
Auditorium of the Supreme Court of Singapore



**“Towards a shared legal ecosystem for international data flows in Asia”**

### Outline

- ◆ Adoption and reform of Data Protection laws is accelerating across Asia
- ◆ Urgent need for legal convergence of Data Protection regulation in Asia
- ◆ Desire to achieve greater compatibility between data protection regimes in the region and beyond
- ◆ Lack of adequate structure of cooperation to facilitate the necessary discussions

### Aim

- ◆ To lay the foundations of a shared legal ecosystem for international data flows in Asia
- ◆ To promote interoperable solutions for cross-border data flows
- ◆ Regional perspective, considering global developments

### Purpose of this Forum

- ◆ Gather experts, public and private stakeholders to commence the discussions and groundwork for such an ecosystem

### Details

**When:** Wednesday 7 February 2018  
8:30 am to 6:15pm

**Where:** Supreme Court, 1 Supreme Ct Ln,  
Singapore 178879

**Welcome address:**

The Honourable the Chief Justice Sundaresh Menon, Supreme Court of Singapore, Chair of the Board, Asian Business Law Institute

**Who will attend:**

Asian regulators, governments, international organisations, industry representatives, legal practitioners, leading academics, international trade specialists

**By invitation only**

**Enquiries**

**Call us:** +65 6332 4388

**Email Us:** [info@abli.asia](mailto:info@abli.asia)

### Programme highlights

- ◆ Presentation of the objectives of ABLI and the Forum
- ◆ Adoption and reform of data protection laws in Asia: how legal systems adapt to global developments and regulatory competition
- ◆ The legal and economic risks of inconsistencies and gaps in coverage in Asian data protection laws
- ◆ Strengthening cross-border cooperation and establishing an effective regulatory structure in Asia
- ◆ How Asian legal systems can strike the balance between privacy, law enforcement, business innovation and international trade
- ◆ Data transfer mechanisms: looking for a solvable equation between diplomacy, accountability, interoperability, and the role of the individual in Asia

### Evening networking event at Jones Day

- ◆ 7 February 2018 - 7.00 pm to 9.00 pm

Time	Title
8:30– 9:00	<b>Registration and networking</b>
9:00– 9.15	<b>Welcome address</b> The Honourable the Chief Justice Sundaresh Menon, Supreme Court of Singapore, Chair of the Board, Asian Business Law Institute
9:15– 9:30	<b>Presentation on the objectives of ABLI and the Forum</b> - Professor Yeo Tiong Min, Academic Director (ABLI) - Dr. Clarisse Girod, Research Fellow, Data Privacy Project Lead (ABLI)
9:30– 10:45	<p><b>I. Adoption and reform of data protection laws in Asia: how legal systems adapt to global developments and regulatory competition</b></p> <p><b>Chair:</b> Deputy Commissioner Yeong Zee Kin (Personal Data Protection Commission, Singapore)</p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>- Siti Meiningsih (Secretary Public Information and Communication, Kominfo, Indonesia)</li> <li>- Dr. Mitsukuni Terada (Deputy Director, Personal Information Protection Commission, Japan)</li> <li>- Dr. Cheang Sopheak, Deputy Director General, Ministry of Posts and Telecommunications (Cambodia)</li> <li>- Amber Sinha (Senior Programme Director, Center for Internet and Society, India)</li> <li>- Susan Ning (Partner, King&amp;Wood Mallesons, China)</li> <li>- Katrine Evans (Haymans Lawyers, New Zealand)</li> </ul> <p><b>This session will identify the different policy options used for shaping data protection laws and data transfer restrictions in Asia, taking into account their capacity to achieve legal convergence and their impact on data flows in the region.</b></p> <p>Over the past few years, a number of Asian jurisdictions have been reviewing their privacy laws in light of global and technological developments in order to compete as global data, analytics and AI hubs. Others are working on their future data protection regimes, conscious that the absence of domestic legal protection may inhibit incoming or outgoing data transfers. At the other end of the spectrum, some jurisdictions primarily deal with data transfers in cybersecurity laws.</p> <p>Harmonisation is illusory, but legal convergence is achievable if sufficient commonalities are identified for Asian jurisdictions to build on in this area. Do jurisdictions actually need a data protection law and how would they start to develop one? What is the purpose of a data protection law, and how does it articulate with cybersecurity and localisation laws? The interoperability of regimes based on economic fundamentals, human rights, or hybrid models will be analysed, as well as the role which international standards like the OECD or APEC frameworks can play. What is a “high” or “low” level of protection? Must data privacy laws contain restrictions on data flows, if so, should these flows be forbidden or authorised by default?</p>
10:45– 11:15	<b>Coffee break</b>

<p>11:15-12:30</p>	<p><b>II. The legal and business risks of inconsistencies and gaps in coverage in Asian data protection laws</b></p> <p><b>Chair:</b> Professor Graham Greenleaf (University of New South Wales, Australia)</p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>- Jj Disini (Managing Partner, Disini &amp; Disini Law Office, Philippines)</li> <li>- Min Hue Nguyen (Asia Pacific MSME Trade Coalition)</li> <li>- Ken Chia (Principal, Baker McKenzie.Wong &amp; Leow, Singapore)</li> <li>- Professors Kaori Ishii &amp; Fumio Shimpo (Faculty of Law, Universities of Tsukuba and Keio, Japan)</li> <li>- Huey Tan (Senior legal counsel, Apple, President AsiaDPO)</li> </ul> <p><b>The objective of this session is to highlight the risks of certain options, particularly for jurisdictions currently in the process of adopting or reforming local data protection laws.</b></p> <p>Important gaps in data protection coverage exist between Asian jurisdictions. Some jurisdictions have no laws in this area, some have partial laws, and some have laws that require amendment. Many national laws contain significant gaps and exemptions. For example: the type or set of data covered might vary, as might the interpretation of key notions; and some sectors such as outsourcing might be wholly exempted. Different legal concepts or terminology may be used; baseline legislation and sectoral regulations might take different routes; and jurisdictional issues may be ambiguous, or intentionally not deal with.</p> <p>During this session, knowledgeable contributors and participants will consider how exemptions or uncertain coverage in national laws, while they may seem to favour economic players locally, may in fact weigh against them in international competition: companies operating cross-border may be disadvantaged, as a result of legal gaps and uncertainty.</p>
<p>12:30-13:30</p>	<p><b>Lunch</b></p>
<p>13:30-14:30</p>	<p><b>III. Strengthening cross-border cooperation and establishing an effective regulatory structure in Asia</b></p> <p><b>Chair:</b> Professor Simon Chesterman (Dean of Law, National University of Singapore)</p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>- John Edwards (Privacy Commissioner of New Zealand, former ICDPPC Chair)</li> <li>- Yeong Zee Kin (Deputy Commissioner, Personal Data Protection Commission, Singapore)</li> <li>- Ivy Patdu (Deputy Privacy Commissioner of the Philippines)</li> <li>- Lee Jeong Soo (Deputy Director, Korean Communications Commission, Korea)</li> <li>- Nozomi Matsui (Secretariat, Personal Information Protection Commission, Japan)</li> </ul> <p><b>The objective of this session is to discuss how the position of Asian regulators can be strengthened or adapted to create a level playing field for regulatory activities and cross-border flows in Asia.</b></p> <p>A strong regulatory environment is essential to build a sound legal ecosystem for international data flows in Asia: weak or uncoordinated enforcement action may lead to an uneven playing field. At the national level, this implies that Commissioners should build the capability to act effectively and to prepare for the impact of regulatory and technological developments on their activities. From experience, which powers and capacities should a data protection regulator be granted by law?</p> <p>At the international level, the global community of Commissioners is thriving and international enforcement networks have become operational. What does this suggest for Asian regulators? Are local laws adapted? Is there a need for an operational structure of regulatory coordination be built in Asia, or are existing international fora sufficient?</p>

<p>14:30-15:45</p>	<p><b>IV. How Asian legal systems can strike the balance between privacy, law enforcement, business innovation and international trade</b></p> <p><b>Chair:</b> Data Privacy Commissioner Stephen Wong (Hong Kong)</p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>- Dr. Deborah Elms (Executive Director, Asian Trade Centre)</li> <li>- Amira Karim (Private Sector Specialist, World Bank)</li> <li>- Trần Thanh Hà (Deputy Director General, International Cooperation, Ministry of Information and Technology, Vietnam)</li> <li>- Rahul Sharma (Founder- The Perspective &amp; Country Leader India, IAPP)</li> <li>- Justisiari P. Kusumah (Founding Partner, K&amp;K Advocates, Indonesia)</li> <li>- Dr Yanqing Hong (Research Director, Internet Development Research Institute, Peking University)</li> </ul> <p><b>This session brings together industry, trade specialists, governments, data protection regulators to explore the related topics of personal data in free trade agreements and data localisation laws, to raise collective awareness and make proposals of standards that could be mutually-acceptable for the region.</b></p> <p>More free trade agreements (FTAs) are signed every year in Asia, and major economic partnerships are in the pipes. At the same time, data localisation and cybersecurity laws seem to shape a new phase of regulatory development in the region, and data cannot flow with goods and services whose trade has been liberalised. This session will consider the tensions that result from this antagonism, and how they are currently dealt with. Are data protection and localisation laws not being confused? FTAs such as TPP and RCEP appear as possible vectors to manage the potential conflict between the need for data to flow and transfer restrictions. How are such agreements negotiated, what is the level of understanding of data protection issues by trade negotiators? Should there be a common position on data protection clauses in Asian FTAs? Is the test that data protection laws must not be “a disguised restriction on trade” or “impose restrictions on transfers of information greater than are required to achieve the objective” workable?</p>
<p>15:45-16:15</p>	<p><b>Tea break</b></p>
<p>16:15-17:45</p>	<p><b>V. Data transfer mechanisms in Asia: looking for a solvable equation between diplomacy, accountability, interoperability, and the role of the individual</b></p> <p><b>Chair:</b> Privacy Commissioner John Edwards (New Zealand)</p> <p><b>Speakers:</b></p> <ul style="list-style-type: none"> <li>- Derek Ho (Senior Managing Counsel Privacy &amp; Data Protection APMEA MasterCard, VP AsiaDPO)</li> <li>- Bruno Gencarelli (Head of Unit International Data Flows, European Commission)</li> <li>- Mark Parsons (Partner, Hogan Lovells, Hong Kong)</li> <li>- Peter Leonard (Principal, Data Synergies, Australia)</li> <li>- Kwang Bae Park (Partner, Lee&amp;Ko, Korea)</li> </ul> <p><b>In this session, a comparative cost/benefit analysis of the role of consent and transfer mechanisms will be done; the notions of interoperability, mutual recognition, and reciprocity will also be discussed and analysed to understand how they can effectively for legal convergence in this area of law.</b></p> <p>Contracts and consent are the most frequently used legal bases for data transfers in Asia today. However, the CBPR system is gaining momentum, and certification mechanisms, Privacy Seals, Codes of Conduct are also being developed, in part under the influence of EU GDPR. How do these systems work, what are the conditions for their take off, and how can they be interoperable, within Asia and with other regions? Can any lessons be learnt in Asia from the European experience? Most Asian laws envisage the adoption of “white lists” of countries to which personal data can freely flow. What are the benefits and difficulties, which criteria to use? Should all these mechanisms be developed, or priority be given to accountability-based tools? The role of regulators in the regulation of international transfers will also be discussed.</p>
<p>17:45-18:15 (end)</p>	<p><b>Next steps</b> ABLI’s Data Privacy Project, 2018-2019</p>