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Timely Review of the Personal Data Protection Act 2010

Last month, the Malaysian Personal Data Protection Commissioner (**PDP Commissioner**) issued a Public Consultation Paper on the “Review of Personal Data Protection Act 2010 [Act 709]”. The focus of the paper is to strengthen existing provisions in the Personal Data Protection Act 2010 (**PDPA**) to be in line with international standards, particularly the European Union General Data Protection Regulation.

For the purpose of this public consultation, the PDP Commissioner has proposed 22 points which will be the subject of this review. These can generally be categorised into the following:

- **Security measures:** There is a focus on the need to have stricter security measures that are necessary to protect personal data. These include introducing the requirement to implement privacy by design, issuing security policies that address privacy issues arising from data collection and imposing direct obligations on data processors to comply with the PDPA, given that data breaches often occur from the data processors’ end.
- **Data breach:** Data users are required to report data breaches to the PDP Commissioner. A guideline on the mechanism of breach incident reporting will also be issued.
- **Direct marketing:** Current regulations on direct marketing will be strengthened. Businesses are required to establish a “Do Not Call Registry”, a service that allows data subjects to opt out from receiving unsolicited direct marketing materials.
- **Rights of data subjects:** Data subjects will be given more rights and protection under the PDPA, such as the right to data portability. Data subjects are also allowed to commence civil litigation against data users for breach of certain provisions in the PDPA.

- **Others:** Other proposed amendments include the requirement to inform data subjects of the specific third parties that the data subjects' personal data will be disclosed to; extending the jurisdiction of the PDPA to data users that monitor and conduct profiling on Malaysians from places outside the country; and the requirement for data users to appoint a Data Protection Officer.

Some of these amendments will, however, impose additional compliance obligations on businesses and may even increase their compliance costs. As such, data users and data processors should take proactive steps to review their existing data protection processes and procedures, in anticipation of the changes that may take place.

Feedback on the public consultation should be submitted to the PDP Commissioner by 10 March 2020.

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