

---

Technology, Media and Telecommunications & Data Protection

# Latest Guidelines on Personal Data Protection Notices under the Personal Data Protection Act 2010 (PDPA)

## Introduction

The Personal Data Protection Act 2010 ("**PDPA**") is the main legislation which regulates the processing of personal data in the context of commercial transactions.

Pursuant to section 7 of the PDPA (in relation to the Notice and Choice Principle), every data user must prepare a written statement which sets out the information as prescribed under the PDPA, such as the types of personal data being processed by the data user, the purposes for which the personal data is being processed, the class of third parties to whom personal data is disclosed to, etc. Failure to comply with this requirement is a breach of the PDPA which may render the data user liable, upon conviction, to a fine of up to RM300,000 or imprisonment term not exceeding two years, or both.

The Personal Data Protection Department (*Jabatan Perlindungan Data Peribadi* or "**JPDP**") recently issued the [Guide to Prepare Personal Data Protection Notice](#) ("**Guidance Note**"), especially for the micro, small and medium enterprises, to provide guidance on the preparation of simple but comprehensive personal data protection notices (also known as "**privacy notices**"), which are aligned with the current business ecosystem as well as the personal data protection landscape in Malaysia.

Pursuant to the recent issuance of the Guidance Note, this Update seeks to provide a brief summary of the requirements for the preparation of privacy notices, as well as the potential impact on data users vis-à-vis their compliance with the Notice and Choice Principle.

## General Guidance on Privacy Notices

Under the Guidance Note, the Personal Data Protection Commissioner ("**Commissioner**") addressed several aspects in relation to privacy notices, including communication of privacy notices, compulsory information to be included in privacy notices, the need for privacy notices to be in dual languages, format and style of privacy notices, and placement of privacy notices.

The Commissioner has also emphasised transparency in privacy notices, and that data users must endeavour to list all personal data processing activities involved. Data users must also take steps to comply with all statements and obligations committed to in the privacy notices.

---

## Technology, Media and Telecommunications & Data Protection

Data users are also required to regularly review and update the privacy notices, either periodically or as necessary.

For full details of the requirements set out by the Commissioner in respect of privacy notices, please refer to the [Guidance Note](#).

### Analysis

In addition to the existing requirements in relation to the types of information to be set out in privacy notices (as prescribed under section 7 of the PDPA), the Guidance Note sets out the Commissioner's additional requirements in relation to the preparation and implementation of privacy notices, including the following:

1. Duration of Processing of Personal Data. Privacy notices must now state the duration within which personal data will be retained for processing and when the data will be disposed of;
2. Disclosure to Regulators. Privacy notices must state the purposes for which personal data is collected and processed, including where collection and processing is pursuant to regulators' requirement to collect, process and disclose personal data;
3. Security Measures. Privacy notices must state the practical measures taken by the data user to ensure security of personal data;
4. Contact Person. Privacy notices must include the contact details of the person-in-charge of queries and complaints regarding the data user's personal data protection practices, in particular the name of the person-in-charge;
5. Review and Update of Privacy Notices. The effective date and last reviewed / amended date of the privacy notices must also be mentioned and recorded in the privacy notices for the data subjects' reference.

Please refer to the Guidance Note for the full requirements in respect of the preparation and implementation of privacy notices.

### Conclusion

The Guidance Note is the latest guidance provided by the Commissioner to ensure data users' compliance with the PDPA. The status of the Guidance Note has not been expressly stated within the document, i.e. whether the requirements under the Guidance Note are compulsory or recommended best practices by the Commissioner.

---

## Technology, Media and Telecommunications & Data Protection

This is an issue for all data users to consider, especially bearing in mind that the requirements of the Guidance Note have exceeded the scope prescribed under section 7 of the PDPA. While the Guidance Note is targeted at micro, small and medium enterprises, it is also stated in the Guidance Note that applies to all data users. In view of this, all data users are advised to review and re-assess their existing privacy notices and to make any necessary amendments in order to ensure that their respective privacy notices are in compliance with the Notice and Choice Principle under the PDPA and the Guidance Note.

While data users may challenge the imposition of these new requirements, do note that in view of the Commissioner's intention to amend the PDPA in the near future in order to be more in line with the EU General Data Protection Regulation (GDPR), the further requirements introduced by the Guidance Note would be largely in line with international data protection standards.

We trust the above provides you with a quick update on the Guidance Note.

Should you require any assistance or clarification regarding your privacy notices or about any other matter pertaining to personal data protection, please feel free to get in touch with us at your convenience.

---

## Contacts



**Deepak Pillai**  
Head, Technology, Media &  
Telecommunications; Data  
Protection

D +60 3 2275 2675  
F +60 3 2273 8310  
[deepak.pillai@christopherleeong.com](mailto:deepak.pillai@christopherleeong.com)



**Intan Haryati Binti Mohd Zulkifli**  
Partner, Technology, Media &  
Telecommunications; Data  
Protection

D +60 3 2675 2674  
F +60 3 2273 8310  
[intan.haryati@christopherleeong.com](mailto:intan.haryati@christopherleeong.com)



**Anissa Maria Anis**  
Partner, Technology, Media &  
Telecommunications; Media &  
Entertainment

D +60 3 2267 2750  
F +60 3 2273 8310  
[anissa.anis@christopherleeong.com](mailto:anissa.anis@christopherleeong.com)



**Yong Shih Han**  
Partner, Technology, Media &  
Telecommunications; Data  
Protection

D +60 3 2273 1919  
F +60 3 2273 8310  
[shih.han.yong@christopherleeong.com](mailto:shih.han.yong@christopherleeong.com)

## Our Regional Contacts

### RAJAH & TANN | *Singapore*

**Rajah & Tann Singapore LLP**

T +65 6535 3600  
sg.rajahtannasia.com

### R&T SOK & HENG | *Cambodia*

**R&T Sok & Heng Law Office**

T +855 23 963 112 / 113  
F +855 23 963 116  
kh.rajahtannasia.com

### RAJAH & TANN 立杰上海

SHANGHAI REPRESENTATIVE OFFICE | *China*

**Rajah & Tann Singapore LLP  
Shanghai Representative Office**

T +86 21 6120 8818  
F +86 21 6120 8820  
cn.rajahtannasia.com

### ASSEGAF HAMZAH & PARTNERS | *Indonesia*

**Assegaf Hamzah & Partners**

**Jakarta Office**

T +62 21 2555 7800  
F +62 21 2555 7899

**Surabaya Office**

T +62 31 5116 4550  
F +62 31 5116 4560  
www.ahp.co.id

### RAJAH & TANN | *Lao PDR*

**Rajah & Tann (Laos) Co., Ltd.**

T +856 21 454 239  
F +856 21 285 261  
la.rajahtannasia.com

### CHRISTOPHER & LEE ONG | *Malaysia*

**Christopher & Lee Ong**

T +60 3 2273 1919  
F +60 3 2273 8310  
www.christopherleeong.com

### RAJAH & TANN | *Myanmar*

**Rajah & Tann Myanmar Company Limited**

T +95 1 9345 343 / +95 1 9345 346  
F +95 1 9345 348  
mm.rajahtannasia.com

### GATMAYTAN YAP PATACSIL

GUTIERREZ & PROTACIO (C&G LAW) | *Philippines*

**Gatmaytan Yap Patacsil Gutierrez & Protacio (C&G Law)**

T +632 8894 0377 to 79 / +632 8894 4931 to 32  
F +632 8552 1977 to 78  
www.cagatlaw.com

### RAJAH & TANN | *Thailand*

**R&T Asia (Thailand) Limited**

T +66 2 656 1991  
F +66 2 656 0833  
th.rajahtannasia.com

### RAJAH & TANN LCT LAWYERS | *Vietnam*

**Rajah & Tann LCT Lawyers**

**Ho Chi Minh City Office**

T +84 28 3821 2382 / +84 28 3821 2673  
F +84 28 3520 8206

**Hanoi Office**

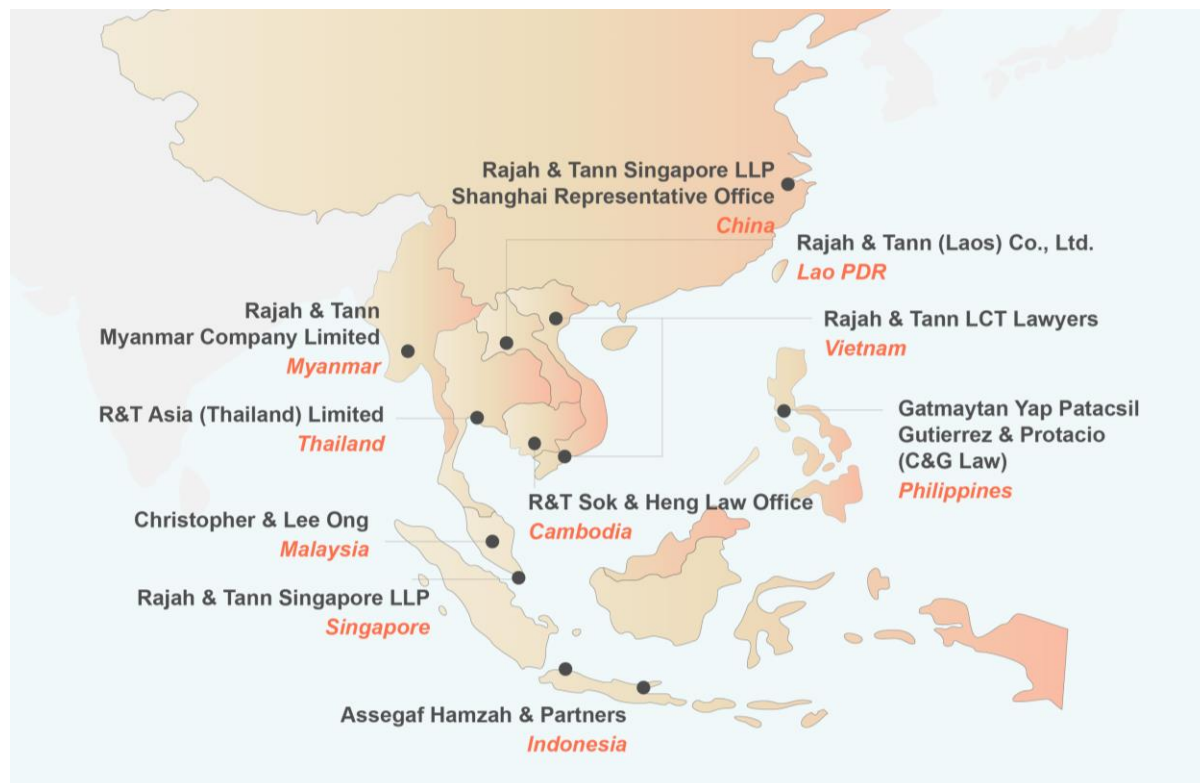
T +84 24 3267 6127  
F +84 24 3267 6128  
www.rajahtannlct.com

Rajah & Tann Asia is a network of legal practices based in Asia.

Member firms are independently constituted and regulated in accordance with relevant local legal requirements. Services provided by a member firm are governed by the terms of engagement between the member firm and the client.

This update is solely intended to provide general information and does not provide any advice or create any relationship, whether legally binding or otherwise. Rajah & Tann Asia and its member firms do not accept, and fully disclaim, responsibility for any loss or damage which may result from accessing or relying on this update.

## Our Regional Presence



Christopher & Lee Ong is a full service Malaysian law firm with offices in Kuala Lumpur. It is strategically positioned to service clients in a range of contentious and non-contentious practice areas. The partners of Christopher & Lee Ong, who are Malaysian-qualified, have accumulated considerable experience over the years in the Malaysian market. They have a profound understanding of the local business culture and the legal system and are able to provide clients with an insightful and dynamic brand of legal advice.

Christopher & Lee Ong is part of Rajah & Tann Asia, a network of local law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. Our Asian network also includes regional desks focused on Brunei, Japan and South Asia.

The contents of this Update are owned by Christopher & Lee Ong and subject to copyright protection under the laws of Malaysia and, through international treaties, other countries. No part of this Update may be reproduced, licensed, sold, published, transmitted, modified, adapted, publicly displayed, broadcast (including storage in any medium by electronic means whether or not transiently for any purpose save as permitted herein) without the prior written permission of Christopher & Lee Ong.

Please note also that whilst the information in this Update is correct to the best of our knowledge and belief at the time of writing, it is only intended to provide a general guide to the subject matter and should not be treated as a substitute for specific professional advice for any particular course of action as such information may not suit your specific business or operational requirements. It is to your advantage to seek legal advice for your specific situation. In this regard, you may call the lawyer you normally deal with in Christopher & Lee Ong.

---