

**DUXTON ASSET
MANAGEMENT PTE LTD**

**RESPONSE TO PROPOSED PUBLIC
CONSULTATION OF THE PROPOSED
CONSUMER DATA PROTECTION
REGIME FOR SINGAPORE**

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By Email

Dear Sirs

DUXTON ASSET MANAGEMENT PTE. LTD. (“DUXTON”)
- RESPONSE TO PROPOSED CONSUMER DATA PROTECTION REGIME FOR SINGAPORE

We refer to the Consultation Paper issued by the Ministry of Information, Communications and the Arts (“MICA”) on 13 September 2011 in relation to the proposed consumer data protection regime for Singapore (“**Consultation Paper**”), whereby MICA invited interested parties to forward their comments on the issues outlined in the Consultation Paper.

Summary of our views on the Consultation Paper

In general we are supportive of MICA proposed consumer data protection regime for Singapore to regulate the collection, use, disclosure, transfer and security of personal data. This will ensure adequate safeguards to protect consumers’ personal data and promote consumer trust in the private sector and enhance Singapore’s status as a trusted hub and choice location for global data management and processing services.

In particular we are heartened that MICA will be using a complaints based approach rather than a more stringent audit-based regime wherein MICA remains conscious of and has taken into consideration of higher compliance costs that may arise for private limited companies.

We have a few suggestions to make on specific areas in the Consultation Paper which may require some clarity and fine-tuning or new proposals which we think are worthy of further consideration from MICA. These points are set out in the following paragraphs:

(i) Rules on the Collection, Use and Disclosure of Personal Data

We note the proposal in paragraph 3.59 of the Consultation Paper that if a business transaction does not proceed or is not completed, a prospective party shall destroy or return to the organisation any personal data the prospective party collected about the employees, customers, directors, officers and shareholders of the organisation

We are of the view that there may be impracticality in implementing it as the reason that the business transactions did not materialize could be due to the Due Diligence (“DD”) check being performed have uncovered reasonable grounds that the prospective client we are trying to establish a business relationship are suspicious. In

such instances, the personal data that has been collected are not allowed to be destroyed nor returned to the Client in order for investigation to be carried out and if necessary, may need to report the suspicious activities to the Commercial Affairs Department (“CAD”) and/or Monetary Authority of Singapore (“MAS”).

Furthermore, business relationship that did not proceed through may rekindled after a certain period of time (e.g. 3 months later), we will need to get the personal data from the prospective client all over again which is deem not efficient and cumbersome. We suggest that a reasonable timeframe be put in place in order not to compromise the competitiveness in the financial industry market and to avoid unnecessary workload to be undertaken.

(ii) Coverage of Data Protection (“DP”) Law

With reference to paragraphs 3.20 to 3.22, our view is that the DP regime coverage should covered only in Singapore only and not covered on organisations located outside Singapore bearing in mind that different jurisdictions DP regime may be more stringent with the proposed DP regime in Singapore. The DP regime should not cover organisations outside Singapore where the organisations are incorporated outside Singapore and offshore investors’ data are processed and collected outside Singapore.

As such, we suggested that the data protection regime should apply to personal data that is processed and collected in Singapore only and apply in favor of all data subjects, whether or not they are resident in Singapore taking into account confidentiality obligation and the practical difficulties in enforcing the DP where a complaints based approach will be adopted and which poses an undue costs for private sector businesses that have no physical presence in the overseas jurisdictions.

We believe that criteria such as those stated above will be sufficient to protect the consumer interests currently proposed in the Consultation Paper.

Please do not hesitate to contact our Mr Tony Loon (DID: 6511 0378, Email: tony.loon@duxtonAM.com) should you have any queries on the above.