

Implementation of the ASEAN Framework on Personal Data Protection As a Personal Data Protection Regulation in ASEAN Countries



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The Discussion Questions

01

Whether there are any regulations and authorities that govern personal data protection in your country or not?

02

What are the main principles of personal data protection regulation in your country?

03

What are the opportunities and challenges regarding personal data protection in your country?

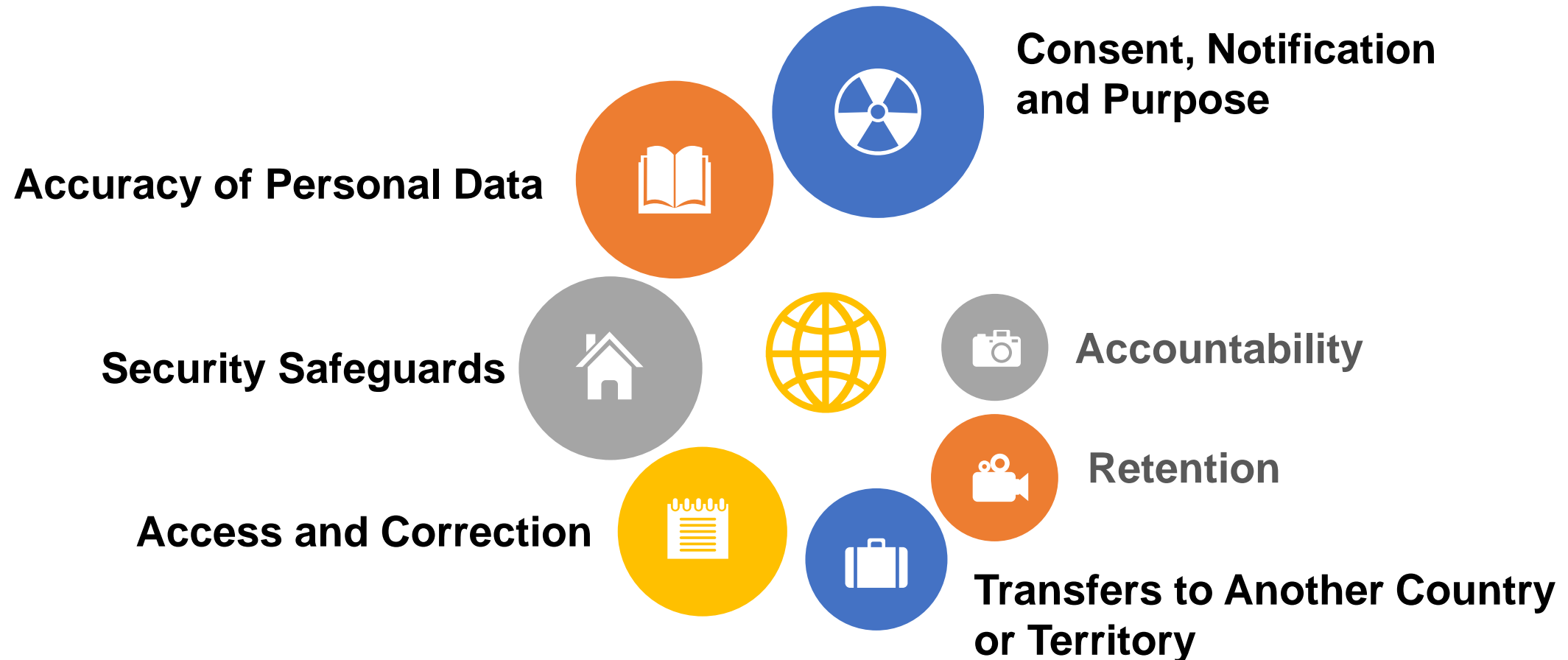
04

What is the significance of this regulation to protect personal data in your country?

05

How is the implementation of the ASEAN Framework on Personal Data Protection concerning the protection of personal data in the business process in your country?

ASEAN FRAMEWORK on PERSONAL DATA PROTECTION 2015





01

Whether there are any regulations and authorities that govern personal data protection in your country or not?

PERSONAL DATA PROTECTION ACT 2010 [ACT 709]



Updates on Laws and Rules

- **Existing subsidiary rules**

- Personal Data Protection (PDP) (Registration of Data User) Regulations 2013
- PDP (Class of Data Users) Orders 2013 & 2016
- PDP Regulations 2013
- PDP Standards 2015
- PDP (Compounding of Offences) Regulations 2016

- **Draft rules in the pipeline**

- Proposed Guideline on Trans-border data transfer: List of Countries where transfer is allowed
- Proposed Guideline on Data Breach Notification
- Public consultation Paper on PDPA Review 2020

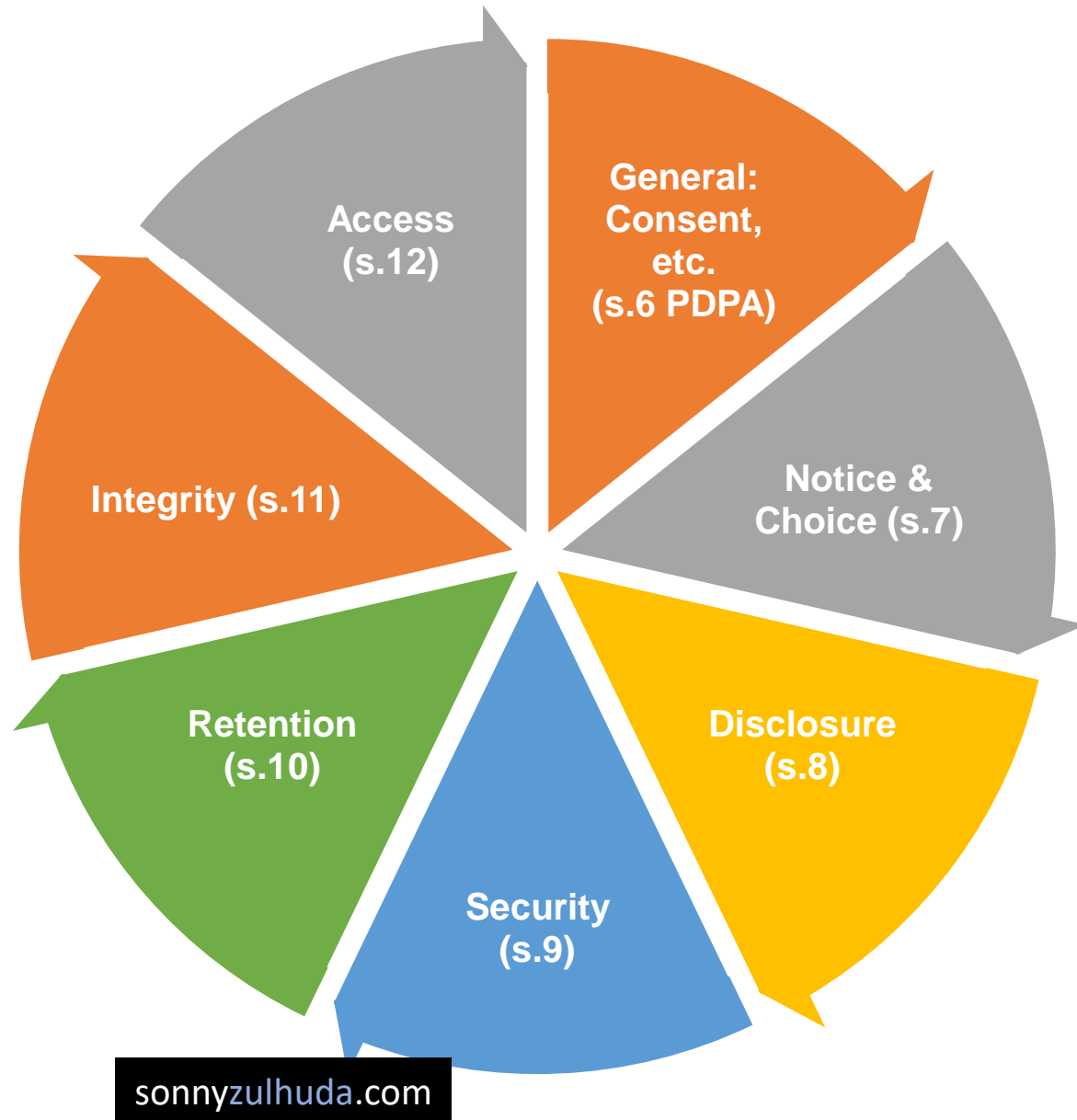


02

What are the main principles of personal data protection regulation in your country?

• 7 PDP Principles under PDPA 2010

Data user who contravenes the above Principles commits an offence and shall, on conviction, be liable to a fine not exceeding three hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both.





03

What are the opportunities and challenges regarding personal data protection in your country?

Industrial Revolution 4.0 - The Enabling Environment



Today's Digital

From electronic >>
online >> mobile
>> intelligent life



The inter-
connectivity

AI Nation-wide
Digital natives



Future governance

Open Government
Open Data



Mislocated CCTV can be privacy-intrusive!

Lew Cher Phow v Pua Yong Yong [2011] H.C. Johor Bahru



Students' list misused by former teacher

Sundai (M) Sdn Bhd v Masato Saito [2013] – High Court K.L.



KUALA LUMPUR: Former teachers at private school took and used the students list which contained the **personal data of 188 students** to attract them to move to another school. Court decided on various issues of breach of fiduciary duty

Taking patient's picture without consent breaches privacy

Lee Ewe Poh v Dr Lim Teik Man [2011] – High Court Penang



PENANG: Privacy breach is actionable. Court said that the privacy right of a female in relation to her **modesty, decency and dignity** in the context of the high moral value is her fundamental right.

Deliberate disclosure of passengers' data (2014)



M'sia sees biggest mobile data breach

Over 46 million subscribed numbers at risk from scam attacks and data hack

By ROYCE TAN and SHARMILA NAIR
newsdesk@thestar.com.my

PETALING JAYA: The personal details of some 46.2 million mobile number subscribers in Malaysia are at stake in what is believed to be one of the largest data breaches ever seen in the country.

From home addresses and MyKad numbers to SIM card information, the private details of almost the entire population may have fallen into the wrong hands. Malaysia's population is only around 32 million, but many have several mobile numbers. The list is also believed to include inactive numbers and temporary ones bought by visiting foreigners.

With this leak, Malaysians may be vulnera-

on the matter was handed over to the Malaysian Communications and Multimedia Commission (MCMC).

Asked what sort of action would be needed, he said: "Telcos need to admit that this breach actually happened and should be done."

It is believed that the MCMC and police are their customers what should be done. Network and security strategist Gavin Chow said the most common social engineering attack examples were phone and messaging scams.

"Scammers pretend to be someone calling or texting from the telco since they can prove they have the target's personal details," said Chow, who is with cybersecurity and malware protection company Fortinet.

Technology strategist Dinesh Nair said there was not much that consumers could do, but they should change their SIM card, for starters.

"Your name, address, phone number, the IMSI (international mobile subscriber identity) and the IMEI (international mobile equipment identity), which are tied to your device are all out there."

"I'm sure my data is there as well. People with really good technical skills will be able to clone someone's phone and that's the worst case scenario," he said.

Dinesh added that while no one knew where the breach occurred, the fact that the details were out there pointed to a leak of some sort.

"How it happened, we can't tell but with so-

Digi said in a statement the privacy of its customers.

"The authorities are looking into it and we'll continue to support them."

Colcom Axiata Bhd said it was investigating the leak, which also said it was a "sentimental" leak.

Representatives from TuneTalk could not be reached for comment.

MMA president Dr Ravin Kumar said he was not aware of the leak.

"Of course, no system is perfect," he said.

192,402 Malaysian passports lost or stolen

BEIJING: To date, a total of 192,402 Malaysian passports have been reported stolen or missing, said Deputy Prime Minister Datuk Seri Dr Ahmad Zahid Hamidi.

Zahid, who is also home minister, said this was according to Interpol's Stolen and Lost Travel Documents (SLTD) database in



ADRIAN LAI

passports stolen or Malaysian passports approximately 10 million at China. The number of lost or stolen passports is shared with the SLTD database.

database were blacklisted immediately. "Malaysia updates its database on lost and stolen travel documents on a daily basis, and information is shared with Interpol in real time."

Inspector-General of Police Tan Sri Mohamad Fuzi Harun who was present, said the Immigration and police were looking into the matter seriously.

"We don't want these travel documents to fall into the wrong hands."

He said stolen or lost Malaysian passports were worth between RM100,000 and RM250,000 each on the black market.

Astro: Only IPTV customers' data sold

Details of other customers remain intact and secure, says satellite service provider

By FARIK ZOLKEPLI
farik@thestar.com.my

PETALING JAYA: The leak involving IPTV customer data was being sold for RM4,500 for 10,000 records, yesterday that the data was being sold for RM4,500 for 10,000 records.

statement issued yesterday to clarify media reports concerning the unauthorised disclosure of Astro IPTV customer data.

tion protocol and obligations, the statement added. "In any case, we have revalidated all our security measures and con-

then, with Astro assuring it that the broadcaster took protection of cu-



SINDIKET BELI, JUAL DATA PESAKIT

SIASATAN PUSAT AN FORENSIK SIBER (FIC), CYBERSECURITY MALAYSIA (CSM),

ng bertanggungjawab keselamatan siber puluhan ribu data curi oleh penyerang daripada sistem

// NAMA PESAKIT, UMUR, TUNTUTAN INSURANS, ALAMAT, NOMBOR MYKAD, NOMBOR TELEFON,

jenis penyakit, jenis ubat dan sejarah perubatan dibeli oleh sindiket dan dijual sehingga RM400 setiap satu kepada syarikat pembekal ubat-ubatan yang menjalankan

Exam portal review after possible data breach

ALAY MAIL Monday June 11, 2018

By May Robertson
mayrobertson@myrmail.com.my

KUALA LUMPUR: The Education Ministry yesterday confirmed it had suspended its School Examination Analysis System (SAFAS) to investigate "security concerns" over a possible breach.

In a statement, Education Minister Maszlee Hani said the ministry is currently reviewing the system.

"The Ministry of Education's SAFAS system is suspended due to security concerns in personal data of more than 10 million students."

"The Ministry of Education's SAFAS system is suspended due to security concerns in personal data of more than 10 million students."

"On behalf of the ministry, I apologise for the issue caused, but I am personally looking into the issue and have taken immediate action."

"We are currently analysing the claims, which were sent to our ministry on Sunday. It is a precautionary measure, I have instructed the ministry to temporarily shut down the system."

The portal launched in 2011 allows parents to check their examination results and students to check their identification card numbers. According to a source, the system had undergone an interface

Putrajaya's exam portal shut down, after data breach affecting millions



A screenshot of the 'Malay Mail' report yesterday on the portal's shutdown.

The paper later alerted the Malaysian Emergency Response Team (MYCERT) following consultations with tech blogger Keith Rosario who has covered the breach extensively, and Khairi Yusof, founder of local technology advocacy group Sinar Project.

The data can also be retrieved by district education office, National Registration Department and the Education Ministry.

data of 4,940,203 students from the server, which could potentially expose 10.37 million Malaysians in total, since the information of each parent is linked to their child. Malay Mail signed the nearly 1GB of data source pulled from the server, but it has not been verified for authenticity. The source has since deleted his copy of the data, but not before allowing access to other media outlets. Rosario, who had gone through some of the data, said although the number of people affected was smaller than previous breaches, the types of data affected were more wide-ranging.

He said this included MyKad numbers of students and their parents, marital status and spousal information of adults, and information of their schooling children.

Rosario said the data downloaded seemed to only impact children born between 1995 and 2005, which also included the children's current address, current address, and class and school details, current address, and class and school details.

He said the data also involved around 450,000 teachers and included the subjects they teach, and the schools they teach in. Since the range of teachers included those aged 19 to 85, the data would presumably include those retired as well.

SAFAS was initiated in 2009 as part of former prime minister Datuk Seri Najib Razak's National Key Results Areas under the education sector.

Current Home Minister Tan Sri Muhyiddin Yassin was then education minister under the

Hanya 29 juta akaun pengguna digodam

SAN FRANCISCO 13 Okt. - Facebook Inc. mendedahkan hanya kira-kira 29 juta data akaun peribadi pengguna laman sosial berkenaan telah digodam pada bulan lalu.

Terdahulu, syarikat tersebut pada mulanya berkata, kira-kira 50 juta akaun peribadi pengguna telah bocor dalam serangan siber yang menggodam beberapa perisian dalam satu pangsapuri akses bagi membolehkan mereka untuk memasuki serangkaian akaun pengguna secara automatik.

"Kami kini tahu bahawa jumlah pengguna yang terjejas adalah sedikit berbanding apa kami anggap," kata Naib Presiden Pengurusan, Produk Facebook, Guy Rosen dalam satu pengumuman persidangan bagi terbalikan perkembangan tersebut.

Menurut Rosen, penggodaan yang identiti mereka masih lagi misteri, telah mengakses 15 juta nama, nombor telefon dan alamat email pengguna.

Bagi 15 juta lagi pengguna Facebook, kebocoran data hanya melibatkan nama dan butiran hubungan.

Tambah Facebook, pen-



SEBANYAK 29 juta data pengguna Facebook bocor dalam serangan siber bulan lalu. - AP

yerang terbabit mengaksas data selain maklumat tamba ma, termasuk halaman, tarikh lahir dan tempat yang sering dikunjungi oleh pengguna la man tersebut.

Serangan itu bagaimanapun tidak menjejaskan aplikasi lai yang dimiliki oleh Facebook seperti Instagram, WhatsApp, Oculus, Workplace dan Pages.

Ujar Facebook, semua pe milik akaun terbabit akan di maklumkan mengenai perkara itu dalam tempoh beberapa hari lagi.

maklumat yang terjejas dalam serangan siber berkenaan. - AP



04

What is the significance of this regulation to protect personal data in your country?

Personal Data Protection Act 2010

Regulates **processing of PII** in commercial transactions

New sets of obligations for **data users**

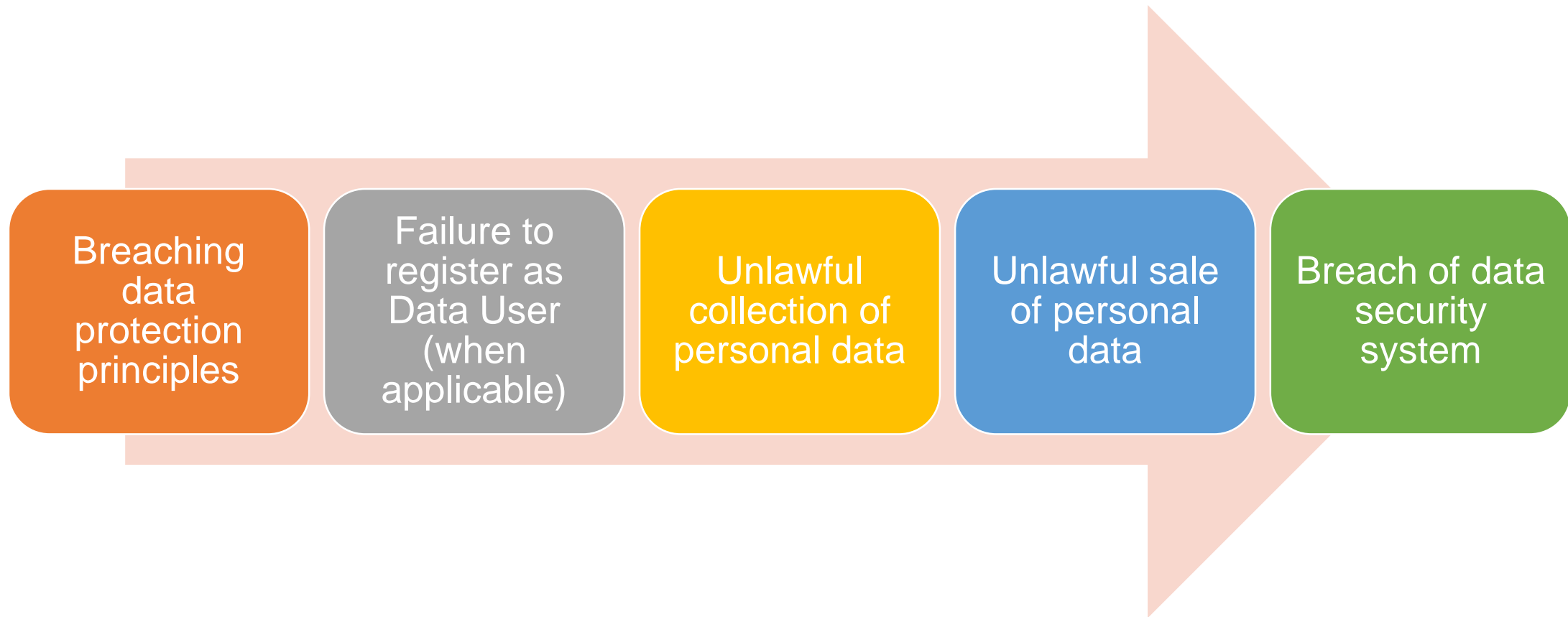
New **offences** relating to data abuses etc.

Rights for individuals

Information governance and **Data due diligence**

Promotes self-regulatory **Codes of Practices**

PDPA 2010 creates new data offences





05

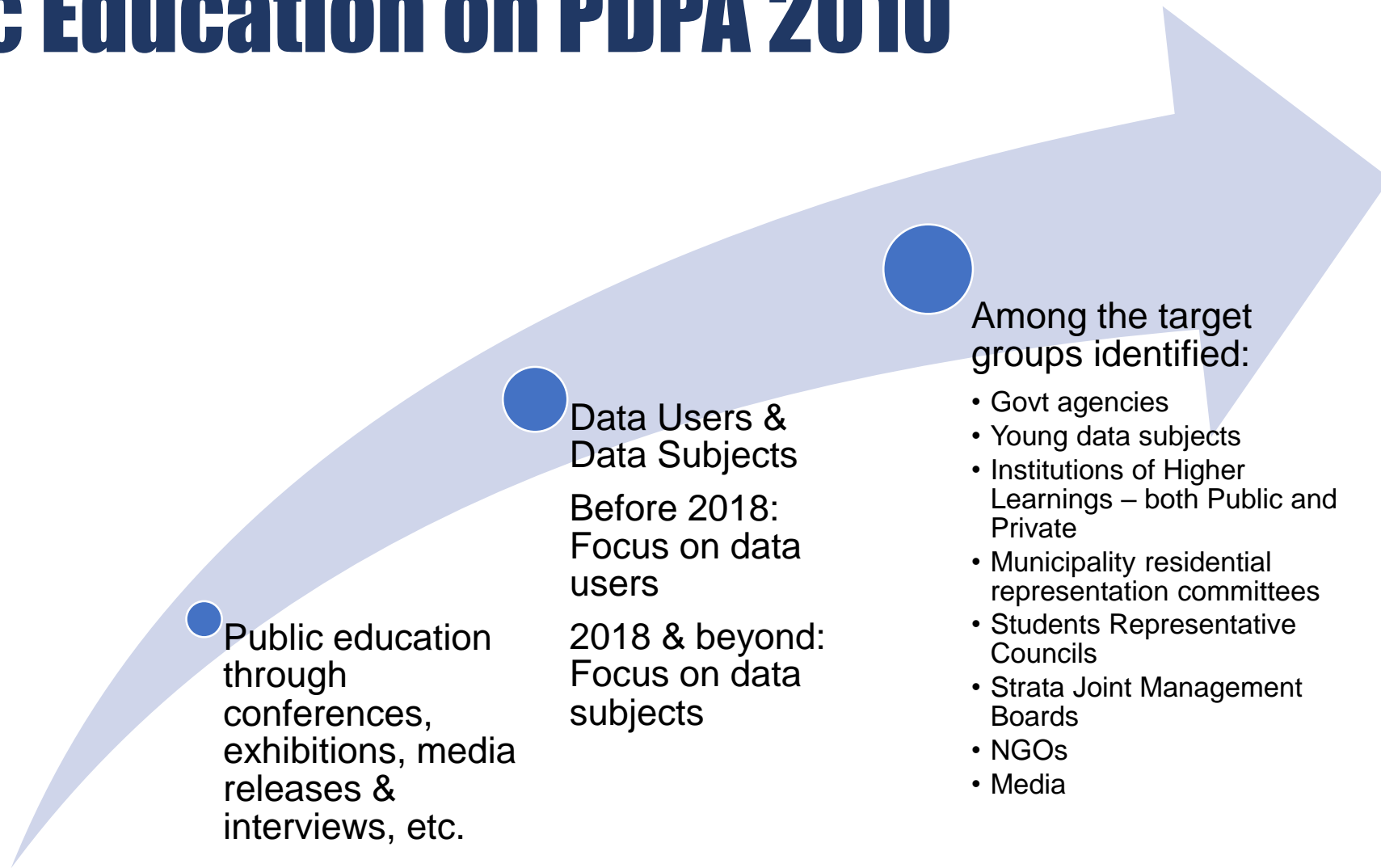
How is the implementation of the ASEAN Framework on Personal Data Protection concerning the protection of personal data in the business process in your country?

Audit, Enforcement and Prosecution



- More than 18,000 issues referred to since Nov. 2013, including 140 complaints and reports;
- 82 cases followed up by the PDP Commissioner (by end of 2015);
- Banking sector, property and services are the top three sectors with most cases/reports.
- Complaints relate to
 - un-consented processing and disclosure of personal data;
 - unauthorised use of data by exiting employees;
 - poor security of data record;
 - un-consented direct marketing;
 - data retained unnecessarily;
 - unauthorised sale of data.

Public Education on PDPA 2010



Inspection of Personal Data System

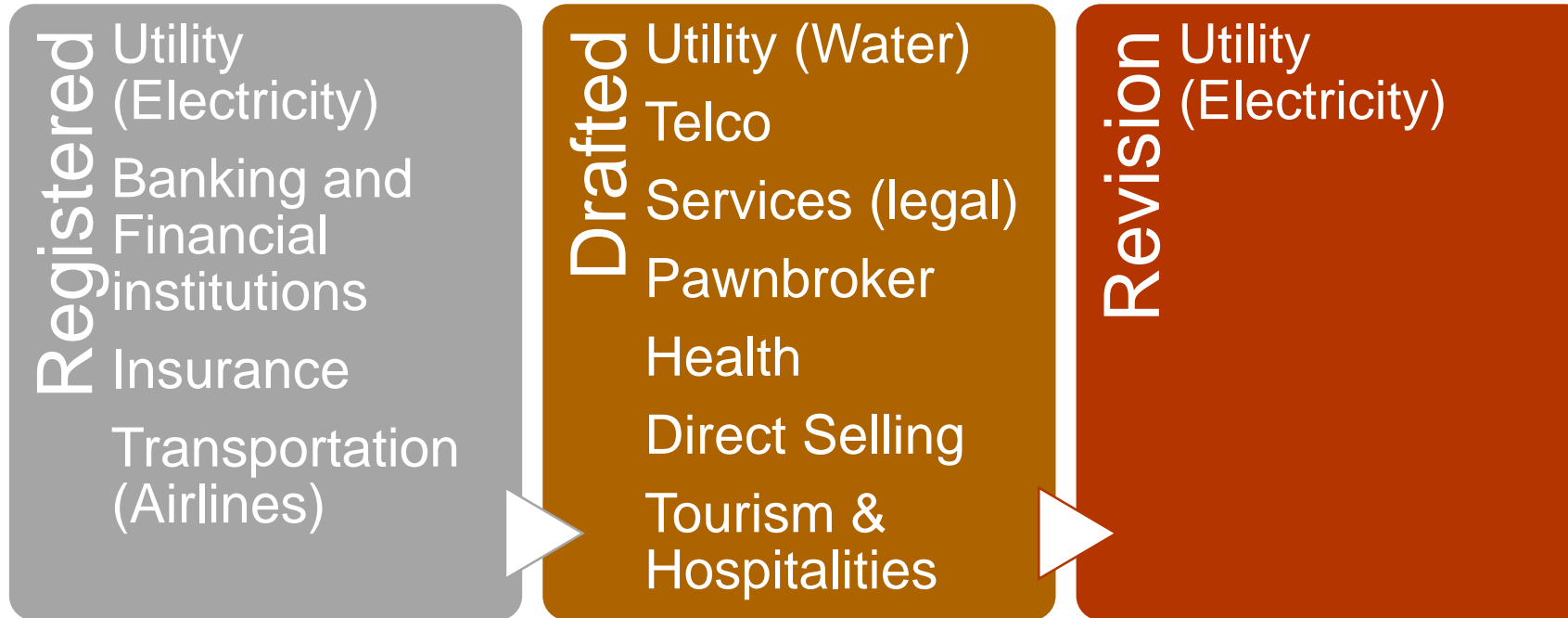


- More than 57 inspections have been done in 2018
- Powered under s 101 to inspect the system used to process personal data, including the record of any application, notice, request or any other information relating to personal data and any document and equipment forming part of the system.
- Purpose:
 - To promote the compliance with law
 - To ascertain the status of compliance
 - To assist the Commissioner in making recommendations to the relevant data user

Enforcement

No	Sector	Offence(s)	Provision	Sanction
1	Tourism (Hotelier)	Processing personal data without the Commissioner's Certificate Processing without consent	Section 16(4) Section 5(2)	MYR10,000 fine or 8 months imprisonment for each of the offence
2	Education (Private university)	Processing without Certificate	Section 16(4)	MYR10,000 fine or 3 months-imprisonment
3	Service sector (Employment agency)	Processing without Certificate	Section 16(4)	MYR10,000 fine
4	Education (Private University)	Processing without Certificate	Section 16(4)	Compound RM10,000
5	Service (Job agency)	Processing without Certificate	Section 16(4)	MYR10,000 fine

Code of Practice (COP)



Emerging Issues involving Data Governance:

Governance	Data Breach Notification	Cross-border Data transfer	New technologies:	Trans-national privacy laws
<ul style="list-style-type: none">• New market skill• DPO certification• Risk Management• Privacy by Design	<ul style="list-style-type: none">• Defining the breach• Strict timeline	<ul style="list-style-type: none">• CBPR• The White List	<ul style="list-style-type: none">• Artificial Intelligence• Cloud Processing• Blockchain• New security threats	<ul style="list-style-type: none">• GDPR• APAC• ASEAN Community

Review to PDPA 2010



“Malaysia has the PDPA which was formulated in 2010, but after nine years, there are so many new developments and it is important for the law to be amended to ensure that we are up to date with current developments.”

“There is no timeframe. We began reviewing the PDPA last year but it is still ongoing and I hope that we will be able to formulate a new one or bring a proposed amendment to the Parliament.”

Proposed Review of PDPA 2010

1

To cater the needs for effective and efficient implementation of PDPA 2010 such as additional Class of Data Users, Structure, Staffing, Enforcement

2

To streamline PDPA 2010 with the international requirements/concerns on PDP relating to Cross-border data transfer, e-Commerce activities, trade facilitation (bilateral/multilateral) and PDP Technical Standards

3

To attend to specific requirements under extra-territorial legislation i.e. EU GDPR relating to the appointment of Data Protection Officer in companies and notification of data breach.

4

To address other areas of concern such as Cloud Computing, Technology identifiers and Do Not Call Registry (Direct Marketing)

Opportunities and Challenges

- **1. OPPORTUNITIES**

- Empowering Data User Forum: Industrial self-regulatory approaches
- Learning new skillsets
- Rise of certification programmes


- **2. CHALLENGES**


- Public awareness of right to privacy
- Professional Preparedness
- Legislative loopholes
- Rise of cyber attacks
- Restricted movement during Pandemic


JAGA DATA ANDA


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 Jabatan Perlindungan Data Peribadi

Thank You.

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