



THE PHILIPPINES

AND THE

CROSS-BORDER PRIVACY RULES SYSTEM

By Atty. Gelle D. Baligod





APEC CROSS-BORDER PRIVACY RULES SYSTEM (CBPRS)

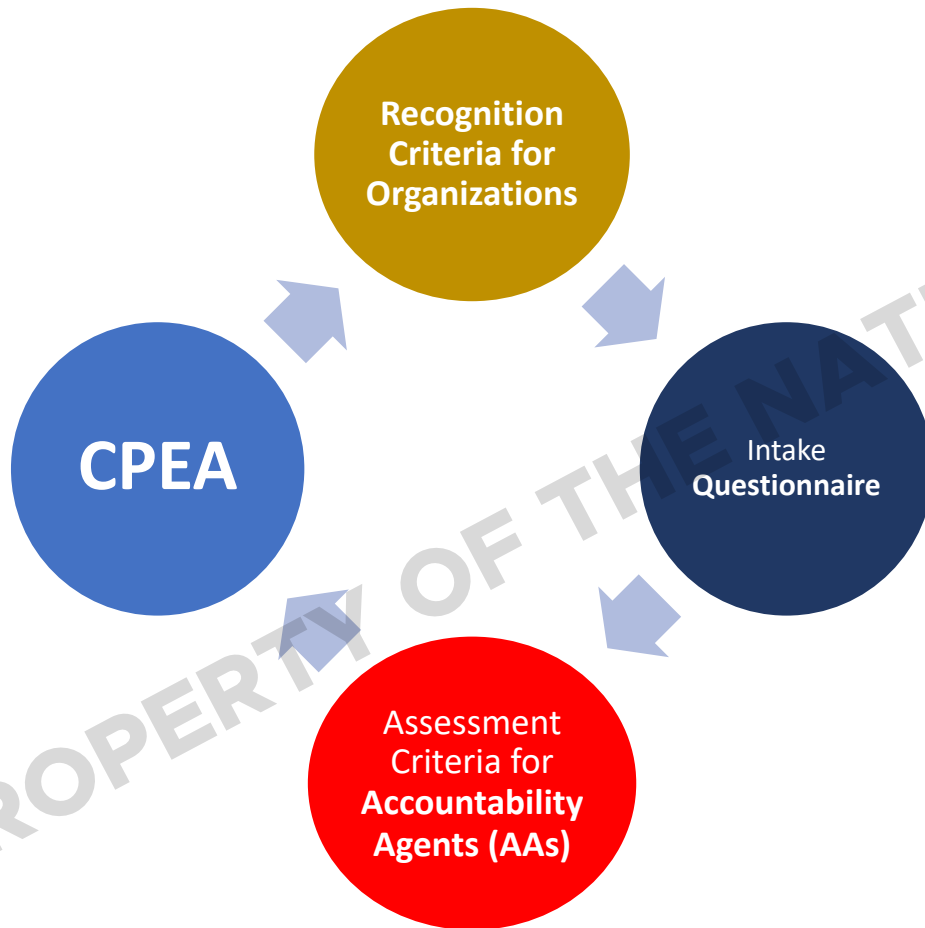
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CBPRS

It is a **voluntary, accountability-based system** that facilitates privacy-respecting data flows among APEC economies.



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Year economies joined APEC

1989	1991	1993	1994	1998
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Russia



Chinese Taipei



Canada

United States



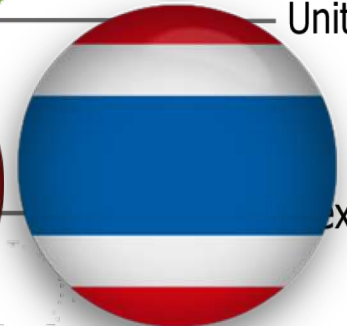
Viet Nam

Thailand



Hong Kong

China



Mexico



Malaysia

Singapore



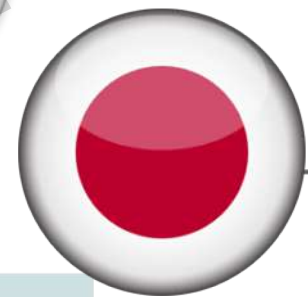
Indonesia



Papua New Guinea



Chile



New Zealand



Chile





CURRENT MEMBERS



Singapore

Indonesia

Australia

Canada

United States

Mexico

Peru

Chile

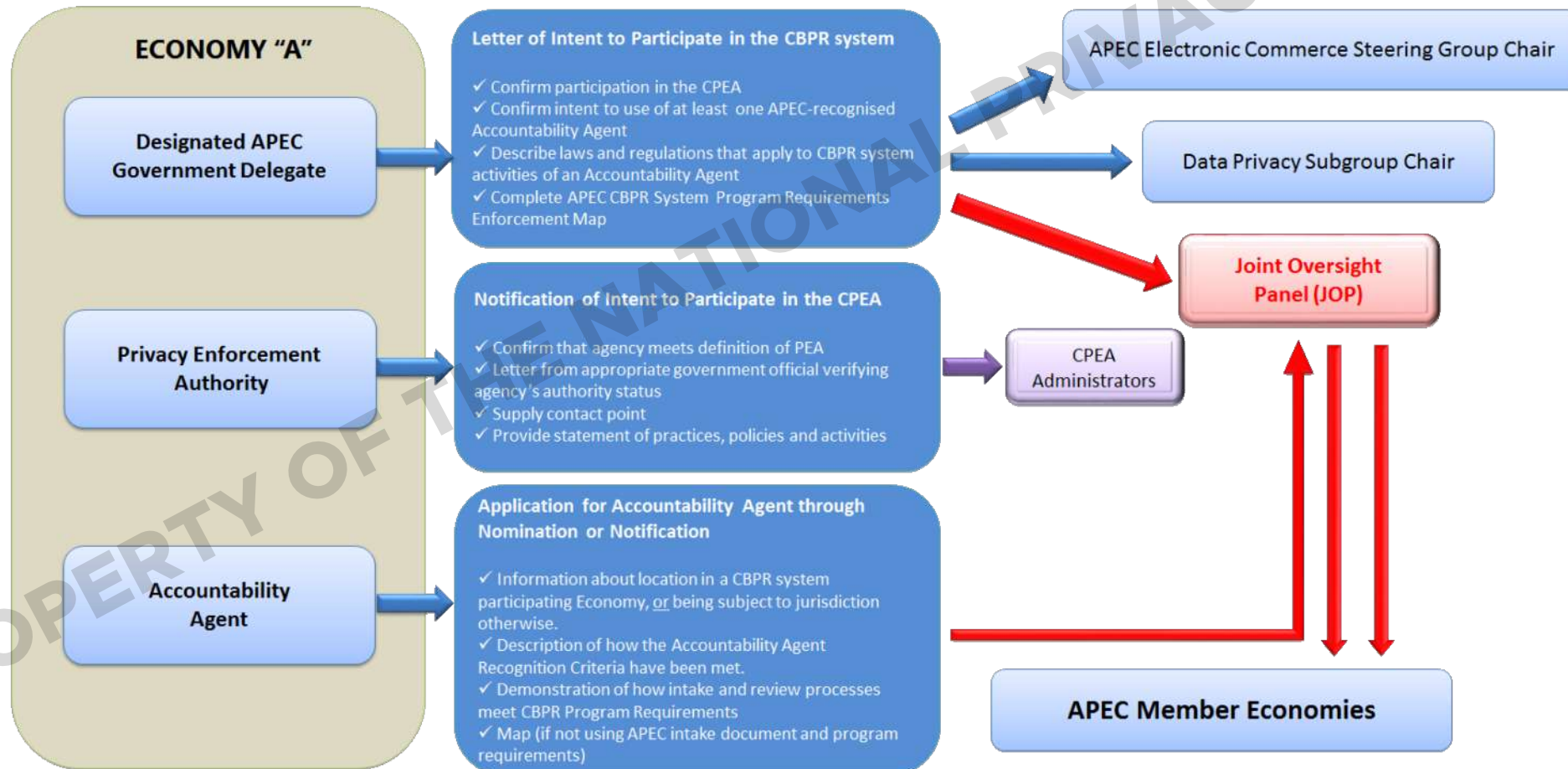
Year economies joined APEC

- 1989
- 1991
- 1993
- 1994
- 1998



CBPRS

Structure of the APEC Cross Border Privacy Rules (CBPR) system

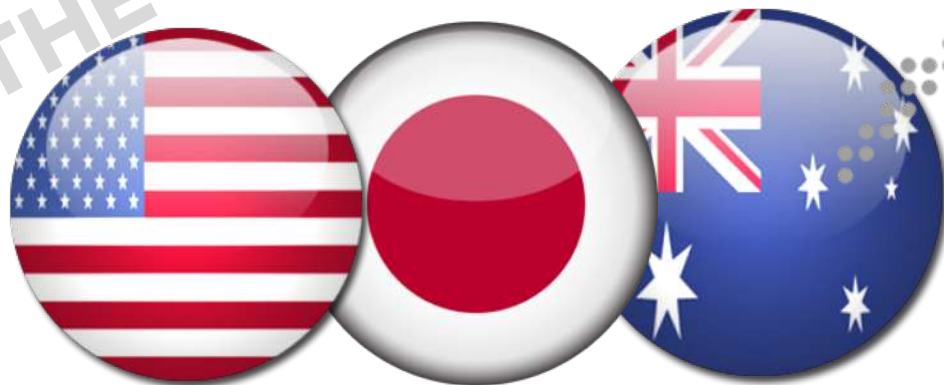




CBPRS



The [Joint Oversight Panel \(JOP\)](#) administers the APEC CBPR system. Decisions about an organization's eligibility to be an Accountability Agent are made by APEC economies.



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CBPRS

How can the APEC CBPR System help your business?

- bridges differing national privacy laws within the APEC region, reducing barriers to the flow of information for global trade
- by promoting your business' adherence to an enforceable standard of best practices, you can demonstrate your commitment to consumer privacy



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BENEFITS AND CHALLENGES

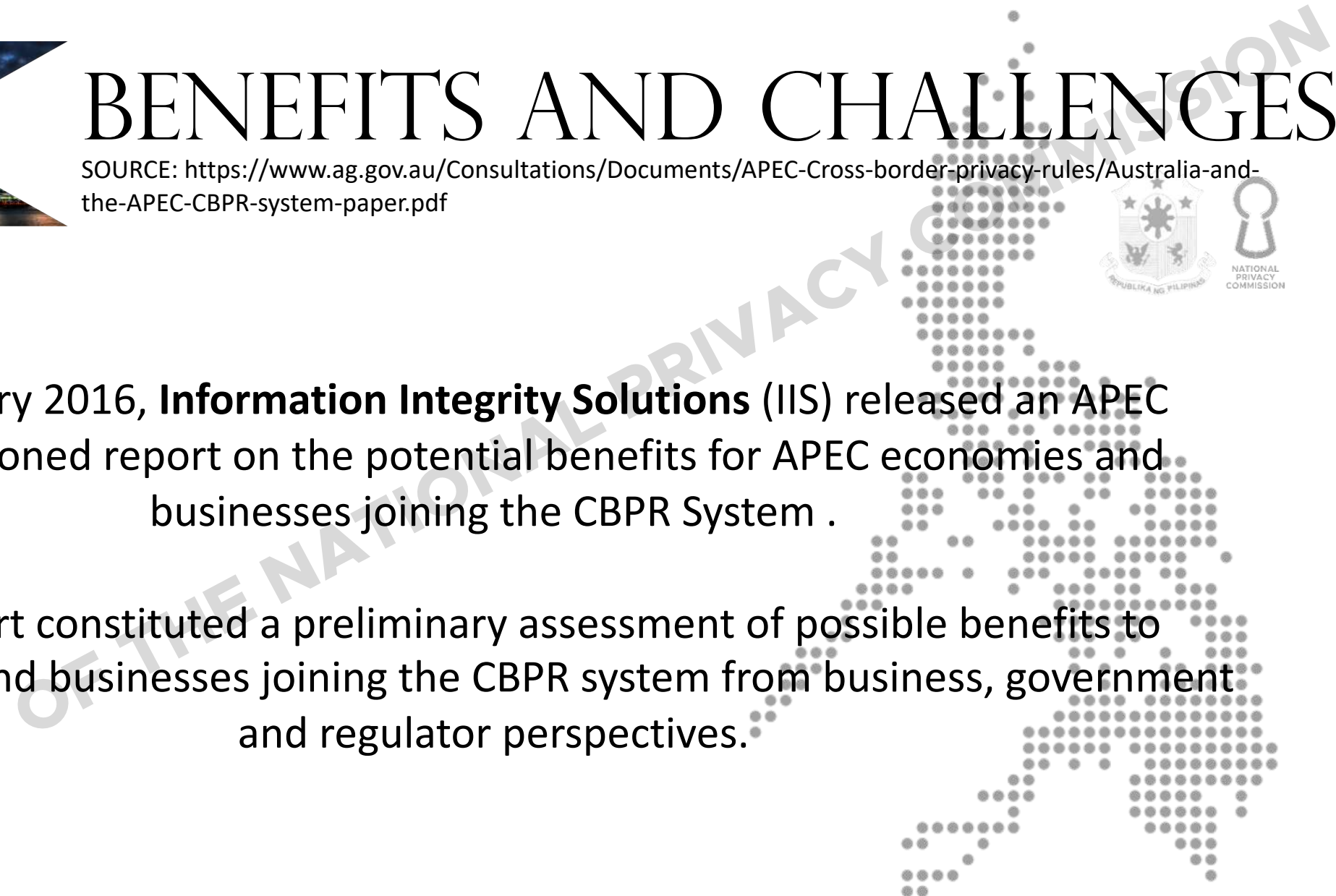
SOURCE: <https://www.ag.gov.au/Consultations/Documents/APEC-Cross-border-privacy-rules/Australia-and-the-APEC-CBPR-system-paper.pdf>



In February 2016, **Information Integrity Solutions (IIS)** released an APEC commissioned report on the potential benefits for APEC economies and businesses joining the CBPR System .

The report constituted a preliminary assessment of possible benefits to economies and businesses joining the CBPR system from business, government and regulator perspectives.

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BENEFITS AND CHALLENGES

SOURCE: <https://www.ag.gov.au/Consultations/Documents/APEC-Cross-border-privacy-rules/Australia-and-the-APEC-CBPR-system-paper.pdf>



- **General awareness and understanding of the CBPR system is low. Barrier.**
- **Leaders** called for member economies to consider participation in the CBPR system.
- The Data Privacy Sub-Group work-plan includes encouraging greater participation by APEC member economies in the CBPR system.

PROPER



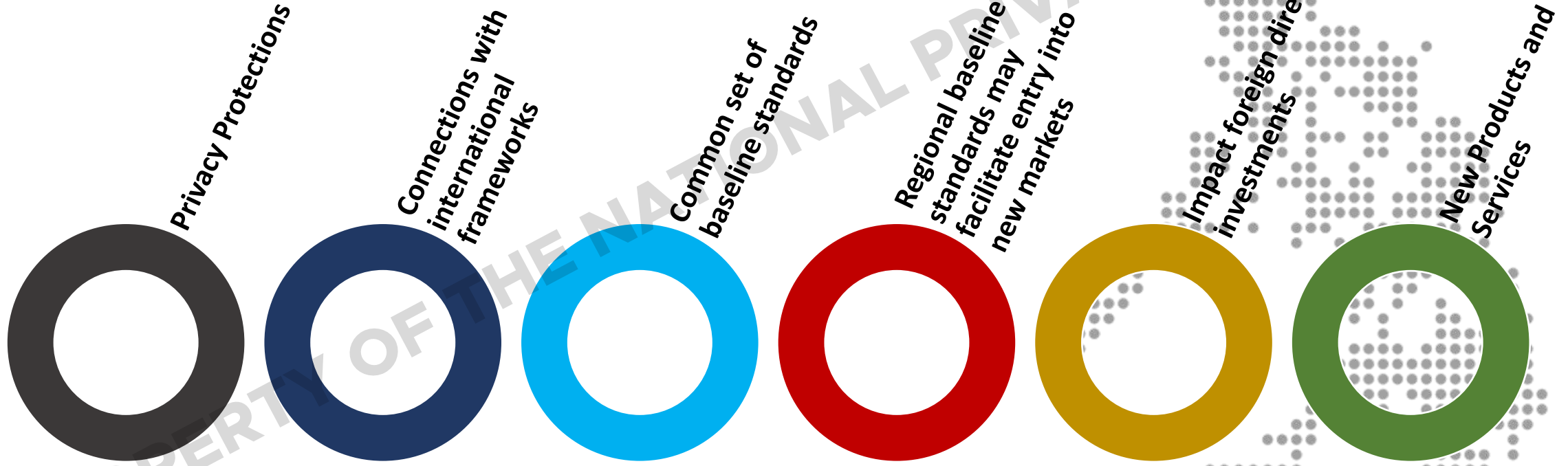
group	benefits communicated by advocates	benefits as provided in the CBPRS website
Businesses	<p>Demonstrates organisational accountability and creates consumer trust.</p> <p>Makes organisation-wide privacy protections more uniform (of particular benefit to multilateral businesses).</p> <p>Self or co-regulation can be effective, as it's flexible - companies can update privacy policies when it suits them.</p> <p>As more economies join, compliance costs for businesses across borders will be reduced.</p>	<p>Reduces barriers to flow of information across borders: the need to comply with different legislative requirements is reduced. This enhances trade and efficiency.</p> <p>Demonstrates commitment to consumer privacy.</p>
Consumers	<p>Enhanced privacy protections</p> <p>Streamlined complaint handling</p> <p>Improves consumer trust</p>	<p>Protection of personal data when it moves across borders.</p>
Government	<p>Facilitates trade and privacy (both important political objectives).</p> <p>Facilitates cross-border privacy enforcement cooperation: cooperation can generally only occur when standards are agreed upon.</p> <p>Efficiency gains for governments from outsourcing frontline enforcement to accountability agents - means government can focus on more high-impact, high level privacy issues.</p> <p>Aids in investigations and enforcement of privacy breaches.</p>	<p>Provides "unique opportunity" to facilitate cross border trade standards</p> <p>Provides for voluntary participation that will raise the standard of privacy across the region.</p>

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BENEFITS

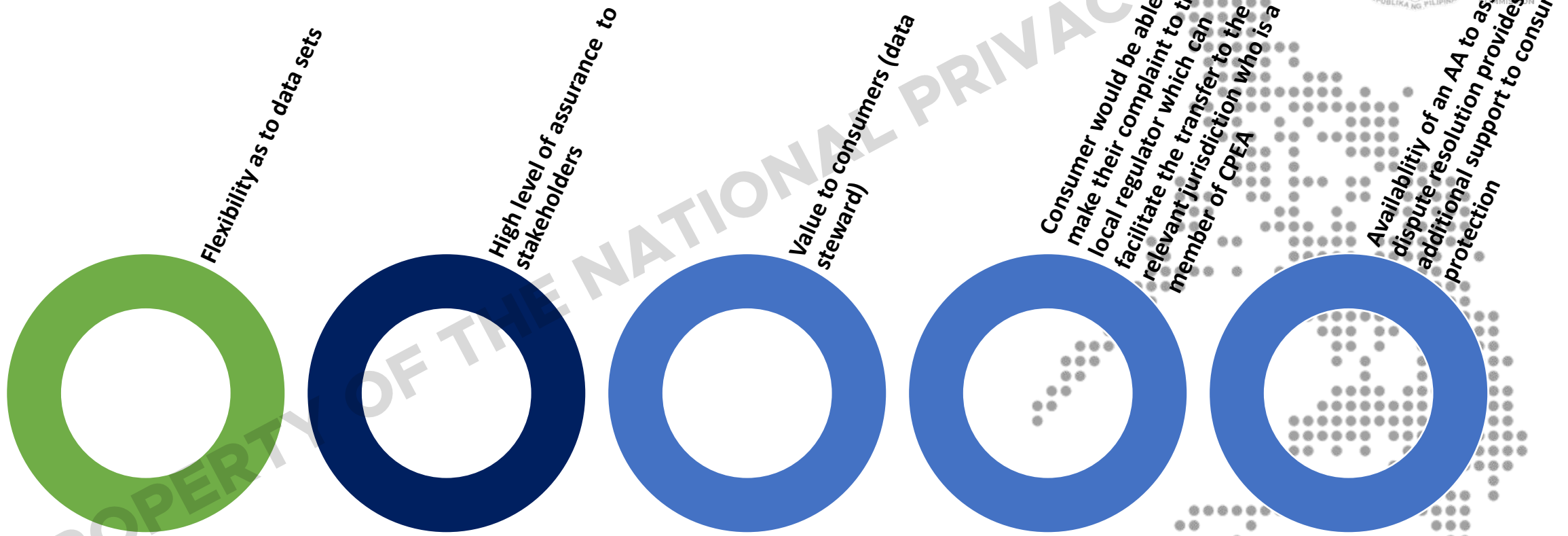
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BENEFITS

SOURCE: <https://www.ag.gov.au/Consultations/Documents/APEC-Cross-border-privacy-rules/Australia-and-the-APEC-CBPR-system-paper.pdf>





CRITICISMS

SOURCE: <https://www.ag.gov.au/Consultations/Documents/APEC-Cross-border-privacy-rules/Australia-and-the-APEC-CBPR-system-paper.pdf>



Economies may rely on domestic protection laws

APEC Framework has lowest standards for protection

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POTENTIAL

SOURCE: <https://www.ag.gov.au/Consultations/Documents/APEC-Cross-border-privacy-rules/Australia-and-the-APEC-CBPR-system-paper.pdf>



WE NEED TO HAVE A CRITICAL MASS
FOR THIS TO WORK

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TIMELINE



Singapore took **four months** from the submission of the documents before JOP issued the report on their application.

Such report, if the findings are favorable to the applicant, includes an invitation to the ECSG Chair to notify the applicant that the conditions set out in Paragraph 2.2 of the Charter have been met, and to advise the applicant that they are hereby considered a Participant in the CBPR System.

The **notification given by the Chair of the ECSG operates as a confirmation of membership in the system.** Thereafter, the economy may then nominate one or more Accountability Agents for APEC recognition or notify the JOP of a request by the Accountability Agent(s), for recognition under the CBPR System.



DOCUMENTS REQUIRED



Manila, April 10, 2018

MS. SHANNON COE
Chair
Electronic Commerce Steering Group
Asia-Pacific Economic Cooperation

Dear Madam Chair:

On behalf of the Republic of the Philippines, I am expressing our interest to participate in the Asia-Pacific Economic Cooperation Cross-Border Privacy Rules System (CBPRS) pursuant to paragraph 2.2 of the Charter of the APEC Cross-Border Privacy Rules System Joint Oversight Panel (Charter).

I confirm that the National Privacy Commission is a participant in the Cross-Border Privacy Enforcement Arrangement after having been admitted last year.

I likewise confirm the Philippines' intent to make use of at least one APEC-recognized Accountability Agent subject to the procedures outlined in paragraph 6.2 of the Charter.

In consideration of the above, please find attached the following:

1. A narrative description of the relevant domestic laws and regulations which may apply to any CBPR certification-related activities of an Accountability Agent operating within the Philippines' jurisdiction and the enforcement authority associated with these laws and regulations (Annex A); AND
2. The Completed APEC Cross-Border Privacy Rules System Program Requirements Enforcement Map (Annex B)

APEC CROSS-BORDER PRIVACY RULES SYSTEM PROGRAM REQUIREMENTS: ENFORCEMENT MAP

As outlined in the Charter of the APEC Cross Border Privacy Rules (CBPR) System's Joint Oversight Panel (JOP), an APEC Member Economy is considered a Participant in the CBPR System after the Chair of the Electronic Commerce Steering Group (ECSG Chair) has notified the Economy that the following conditions have been met:

- (i) *The Economy's ECSG delegation, or appropriate governmental representative, submits to the ECSG Chair a letter indicating its intention to participate and confirming that at least one Privacy Enforcement Authority in that Economy is a participant in the APEC Cross Border Privacy Enforcement Arrangement (CPEA);*
- (ii) *The Economy indicates its intention to make use of at least one APEC-recognized Accountability Agent subject to the procedures outlined in paragraph 6.2 of the Charter of the JOP;*
- (iii) *The Economy's ECSG delegation, or appropriate governmental representative, after consulting with the JOP, submits to the Chair of the ECSG an explanation of how the CBPR System program requirements may be enforced in that Economy; and*
- (iv) *The JOP submits to the Chair of the ECSG a report as to how the conditions in (i)-(iii) above have been satisfied.*

The purpose of Annex B is to assist Economies and the JOP in fulfilling the requirements of items (iii) and (iv):

- *This document provides the baseline program requirements of the APEC Cross Border Privacy Rules (CBPR) System in order to guide the Economy's explanation of how each requirement may be enforced in that Economy; and*
- *The information provided by the Economy will form the basis of the JOP's report.*

Column 1 lists the questions in the intake questionnaire to be answered by an applicant organization when seeking CBPR certification. Column 2 lists the assessment criteria to be used by an APEC-recognized Accountability Agent when verifying the answers provided in Column 1. Column 3 is for use by the Economy's ECSG delegation or appropriate governmental representative when explaining the enforceability of an applicant organization's answers in Column 1. An economy's relevant privacy enforcement authorities should have the ability to take enforcement actions under applicable domestic laws and regulations that have the effect of protecting personal information consistent with the CBPR program requirements. Additional documentation to assist in these explanations may be submitted as necessary. This document is to be read consistently with the qualifications to the provision of notice, the provision of choice mechanisms, and the provision of access and correction mechanisms found in the CBPR Intake Questionnaire.



EXISTING AAs



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ACCREDITED COMPANIES



23



22



1



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OVERVIEW

STEP	BODIES INVOLVED	PROCESS
Approval of new APEC member economy into CBPR	Applicant member economy Cross-Border Joint Oversight Panel	Member economies applies to join CBPR by submitting Letter of Intent and Enforcement Map ³⁰ Panel reports on whether the applicant economy satisfies the CBPR conditions
Recognition of Accountability Agent/s in that member economy	Applicant Accountability Agent/s Cross Border Joint Oversight Panel	Applicant Accountability Agent completes APEC Recognition Application ³² Panel decides whether or not to recognise applicant Accountability Agent/s ³³
Assessment of businesses against that economy's CBPR	Applicant business Accountability Agent in that member economy	Business completes a self-assessment questionnaire ³⁴ Accountability Agent assesses business' completed questionnaire against CBPR set criteria (baseline program requirements) ³⁵ Accountability Agent provides privacy 'trustmark' that certify the business is compliant with that economy's CBPR program ³⁶
Enforcement of CBPR in that economy	Accountability Agent in that member economy Business	Enforce that member economy's CBPR program requirements through law or contract
Oversight	Privacy Enforcement Authority in that member economy	Provides oversight for that member economy's CBPR program Has the power to take enforcement actions under applicable domestic laws and regulations Can investigate compliance of Accountability Agent/s
Complaints handling and investigating	Cross-border Privacy Enforcement Arrangement (CPEA)	Receives complaints regarding the conduct of Accountability Agent/s and can request the Privacy Enforcement Authority in the relevant economy to investigate compliance of Accountability Agent/s ³



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INTER-AGENCY EFFORT PRIVATE SECTOR PARTICIPATION



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MARAMING SALAMAT PO!



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