

Centre for Information Policy Leadership Webinar

The Ins and Outs of the APEC Cross-Border Privacy Rules (CBPR) and their Role in Enabling Legal Compliance and International Data Transfers

29 September 2015

Welcome and Introduction

- **Three topics:**
 - APEC Cross-Border Privacy Rules (CBPR)
 - APEC Privacy Recognition for Processors (PRP)
 - EU/APEC collaboration to streamline “dual certification” under the CBPR and EU Binding Corporate Rules (BCR)
- **Four takeaways:**
 - Understanding the numerous ways in which CBPR can benefit your organization (information controllers)
 - Understanding the numerous ways in which APEC PRP can benefit your organization (information processors and controllers)
 - Understanding how to become CBPR certified (and PRP approved once the PRP system is operational)
 - Understanding ongoing efforts towards global interoperability

Speakers

Markus Heyder

Vice President and Senior Policy Counselor, CIPL

Josh Harris

Director of Policy, TRUSTe

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Policy Advisor, U.S. International Trade Administration and
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Topic I – CBPR Basics and How they Work

- Why did APEC develop the CBPR?
- What are the CBPR and how do they work?
- Which APEC countries have implemented the CBPR to date?

CBPR Basics and How They Work

- **APEC Privacy Framework (2005)**
 - Includes nine high level Privacy Principles (preventing harm, notice, collection limitation, uses of personal information, choice, integrity of personal information, security safeguards, access and correction, accountability)

CBPR Basics and How They Work

- **APEC Cross-Border Privacy Rules (2011)**
 - An enforceable privacy code of conduct for data transfers in Asia-Pacific
 - Implements the nine APEC Privacy Principles
 - Developed in a multi-stakeholder process
 - Creates/increases consistent privacy protections and data export mechanism

CBPR Basics and How They Work

Components of the CBPR System

- **Certified companies**
 - Seek CBPR certification from Accountability Agents
- **Accountability Agents**
 - Review and certify companies and dispute resolution
- **Privacy Enforcement Authorities (PEAs)**
 - Enforce CBPRs pursuant to domestic law
 - In cross-border matters, cooperate with other PEAs pursuant to the APEC Cross-border Privacy Enforcement Arrangement (CPEA)

CBPR Basics and How They Work

APEC Cross-Border Privacy Rules – Implementation Status

- **Participating Countries:**

- United States, Mexico , Japan, Canada
 - All APEC countries have expressed intent to join at some point

- **Accountability Agents:**

- TRUSTe, (JIPDEC)

- **Certified companies:**

- 12 companies, including IBM and Merck
- Many in the pipeline

CBPR Basics and How They Work

**For future reference: APEC Cross-Border Privacy Rules –
Website**

www.cbprs.org

The official CBPR website contains all CBPR-related information and documents



CROSS BORDER PRIVACY RULES SYSTEM

A A A

The **APEC Cross Border Privacy Rules (CBPR) system** was developed by participating APEC economies after seeking the views of industry and civil society, to build consumer, business and regulator trust in cross border flows of personal information. The APEC CBPR system requires participating businesses to develop and implement data privacy policies consistent with the [APEC Privacy Framework](#). These policies and practices must be assessed as compliant with the minimum program requirements of the APEC CBPR system by an Accountability Agent (an independent APEC CBPR system recognised public or private sector entity) and be enforceable by law.

**Consumers****Business****Accountability Agents****Government**

Quick Links

- [About CBPR system](#)
- [CBPR system documents](#)
- [Privacy in the APEC region](#)
- [News](#)



The [APEC Electronic Commerce Steering Group \(ECSG\)](#) promotes the development and use of electronic commerce. The ECSG also explores how economies may best develop legal, regulatory and policy environments that are predictable, transparent and optimised to enable economies across all levels of development to utilise information and communication technologies to drive economic growth and social development.

Topic II – Expansion of the CBPR System: PRP and CBPR/BCR Interoperability

- What is the APEC Privacy Recognition for Processors (PRP) and how will it work?
- What are the plans and the trajectory for expansion of the CBPR?
- The CBPR and PRP are for the APEC region. Are there any prospects for creating a CBPR/PRP system with global reach?
- How are APEC and the EU Article 29 Working Party collaborating to increase interoperability between the CBPR and BCR Systems?

Topic III – A Perspective from CBPR-Certified Companies

- Why did we seek CBPR certification?
- What are the short-term and long-term benefits to businesses?
- What was the certification process like?
 - What do businesses have to do to become certified?
 - How long does it take?
- How does CBPR certification correspond to approval under the EU Binding Corporate Rules (BCR)?

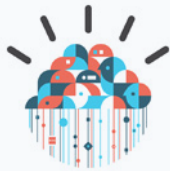
IBM at a glance



400,000+ employees



170+ countries



Cloud



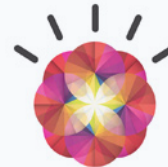
Analytics



Mobile



Security



Cognitive
Computing



Social

Strengths of the CBPR model

- Credible data transfer mechanism
 - Focuses on the adequacy of an organization's policies and practices to protect data regardless of where it flows
 - Requires organizations to be answerable to regulators for the effectiveness of those policies and practices
 - Makes use of third party assessments and regulatory enforcement to provides credible evidence of trustworthiness
- Basis upon which interoperability between privacy regimes could be achieved
- Increased trust from stakeholders
- Assist in improving compliance with local standards
- Increased ability to demonstrate good faith efforts in case of enforcement

Topic IV – A Perspective from the Government Backstop Enforcer

- Certification schemes such as the CBPR help Privacy Enforcement Authorities and companies because:
 - “Front line enforcement” and complaint handling by the Accountability Agents – in many cases, PEA involvement may not be needed
 - Streamlining of investigations due to existence of a comprehensive privacy management program (CBPR)
 - Participation in CBPR may be considered favorably by enforcement agencies when deciding whether to bring enforcement actions

Resources

Official APEC CBPR Website

(containing all CBPR and PRP documents and information)

www.cbprs.org

“The APEC Cross-Border Privacy Rules—Now That We’ve Built It, Will They Come?”

IAPP Privacy Perspectives , 4 September 2014

By Markus Heyder

<https://iapp.org/news/a/the-apec-cross-border-privacy-rules-now-that-weve-built-it-will-they-come/>

“APEC Privacy Rules for Cross-Border Data Flows—A Model for Global Privacy Protections”

BNA Bloomberg Privacy & Security Law Report, 3 March 2015

By Markus Heyder and Anick Fortin-Cousens

<https://www.hunton.com/files/Uploads/Documents/Centre/APEC Privacy Rules for Cross-Border Data Flows.pdf>

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