

Data Protection Newsletter



Proposed Amendment to the Ministerial Ordinances of the Act on the Protection of Personal Information of Japan: Pseudonymously Processed Information (Part III)

Noriya Ishikawa, Akiko Takiguchi

In this Part III to this newsletter, we will cover the details of pseudonymously processed information. Please refer to Part I for a general introduction of the proposed amendment to the ministerial ordinances of the Act on the Protection of Personal Information (“APPI”)¹ and Part II for an overview of the data breach notification in the case of Data Breach Incidents². *The amendment to the ministerial ordinances of the APPI was finalized and published on March 24, 2021. There are no changes from the proposal.

The 2020 Amendment introduced the concept of “pseudonymously processed information” (*kamei kakou jouhou*) which means personal information that has been processed in a manner ensuring that the information can no longer identify an individual without additional information. Under the APPI, if information constitutes personal information, a business operator must uniformly comply with all obligations set forth in the APPI, such as the limitation on use of personal information and the obligation to respond to the exercise of data subjects’ rights. The 2020 Amendment, however, imposes less restrictive obligations on a business operator when personal information becomes pseudonymously processed information, aimed at encouraging innovation through the creation of new types of personal information. The restriction on altering a utilization purpose, the duty to give notice of data breaches, and the obligation to respond to the exercise of data subjects’ rights do not apply to pseudonymously processed information.

In order to minimize data privacy risk arising from data breaches and the exercise of data subjects’ rights, the concept of pseudonymously processed information would be useful. However, please note that you should make pseudonymously processed information based on a certain standard and publicize the purpose of use of such pseudonymously processed information in order to benefit from it.

¹ https://www.nishimura.com/en/newsletters/data_protection_210303.html

² https://www.nishimura.com/en/newsletters/data_protection_210309.html

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The proposal of the Enforcement Rules elaborates on standards for the methods of producing pseudonymously processed information. Under the proposal, those standards are:

- deleting a whole or part of those descriptions etc. which can identify a specific individual contained in personal information (including replacing such descriptions etc. with other descriptions etc. using a method with no regularity that can restore the whole or part of descriptions etc.);
- deleting all individual identification codes contained in personal information (including replacing such codes with other descriptions etc. using a method with no regularity that can restore the individual identification codes); or
- deleting descriptions etc. contained in personal information that are likely to cause proprietary damage when used improperly (including replacing those descriptions etc. with other descriptions etc. using a method with no regularity that can restore the replaced descriptions etc.).

In order to prevent infringement of rights and interests of an individual due to leakage of deleted or other information relating to pseudonymously processed information (“**deleted information etc.**”), the proposal introduces the following standards for the security control measure concerning deleted information etc.:

- defining clearly the authority and responsibility of a person handling deleted information etc.;
- establishing rules and procedures on the handling of deleted information etc., handling appropriately deleted information etc. in accordance with the rules and procedures, evaluating the handling situation, and based on such evaluation results, taking necessary measure to seek improvement; and
- taking necessary and appropriate measure to prevent a person with no legitimate authority from handling deleted information etc.

The guidelines will likely provide examples for both the above standards for the methods of producing pseudonymously processed information and the standards for the security control measure concerning deleted information etc.



Noriya Ishikawa

Partner, Frankfurt and Düsseldorf offices Co-Representative
E-mail: n.ishikawa@nishimura.com

Noriya Ishikawa serves as co-representative of our offices in Frankfurt and Düsseldorf, Germany. He advises national and international clients from various industries, in particular with regard to projects involving multi-national data protection law issues, such as drafting policies, data transfer agreements, and outsourcing agreements, as well as IT compliance questions and data breach issues. He was awarded first place in the Nikkei’s “**Most Successful Lawyers in 2019**” in the Area of Data Protection. The Nikkei, Japan’s flagship economics newspaper and owner of the Financial Times, publishes this highly-regarded annual survey ranking Japan’s most outstanding lawyers across specific categories.

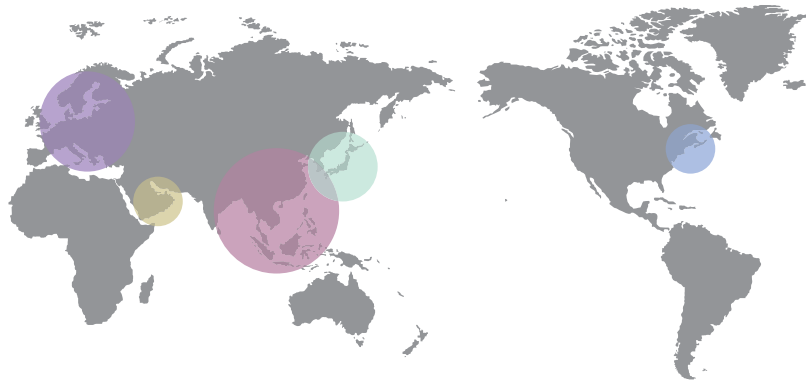


Akiko Takiguchi

Attorney-at-Law
E-mail: a.takiguchi@nishimura.com

Akiko Takiguchi is an associate at Nishimura & Asahi. She is admitted to practice in Japan (2010) and mastered LL.M. of New York University in 2018. She has represented Japanese and international clients in various corporate law matters, including cross-border and domestic M&A transactions and general corporate issues.

Nishimura & Asahi has 18 offices throughout Japan and in the markets that matter, with Asia as the starting point.



Tokyo

Otemon Tower, 1-1-2 Otemachi, Chiyoda-ku, Tokyo 100-8124 Japan

Tel +81-3-6250-6200 +81-3-6250-7210 (Nishimura & Asahi LPC Principal Office)

Nagoya

Tel +81-52-533-2590

LPC Partner Hiroki Fujii

Osaka

Tel +81-6-6366-3013

LPC Partners Hiromune Usuki
Taisuke Igaki
Yuichiro Hirota
Masanori Ban

Fukuoka

Tel +81-92-717-7300

LPC Partners Tsuneyasu Ozaki
Kengo Takaki
Yasuko Maita

New York

Nishimura & Asahi NY LLP

Tel +1-212-830-1600

E-mail info_ny@nishimura.com

Managing Partner Katsuyuki Yamaguchi

Vice Managing Partner Megumi Shimizu

Partners Kaoru Tatsumi

Yusuke Urano

Dubai

Tel +971-4-386-3456

E-mail info_dubai@nishimura.com

Counsel Masao Morishita

Frankfurt (main office)

Nishimura & Asahi Europe
Rechtsanwaltsgesellschaft mbH

Tel +49-(0)69-870-077-620

Düsseldorf (branch office)

Nishimura & Asahi Europe
Rechtsanwaltsgesellschaft mbH

Tel +49-(0)211-5403-9512

E-mail info_europe@eml.nishimura.com

Co-representatives Noriya Ishikawa

Dominik Kruse

Bangkok

Tel +66-2-168-8228

E-mail info_bangkok@nishimura.com

Partners Hideshi Obara
Chavalit Uttasart
(SCL Nishimura)
Jirapong Sriwat
Tomoko Shimomukai

Beijing

Tel +86-10-8588-8600

E-mail info_beijing@nishimura.com

Chief Representative Azusa Nakashima
Representative Masashi Shiga

Shanghai

Tel +86-21-6171-3748

E-mail info_shanghai@nishimura.com

Chief Representative Takashi Nomura
Representatives Satoshi Tojo
Seita Kinoshita

Hanoi

Tel +84-24-3946-0870

E-mail info_hanoi@nishimura.com

Partner for Hikaru Oguchi
Vietnam offices
Representative Akira Hiramatsu

Ho Chi Minh City

Tel +84-28-3821-4432

E-mail info_hcmc@nishimura.com

Partner for Hikaru Oguchi
Vietnam offices
Representative Kazuhide Ohya
Partners Vu Le Bang
Ha Hoang Loc

Jakarta*1

Walalangi & Partners

Tel +62-21-5080-8600

E-mail info@wplaws.com

Representative Luky Walalangi

Rosetini & Partners Law Firm

Tel +62-21-2933-3617

E-mail info_jakarta@nishimura.com

Partner Noriaki Machida

Singapore

Tel +65-6922-7670

E-mail info_singapore@nishimura.com

Co-representatives Masato Yamanaka

Shintaro Uno
Partners Masataka Sato
Yuji Senda
Ikang Dharyanto

Note: We are in formal law alliance with Bayfront Law LLC, a Singapore law practice, under name of Nishimura & Asahi-Bayfront Law Alliance.

Okada Law Firm (Hong Kong)*2

Tel +852-2336-8586

E-mail s.okada@nishimura.com

Representative Saori Okada

Taipei

Nishimura & Asahi Taiwan

Tel +886-2-8729-7900

E-mail info_taipei@nishimura.com

Co-Representatives Ing-Chian Sun
Sheng-Chieh Chang

Yangon

Tel +95-1-8382632

E-mail info_yangon@nishimura.com

Representative Yusuke Yukawa
Vice Representative Isamu Imaizumi