



A DIGITAL AGENDA FOR THE PACIFIC ALLIANCE

A Proposal for Next Steps and Priorities

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Executive Summary

The purpose of this document is to unpack the Digital Agenda of the Pacific Alliance (“PA”) in tangible and concrete top priorities. It seeks to help the PA learn best practices from other countries and organizations. It makes proposals and action plans that are doable through regulation and will have an immediate and practical impact on the people and businesses in the region. This document will be presented during the Digital Trade Group’s meeting in May 2018 for discussion.

The document sets up a list of top priorities in developing the Digital Agenda. It conducts comparative studies and looks closely at regional organizations like APEC, BRIC, EU, and MERCOSUR, as well as international institutions like the International Trade Center (“ITC”), World Bank, WTO, etc. In addition, successful precedents and best practices are drawn from countries like China, Finland, the United States, and other leading predecessors in the development of a digital economy. The priorities are categorized under Low-Hanging Fruit and High Reaching objectives. Low-Hanging Fruit identify measures that (i) are easily achievable through regulation, (ii) are concrete, and (iii) have immediate effects. High Reaching priorities, on the other hand, are longer-term measures that usually require investment in infrastructure and logistics systems. Nevertheless, they are necessary for the sustained development of a digital economy.

The list below summarizes the Low-Hanging Fruit and the key actions to be taken by the PA under each of them.

Custom Duties (*De Minimis*): *De Minimis* is a fixed price level, below which there is minimum clearance procedure and no custom duties for imported goods. The PA may first establish a uniform internal higher *de minimis* level to facilitate intra-PA trade. Then PA members may decide next steps based on the impact assessment of a higher *de minimis* level. Options include raising the general *de minimis* level applicable to more countries and setting different *de minimis* levels for custom duties and GSTs.

Harmonization of Digital Trade Rules in Transparency:

Harmonization of rules makes PA's policy objectives unambiguously clear and leaves room for national regulatory preferences. The proposal recommends making soft commitments among the PA members. Alternatively, the PA may shift towards binding regional preferential trade agreements by filling the gap of CPTTP and making legislative, regulatory, and administrative policies readily available to the public.

E-Government: E-Government means providing public services to all citizens and businesses digitally and granting interconnection of public databases. The proposal recommends establishing common principles on e-government to improve government capacity, enhance SME competitiveness, and attract investors.

Regional Trade Promotion Organizations ("TPOs"): TPOs streamline resources, maximize industry efforts, and keep governments informed of the needs and aspirations of the private sector. The proposal recommends synergizing trade promotion and increasing private sector participation through regional TPOs. The TPOs should operate to improve SME competitiveness, reinforce knowledge sharing, and standardize production and certification processes.

Digital Finance: Peer to Peer ("P2P") Lending is particularly beneficial to PA's small companies that view availability of digital finance, including online P2P working capital loans, as their biggest challenge to develop e-commerce. The proposal recommends engaging in dialogues to locate the specific challenges for both companies and P2P platforms, promulgating operation guidelines and principles for P2P platforms, promoting cooperation between P2P platforms and traditional financial institutions, and educating the public on the advantages and the risks of P2P Lending.

Cross-Border Data Flow: The availability of non-personal data and its free flow are fundamental to increasing transparency and reducing costs for SMEs. The proposal recommends implementing the principles reflected in the International Open Data Charter to ensure availability of data.

Prevent Geo-Blocking: Preventing discrimination based on consumers' geographical locations have many benefits. It allows consumers equal access to goods and services, increase SMEs' profits, and facilitates the free flow of online payment. The proposal recommends evaluating the impact of geo-blocking on PA's businesses and consumers and committing to the prevention of such discrimination to offset its negative impact.

Cross-Border Online Payment: 30% of PA's companies find online payments to be an obstacle for cross-border online sales. The proposal recommends engaging in dialogues to identify the specific obstacles, encouraging the development of a uniform online payment system for PA sellers and buyers, and informing PA businesses about cross-border online payment systems and the opportunities to facilitate foreign transactions.

Electronic Data Exchange System: Electronic systems for filing, transferring, processing, and exchanging customs information is important to manage information flow and streamline customs processes. The proposal recommends developing an electronic system to allow frictionless processing and exchange of customs information, establishing a committee and an executing agency to work closely with the PA governments, and constantly increasing the technical capability of the system.

The four High-Reaching priorities offer a preview of the longer-term considerations in PA's sustainable development of its Digital Agenda.

Data Protection Systems: The need to ensure data security is more acute today due to the increase of cross-border data flow. The proposal recommends evaluating the need to develop a data protection system at the national level, choosing between a self-executing and a non-self-executing data protection system, and designating authorities to oversee its implementation.

Electronic Single Window: Coordination among the PA members' Single Window systems help increase intra-PA trade. The proposal recommends enhancing information-sharing and implementing a Regional Single Window in long term.

Training & Education: Companies and citizens need to be aware of and be able to use the available tools to benefit from the Digital Agenda. The proposal recommends promoting alliances between public and private sectors and developing education plans and training programs.

Trade Logistics Infrastructure: The long-term development of a Digital Agenda needs adequate infrastructure support. The proposal recommends promoting public-private alliances to improve infrastructure, establishing consistent regional policies, and improving weak dimensions based on supply chain performance evaluation.

1. Introduction

The Pacific Alliance (“PA”) is an initiative of regional integration comprised of Chile, Colombia, Mexico, and Peru, officially established on April 28, 2011. The PA has its mandates in improving the free movement of goods, services, resources, and people, promoting the competitiveness of its members, and becoming a platform of political articulation, economic and commercial integration and projection to the world.¹ In 2016, the PA established a Digital Agenda Sub Group to fulfill the mandate of Chapter 13 (e-commerce) and Chapter 14 (telecommunications) of the Additional Protocol to the Framework Agreement of the PA. In 2017, a regional Digital Agenda and its roadmap were created and the task of identifying priorities for the private sector was mentioned for the first time.

The need for developing a Digital Agenda for trade facilitation is acute. In 2013, intra-PA trade represented only 3.5% of the region’s total trade, while the corresponding figures in the EU, the NAFTA region, and the ASEAN+5 region were respectively 59.1%, 49.6%, and 49.8%.² A key focus of this Digital Agenda is the Small and Medium-Sized Enterprises (“SMEs”). Microenterprises and SMEs count for approximately 99% of businesses and 67% of employment in PA countries.³ The table below lists the percentages of different types of enterprises in PA countries in 2011.⁴

	Chile	Colombia	Mexico	Peru
Micro	90.4	93.2	95.4	98.1
SMEs	9	6.5	4.4	1.8
• Small	7.8	5.5	3.6	1.5
• Medium	1.2	1	0.8	0.3
Large	0.6	0.3	0.2	0.1

¹ PA’s official website, <https://alianzapacifico.net/que-es-la-alianza/> (last visited May 12, 2018).

² OECD, How to Foster the Internationalization of SMEs through the Pacific Alliance Integration Process, at 7 (2015).

³ OECD, How to Foster the Internationalization of SMEs through the Pacific Alliance Integration Process, at 11 (2015).

⁴ OECD/ECLAC (2012), Latin American Economic Outlook 2013, SME Policies for Structural Change, OECD Publishing, Paris, <http://dx.doi.org/10.1787/leo-2013-en> (last visited May 12, 2018).

Customs clearance procedures within the PA are onerous and complicated. Time and cost associated with the logistical processes of exporting and importing goods are more burdensome than those in most parts of the world. The table below measures three sets of procedures—documentary compliance, border compliance, and domestic transport—within the overall process of exporting or importing a shipment of goods and gives a summary of the time and cost associated with customs procedures.⁵

Economy	Trading Across Borders DTF ⁶	Trading Across Borders Rank	Time to Export: Border compliance ⁷ (hours)	Cost of Export: Border Compliance (USD)	Time to Export: Documentary Compliance (hours)	Cost of Export: Documentary Compliance (USD)
Latin America & Caribbean	68.71	101	62.5	526.5	53.3	110.4
East Asia and Pacific	69.97	102	55.9	387.5	68.2	112.1
OECD High Income	93.92	25	12.7	149.9	2.4	35.4
Chile	80.56	68	60	290	24	50
Colombia	62.83	125	112	545	60	90
Mexico	82.09	63	20.4	400	8	60
Peru	71.45	92	48	460	48	50

Cross-border e-commerce is expected to grow by about 25% annually and account for 22% of global e-commerce by 2020.⁸ The Pacific Region is forecasted to account for two-thirds of global e-commerce by 2021, when sales will total 28 trillion USD. Latin America, however, is forecasted to account for

⁵ Trade across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders> (The most recent round of data collection for the project was completed in June 2017) (last visited May 12, 2018).

⁶ Distance to Frontier. It illustrates the distance of an economy to the “frontier,” which represents the best performance. The higher the score, the better the performance.

⁷ This includes the time for customs clearance and inspection procedures conducted by other agencies. If all customs clearance and other inspections take place at the port or border at the same time, the time estimate takes this simultaneously into account; if they take place at other locations, the compliance time is the sum of the time spent at those locations and the time spent at the port or border. However, if inspection by other agencies take place in less than 20% of cases, the time is not accounted for.

⁸ The 21st Century Spice Trade: A Guide to The Cross-Border E-Commerce Opportunity, DHL Report, http://www.dhl.com/content/dam/Campaigns/Express_Campaigns/Local_Campaigns/apem/express_campaign_spice_trade_apem_en.pdf (last visited May 12, 2018).

only 10% of global e-commerce in 2021, a significant decrease in global shares from 26% in 2010 and 15% in 2017. There is an acute need to improve and expand the landscape of the digital economy in Latin America.

The PA, like other developing regions, faces certain generic challenges in developing a digital economy, including, for example, access to Internet and telecommunications services, infrastructure and logistics, restrictive legal frameworks, data security and consumer privacy, cross-border online payment, regional and international certification, access to technology and trained personnel, etc. In addition, each PA member faces unique challenges based on data from the International Trade Centre (“ITC”)⁹:

- **Chile** has unrealized export potential to Europe and Asia. SMEs in Chile underperform in having international quality certificates, audited financial statements, and foreign technology licenses.
- **Colombia** has high unrealized export potential in gold, fresh cut flowers and buds, and coffee. SMEs in Colombia underperform in customs clearance efficiency and in accessing finance and an educated workforce.
- **Mexico’s** SMEs underperform in having bank accounts and audited financial statements.
- **Peru** has unrealized export potential in gold and coffee. Similar to Chile, SMEs in Peru underperform in having audited financial statements and acquiring foreign technology licenses.

The goal of this document is to unpack the Digital Agenda in tangible and concrete top priorities, help the PA learn from existent best practices, and make proposals doable through regulations with an immediate impact on the people and businesses in the region. This document will be presented during PA’s Digital Trade Group’s meeting in May 2018 for discussion.

⁹ ITC, SME Competitiveness Outlook 2017, The region: A Door to Global Trade, at 147, 151, 188, 200 (Oct. 2017).

Our methodology in developing the digital agenda includes conducting comparative studies to identify key regulations and successful precedents of regional organizations like APEC, BRIC, EU, and MERCOSUR, as well as drawing lessons from international institutions like the ITC, World Bank, WTO, etc. Case studies are also drawn from successful practices by countries like China (digital finance, cross-border online payment, and electronic data exchange system), Finland (e-government), the United States (harmonization of digital trade rules in transparency), and other leading predecessors in the development of the digital economy. Based on those studies and practices, we develop a list of priorities as “Low-Hanging Fruit” that are easily achievable and can have a quick impact as part of the PA’s Digital Agenda. Besides, we propose a list of longer-term “High-Reaching” objectives that require infrastructure improvement, legislative reform, large investment, and deep commitment among the PA members. At the end of each identified topic, we make proposals geared towards the very conditions and needs of the PA and its members.

There is no single blueprint for success. Nonetheless, at least two success factors are instructive: (1) the use of the home region as springboard to expand globally, and (2) deep regional integration.¹⁰ Our proposals address how these two fundamental elements are leveraged. The priorities are ordered based on the degree of difficulty to implement, from relatively easier to harder. The table below offers our overview of the priorities that the PA may consider in developing its Digital Agenda:

	Low-Hanging Fruit	High-Reaching Objectives
1	Custom Duties (<i>de minimis</i>)	Data Protection System
2	Harmonization of Digital Trade Rules in Transparency	Electronic Single Window
3	E-Government	Training and Education
4	Regional Trade Promotion Organization	Trade Logistics Infrastructure

¹⁰ ITC, SME Competitiveness Outlook 2017, The region: A Door to Global Trade, at XXV (Oct. 2017).

5	Digital Finance	
6	Cross-Border Data Flow	
7	Prevent Geo-Blocking	
8	Cross-Border Online Payment	
9	Electronic Data Exchange System	

Concerning the importance of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“CPTPP”) in facilitating free trade, we have incorporated key considerations addressed under Chapter 14—Electronic Commerce—of the CPTPP in developing priorities and making proposals.

This Digital Agenda may implement the CPTPP’s e-commerce provisions through concrete action plans and bring high level political commitments into life. For example, the Harmonization of Digital Trade Rule in Transparency seeks to maintain transparent and effective measures to protect consumers from fraudulent trade practices (Article 14.7), proposals made under E-Government will make administration documents available to the public in electronic form (Article 14.9), Regional TPOs will allow the PA members to work together closely to assist SMEs to overcome obstacles in actively developing e-commerce (Article 14.16), and a well-regulated Digital Finance framework will allow the PA members to have streamlined oversight over electronic transactions. In addition, the tenets of some e-commerce provisions are reflected in multiple priorities. For instance, Digital Finance, Cross-Border Data Flow, Cross-Border Online Payment and Data Protection Systems all implicate better protection of consumer privacy and data (14.7 and 14.8), electronic authentication and signature (14.6), and non-discrimination of data location (14.4 and 14.11).

2. Low-Hanging Fruit

2.1. Customs Duties (*De Minimis*)

2.1.1. Introduction

To illustrate the kind of problems created by low *de minimis* levels, imagine a Chilean customer who buys a piece of handmade cotton textile that is worth 60 USD from a Mexican seller on Mercado Libre.¹¹ Despite her anxious waiting, the customer finds the textile stuck at the Chilean customs. She has to spend extra time paying customs duties in order to get the textile. Unfortunately, when she finally gets the item, it turns out not to be the type of textile she expected, and now she has to return it to the seller. However, she is informed by the seller that the textile is stuck again at the Mexican border and she must pay another customs duties before the seller can get the returned item and process a refund for her.

De Minimis level is the valuation ceiling below which imported goods are not charged any duty or tax at customs.¹² Higher *de minimis* levels allow easier and faster entry for more goods valued below such level.¹³

In fact, complying with burdensome customs procedure is one of the top three bottlenecks in SME trading.¹⁴ Customs duties also have large-scale impact on consumer behavior: 80% of consumers surveyed in Latin America would buy more if the duties were reduced or eliminated.¹⁵

¹¹ Mercado Libre is Latin America's most popular e-commerce site by number of visitors, it operates online marketplaces across Latin American countries.

¹² ICC Policy Statement on Global Baseline De Minimis Value Thresholds, February 2015, <https://iccwbo.org/publication/icc-policy-statement-on-global-baseline-de-minimis-value-thresholds-2015/> (last visited May 12, 2018).

¹³ ICC Policy Statement on Global Baseline De Minimis Value Thresholds, February 2015, <https://iccwbo.org/publication/icc-policy-statement-on-global-baseline-de-minimis-value-thresholds-2015/> (last visited May 12, 2018).

¹⁴ Kati Suominen, *Accelerating SME Trade: De Minimis Plurilateral*, April 24, 2017, <https://www.nextradegrouppllc.com/copy-of-new-e-commerce-development-i> (last visited May 12, 2018).

¹⁵ International Trade Administration, eCommerce Guide, <https://www.export.gov/article?id=Duties-and-Taxes-eCommerce-Guide-2> (last visited May 12, 2018).

2.1.2. Comparative Study

Below are the *de minimis* levels of the PA members, some trading partners of the PA, and selected major economies, as of March 2018.¹⁶

Country	<i>De Minimis</i> Level	Country	<i>De Minimis</i> Level
Australia	1000 AUD (810 USD) (to be eliminated for GST on July 1, 2018)	United States	800 USD (raised from 200 USD in 2016)
Singapore	400 SGD (305 USD)	New Zealand	400 NZD (295 USD) (GST owed below 60 NZD)
Colombia	200 USD	Peru	200 USD
Philippines	10,000 PHP (190 USD) (raised from 10 PHP in 2016)	Most EU Countries	Custom duties exempt for goods under 150 EUR (186 USD) VAT exempt for goods under 22 EUR (27 USD)
India	10,000 INR (150 USD)	Malaysia	500 MYR (128 USD)
Korea	118,000 KRW (110 USD)	Indonesia	100 USD
Israel	100 USD	Japan	10,000 JPY (90 USD)
Russia	5,000 RUR (89 USD)	Brazil	50 USD
Mexico	50 USD	Chile	30 USD
Canada	20 CAD (15 USD)	China	Shipments with duty and VAT liability less than 50 RMB (8 USD)

*GST= Goods and Services Tax, VAT= Value-Added Tax.

Observations:

- Chile and Mexico have significantly lower *de minimis* levels compared to Colombia and Peru. Intra-PA trade may have been hampered by the low *de minimis* levels and the discussion below may be more relevant to Chile and Mexico.
- Countries go different directions: Australia lowered its *de minimis* level to 0 for GST, United States and Philippines have recently raised their *de minimis* levels.

¹⁶ Overview of the minimis value regimes open to express shipments worldwide, Global Express Association, March 2, 2018, https://global-express.org/assets/files/Members-Library-2/GEA%20overview%20on%20de%20minimis_2%20March%202018.pdf (last visited May 12, 2018).

2.1.3. Key Considerations

- The table below reflects the pros and cons of a higher *de minimis* level:

Pros	Cons
Improvement of shopping experience for domestic consumers, faster delivery and easier return	Increase in undervaluation practices (designate lower prices than the actual values of goods in order to avoid higher duties) and splitting consignments
Reallocating saved resources (spent on processing low value items) to higher priorities, ¹⁷ for example, interdicting smuggling and counterfeiting goods	Loss of customs duty and sales tax revenue, abuse by illicit trade practices, threat on border security
Less customs compliance burden on importing SMEs, increase of exporting SMEs' competitiveness ¹⁸	More potential competition faced by domestic SMEs

- However, some perceived concerns are unwarranted or could be offset:
 - The costs to process low value and low risk shipments outweigh the revenues collected from those items.¹⁹
 - A study of EU's practice finds no correlation between the *de minimis* level and undervaluation practices by foreign traders.²⁰
 - An increase in *de minimis* levels does not necessarily jeopardize border security because advance cargo reporting is required by most countries, regardless of the declared shipment value.²¹

¹⁷ The Import VAT and Duty *De-Minimis* in the European Union—Where Should They Be and What Will Be the Impact? at 43, <http://www.euroexpress.org/uploads/ELibrary/CDS-Report-Jan2015-publishing-final-2.pdf> (last visited May 12, 2018).

¹⁸ ICC Policy Statement on Global Baseline De Minimis Value Thresholds, February 2015, <https://iccwbo.org/publication/icc-policy-statement-on-global-baseline-de-minimis-value-thresholds-2015/> (last visited May 12, 2018).

¹⁹ ICC Policy Statement on Global Baseline De Minimis Value Thresholds, February 2015, <https://iccwbo.org/publication/icc-policy-statement-on-global-baseline-de-minimis-value-thresholds-2015/> (last visited May 12, 2018).

²⁰ Steven Pope, Cezary Sowiński & Ives Taelman, Import Value De Minimis Level in Selected Economies as Cause of Undervaluation of Imported Goods, 8 *World Customs Journal* 2, [http://worldcustomsjournal.org/Archives/Volume%208%2C%20Number%202%20\(Sep%202014\)/09%20Pope%20et%20al.pdf](http://worldcustomsjournal.org/Archives/Volume%208%2C%20Number%202%20(Sep%202014)/09%20Pope%20et%20al.pdf) (last visited May 12, 2018).

²¹ Stephen Holloway & Jeffrey Rae, *De Minimis Thresholds in APEC*, 6 *World Customs Journal* 1, [http://worldcustomsjournal.org/Archives/Volume%206%2C%20Number%201%20\(Mar%202012\)/04%20Holloway_Rae.pdf](http://worldcustomsjournal.org/Archives/Volume%206%2C%20Number%201%20(Mar%202012)/04%20Holloway_Rae.pdf) (last visited May 12, 2018).

- The net effects of a reasonably high *de minimis* are likely to be positive. A study on APEC's *de minimis* levels concludes that a 200 USD threshold would generate a net benefit of about 30.3 billion USD for 21 APEC members. The primary benefit is saving resources in government administration and business compliance. The lost tariff revenue amounts to less than 1% of the benefits, and the lost VAT revenue amounts to no more than 4% of the benefits in the worst scenario.²²
- To further address the concerns posed by a higher *de minimis* level, governments may adopt supplemental measures as safety valves:
 - Collaborate among relevant government agencies to identify a list of products that are inherently riskier and require review by multiple agencies. Establish a mechanism to subject all other *de minimis* shipments to simplified processes and periodic spot checks by the customs.²³
 - Develop and improve computerized custom systems to enable customs to process higher volumes faster and more accurately.²⁴
 - Consider the flexibility of imposing different *de minimis* levels for customs duties and GSTs. For example, Australia's new *de minimis* rules would require businesses to account for GST on sales if their GST turnovers are above 75,000 AUD.²⁵

²² Stephen Holloway & Jeffrey Rae, *De Minimis Thresholds in APEC*, 6 World Customs Journal 1, [http://worldcustomsjournal.org/Archives/Volume%206%2C%20Number%201%20\(Mar%202012\)/04%20Holloway_Rae.pdf](http://worldcustomsjournal.org/Archives/Volume%206%2C%20Number%201%20(Mar%202012)/04%20Holloway_Rae.pdf) (last visited May 12, 2018).

²³ Testimony of the Express Association of America to the Committee on Ways and Means Subcommittee on Trade, United States House of Representatives Hearing on: Effective Enforcement of U.S. Trade Laws, on September 27, 2016, <https://waysandmeans.house.gov/wp-content/uploads/2016/12/20160927TR-SFRs.pdf> (last visited May 12, 2018).

²⁴ Higher De Minimis Level Delights US Importers, Frustrates Brokers, https://www.joc.com/regulation-policy/customs-regulations/us-customs-regulations/higher-de-minimis-level-delights-us-importers-and-frustrates-brokers_20171017.html (last visited May 12, 2018). This proposal is further addressed under Section 2.9 Electronic Data Exchange Systems.

²⁵ Australian Taxation Office, <https://www.ato.gov.au/General/New-legislation/In-detail/Indirect-taxes/GST/GST-on-low-value-imported-goods/> (last visited May 12, 2018).

2.1.4. Proposals

- First, conclude a WTO-complying agreement among the PA members to establish a higher uniform *de minimis* level for intra-PA trade.²⁶
- Second, based on the assessed impact of a higher *de minimis* level on intra-PA trade:
 - Consider the possibility of adopting a higher uniform *de minimis* level applicable to more or even all countries.²⁷
 - Consider the option of tailoring different *de minimis* levels for customs duties and GSTs if revenue losses and local SMEs' competitiveness turn out to be big issues. If necessary, impose the obligation to collect GSTs on foreign sellers whose sales amounts exceed a certain threshold.

2.2. Harmonization of Digital Trade Rules in Transparency

2.2.1. Introduction

Harmonization of digital trade rules can be done in preferential trade agreements through deep e-commerce integration. Deep digital trade rules are detailed, beyond-the-border regulations that are broader than eliminating regular trade barriers alone. They make the policy objectives unambiguously clear and demanding, but at the same time leave much room for national regulatory preferences. Currently, three of the four PA members—except for Colombia—are parties to the CPTPP which includes provisions for trade facilitation and e-commerce integration.

²⁶ See Kati Suominen, Accelerating SME Trade: De Minimis Plurilateral, April 24, 2017, <https://www.nextradegroupllc.com/copy-of-new-e-commerce-development-i> (last visited May 12, 2018).

²⁷ See Kati Suominen, Accelerating SME Trade: De Minimis Plurilateral, April 24, 2017, <https://www.nextradegroupllc.com/copy-of-new-e-commerce-development-i> (last visited May 12, 2018).

2.2.2. Comparative Study

In general, there are two types of deep e-commerce integration provisions. The US approach is more formal and has binding power. The EU approach is more flexible and non-binding.²⁸

- **US Approach** puts deep digital trade rules in self-standing e-commerce chapters. The rules make broad suggestions on policy directions to be filled with meaning at the national level and include cross-reference to existing standards outside the trade agreement. This approach serves to fill the gap in regional or international agreements for these e-commerce-specific rules.

CPTPP sample provision: *“No Party shall adopt or maintain measures for electronic authentication that would: (a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods for that transaction; or (b) prevent parties to an electronic transaction from having the opportunity to establish before judicial or administrative authorities that their transaction complies with any legal requirements with respect to authentication.”*²⁹

- **EU Approach** integrates cooperation pledges with non-binding or joint statements that detail the area of cooperation without making a normative pronouncement on explicit goals or forms of associated regulations. This approach is more flexible, ranging from short statements on the promotion of e-commerce to broader agreements.

CETA sample provision: *“[R]ecognizing the global nature of electronic commerce, the Parties agree to maintain a dialogue on issues raised by electronic commerce, which will address, among other things,*

²⁸ Sacha Wunsch-Vincent & Arno Hold, *Towards Coherent Rules for Digital Trade: Building on Efforts in Multi-lateral versus Preferential Trade Negotiations*, in *Trade Governance in The Digital Age*: World Trade Forum 179, 206-08 (Mira Burri & Thomas Cottier eds., 2012).

²⁹ Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“CPTPP”), Chapter 14, Article 14.6 Electronic Authentication and Electronic Signature.

the recognition of certification of electronic signatures issues to the public and the facilitation of cross-border certification services.”³⁰

2.2.3. Key Considerations

- **Transparency.** Ensure transparency through publicly available e-commerce laws and regulations. The CPTPP does not provide for transparency in customs and trade facilitation.
- **Consumer Protection.** Adopt effective measures to protect consumers from fraudulent and deceptive commercial practices.
- **Authentication and Digital Signature.** Provide for mutual recognition of digital signature and certificates.
- **Data Protection.** Ensure the confidence of e-commerce users.
- **Paperless Trading.** Make all trade administration documents available to the public in electronic form.

2.2.4. Proposals

- The PA can follow the more flexible EU approach, make joint statements and declarations to work towards the facilitation of intra-PA trade, with an intent to achieve deeper integration. The results and effectiveness of the declarations shall be evaluated before the PA implements deeper commitments. The PA can achieve deeper integration either through preferential trade agreements among the four members or reform of national regulations.
- The PA may fill the gap in CPTPP and make commitments to streamlining customs processes and making information public online. The following examples are sample provisions that could be considered.
 - Each Party shall publish or otherwise make available, including through electronic means, its legislation, regulations, judicial decisions, and administrative policies relating to requirements for the import or export of goods.

³⁰ The Comprehensive and Economic Trade Agreement (“CETA”), Chapter 16, Article 16.6 Dialogue of Electronic Commerce (2018).

- Each Party shall endeavor to make public, including on the internet, proposed regulations and administrative policies relating to customs matters and to provide interested persons an opportunity to comment prior to their adoption.
- Each Party shall designate or maintain one or more contact points to address inquiries by interested persons concerning customs matters and shall have publicly available the procedures to follow in order to make such inquiries.

2.3. E-Government

2.3.1. Introduction

E-Government means providing public services to all citizens and businesses digitally and granting interconnection of public databases. E-Government can substantially improve government capacity,³¹ enhance competitiveness, and attract investors.³²

The World Bank Doing Business Project measures the “Starting a Business” indicator.³³ This indicator evaluates the requirements, procedures, time, and cost associated with starting a business in each country.³⁴ The study compares the results of each country with the best performance observed, which is scored as 100. The difference is referred to as Distance to Frontier (“DTF”). The study reveals a strong relationship between the level of cost, time, and procedures required to start a business, and the rate of new firm registration.

³¹ Does E-Government Improve Government Capacity? Evidence from Tax Administration and Public Procurement, <https://openknowledge.worldbank.org/handle/10986/24231> (last visited May 12, 2018).

³² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions. EU eGovernment Action Plan 2016-2020, Apr. 19, 2016.

³³ Trading across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders/good-practices> (last visited May 12, 2018).

³⁴ Trading across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders/good-practices> (last visited May 12, 2018).

The OECD DTF average is 77.46. Chile performs at 71.2, Colombia at 69.42, Peru at 69.45, and Mexico at 72.27.³⁵ Consequently, all of the PA members are below the OECD average and have room for improvement by simplifying procedures to facilitate the process starting a new business.

2.3.2. Comparative Study

- EU “Once-only” Principle.³⁶ This principle means that people and businesses should not have to submit their information more than once to the public administration. Through the unification of the available data and systems, the public administration can reuse the information. The initiative was launched in 2017 and is being tested through three pilot projects:
 - Cross-Border E-Services for Business Mobility. Cross-Border E-Services for Business Mobility. Automates data and allows cross-border participation in public procurement procedures and cross-border services provision and businesses.
 - Updating Connected Company Data. Centralizes business registers in the region.
 - Online Ship and Crew Certificates. Connects all databases of National Maritime Authorities, digitalizes the information, and gives access to the public.³⁷
- Finland E-Government Initiative.³⁸ The government of Finland implemented different initiatives to digitalize public services:
 - Digitalization of Public Services³⁹:

³⁵ Doing Business Mexico, World Bank, 2018, at 4.

³⁶ The initiative is part of the Action Plan 2016-2020, expected to be fully implemented by 2020 at the regional level. More information available at <http://www.toop.eu/once-only> (last visited May 12, 2018).

³⁷ Engaging Public Administrations to increase Efficiency in the European Single Market, “The Kick-Off Meeting for the ‘Once Only’ Principle Project (TOOP)”, Press Release, 25-27 January 2017.

³⁸ eGovernment in Finland, European Commission, Feb. 2016, https://joinup.ec.europa.eu/sites/default/files/inline-files/eGovernment%20in%20Finland%20-%20February%202016%20-%202018_00%20-%20v2_00.pdf (last visited May 12, 2018).

³⁹ Tommi Inkinen, *Examining Successful Public Sector Electronic Services*, at 103, in *Public Sector Transformation through E-Government* (2013).

- The government first reviewed the current legislations and amendments to identify how digital public services could be provided.
 - Then, the government called for proposals on services digitalization from administrative offices, NGOs, and the private sector.
 - Finally, the government selected the most suitable proposals and provided funding for them.
- Enterprise Finland.⁴⁰ The government sets up free online services for SMEs.

- How to Start a Business Guide⁴¹

This website incorporates all the information an SME will need to start and conduct its business. Among the various options, there are tools such as Establishing the Company, Financial Planning (with the information on available loans), Business Planning, Permits and Obligations, and Expanding the Business.

Additionally, the website includes a tool that automatically generates a checklist with all the steps to be followed to start a new business, depending on the different needs of companies.

⁴⁰ eGovernment in Finland, European Commission, Feb. 2016, https://joinup.ec.europa.eu/sites/default/files/inline-files/eGovernment%20in%20Finland%20-%20February%202016%20-%2018_00%20-%20v2_00.pdf, at 28 (last visited May 12, 2018).

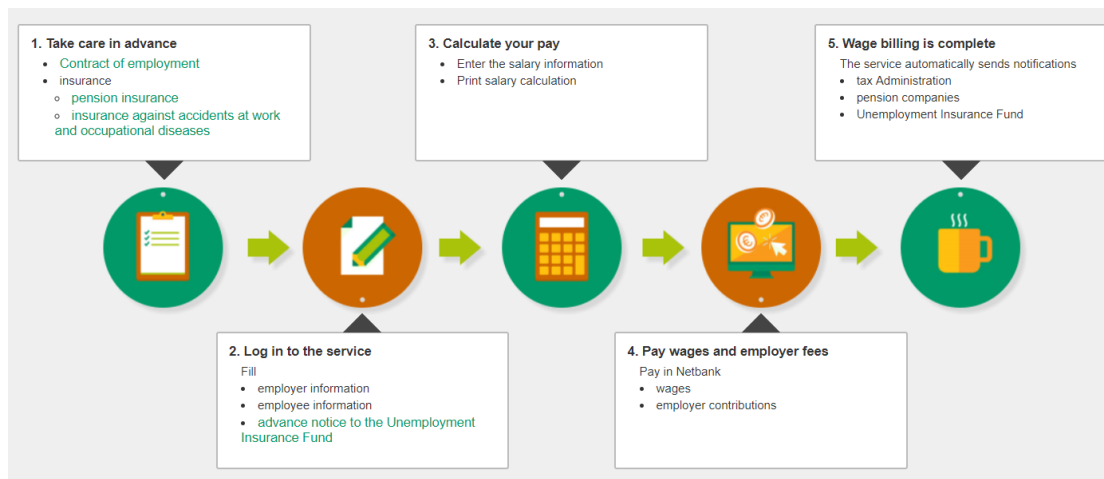
⁴¹ <https://www.suomi.fi/company> (last visited May 12, 2018).

Information and services for companies and company founders



▪ Accounting tool for SMEs⁴²

This tool allows SMEs to calculate salaries, wages, and taxes on a friendly interface.



2.3.3. Key Considerations

- An E-Government should seek to broaden access to information for companies and citizens.

⁴² <https://www.palkka.fi/> (last visited May 12, 2018).

- Consider E-Government as a tool to improve government performance and simplify access to public services.
- Use online tools to increase SMEs efficiency, productivity, and competitiveness.
- Make information publicly available to enhance trust and transparency and to attract more businesses.
- Increase business registration through simpler and faster mechanisms.

2.3.4. Proposals

- Exchange PA members' best practices on digital delivery of public services.
- Agree on common principles of e-government to ensure reuse of data, cross-border sharing of authorized information, and access to digital public services.
- Ensure transparency while reusing data. Grant users access to recorded information and allow them to make changes.
- Promote dialogues among national business registers of each PA members to share information, avoid duplication of data, and promote efficiency in the region.
- At the national level, consider a request for proposals from the private sector and NGOs in terms of public services accessibility. Consider implementing pilot tools to evaluate performance and impacts on SMEs.
- Evaluate the establishment of a regional database to simplify access to public services.

2.4. Regional Trade Promotion Organizations

2.4.1. Introduction

Regional trade and investment support institutions ("TISIs") assist SMEs to internationalize. TISIs include trade promotion organizations ("TPOs"), national trade support agencies, and other local bodies such as chambers,

sector, and industry organizations.⁴³ TPOs streamline resources, maximize industry efforts, and keep governments informed of the needs and aspirations of the private sector. SMEs benefit from these combined agencies in integrated administration functions, strategic planning, market research, image building, and overseas representation.⁴⁴

TPOs and other public-sector players also play an important role in sparking competition among private participants. Beyond the customs formalities, private providers of trade services—such as customs brokers, transport companies, and port service providers—all have important effects on the time and cost of trade across borders.⁴⁵ Greater competition among trade service providers can lead to lower fees and higher quality of service, as can better infrastructure.

In the PA, TPOs of member states (ProChile, ProColombia, ProMéxico, and PromPerú) work together to develop synergies for promotion and participation in fairs and events, exchange experiences, establish trade offices abroad, and identify and promote business opportunities between companies within alliance member countries and others.⁴⁶ As part of the XI Summit of the PA, the highest authorities of the promotional agencies of the PA signed a new work commitment with the aim of creating joint spaces for international promotion and strengthening instruments for increasing intraregional trade, with an emphasis on SMEs from all four countries.

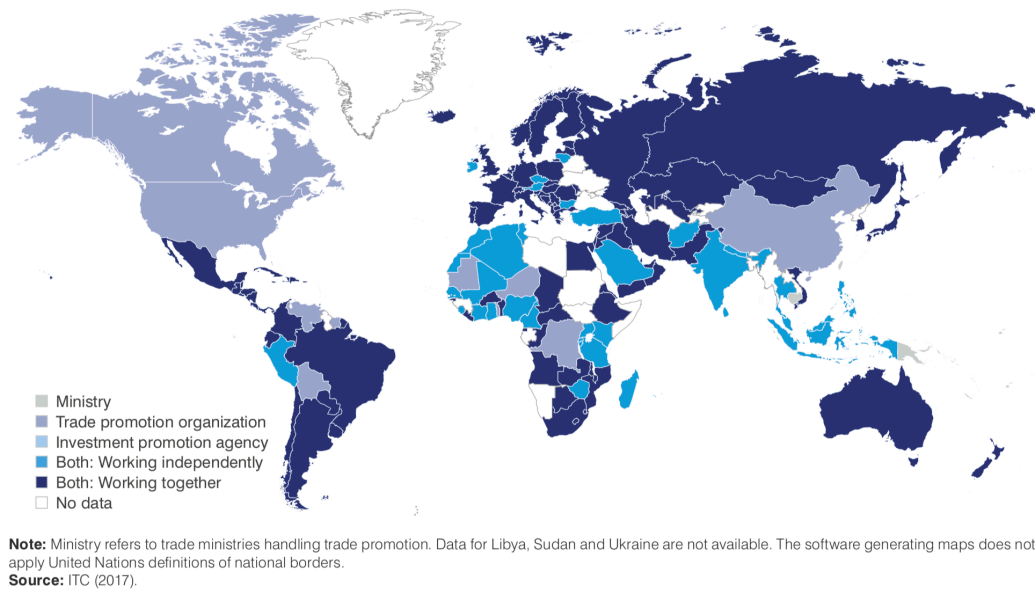
⁴³ ITC, SME Competitiveness Outlook 2017, *The region: A Door to Global Trade*, at 63 (Oct. 2017).

⁴⁴ ITC, SME Competitiveness Outlook 2017, *The region: A Door to Global Trade*, at 67 (Oct. 2017).

⁴⁵ Trading across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders/good-practices> (last visited May 12, 2018).

⁴⁶ ITC, SME Competitiveness Outlook 2017, *The region: A Door to Global Trade*, at 74 (Oct. 2017).

FIGURE 38 Trade promotion organizations and investment promotion agencies are present in most countries



2.4.2. Comparative Study

• Regional TPOs

- **Europe:** European Trade Promotion Organizations (ETPO) links trade and investment promotion organizations from 28 European countries.
- **Spanish and Portuguese speaking countries:** Redlbero includes trade and investment promotion organizations from Spanish and Portuguese speaking countries in Europe and Latin America.
- **Asia Pacific:** The Asian Trade Promotion Forum (ATPF) gathers TPOs in the Asian region and includes some investment promotion institutions. ATPF also includes TPOs from the Pacific region, namely Austrade (Australia) and New Zealand Trade and Enterprise.
- Activities of selected regional trade promotion networks.⁴⁷

⁴⁷ ITC, based on information from ETPO, Redlbero and ATPF websites.

	ETPO	Redlbero	ATPF
Governance Practice and Processes	CEO roundtables. Annual conference.	Rotating presidency. Four annual meetings. Host country checklist for organizing meetings.	CEO meetings and working level meetings once a year.
Internal Communications, Information and Knowledge Management	Working group of information professional meets twice a year.	Communication protocol. Communication and Media Committee.	Capacity Building initiative. Program to help member TPOs develop human resources. Intranet system among the members.
Marketing Capabilities	Working group discusses information systems, internet presence, and new services.		APTF Joint Exhibition to explore business opportunities and closer working cooperation.

2.4.3. Key Considerations

- Not all trade facilitation reforms require heavy spending. Initiatives such as providing training, clarifying and publicizing rules, holding regular meetings with exporters on the clearance processes, and removing certain requirements or making them more efficient can make a difference.⁴⁸
- Facilitate exchange of information among national TISIs.
- Mentoring SMEs.
- Implement joint-sector strategies.
- Foster regional alliances.

⁴⁸ Trade across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders> (The most recent round of data collection for the project was completed in June 2017) (last visited May 12, 2018).

- Influence regional and national trade policy making processes through joint lobbying and advocacy.

2.4.4. Proposals

- Take advantage of existing regional institutions to identify business opportunities within regional trade agreements ⁴⁹ and enhance competitiveness and value of regional brands through interventions to promote exports and attract sales.
- Reinforce knowledge sharing between national TPOs and regional networks. Share business databases to create a regional business directory. Align national export strategies to exploit comparative and competitive advantages.
- Establish TPOs with a specific focus on SMEs. Offer training sessions and workshops for SMEs, help SMEs identify business opportunities, solve technical difficulties, and reach international markets.
- The public sector can also assist SMEs by helping develop and administer quality labels to attract the attention of global buyers. IDB research found that many firms regarded their certifications as similar to business cards, using them as an introduction to global buyers.⁵⁰
- Develop a PA certification to help MNEs identify quality local suppliers. Establish regional standard setting bodies and make them available to businesses and customers. Harmonize standards and certificates in the PA region, encourage SMEs to get involved in the standardization process, and harmonize production practices within the region for the sale of goods outside the PA.⁵¹

⁴⁹ For example, the Center for Advancement of Trade Agreements, established in 2013 under Colombia's Ministry of Trade, Industry and Tourism, aims to maximize the benefits of trade accords signed by Colombia. The center identifies sectors with export potential, bottlenecks, and remedial actions as part of the drive to take advantage of opportunities offered by these agreements.

⁵⁰ OECD, How to Foster the Internalisation of SMEs Through the Pacific Alliance Integration Process, at 58 (2016).

⁵¹ One such example involves the voluntary sustainability standards adopted in a number of regions, including Africa, Europe, and Oceania.



Source: ITC.

Recommendations to reinforce knowledge sharing between national TPOs and regional networks

2.5. Digital Finance

2.5.1. Introduction

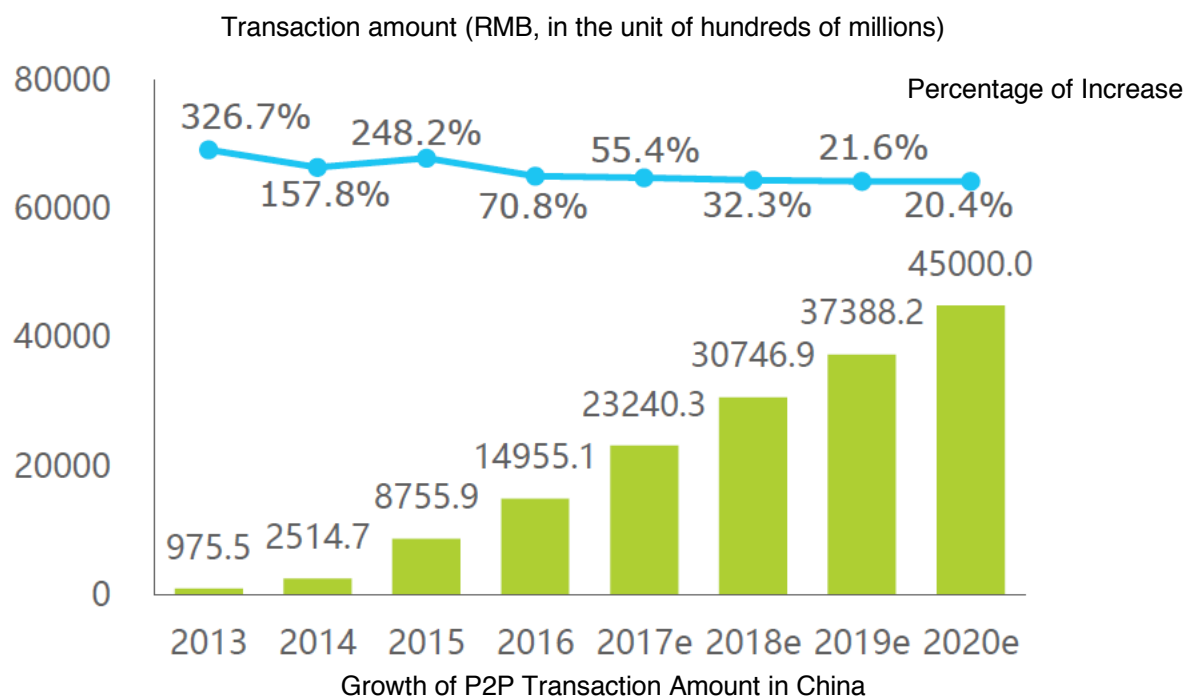
Peer to Peer (“P2P”) Lending enables companies, particularly SMEs, to finance their operations with resources collected from the public at large through online platforms.⁵² P2P Lending is particularly beneficial to PA’s small companies with no more than 50 employees, who claim availability of digital finance, including online P2P working capital loans, as their biggest challenge to develop e-commerce.⁵³

2.5.2. Comparative Study

P2P lending is taking off and growing in PA members. For example, Konfio operates in Mexico, Cumplo operates in Chile, and Afluenta, an Argentina-based P2P company, operates in Peru and soon in Colombia. As shown by the diagram below, China has seen an enormous growth in P2P transaction amount since 2013. Regulatory history and experience of China might be helpful to PA members.

⁵² Crowdfunding in Europe: Introduction and state of play, January 2017, [http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/595882/EPRS_BRI\(2017\)595882_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2017/595882/EPRS_BRI(2017)595882_EN.pdf) (last visited May 12, 2018).

⁵³ Kati Suominen, Accelerating Ecommerce in the Pacific Alliance, Aug. 6, 2017, at 14.



Generally, lenders in China would first publish their financing needs on P2P platforms. Interested borrowers would then contract with lenders through platforms. Prior to the implementation of formal regulations, platforms in China engaged in aggressive advertising and guaranteed repayment of borrowers' debt.⁵⁴ Soaring transaction amounts are followed by fraud and increasing failure of platforms.⁵⁵ The Chinese government—specifically the Banking Regulatory Commission, Ministry of Industry and Information Technology, Ministry of Public Security, and State Internet Information Office—then put regulations in place to require formal registration of platforms and limit their function to informational services.⁵⁶

Below is an overview of current Chinese P2P practice⁵⁷:

⁵⁴ The Future of P2P in China: Walk After American Colleagues, <http://tech.sina.com.cn/i/2017-03-24/doc-ifycstww0886441.shtml> (last visited May 12, 2018).

⁵⁵ Outlook of SMEs' Financing Through P2P, http://www.financialnews.com.cn/zgj/rj/201710/t20171024_126514.html (last visited May 12, 2018).

⁵⁶ Research Report of Chinese P2P Industry in 2017, <http://report.iresearch.cn/report/201712/3119.shtml> (last visited May 12, 2018).

⁵⁷ Annex 5.3.2 contains a specific case study of a Chinese online platform.

- Chinese government supports the development of P2P platforms as a way to better serve financing needs of SMEs and individuals.⁵⁸
 - Confirm the legality of P2P lending and clarify compliance requirements for P2P platforms.
 - Explicitly designate the regulation of P2P platforms to a specific regulatory body, namely the Banking Regulatory Commission.
 - Encourage banks to provide escrow, payment, and clearing service for P2P platforms.
 - Encourage qualified P2P platforms to utilize capital markets to finance their developments.
- Lenders generally have two options. They may:
 - Directly lend to specific borrowers, or
 - Authorize platforms to automatically match them with a group of borrowers based on pre-selected preferences.⁵⁹
- Platforms generally certify borrowers' identities and describe the proposed use of the money.
- Some platforms evaluate borrower credibility by checking the credit history provided by banks and credit assessment companies.

2.5.3. Key Considerations

- Regulations should ensure sufficient disclosure by both online platforms and borrowers.
 - Online platforms shall be publicly registered and recorded.
 - Online platforms shall conduct necessary reviews on the authenticity of information provided by borrowers.
- Separate finance institutions, like banks, shall act as custodians of the raised funds to prevent embezzlement.

⁵⁸ Guiding Opinion on Promoting Healthy Development of Internet Finance, http://www.mof.gov.cn/zhengwuxinxi/zhengcefabu/201507/t20150720_1332370.htm (last visited May 12, 2018).

⁵⁹ See, e.g. <http://www.niwodai.com/>.

- Limits shall be imposed on the maximum amount a single entity may borrow and on solicitation methods used by online platforms.
- Online platforms shall ensure the safety of information collected and the separation between their own funds and lenders' funds.

2.5.4. Proposals

- Engage in public-private dialogues to identify the specific challenges for P2P platforms and SMEs in providing and obtaining digital financing. Address their regulatory concerns.
- Research and promulgate operation guidelines and principles for P2P platforms to prevent fraud and protect lenders.
- Promote cooperation between P2P platforms and traditional financial institutions, by sharing credit information and facilitating fund transfers.
- Educate the public of the advantages as well as the risks about P2P.

2.6. Cross-Border Data Flow

2.6.1. Introduction

Cross-border data flow is the transfer of data among countries. Data flow generally suffers from local restrictions. These restrictions are implemented by local governments due to the need for local data centers and the lack of uniform copyright rules and interoperable systems.⁶⁰ Consequently, businesses encounter difficulties in terms of data ownership, interoperability and reliability, and restrictions on data location.⁶¹ This further results in higher costs or difficulties to launch new products and services.

Availability and free flow of non-personal data can lower costs on data services, which would allow SMEs to easily access global markets and allow companies and governments to store and process non-personal data at any location in the PA.

⁶⁰ Deloitte, Measuring the economic impact of cloud computing in Europe, 2016, at 19.

⁶¹ Deloitte, Measuring the economic impact of cloud computing in Europe, 2016, at 20.

Additionally, avoiding duplication of data will facilitate intra-PA trade. The International Open Data Charter embeds a set of principles that governments may adopt to grant free use of data. Chile, Colombia, and Mexico have adopted the Open Data Charter. Although Peru has not adopted it yet, it is in the process of negotiation. Additionally, Peru has adopted a national Action Plan for Data Flow that mirrors the principles of the Open Data Charter.

2.6.2. Comparative Study

- The EU has proposed an initiative to improve the mobility of non-personal data across borders⁶²:
 - Public consultation with the private sector found that most businesses were affected by data flow restrictions. Respondents of these consultations were SMEs, public authorities, NGOs, and consumers organizations from all sectors.
 - The problems identified by the SMEs included that they were required to store data in each location where they traded and to use local service providers. Additionally, changing to another provider was generally very difficult.
 - The EU implements flexible regulations. The Commission is currently working on elaborating codes of conduct and enacting a legislation that relies on self-regulation and sets up the framework by requiring members to avoid restriction of data-flows.
- The International Open Data Charter includes principles that governments could consider in order to make public data (data from public entities) available. The principles include making the data available to anyone, anytime, anywhere free of charge, and ensuring the data is reusable.

2.6.3. Key Considerations

- Help SMEs reduce the costs related to data storage.

⁶² Proposal for a regulation of the European Parliament and of the Council on a framework for the free flow of non-personal data in the European Union, Sept. 13, 2017.

- Ensure efficient usage and storage of data by facilitating its flow and avoiding the duplication of stored data in the region.
- Increase confidence and transparency for both customers and SMEs through a regulated and harmonized mechanism of public data.

2.6.4. Proposals

- Carry out studies to identify data flow restrictions at the national level.
- Remove these restrictions through the adoption of national legislations in accordance with the principles of the International Open Data Charter.
- Maintain a commitment to remove rules that restrict the flow of non-personal data.

2.7. Prevent Geo-Blocking

2.7.1. Introduction

Geo-blocking refers to discrimination against consumers based on their geographical locations when they attempt to buy goods or services electronically from another country.⁶³ Discriminatory practices include the denial of access to a specific platform and differences in offerings like prices, payment conditions, and services.⁶⁴ Geo-blocking limits consumers' choices, reduces overall consumer satisfaction, and undermines intra-regional trade. Generally, geo-blocking restrictions are done for two reasons: IP rights restrictions and promotion of sales of local companies over foreign companies.

In the PA, citizens have access to the online platform Mercado Libre. However, this platform operates local websites in each Latin American country. Consumers are directed to their Mercado Libre website based on their geographic location. Consumers could search for the “.com” website, and then select to navigate the Mercado Libre site from other country. However,

⁶³ Communication from the Commission to the European Parliament, the Council, the European Economics and Social Committee and the Committee of the Regions, on the Mid-Term Review on the implementation of the Digital Single Market Strategy, May 10, 2017, p. 9.

⁶⁴ Communication from the Commission to the European Parliament, the Council, the European Economics and Social Committee and the Committee of the Regions, on the Mid-Term Review on the implementation of the Digital Single Market Strategy, May 10, 2017, at 9.

consumers are not aware of this. They also have no guarantee that the purchase will be delivered across borders, and the payment method is generally limited to local credit cards. This situation tends to limit consumers' choices to local sellers.

2.7.2. Comparative Study

The European Commission conducted a survey among stakeholders and a study on the impact of geo-blocking. It concluded that, by eliminating geo-blocking, consumers' surplus⁶⁵ could increase by 1.2% due to access to lower prices and companies' profits could increase by 1.4% due to increase in sales.⁶⁶

Therefore, the EU passed a Regulation to prevent geo-blocking, which will take effect in December of 2018.⁶⁷ The regulation prohibits companies from discriminating consumers based on their geographical locations, when they attempt to buy goods, electronically supplied services, or services to be provided at other locations. It also prohibits re-routing the website without consumers' consent and discrimination based on the geographical origin of the payment method.

2.7.3. Key Considerations

- Ensure equal access to goods and services for all citizens.
- Allow cross-border payments in the region.
- Boost electronic trade by improving shopping experience for customers.
- Inform customers the possibility if accessing cross-border websites.

2.7.4. Proposals

- Given the Mercado Libre example, the PA members could engage in a dialogue with the private sector to consider avoiding re-routing without consumer consent.

⁶⁵ Consumer surplus is the difference between what consumers are willing to pay for a product or service and what they actually pay for it.

⁶⁶ An infographic of this survey is available at <http://www.consilium.europa.eu/en/infographics/geo-blocking/> (last visited May 12, 2018).

⁶⁷ EU Regulation 2018/302 of February 2018.

- The PA could conduct a survey among the private sector and consumers to identify the impact of geo-blocking on their electronic transactions.
- Depending on the results of the survey, the PA members could adopt a declaration to prevent geo-blocking of consumers located within the PA territory when they:
 - Buy goods electronically from another PA member.
 - Buy electronically supplied services hosted in another PA member.
 - Buy services provided in another PA member.

2.8. Cross-Border Online Payment

2.8.1. Introduction

Online payment is essential for making online trade easily accessible. It is important for the PA because 30% of PA companies find online payment a significant obstacle in cross-border online sales.⁶⁸ Besides, consumers tend to forego a transaction if the payment process is unsecured.⁶⁹

2.8.2. Comparative Study

Import of retail products into China increased from 80 billion RMB in 2012 to 409 billion RMB in 2016.⁷⁰ The Chinese government, specifically the State Administration of Foreign Exchange, initially authorized seventeen third-party payment companies to carry out a pilot program in “cross-border e-commerce foreign exchange payment business” in 2013. By 2015, a regulation was put in place to provide guidance on the cross-border foreign exchange payment business.

The two leading third-party payment companies in China—AliPay and WeChat Pay—both provide cross-border payment services for foreign sellers

⁶⁸ Kati Suominen, *Accelerating Ecommerce in the Pacific Alliance*, Aug. 6, 2017, at 15.

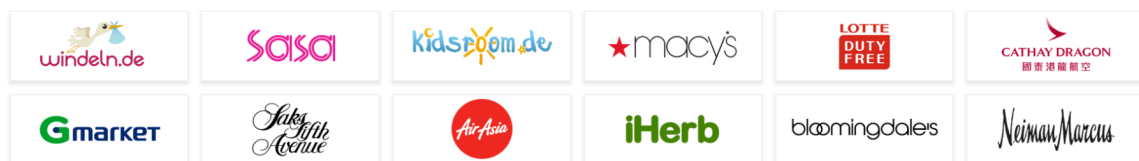
⁶⁹ Kati Suominen, *Accelerating Ecommerce in the Pacific Alliance*, Aug. 6, 2017, at 20-21.

⁷⁰ An analysis of third party cross-border payment market in China, <https://www.analysys.cn/analysis/trade/detail/1001128/> (last visited May 12, 2018).

upon application.⁷¹ Required application materials for sellers include a valid business registration certificate, ID certificates of directors and main contacts, and an anti-money laundering questionnaire.

Once sellers successfully register, Chinese consumers would be able to make payments to the sellers via these third-party payment services. Then, the third-party payment companies will settle foreign exchanges with their cooperating banks, who will in turn make final payments to sellers or seller-designated banks. Currencies that can be settled include USD, EUR, JPY, GBP, CAD, AUD, SGD, CHF, SEK, DKK, NOK, NZD, THB, HKD, KRW, and RUB. Settlement can be completed in one day. Notably, none of the PA members' currencies is included.

Moreover, these third-party payment companies provide other value-added services. For example, AliPay helps certify consumer identities and complete custom clearance procedures. Payment can be made online, via mobile devices, or in store.



Selected AliPay Clients

2.8.3. Key Considerations

- Ensure the security of PA consumers' and sellers' information submitted to and stored by third-party payment companies.
- Impose due diligence requirements on third-party payment companies to certify the identity and credibility of sellers and buyers.
- Require third-party payment companies to collect and report transaction records and to adhere to anti-money-laundering regulations.
- Impose limits on maximum single transaction amount.

⁷¹ The applications are available at <https://global.alipay.com/products/online> and https://pay.weixin.qq.com/public/wechatpay/apply_guide (last visited May 12, 2018).

- Ensure strict separation between third-party payment companies' own funds and their clients' funds.

2.8.4. Proposals

- Engage in dialogues with trade associations, banks, and leading third-party payment institutions. Find out the primary obstacles faced by PA companies in terms of cross-border online payment.
 - If there are regulatory barriers, hold cooperative conversations among relevant regulating agencies of PA members.
 - Design pilot programs. Draft and propose regulations facilitating cross-border online payment.
- Encourage and promote relevant parties to develop a uniform online payment system for PA sellers and buyers.
 - Integrate the uniform online payment system with online e-commerce platforms. For example, online e-commerce platforms could designate an intermediary account within the payment system for buyers to make online payments to. This allows buyers to recover payments in case products are not shipped on time or do not meet the quality standards.⁷²
- Inform PA businesses the availability of cross-border online payment systems. Cooperate with third-party payment companies abroad and facilitate foreign consumers' consumption in PA members.

2.9. Electronic Data Exchange System

2.9.1. Introduction

Electronic systems for filing, transferring, processing, and exchanging customs information have become an important tool for managing flows of

⁷² For example, Trade Association by Alibaba.com, http://activity.alibaba.com/helpcenter/Trade_Assurance_Guide.html?spm=a2700.7685647.2155925.6.47646cb9UKO5NB&tracelog=ta_landing_page (last visited May 12, 2018).

information.⁷³ The most advanced web-based systems allow traders to submit relevant documents and to pay duties online from anywhere in the world. The key to success is the ability of an economy to adapt its regulatory framework to the new information technologies. Today, traders can submit all trade documents electronically in more than half of OECD high-income economies without providing hard copies. In Sub-Saharan Africa, Eastern Europe, and Central Asia, by contrast, most economies that have electronic systems still require traders to submit hard copies of documents.⁷⁴ The table below lists the pros and cons of such systems.

Pros	Cons
If implemented effectively, the system allows electronic submission and processing of information required by customs, saving precious time and money.	The system requires governments to enact legislations on electronic signatures and transactions. Without appropriate legislation in place, the implementation of a new system can lead to redundancy and delays, requiring paper submission of signed documents after they have already been filed electronically.
The system greatly improves the predictability and quality of the risk analysis of the goods being transported, drastically reduces waiting time, and ensures traceability and predictability of goods.	For small and low-income economies, the infrastructure and training costs of implementing such a system can be onerous, and meaningful effects for local traders may take time to materialize.
The system improves private sector's competitiveness, optimizes revenue collection, and reduces the environmental footprint of transportation services.	The full potential of digitalization and electronic data interchange systems is not realized immediately. Implementing the system takes time and involves change in operational practices, in training, and in staff's work habits.
The system limits direct interactions with officials, which reduces opportunities for corruption.	

⁷³ Trading across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders/good-practices> (last visited May 12, 2018).

⁷⁴ Trading across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders/good-practices> (last visited May 12, 2018).

2.9.2. Comparative Study

- **The International Goods in Transit (“TIM”) system in Central America.** Designed in 2008 by the Integration and Trade Sector of the Inter-American Development Bank (“IDB”), TIM has dramatically improved the speed and efficiency of border clearance for goods in transit in nine economies. TIM is an electronic system for managing and controlling the movement of goods in transit that harmonizes previously cumbersome procedures into a single electronic document, consolidating information and certifications from various authorities including migration, customs, health, and agriculture. At some border locations, this system has reduced clearance time for goods in transit by up to 90%. Since its implementation at El Amatillo, TIM has reduced the processing time for goods in transit from 62 minutes to an average of eight minutes and decreased the number of submitted documents.

The project is based on three main pillars:

- Process reengineering: TIM harmonizes multiple paper-based declarations into a unique and comprehensive electronic document that gathers all data needed by customs, migration, and phytosanitary agencies;
- Information technology: TIM connects the intranet systems of all agencies participating in the project. It includes state-of-the-art risk analysis and cargo control systems; and
- Cooperation: TIM improves cooperation within the country and between the different agencies operating at borders in the Meso-American region.



- China’s Thirteen Cross-Border E-Commerce Pilot Zones.**⁷⁵ Since 2015, China has set up 13 Pilot Zones—cities with good infrastructure and strong trade and e-commerce development potential—to facilitate trade and boost China’s global competitiveness.⁷⁶ These pilot zones all have e-commerce service platforms offering services including customs clearance, logistics, tax refunds, payments, fund-raising, and risk control, while offline industrial parks provide whole-industrial-chain services.⁷⁷ Statistics from the Ministry of Commerce show that the total volume of foreign trade via cross-border e-commerce in the 13 Pilot Zones reached 163.7 billion RMB in 2016, up by more than 100% year-on-year.⁷⁸ The Pilot Zones develop e-commerce through six systems:

⁷⁵ E-Commerce in China 2016, Department of Commerce of the People’s Republic of China; see example of cross-border e-commerce public service platform at <http://www.kjeport.com> and <http://www.shcepp.com> (last visited May 12, 2018).

⁷⁶ Xu Wei, *China to Further Cross-Border E-Commerce to Boost Foreign Trade*, http://english.gov.cn/premier/news/2017/09/20/content_281475872724810.htm (Sept. 20, 2017) (Hangzhou city was the first to set up a pilot zone, it has seen an increase of total digital transaction from less than \$20 million in 2014 to more than \$3 trillion by November 2015.).

⁷⁷ Xu Wei, *China to Further Cross-Border E-Commerce to Boost Foreign Trade*, http://english.gov.cn/premier/news/2017/09/20/content_281475872724810.htm (Sept. 20, 2017)

⁷⁸ Xu Wei, *China to Further Cross-Border E-Commerce to Boost Foreign Trade*, http://english.gov.cn/premier/news/2017/09/20/content_281475872724810.htm (Sept. 20, 2017) (220 countries and regions across the world were covered by China’s cross-border e-commerce network as of 2016, with a turnover of 5.85 trillion yuan (\$889.7 billion), up by 28.2 percent year-on-year. More than 400 third-party platforms were established in the pilot zones, as were 20,000 cross-border e-commerce trade companies).

information sharing, financial service, smart logistics, digital merchant credibility, statistical monitoring, and risk management.⁷⁹



Shanghai Cross-Border E-Commerce Public Service Website

2.9.3. Key Considerations⁸⁰

- Full commitment from the highest authorities in every participating country to form a friendly environment based on mutual trust.
- The executing agency must work closely with governments to ensure sustained interest and commitment. This is difficult to accomplish when international consultants or firms are hired to undertake lengthy, complicated, and politically sensitive regional activities.
- Analyze the level of legislative changes required and the need for renationalization of actors.
- Flexibility and adaptability of information technology platforms.

⁷⁹ eCommerce in China – the Future is Already Here: How Retailers and Brands Are Innovative to Succeed in the Most Dynamic Retail Market in the World, Total Retail 2017, PWC. China’s mobile-first consumer behaviour, innovative social commerce model, and a trusted digital payments infrastructure, together saw the national online retail sales of goods and services reached 14 trillion RMB in the first quarter, 32% higher than a year ago.

⁸⁰ Andy Hoar & Anjali Yakkundi, The Forrester Wave: B2B Commerce Suites, Q1 2017, The 11 Provisions That Matter Most and How They Stack Up (Mar. 24, 2017).

2.9.4. Proposals

The proposal below is an action plan for the PA to develop an electronic data exchange and service system:

- Step One: Include the development of an electronic system as one of PA's highest priorities and give full support for harmonizing regulations and processes. The IDB supported the decision of governments to include TIM as one of the priorities highlighted in the Joint Declaration of Chiefs of State at the Presidential Summit of Tuxtla⁸¹ in 2008.
- Step Two: Clearly outline the legal character of the implementation mechanism and minimize the level of national legislative changes or amendments required for implementation. In the case of TIM, rather than creating a regional legal framework for all countries, the IDB proposed devising an execution mechanism that did not involve changes in national legislation.
- Step Three: Establish a committee and executing agency and choose a competent project coordinator to work closely with PA governments to ensure sustained interest and commitment. In the case of the IDB, the senior consultant had experience working with top government officials, and had the support and confidence of the countries to lead the project with minimal involvement from headquarters.
- Step Four: To coordinate and harmonize the execution, the technical committee should consist of senior officials representing all participating agencies including customs, migration, and sanitary and phytosanitary.
- Step Five: Increase the system's ability to accommodate items in the rapidly changing logistics industry, for example, radio frequency devices, GPS, and electronic locks. IT experts should be familiar with the specificities of the PA and design customized programs.

⁸¹ Summit of Heads of State and Government of the Tuxtla Mechanism for Dialogue and Coordination. This summit bears the name "Tuxtla" because it was the site where the first of these meetings was held in 1991. However, it was not until 2006 that this mechanism of international dialogue and cooperation was formalized.

3. High-Reaching

In addition to the more achievable priorities, the PA may also keep on its agenda a list of longer-terms objectives. Accomplishing these objectives takes longer time and more investment, and generally requires well-developed infrastructure and logistics systems. Nonetheless, they are necessary for the sustained development of an integrated digital economy.

3.1. Data Protection Systems

3.1.1. Introduction

The development of e-commerce has increased cross-border data flow. Each day, private data of millions of internet users moves from one jurisdiction to another, without the users knowing what personal information is out there, where it is, who has access to it, and for what purpose. In this context, establishing a legal framework to regulate cross-border movement of private data is essential. Governments around the world have started to adopt data protection regulations at national and regional levels. The scope and range of these regulations vary. Some are strictly territorial, while others have broad extraterritorial effects. However, all of them share the common objective to protect private data of their citizens. Both APEC and the EU have adopted such data protection systems.

3.1.2. Comparative Study

- The APEC System

In 2011, APEC adopted the Cross-Border Privacy Rules (“CBPR”) System, with the goal to strengthen the general level of privacy protection while facilitating flows of data to fuel trade and economic growth.⁸² Participation in the CBPR System is voluntary. The CBPR System has six participating economies as of April 2018: USA, Mexico, Japan, Canada, the Republic of

⁸² Cross-Border Privacy Rules System, <http://www.cbprs.org/Government/GovernmentDetails.aspx> (last visited May 12, 2018).

Korea, and Singapore.⁸³ Only companies in one of the participating economies can apply to get a CBPR certification. A CBPR-certified company is permitted to collect and transfer personal data among participating economies without applying for permission in each jurisdiction.

Below is a summary of the Enforcement Authorities (“EAs”) and Accountability Agents (“AAs”) of the participating economies.⁸⁴ AAs are authorized to confirm companies’ compliance of CBPR.

Country	EAs & AAs	Date of Recognition
Unites States	EA: FTC AA: TrustArc (formerly TRUSTe)	19/01/2016
Japan	EA: Ministry of Economy, Trade, and Industry AA: JIPDEC	25/06/2013
Mexico	Has not designated yet.	
Canada	Has not designated yet.	
South Korea	Has not designated yet.	
Singapore	EA: Personal Data Protection Commission Development of certification in progress.	06/03/2018

The fact that only two countries have appointed EAs and AAs shows that countries are not ready to fully commit to the CBPR System, which requires the designated EAs to have the ability to take enforcement actions under applicable domestic rules.⁸⁵ For the two countries who did appoint an AA, there has not been much enforcement. The Unites States’ AA—TrustArc handled fifty-five complaints against CBPR-certified companies. Seventeen of these were resolved by consumer education and two required issue-specific changes by the site, for example, unsubscribing the user and closing the account.⁸⁶

⁸³ Singapore has joined CBPR and PRP in March.
<https://www.lexology.com/library/detail.aspx?g=1bfff810-753c-4c58-a9b1-58461f21f00d> (last visited May 12, 2018).

⁸⁴ Cross Border Privacy Enforcement Arrangement (CPEA) Documents,
<http://cbprs.org/GeneralPages/APECCBPRSystemDocuments.aspx> (last visited May 12, 2018).

⁸⁵ GDPR matchup: The APEC Privacy Framework and Cross-Border Privacy Rules,
<https://iapp.org/news/a/gdpr-matchup-the-apec-privacy-framework-and-cross-border-privacy-rules/> (last visited May 12, 2018).

⁸⁶ Complaint statistics were collected from December 2015 through February 2017.

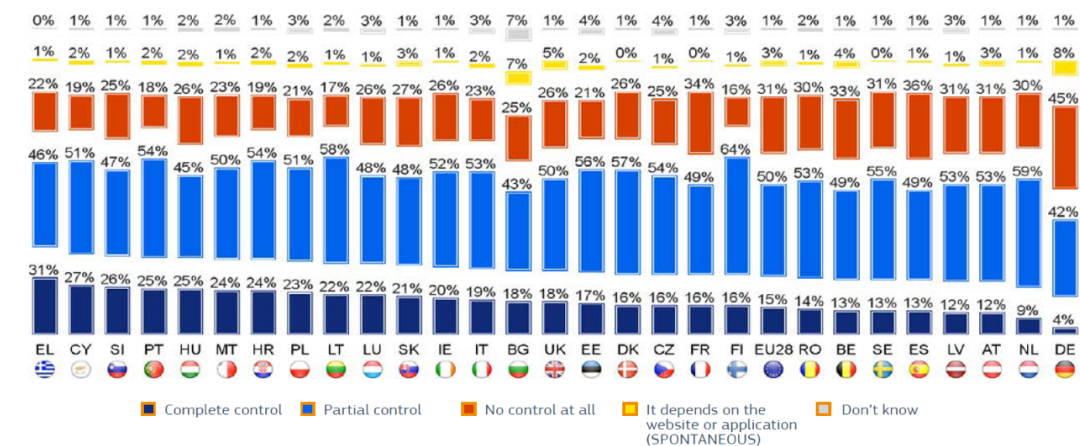
Australia’s move to seek inclusion into the System has received mixed reviews, as illustrated by the table below.⁸⁷

Against Participation	For Participation
Membership in the System will not change anything for companies.	Participation in the System would help companies by boosting regional trade.
The System does not advance privacy because it is less stringent than Australia’s own privacy statute. An Australian company cannot rely on an overseas CBPR-certified company as a means to transfer personal data, because the foreign company might not be otherwise compliant with Australian law.	Joining the System will provide “oil for more frictionless trade” in the region by making it easier for companies to confidently share data across borders.

- The EU System

In April 2016, the European Parliament approved the General Data Protection Regulation (“GDPR”), which will enter into force in May 25, 2018.⁸⁸ The goal of the GDPR is to harmonize privacy rules among the EU members and reinforce the protection of citizens’ private data. A survey showed that around 50% of EU citizens felt they did not have control over their data.⁸⁹

QB4. How much control do you feel you have over the information you provide online, e.g. the ability to correct, change or delete this information?



Base: respondents who provide personal information online (n=19,430 in EU28)

⁸⁷ Aussie Move to Join Asia-Pacific Privacy Plan Gets Mixed Reviews, <https://www.bna.com/aussie-move-join-n73014472702/> (last visited May 12, 2018).

⁸⁸ EU Regulation 2016/679, Apr. 29, 2016.

⁸⁹ EU Data Protection Reform: better rules for European Businesses, Fact Sheet, Jan. 2018, at 3.

- Highlights of the GDPR⁹⁰

The GDPR applies broadly to all personal information controllers (“controllers”) ⁹¹ and personal information processors (“processors”) ⁹² established in the EU, even if data processing takes place outside of the EU.⁹³ It also includes outside processors that offer goods and services to EU citizens.⁹⁴

One prominent feature of the GDPR is the recognition of numerous rights of data subjects—the citizens.⁹⁵ To protect such rights, the GDPR imposes obligations on data processors and severe sanctions for violations.

Upon the request of data subjects, companies are obliged to disclose whether, where, and for what purpose personal data is being processed. Additionally, companies must provide a digital copy of such data to the subject.

Companies must draft “terms of consent” in clear and plain language to allow data subjects to easily understand what they have agreed to. Companies must also allow data subjects to easily withdraw their consent.

Furthermore, as the owner of such data, the subject has a right to be forgotten and a portability right. The right to be forgotten means that, upon the withdrawal of consent, companies must stop processing the data and erase the data they have withheld. The portability right means that the subject can request the transfer of its data to another processor.

The GDPR refers to some specific measures companies are incentivized to implement to demonstrate their compliance with their obligations. For

⁹⁰ The EU has an infographic website with all the GDPR relevant information in a user-friendly presentation: http://ec.europa.eu/justice/smedataprotect/index_en.htm (last visited May 12, 2018).

⁹¹ Controller means the natural or legal person, public authority, agency, or any other body which alone or jointly with others determines the purposes and means of the processing of personal data. See EU GDPR, Art.2(d).

⁹² Processor means a natural or legal person, public authority, agency, or any other body which processes personal data on behalf of the controller. See EU GDPR, Art.2(e). For example, if Acme Co. sells widgets to consumers and uses Email Automation Co. to email consumers on their behalf and track their engagement activity, then with regard to such email activity data, Acme Co. is the data controller, and Email Automation Co. is the data processor.

⁹³ EU GDPR Art. 3.1.

⁹⁴ EU GDPR Art. 3.2.

⁹⁵ EU GDPR Chapter III.

instance, companies can adhere to “Codes of Conducts” prepared by their business associations and approved by the Data Protection Authorities (“DPA”). Additionally, companies can opt for a certification mechanism. Certification bodies approved by the DPA can certify companies in compliance with GDPR. These tools promote data subjects trust in companies, while serve as an accountability mechanism between the enforcement authorities and companies.

Rules for businesses and organizations under GDPR⁹⁶:

The screenshot shows the European Commission website page for 'Rules for business and organisations'. The page is structured as follows:

- Header:** Commission and its priorities | Policies, information and services | English | Search
- Breadcrumbs:** European Commission > Law > Law by topic > Data protection > Reform
- Section Header:** Rules for business and organisations
- Introductory Text:** Find out what your organisation must do to comply with EU data protection rules and learn how you can help citizens exercising their rights under the regulation.
- Main Content Grid:**
 - Application of the regulation:** Who does the data protection law apply to? Do the rules apply to SMEs? Do the data protection rules apply to data about a company?
 - Principles of the GDPR:** What data can we process and under which conditions? Purpose of data processing. How much data can be collected? For how long can data be kept and is it necessary to update it? What information must be given to individuals whose data is collected?
 - Public administrations and data protection:** What are the main aspects of the General Data Protection Regulation (GDPR) that a public administration should be aware of? How should requests from individuals be dealt with? What if a public administration fails to comply with the data protection rules?
 - Legal grounds for processing data:** Grounds for processing. Sensitive data. Are there any specific safeguards for data about children? Can data received from a third party be used for marketing?
 - Obligations:** Controller/processor. Are the obligations the same regardless of the amount of data my company/organisation handles? What does data protection 'by design' and 'by default' mean? What is a data breach and what do we have to do in case of a data breach? When is a Data Protection Impact Assessment (DPIA) required? Data Protection Officers. What rules apply if my organisation transfers data outside the EU? How can I demonstrate that my organisation is compliant with the GDPR?
 - Dealing with citizens:** How should requests from individuals exercising their data protection rights be dealt with? What personal data and information can an individual access on request? Do we always have to delete personal data if a person asks? What happens if someone objects to my company processing their personal data? Can individuals ask to have their data transferred to another organisation? Are there restrictions on the use of automated decision-making?
 - Enforcement and sanctions**
 - Disclaimer**
 - Library of related documents**

⁹⁶ Rules for business and organisations, https://ec.europa.eu/info/law/law-topic/data-protection/reform/rules-business-and-organisations_en (last visited May 12, 2018).

Rights for citizens under GDPR⁹⁷:

The screenshot shows the European Commission website page for 'Rights for citizens'. The page has a blue header with the text 'European Commission > Law > Law by topic > Data protection > Reform >'. Below the header, the title 'Rights for citizens' is displayed in white on a dark blue background. Underneath the title, a subtitle reads: 'Find out how your personal data is protected, the rights that help you take back control of your data and what to do if things go wrong.' The main content area is divided into three columns: 'How is my personal data protected?', 'My rights', and 'Redress'. Each column contains a list of questions related to data protection and rights.

- Cross-Border Transfer of Data

The GDPR covers the safe transfer of data outside of the EU through the adoption of “Adequate Decisions.” The issuance of an “Adequate Decision” means that data can be transferred from the EU to a third country as safely as if it were within the EU.⁹⁸ This process is initiated upon the proposal of the European Commission and requires the review and approval of the GDPR authorities (the Board and the DPAs). In order to determine if a country is adequate, the authorities must look at the international commitments taken by the country, and its internal data privacy laws and mechanisms.⁹⁹

- Enforcement authorities under the GDPR

- The European Data Protection Board¹⁰⁰ is composed of supervisory authorities from each member state. It advises the Commission on data privacy issues, issue guidelines,

⁹⁷ Rights for citizens, https://ec.europa.eu/info/law/law-topic/data-protection/reform/rights-citizens_en (last visited May 12, 2018).

⁹⁸ EU GDPR, Art. 45.

⁹⁹ So far, the EU has issued Adequate Decisions to Andorra, Argentina, Canada, Faroe Islands, Guernsey, Israel, Isle of Man, Jersey, New Zealand, Switzerland, Uruguay, and the United States.

¹⁰⁰ EU GDPR, Art. 68.

recommendations, and best practices on data protection.¹⁰¹

- Data Protection Authorities¹⁰² of member states. Each EU member must create an independent national Data Protection Authority, which monitors and enforces the application of the GDPR, handles complaints, and conducts investigations upon suspicion of a breach.¹⁰³
- Compare and Contrast the APEC’s CBPR with the EU’s GDPR

Because participation in the CBPR System is completely voluntary, the APEC System does not have the same level of enforceability as the EU System. Unlike the GDPR, which is a self-executing and directly applicable regulation, the CBPR System is non-self-executing and does not displace or change a country’s domestic laws and regulations. The CBPR system is intended to provide a minimum level of protection in countries where there are no applicable domestic privacy protection requirements.¹⁰⁴

APEC and EU regulators have worked closely to align APEC’s Privacy Framework with the EU’s Binding Corporate Rules (“BCR”) framework, which allows for cross-border personal data transfers with entities located in EU member states. As evidenced by the success of Merck in obtaining EU’s BCR approval based on its APEC CBPR certification, getting an APEC CBPR certification may facilitate the BCR authorization process within the EU.¹⁰⁵

¹⁰¹ EU GDPR, Art. 70.

¹⁰² EU GDPR, Art. 51.

¹⁰³ EU GDPR, Art. 59.

¹⁰⁴ GDPR matchup: The APEC Privacy Framework and Cross-Border Privacy Rules, <https://iapp.org/news/a/gdpr-matchup-the-apec-privacy-framework-and-cross-border-privacy-rules/> (last visited May 12, 2018).

¹⁰⁵ Singapore Joins APEC Cross-Border Privacy Rules System and Privacy Recognition for Processors Program, <https://www.lexology.com/library/detail.aspx?g=1bfff810-753c-4c58-a9b1-58461f21f00d> (last visited May 12, 2018).

3.1.3. Key Considerations

- Effectiveness of existing local laws and regulations protecting data privacy. Pros and cons of a minimum data privacy protection system versus a self-executing legal framework.
- Transparent and easily understandable information, complete archives of documents, easy-to-follow instructions, and well-trained agents.
- Designate government agencies and enforcement authorities at national and regional levels to implement data protection regulations and monitor compliance by countries and companies.
- Allow individuals to exercise choice and require users' consents to collect, use, and disclose their personal information.

3.1.4. Proposal

- First, each PA member could start by evaluating the need to have a national data protection system. This could be done by hosting hearings and inviting representatives from both public and private sectors, as well as inquiring and evaluating Mexico's experience in joining and implementing the CBPR System.
- Second, once it is settled that such a system is desirable, the PA members could choose between a self-executing and a non-self-executing data protection system. The PA members need to evaluate relevant local laws and regulations and the ramification of the to-be-adopted new data protection rules. For a country where there are no currently applicable domestic privacy protection requirements, the APEC model is more feasible, which provides that participating economies may adopt exceptions at the national level suitable to their particular domestic circumstances.¹⁰⁶

¹⁰⁶ GDPR matchup: The APEC Privacy Framework and Cross-Border Privacy Rules, <https://iapp.org/news/a/gdpr-matchup-the-apec-privacy-framework-and-cross-border-privacy-rules/> (last visited May 12, 2018).

- Third, each PA member may identify government agencies and designate data protection authorities to oversee the implementation of and compliance to the data protection rules. PA members may create an online forum with clear instructions for companies applying for certification and allow citizens and companies to exchange feedbacks.
- PA members that adopt a national data protection system could consider obtaining an “Adequate Decision” from the European Commission. This step would allow EU companies to safely transfer data to PA companies.

3.2. Electronic Single Window

3.2.1. Introduction

Electronic Single Windows are a great tool to improve trade for SMEs. Currently, all the PA members have implemented their own single windows. This system allows traders to file standard information and documents through a single-entry point to all import, export, and transit-related regulatory requirements. The relevant information is then shared with all parties involved in trade. This includes private participants, such as banks and insurance companies, and public agencies, such as immigration and vehicle registration authorities. Since all PA members have implemented single windows, the regional dialogue that has already taken place among the PA Groups could help increase trade in the region.

3.2.2. Comparative Study

- **Brazil.** Since 2016, Brazil enhanced the electronic SISCOMEX Portal system, which links customs, tax, and administration agencies involved in the exporting and importing process.
- **ASEAN.** ASEAN members have set an ambitious goal of establishing an ASEAN-wide single window. Plans call for integrating members’ national single windows so that a single submission of data and information suffices for the entire ASEAN region.

- **Korea.** The Korea Customs Service estimates that the introduction of its single-window system brought \$18 million in benefits in 2010, part of the overall economic benefits that year of as much as \$3.47 billion from the agency's trade facilitation efforts.¹⁰⁷ Indeed, for Korean-based companies such as Samsung and LG—global leaders in the electronics industry—achieving rapid and predictable turnaround time is an important aspect of their competitiveness strategies.
- **Singapore.** In Singapore, the implementation of a single window led to large gains in government productivity. The government established the world's first national single window for trade (TradeNet) in 1989, bringing together more than 35 border agencies. Today TradeNet handles more than 30,000 declarations a day, processes 99% of permits in 10 minutes, and receives all collections through interbank deductions.¹⁰⁸

3.2.3. Key Considerations

- Facilitate SMEs' access to international market through a PA Regional Single Window.
- Make turnaround time predictable.

3.2.4. Proposals

- Utilize the ongoing dialogue among the PA members as an opportunity to share best practices on Single Windows.
- Connect relevant agencies in the development of a Single Window to reduce the bureaucratic process and save time and costs.
- Members may consider an action plan to share the information of each national Single Window and explore the possibility of implementing a Regional Single Window in long term.

¹⁰⁷ Korea Customs Service. 2011. The Embodiment of Business-Friendly Environment by KCS Challenges. Seoul.

¹⁰⁸ Trading across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders/good-practices> (last visited May 12, 2018).

3.3. Training & Education

3.3.1. Introduction

Training and education are fundamental in the area of digital trade. For SMEs and entrepreneurs, training is necessary to boost their businesses by making the best use of the available tools. For governments, education on best practices of e-commerce can promote the implementation of suitable public policies on trade.

3.3.2. Comparative Study

- For SMEs and Entrepreneurs
 - European Commission Guidebook for Entrepreneurship and SMEs.¹⁰⁹ Its objective is to improve framework conditions for innovation and competitiveness through Information and Communications Technology (“ICT”). It explains the importance of e-commerce to SMEs, the challenges they might encounter, and collects data on surveys among stakeholders.
 - Proméxico. Mexico’s export promotion agency organizes training programs for SMEs to engage in ecommerce and creates a B2B platform for Mexican SMEs selling to foreign markets. It also offers consultation services to SMEs in developing digital marketing strategies, online stores, payments systems, and social media engagement.
 - ProChile. Chile’s export promotion agency has comprehensive “Digital Exports” seminars on ecommerce, digital marketing, and international promotional campaigns.¹¹⁰
- For governments

¹⁰⁹ Internal Market Industry: Entrepreneurship and SMEs, European Commission (2012).

¹¹⁰ Proméxico website: <https://www.gob.mx/promexico>; Prochile website: <https://www.prochile.gob.cl/> (last visited May 12, 2018).

- Best Practices on Training for Digital Government:
 - Establish a detailed training curriculum for government employees.¹¹¹
 - Encourage citizen participation in cutting edge issues related to the internet and digital trade.¹¹²

3.3.3. Key Considerations

- Education is essential for best use of available tools.
- Importance of broad policy that includes government, SMEs, and citizens.
- Improve the development of suitable public policies on trade.

3.3.4. Proposals

- The PA can first develop education plans and training programs at a national level for government employees, SMEs, and citizens. The PA could then expand the successful programs onto the regional level.
- Promote alliances between the public and private sectors to develop training programs in academic and professional education.¹¹³

3.4. Trade Logistics Infrastructure

3.4.1. Introduction

In Latin America, domestic logistics costs can add up to more than 42% of total sales for SMEs, compared to 15-18% for large firms.¹¹⁴ Inadequate infrastructure is one of the main obstacles in international trade.¹¹⁵ The

¹¹¹ Digital Government: Principles and Best Practices 263 (Alexei Pavlichev & G. David Garson eds., 2004).

¹¹² Digital Government: Principles and Best Practices 320 (Alexei Pavlichev & G. David Garson eds., 2004).

¹¹³ OECD, How To Foster The Internalisation Of SMEs Through The Pacific Alliance Integration Process (2016).

¹¹⁴ OECD, How To Foster The Internalisation Of SMEs Through The Pacific Alliance Integration Process, at 17 (2016).

¹¹⁵ Lanz, Rainer, Michael Roberts, and Sainabou Taal. 2016. "Reducing Trade Costs in LDCs: The Role of Aid for Trade." WTO Working Paper, World Trade Organization, Geneva.

Logistics Performance Index (LPI) developed by the World Bank evaluates country performance against six key dimensions—custom, infrastructure, international shipment, logistics competence, tracking and tracing, and timeliness.¹¹⁶ Chile and Peru were ranked 42 and 71 respectively in 2014.¹¹⁷ A study done by the United Nation’s Economic Commission for Latin America and the Caribbean (“UNECLAC”) identifies similar challenges faced by developing countries in Latin America, for example, coordination problems, lack of reliability of transport systems, costly bureaucratic procedures, etc.¹¹⁸

3.4.2. Comparative Study

- **Angola.** As part of its National Development Plan 2013-2017, Angola has significantly rehabilitated and upgraded the port of Luanda, expanding the terminals, adding new berths, and acquiring equipment. This has resulted in improvements in handling processes and reduced border compliance time for both exports and imports.¹¹⁹
- **Singapore.** On September 2016, Singapore inaugurated the new Pasir Panjang Terminal Building Gate 3 for containerized cargo within the Port of Singapore. The new terminal provides access to eight additional flow-through container lanes. Together with the expansion of the port, investments were made to improve port infrastructure. As a result, terminal handling processes at the port have improved, reducing the time for import and export border compliance.¹²⁰

¹¹⁶ Logistics Performance Index, World Bank 2014.

¹¹⁷ Logistics Performance Index, World Bank 2014.

¹¹⁸ Gabriel Pérez-Salas, et al., The potential of AID FOR TRADE to improve infrastructure and logistics performance of landlocked developing countries of Latin America, Infrastructure Services Unit, Natural Resources and Infrastructure Division, Economic Commission for Latin America and the Caribbean (UNECLAC) (2014).

¹¹⁹ Trading across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders/good-practices> (last visited May 12, 2018).

¹²⁰ Trading across Borders, Doing Business Project, The World Bank, <http://www.doingbusiness.org/data/exploretopics/trading-across-borders/good-practices> (last visited May 12, 2018).

3.4.3. Key Considerations

- Outdated infrastructure and logistics have negative impacts on SMEs' performances.
- Make national and regional transport policies based on an integrated approach.¹²¹
- Improvement of road network.

3.4.4. Proposals

- Consult with the private sector to identify bottlenecks in infrastructure impediments and develop countermeasures.
- Consider the creation of an alliance between public and private sectors to attract investors and upgrade infrastructure.
- Establish regional transport policies in the PA, considering the individual characteristics of and existing asymmetries between the countries as well as the necessity of growing the public investment flows for infrastructure development and maintenance.
- Harmonize trade policy, norms, and regulations among the PA members.
- Study the LPI from the World Bank to evaluate supply chain performance in each PA country and improve weak dimensions.
- Improve the design of infrastructure projects in order to boost their performance, reduce the negative externalities on the environment, and provide a higher resistance to natural disasters.

¹²¹ Gabriel Pérez-Salas, et al., The potential of AID FOR TRADE to improve infrastructure and logistics performance of landlocked developing countries of Latin America, Infrastructure Services Unit, Natural Resources and Infrastructure Division, Economic Commission for Latin America and the Caribbean (UNECLAC) (2014).

4. Conclusion

The PA's Digital Agenda is an ambitious initiative that would benefit PA's people and businesses in an era of technology and innovation. While the Digital Agenda contains important long-term goals, this proposal focuses on concrete priorities that are achievable through regulation in a relatively short period of time. Drawing lessons from regulations and practices in other jurisdictions as well as studies by experts and institutions, this proposal identifies nine Low-Hanging Fruit and recommends methods to reach them. The four High-Reaching priorities provide additional information and guidance for long-term plans.

The proposed Low-Hanging priorities are likely to have quick and visible effects. A change of *De Minimis* levels and the elimination of Geo-Blocking would facilitate movement of goods, increase consumer satisfaction, and boost e-commerce within the PA. The proposals on Digital Finance, Cross-Border Online Payment, and Electronic Data Exchange System would significantly increase SME competitiveness with necessary technology enhancement. The recommendations on Harmonization of Digital Trade Rules in Transparency, E-Government, Regional Trade Promotion Organizations, and Cross-Border Data Flow would increase PA governments' capacity and use legislations and regional organizations to better serve PA's people and enterprises.

When implementing the Digital Agenda, it is important to keep in mind the interrelations and interactions among different priorities. For instance, preventing geo-blocking serves to facilitate free flow of data and cross-border online payment. However, promoting cross-border data flow and online payment may pose challenges to consumer privacy and data security, therefore the costs and benefits of putting in place a data protection system need to be balanced.

In the event that specific challenges under any priority are not ascertained yet, the Digital Group and the PA members could consider the following general steps to start reaching the Low-Hanging Fruit.

- Engage in public-private dialogues with the stakeholders (SMEs, trade associations, industry associations, banks, and consumer associations), and consider engaging in surveys to understand the challenges they face in terms of:
 - *De Minimis* Levels
 - E-Government
 - Lack of Access to Digital Finance
 - Geo-Blocking
 - Cross-Border Online Payment
- Set up a dialogue within the national agencies of each Member to share best practices on:
 - E-Government
 - Cross-Border Data Flow
- Discuss among the representatives of the PA Members the possibility of reaching an agreement or the adoption of guidelines and principles in the areas of:
 - Harmonization of Trade Rules
 - E-Government
 - Digital Finance
 - Cross-Border Data Flow
 - Geo-Blocking
 - Electronic Data Exchange System

In summary, all the proposals would benefit the PA in various ways. Some proposals would have impacts across all four PA members, while others are more geared towards unique situations and pressing concerns of specific PA countries. These priorities will set the common stage for PA to successfully develop the Digital Agenda.

5. Annex

5.1. Harmonization of Digital Trade Rules

5.1.1. EU-Korea PTA

“Each party, reaffirming its commitment to protect fundamental rights and freedom of individuals, shall adopt adequate safeguards to the protection of **privacy**, in particular regarding the transfer of personal data, and refers to the OECD Guidelines on the Protection of Privacy and Trans-Border Flows of Personal Data or the Guidelines for the Regulation of Computerized Personal Data Files.

5.1.2. Deep e-commerce integration in PTAs¹²²

THEME	RULES
DOMESTIC REGULATION	<p>Each Party shall maintain domestic legal frameworks governing electronic transactions based on the UNCITRAL Model Law on Electronic Commerce.</p> <p>Each Party shall: (1) minimize the regulatory burden on e-commerce; and (b) ensure that regulatory frameworks support industry-led development of e-commerce.</p>
TRANSPARENCY	<p>Each Party shall publish or otherwise make publicly available laws, regulations, and other measures of general application that pertain to e-commerce.</p>
CONSUMER PROTECTION	<p>Each Party shall, to the extent possible and in a manner considered appropriate by each Party, provide protection for consumers using e-commerce that is at least equivalent to that provides for consumers of other forms of commerce under their respective laws, regulations and policies.</p> <p>EU: dialogue on regulatory issues raised by e-commerce, which will, inter alia, address the protection of consumers in the ambit of e-commerce.</p>

¹²² Sacha Wunsch-Vincent & Arno Hold, *Towards Coherent Rules for Digital Trade: Building on Efforts in Multi-lateral versus Preferential Trade Negotiations*, in *Trade Governance in The Digital Age*: World Trade Forum 179, 206-08 (Mira Burri & Thomas Cottier eds., 2012).

<p>DATA PROTECTION</p>	<p>Notwithstanding the differences in existing systems for personal data protection in the territories of the Parties, each Party shall take such measures as it considers appropriate and necessary to protect the personal data of users of e-commerce.</p> <p>In the development of data protection standards, each Party shall, to the extent possible, take into account international standards and the criteria of relevant international organizations.”</p> <p>EU: The Parties agree that the development of e-commerce must be fully compatible with the international standards of data protection, to ensure the confidence of users of electronic commerce.</p>
<p>AUTHENTICATION AND DIGITAL SIGNATURE</p>	<p>Neither party may adopt or maintain legislation for electronic authentication that would (a) prohibit parties to an electronic transaction from mutually determining the appropriate authentication methods for that transaction; or (b) prevent parties from having the opportunity to prove in court that their electronic transaction complies with any legal requirements with respect to authentication.</p> <p>The Parties shall encourage the interoperability of digital certificates in the business sectors, including in financial services.</p> <p>EU: The Parties shall maintain a</p>
<p>PAPERLESS TRADING</p>	<p>Each Party shall endeavor to make all administration documents available to the public in electronic form;</p> <p>Each Party shall endeavor to accept trade administration documents submitted electronically as the legal equivalent of the paper version of such documents.</p>

5.2. Regional Trade Promotion Organizations

5.2.1. SME development institutions in PA countries.¹²³

Country	Policy implementing institutions	Overseeing ministry
Chile	Production Development Corporation (CORFO)	Independent

¹²³ OECD, How to Foster the Internationalization of SMEs through the Pacific Alliance Integration Process, at 48 (2015).

Colombia	Micro, Small and Medium Enterprises (MSME) Department	Ministry of Commerce, industry, and Tourism
Mexico	National Institute of the Entrepreneur (INADEM) Under-secretariat for SMEs Nacional Financiera (NAFIN)	Secretariat of Economy
Peru	SME and Industry Bureau Foreign Trade Development Bureau	Ministry of Production Ministry of Foreign Trade and Tourism

5.2.2. SME development institutions in PA countries.¹²⁴

Country	Institution	Overseeing Ministry
Chile	ProChile	Ministry of Foreign Affairs
Colombia	ProColombia	Ministry of Commerce, Industry and Tourism – MINCIT
Mexico	ProMéxico	Secretariat of Economy
Peru	PromPerú	Ministry of Tourism and Foreign Trade

5.3. Digital Finance

5.3.1. China's regulations:

- Interim Measures for the Administration of the Business Activities of Online Lending Information Intermediary Institutions
- Administration Guidelines for the Recordation and Registration of Online Lending Information Intermediary Institutions

¹²⁴ OECD, How to Foster the Internationalization of SMEs through the Pacific Alliance Integration Process, at 48 (2015).

5.3.2. China's case study:

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首页 我要投资 我要借款 新手导航 社区 信息披露 我的账户

月月升J01180390

近3个月年化收益 **5-7.5%** 封闭期 **30天** 目标金额 **2,006,900元**

加入上限: 20,000元 投资进度: 0% 剩余金额: 2,006,900元

温馨提示: 市场有风险, 投资需谨慎。

账户余额: 登录后可见

2000 元

我已阅读并同意《系统智能匹配交易功能服务协议》
《风险告知书》

立即加入

服务周期

开始加入 T 投标结束 T+2 开始封闭期 T+3 结束封闭期 T+32

An Example of Single Scheme Managed by Platform


Yearly interest rate for the past 3 months is 5-7.5%. Creditors allowed to transfer rights after 30 days. The total amount of the scheme is set to be about 2 Million RMB.

项目名称	项目金额	期限	约定借款年化利率	还款方式
河南省南阳市陈先生嘉保贷	593.87元	36个月	12%	等额本息
河南省洛阳市郭女士嘉保贷	32.70元	36个月	12%	等额本息
快速小额借款	387.16元	3个月	10%	等额本息
优质持卡人借款	2,232.40元	12个月	10%	等额本息
北京市怀柔县乔先生嘉保贷	59.54元	36个月	12%	等额本息
快速小额借款	846.29元	3个月	10%	等额本息
山西省太原市杨女士嘉保贷	374.60元	36个月	12%	等额本息
江苏省苏州市王女士嘉保贷	22.78元	36个月	12%	等额本息
快速小额借款	233.37元	3个月	10%	等额本息
优质持卡人借款	326.02元	12个月	10%	等额本息

« 上一页 1 2 3 4 ... 61 下一页 »

List of 602 Borrowers Who Borrow from the Scheme Above
Each borrower will satisfy a fraction of his or her financing need from the Scheme.

基本信息

用户名: n***2 婚姻状况: 收入范围: 10K以上 

性别: 男 有无子女: 有 现单位工作年限: 5年以上

出生年份: 1968年 岗位职位: 企业高级管理人员 户口所在地: 湖南省岳阳市

工作城市: 湖南省岳阳市 文化程度: 大学本科 (含双学历) 雇佣类型: 受薪人士

行业性质: 公立医院、公立学校

借款人描述

客户湖南岳阳临湘人, 已婚有子女, 男, 大学本科学历, 1968年出生, 2008年3月起在岳阳临湘某公立中学工作, 任职行政部高级管理人员, 名下有一辆车, 名下有中国人寿保险一份, 已缴纳三年。借款用于办培训班。

信用状况

发布借款	1笔	逾期次数	6次	借款总额	108,800.00元
成功借款	1笔	逾期已还	6期	逾期金额	0元
还清笔数	0笔	逾期未还	0期	待还本息	75,888.12元

Information of a Specific Borrower
Including job, income, assets, insurance, and borrowing history.
Borrowed money will be used to open a training class.

5.4. Cross-Border Online Payment

China's regulation:

- Guiding Opinions on the Pilot Cross-Border Foreign Exchange Payment Business of Payment Institutions

5.5. Data Protection Systems

5.5.1. APEC CBPR

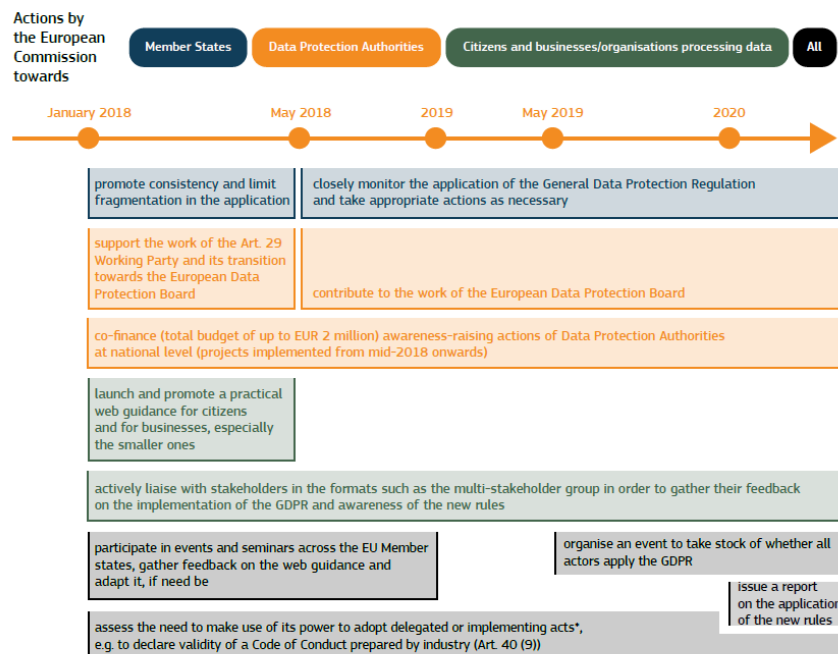
- APEC's CBPR documents are available at <http://www.cbprs.org/GeneralPages/APECCBPRSystemDocuments.aspx>.
- Steps a company is required to take before getting the certification under the CBPR System: <https://www.hldataprotection.com/2017/06/articles/international-eu-privacy/south-korea-joins-apec-cross-border-privacy-rules-system/>.

Steps for Company Participation



5.5.2. EU GDPR

- Documents are available at https://ec.europa.eu/commission/priorities/justice-and-fundamental-rights/data-protection/2018-reform-eu-data-protection-rules_en.
- GDPR Action Plan for Member States, Data Protection Authorities, and Citizens and Businesses:¹²⁵



* Once an EU law is passed, it can be necessary to update it to reflect developments in a particular sector or to ensure that it is implemented properly. Parliament and Council can authorise the Commission to adopt delegated or implementing acts, respectively, in order to do this.

¹²⁵ EU Data Protection Reform: next steps, Fact Sheet, Jan. 2018.

5.5.3. Mexico CBPR

- The table below shows local laws, regulations, and agencies that are in place in Mexico for the enforcement and implementation of the CBPR System.

Local Laws & Regulations	Local Agencies
Federal Law on Protection of Personal Data held by Private Parties (“LFPDPPP” in Spanish). ¹²⁶	Ministry of Economy (SE): has the authority to state, along with IFAI, the parameters required for the correct development of self-regulatory mechanisms and measures
Regulations to the LFPDPPP.	Federal Institute of Access to Information and Data Protection (IFAI): authorizes Accrediting Entities.
Federal Law of Transparency and Access to Public Government Information (“LFTAIPG” in Spanish).	Federal Commission for Regulatory Improvement (COFEMER): has released draft of Self-Regulatory Parameters for public consultation on its official website with the intention of receiving feedback from the constituents that may be interested on the subject.

¹²⁶ http://dof.gob.mx/nota_detalle.php?codigo=5150631&fecha=05/07/2010 (last visited May 12, 2018). Also, the unofficial English version of the standard is available at https://www.privacyassociation.org/media/pdf/knowledge_center/Mexico_Federal_Data_Protection_Act_July2010.pdf (last visited May 12, 2018).