

# PDPA APPLICATION TO M&A TRANSACTIONS

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## The “Business Asset Transaction” consent exception and its application to share sale transactions

Share sale transactions commonly involve the disclosure of data, financial information and key contracts of the target company to the buyer, before a share sale agreement is signed. Such disclosures are often made during the process of due diligence in order to allow the prospective buyer to consider the risks and benefits involved in the potential purchase. While general considerations of confidentiality of the target’s information have long been a factor in managing information flows in an M&A transaction, more recent developments in the importance of “data” in business models and laws protecting “personal data” mean it is relevant to consider in particular how the relevant data protection law applies to disclosure to a prospective buyer of personal data of the target company’s employees and customers.

While the confidentiality of the information disclosed can (at least in theory) be protected by a robustly drafted non-disclosure agreement, any disclosure of personal data by the seller and the consequent collection and use of the personal data by the prospective buyer has to comply with the Personal Data Protection Act 2012 (“**PDPA**”). The PDPA, which came into force on 2 January 2013, regulates all collection, use and disclosure of personal data by organisations.

This video briefly discusses the consent obligation under the PDPA, focuses on how parties can avail themselves of the “business asset transaction” consent exception (“**BAT exception**”) and highlights some of the key considerations that parties relying on the BAT exception may wish to take note of, particularly in the context of a share sale transaction.

### 1. [The “Business Asset Transaction” consent exception and its application to share sale transactions](#)

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