Self-regulation model for Small and Medium-sized Enterprises

(SMEs) in Mexico

Technological development have deeply inserted electronic and computing tools into social and commercial lifestyle around the world. These tools allow private agents to easily reach a large amount of personal data from the general public. If this matter is unregulated, personal data could be used for illegal or improper purposes, such as:

- *Marketing*
- *Advertising*
- *Organized crime (extortion, identity thief, etc.)*

Regulatory mechanisms can be fixed and supervised for large corporations

The great challenge for governments relies on the execution of regulation for small & medium-sized firms (SMEs), due to its atomization

A need to protect liberties and civil rights for privacy and personal **data protection, without infringing** the legal framework for public **data access**

Personal data regulatory evolution in Mexico

June 1st, 2009

Article 16 of the Mexican Constitution is amended to establish the civil right to protect personal information: **A**ccess, **R**ectification, **C**ancellation and **O**pposition

July 5th, 2010

It is issued the *Federal Law of Protection of Personal Information held by Private Agents* to regulate the legitimate use a personal information held by private firms. It aims to guarantee the privacy and informational self-determination of people
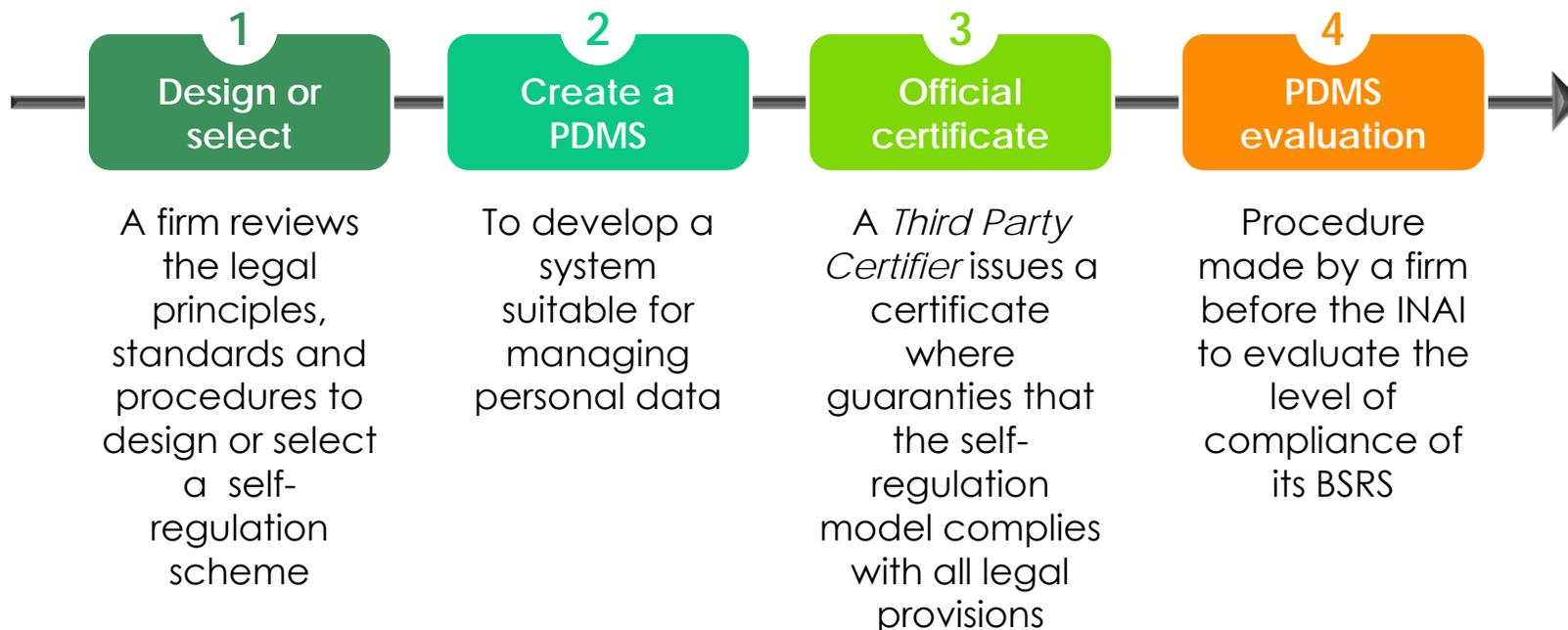
December 21st, 2011

It is issued the **Law's regulation** to lay down specific rules and mechanisms for personal information protection

May 29th, 2014

The Ministry of Economy issued the *Autoregulation Parameters for Protection of Personal Information*, setting forth standard rules, criteria and procedures to:

- Create and empower the necessary legal entities to authorize, supervise, and register **Binding Self-Regulatory Schemes** (BSRS or EAV's in Spanish)
- Create Authorized Third Parties for Private-Government supervision
- Allow regulated agents to create, implement and spread BSRS

Operation of BSRSs

Ministry of Economy

Evaluate and Authorize →

Third Parties Certifiers

Inform BSRS certifications ↓

Supervise and certifies BSRS operation ↓

Private Agents holding personal data

Public Register of BSRS

Validate and public BSRS ←

INAI

← Send BSRS

BSRS recurrent reviews →

Consult

Stages of Mexican Binding Self-Regulatory Schemes

1 Design or select

2 Create a PDMS

3 Official certificate

4 PDMS evaluation

A firm reviews the legal principles, standards and procedures to design or select a self-regulation scheme

To develop a system suitable for managing personal data

A *Third Party Certifier* issues a certificate where guaranties that the self-regulation model complies with all legal provisions

Procedure made by a firm before the INAI to evaluate the level of compliance of its BSRS

Each BSRS shall include at least:

- Personal Data Management System
- Data Management Policy
- Data Management System Responsible
- Data inventory mechanism
- Risk Analysis

- Personal Capacitation Program
- Supervision and Auditory Plan
- Preventive and corrective actions for security risks
- Sanctions
- Review mechanism for Improvement

Objective & benefits of BSRS for SMEs

SMEs in the Mexican context

- 99.8% of firms are SMEs
- Generate 52% of the GDP
- Employ 72% of the Mexican workforce

"The SMEs play a essential role in the Mexican economy"

Objective

To increase the number of SMEs with BSRS in personal data protection

Benefits of BSRS

- Co-responsibility on the rulemaking and application processes
- Better understanding of personal data treatment
- Lower penalties for SMEs
- Legal certainty for consumers
- Complements existing laws and regulations
- Address the rights of access, rectification, cancellation and opposition (ARCO, in Spanish)

Challenges and solutions

To increase the number of SMEs with BSRS

- Conduct public consultations in order to identify the main issues to design, create, certificate and implement the BSRS

- To identify and implement simplification measures among the formalities to design, create, certificate and evaluate SMEs' BSRS

- To issue guidelines to promote and facilitate BSRS use among SMEs

- To promote and disseminate certificated BSRS for specific industries

- Improve economical incentives for SMEs that create or adopt a BSRS

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