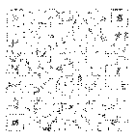
前瞻科技與管理　5卷1期，43-83頁（2015年5月）
Journal of Advanced Technology and Management Vol.5, No.1, 43-83 (May, 2015)
DOI: 10.3966/222014242015050501003

# 《個人資料保護法施行細則》第17條實作初論：根基於ISO/IEC 29100: 2011-12-15標準系列†



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## 摘要

我國在2012年10月1日施行之《個人資料保護法施行細則》第17條，明文規定：「本法（個人資料保護法）第九條第二項第四款、第十六條但書第五款、第十九條第一項第四款及第二十條第一項但書第五款所稱資料經過處理後或依其揭露方式無從識別特定當事人，指個人資料以代碼、匿名、隱藏部分資料或其他無從辨識該特定個人」，其實作攸關於兼及「個人資料保護」與「防微杜漸、發奸摘伏、依法取認」之國際標準（ISO/IEC 29191: 2012（E）Information Technology-Security Techniques-Requirements for Partially Anonymous, Partially Unlinkable Authentication: 2012-12-15），亦即通稱「網路實名制」的「後檯實名，前檯匿名」之虛擬假名（Pseudonymization）要求事項的標準。

標準可以累積知識與經驗，標準化則是冀求以系統的、共同的、協調一致的方法來強化標準實作之知識以供傳承。「個人資料保護因標準而不同，資訊安全

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† 本文部分內容已於第17屆全國科技法律研討會（2013-11-20/21）中發表。

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標準因實作而不同」。韓國已於2012年1月宣布在2014年12月前修正相關法規，階段性廢除自2007年7月實施的《網路實名制》；美國在2011年4月15日公布《數位空間之可信賴識別的國家策略（National Strategy for Trusted Identities in Cyberspace, NSTIC）：增強線上選擇、有效性、安全與隱私（Enhancing Online Choice, Efficiency, Security and Privacy）》，期以10年之時間分成2階段推動「網路實名制」；中國大陸則於2012年12月28日立法要求實施《網路實名制》，已規範「微博」、「電話」等業務。惟於2012年8月，在歷經2年審理，韓國憲法法院認定前述規範因採取「全面性」之「網路實名」，過度限制人民言論自由與資訊隱私的基本權利，故屬違憲。本文綜覽及研析前述3個國家於「網路實名制」的應然與實然，根基於我國已建立之基礎，探討我國落實《個人資料保護法施行細則》第17條宜開展的供應脈絡以及功能應用之標準化作業。

**關鍵詞：**公開金鑰基礎建設、政策、個人資料管理系統、虛擬假名、隱私框架

瞻科技與管理　5卷1期，43-83頁（2015年5月）
Journal of Advanced Technology and Management Vol.5, No.1, 43-83 (May, 2015)

# A Study on Implementation of Article 17 in Enforcement Rules of the Personal Information Protection Act: Based on ISO/IEC 29001: 2011-12-15†

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## Abstract

According to Article 17 in Enforcement Rules of the Personal Information Protection Act amended on October 1st 2012 in our country, the information may not lead to the identification of a certain person after the treatment of the provider or the disclosure of the collector referred to in Item 4 of Paragraph 2 of Article 9, Item 5 of the exception of Article 16, Item 4 of Paragraph 1 of Article 19, and Item 5 of the exception of Paragraph 1 of Article 20 of the Act shall mean the personal information processed by ways of code, anonymity, hiding parts of information or other manners so as to fail to identify such a specific person. Its implementation is closely related to the requirements for "personal information protection" and "partially anonymous, partially unlinkable authentication (ISO/IEC 29191: 2012)" which is commonly known as the Pseudonymization in Real Name Registration System.

Standards can be seen as the accumulation of knowledge and experience, while

† This paper is an extended version of our conference paper published in the proceeding of the 17th National Technology Law Conference, Hsinchu, Taiwan, November 2013.

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standardization aims at strengthening the knowledge and techniques of standard implementation by means of systematic and coherent methods. Personal information protection differs owing to the standards, while information security standards differ due to the implementation. The South Korean government announced in January 2012 that the relevant regulation should be modified by December 2014 and Real Name Registration System which has been implemented since July 2007 will be abolished step by step. The US government announced National Strategy for Trusted Identities in Cyberspace (NSTIC) on April 15, 2011 to enhance Online Choice, Efficiency, Security and Privacy so that they can promote Real Name Registration System at two stages in 10 years. The China government made laws on December 28, 2012 to implement Real Name Registration System.

**Keywords:** public key infrastructure, policy, personally information management system, pseudonymization, privacy framework