

December 14, 2022

1. Cybersecurity: Announcement on the Implementation of Certification for Personal Information Protection Released

The State Administration for Market Regulation and the Cyberspace Administration of China (“CAC”) issued the Announcement on the Implementation of Certification for Personal Information Protection (“Announcement”) on November 4, 2022, which makes the current legal framework of data compliance more complete.

Till now, there are mainly three laws in respect of data protection, which are Personal Information Protection Law (“PIPL”), Cybersecurity Law and Data Security Law. According to the PIPL, where a personal information handler needs to provide personal information outside the territory of the PRC, it shall at least meet one of the following conditions:

(i) pass the security evaluation organized by the CAC;

(ii) be certified by a specialized institution for protection of personal information;

(iii) enter into a contract with the overseas recipient under the standard contract formulated by the CAC.¹

The recent Announcement thus serves as a further explanatory document of PIPL, specifying the procedure of the certification. Upon application/assessment, the specialized institution will issue a certification certificate to the enterprise qualified and the principal rules regarding **certification certificates** are as follows:²

Validity & Maintenance

- Valid for **three years**
- Post-certification supervision to maintain valid
- Renewal within **six months** before the expiry of the valid term

Change formalities

- To be conducted when name/registered address/certification requirements/certification scope of enterprise changed
- To entrust the certification institution to conduct change
- Certification institution shall determine whether the change can be approved

Deregistration, suspension and revocation

- Certification institution is entitled to suspend or revoke certification certificate
- Enterprise can also apply for suspension or deregistration voluntarily

Currently, only condition (i) is implemented according to the newly released Security Assessment Measures for Outbound Data Transfers (effective from September 1, 2022) and Guide to Applications for Security Assessment of Outbound Data Transfers (First Edition) (effective from August 31, 2022). For (ii) and (iii), the list of specialized institution and the model of standard contract have not been announced by relevant authorities yet, and thus it needs to wait for the issuance of more concrete legislation.

(http://www.cac.gov.cn/2022-11/18/c_1670399936658129.htm)

1. Article 38 of the PIPL.

2. Article 5.1 of the Announcement.

2. FDI: Jurisdiction over Foreign-related Civil and Commercial Cases Further Clarified

The Supreme People’s Court issued on November 14, 2022 the Provisions on Several Issues Concerning the Jurisdiction of Foreign-related Civil and Commercial Cases (“Provisions”), to be effective from January 1, 2023.

According to the Provisions, the following level of court has the authority to hear foreign-related cases of first instance:³

Beijing, Shanghai, Jiangsu, Zhejiang, Guangdong, Tianjin, Fujian, Shandong, Chongqing

District-level Court

amounts in dispute < RMB 40 million

Intermediate-level court

40 million ≤ amounts in dispute < RMB 5 billion

Complicated circumstances, multiple litigants or cases that have significant influence in the jurisdiction concerned.

High-level court

5 billion ≤ amounts in dispute

Cases that have significant influence in the jurisdiction concerned.

Other cities

District-level Court

amounts in dispute < RMB 20 million

Intermediate-level court

20 million ≤ amounts in dispute < RMB 5 billion

Complicated circumstances, multiple litigants or cases that have significant influence in the jurisdiction concerned.

High-level court

5 billion ≤ amounts in dispute

Cases that have significant influence in the jurisdiction concerned.

The major change in the Provisions is to increase the minimum amounts of dispute for cases subject to intermediate-level court/high-level court, as well as to unify the different minimum amounts stipulated in scattered rules in different cities.

(<https://www.court.gov.cn/zixun-xiangqing-379181.html>)

Should you need to know more details, please reach us at asialians@asiallians.com.

3. Article 2 of the Provisions.

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