

# New Decree Governing Data Localization Requirements

The Government has promulgated Decree 53/2022/ND-CP to implement certain articles of the Cybersecurity Law (“**Decree 53**”), which will take effect on 1 October 2022.

Decree 53 imposes certain data localization requirements in relation to businesses with operation in Vietnam.

## 1. Regulated data

The data localization requirements under Decree 53 are applicable to the following types of data (“Regulated Data”):

- data identifying the personal identity of service users in Vietnam;
- data generated by service users in Vietnam, which are data reflecting the process of participating in, operating and/or using cyberspace by service users and information on network equipment and services used to connect with cyberspace in the territory of Vietnam (Such data includes the account name for use of services, the time period during which services are used, credit card information, email address, IP addresses for the latest login and logout and registered telephone number attached to the account or data); and
- data on the relationships of service users in Vietnam (Data on the relationships of service users are data reflecting and determining the relation-

ship between a service user and other people in the cyberspace).

Service users in Vietnam are organizations or individuals using cyberspace in the territory of Vietnam.

## 2. Regulated entities

The data localization requirements under Decree 53 are applicable to the following entities (“Regulated Entities”):

- a. Any enterprise established under the laws of Vietnam and having its head office in Vietnam; and
- b. Any enterprise established under a foreign law in the case that:
  - it operates in any of the Regulated Services (defined below); and
  - the Department of Cybersecurity and Prevention of High-Tech Crime under the Ministry of Public

Security (“DCPHC”) has warned the enterprise that the service it provides has been used to commit a violation of the cybersecurity laws and requested it to cooperate, prevent, investigate, or deal with the situation in writing but the enterprise has failed to provide the necessary cooperation or take the necessary actions as requested.

The “*Regulated Services*” include any of the followings: (1) telecommunication services; (2) services of data storage and sharing in cyberspace; (3) provision of national or international domain names to service users in Vietnam; (4) e-commerce; (5) online payment; (6) intermediary payment; (7) service of transport connection via cyberspace; (8) social network and social media; (9) online games; and (10) services of providing, managing, or operating other information in cyberspace in the form of messages, phone calls, video calls, email, or online chat.

### 3. Data localization requirements

The Regulated Entities are required to store the Regulated Data in Vietnam and have the right to decide the form of storage for their Regulated Data.

If a foreign enterprise becomes a Regulated Entity, it will receive a decision of the Minister of Public Security. Within 12 months from the date of such decision, the foreign enterprise must complete (i) the required actions to store its Regulated Data in Vietnam and (ii) the establishment of a branch or representative office in Vietnam.

The time during which a foreign Regulated Entity is required to store its Regulated Data in Vietnam is decided by the Minister of Public Security, but it must be at least 24 months from the time of issue of the above decision.

Once established, the branch or representative office in Vietnam of the foreign Regulated Entity must be maintained until it no longer operates in Vietnam or no longer provides the Regulated Services in Vietnam.

In cases that a foreign Regulated Entity cannot comply with the data localization requirements due to a force majeure event, it must notify the DCPHC within 3 working days for verification. The foreign Regulated Entity has 30 working days to find a remedy measure.

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