



The Way Forward: Your Practical Guide to China Cross-border Data Transfer Compliance

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Key Trends & Challenges Around and Beyond CBDT

Trends

Opportunities for CBDT cooperation

Government is promoting the CBDT flow of data e.g. APEC Cross-Border Privacy Rules (CBPR) system, Greater Bay Area (GBA) CBDT to facilitate the development of the digital economy and enhance the overall strength.

What's next, and how we can take this as an opportunity to grow the business within GBA?

More CBDT-enabled innovative solutions

We are seeing more technology-based platforms to facilitate CBDT e.g. Guangdong-Macao CBDT Validation Platform for residents and enterprises in different locations.

How can we leverage the innovative solutions to resolve CBDT concern?

Challenges

Lack of data inventory and insights

Organizations need to sort out all CBDT scenarios and CBDT related systems, in order to decide which CBDT compliance path will apply.

How can we identify all the risks associated with the possible scenarios?

CBDT implementation guideline

CBDT cases e.g. the compliance process, submission to the Authority are new and extensive process for most of organizations. For some newly enacted laws, detailed information are still awaiting the implementation guide.

How can we ensure the CBDT implementation is compliant?

Focus on data flow challenges in the business transformation period

Most of organizations are moving from on-premise to Cloud environment, where the location of Cloud region should consider any data localization requirements.

What best data compliance strategy can we leverage?

Increasing market shares through CBDT

More organizations are building integrated platform that effectively integrates service & data across various markets, driving new business opportunities, and offer differentiated services to its customers.

How can we stay compliant with multi-jurisdictional data privacy & security regulations?

Data Integration

An increasing number of organizations which are working on data integration to enable collaboration across all branches / affiliates / markets across different jurisdictions.

What should we consider when integrating the data and/or business functions?

Ecosystems and collaboration beyond borders

The dynamic growth of local ecosystem enables organizations to distribute resources near the local market for faster response, further leading to local ecosystem preference.

How can we be ready to adopt the local ecosystem in the future?



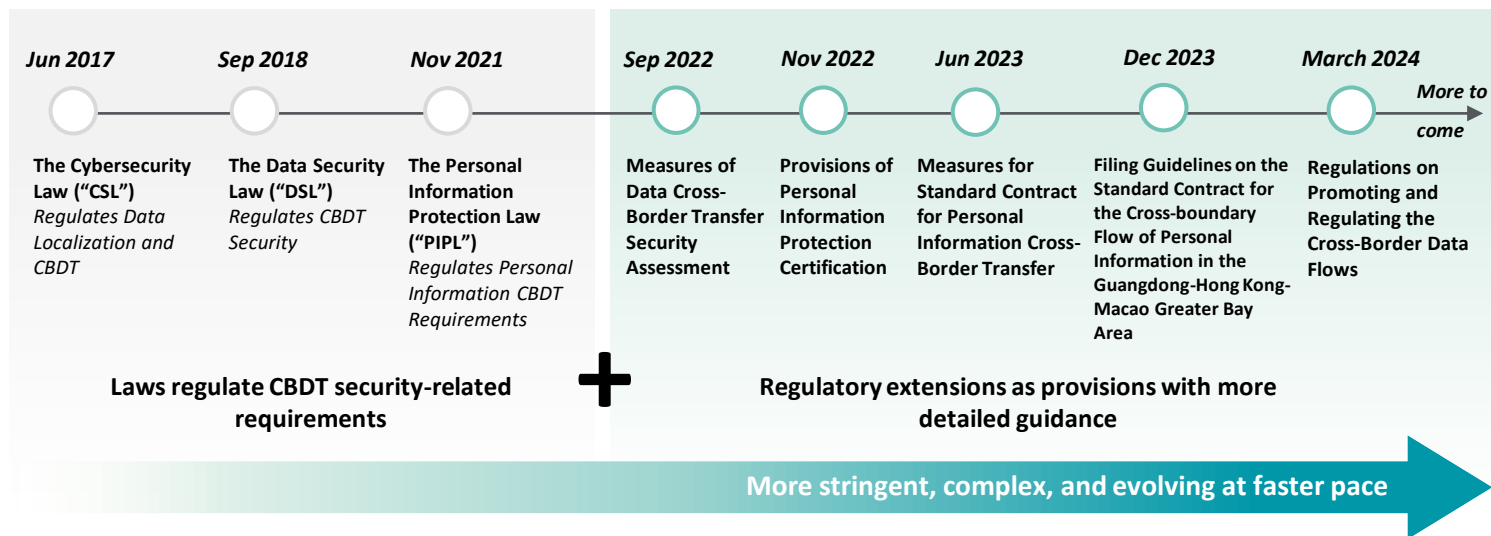
Introduction to China Cross-border Data Transfer

China has been tightening up the regulations around Cross-border Data Transfer (“CBDT”) activities. This is the latest effort following the 3 legal framework cornerstones of cyber security and data protection in China, to ensure the protection of the personal information (“PI”) rights and interests, maintenance of national security, while promoting the trouble-free flow of data.

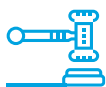
The increasingly complicated CBDT rules are impacting businesses beyond multinational corporations doing business in China. Strengthening compliance while continuing existing & growing business has become critical to organizations, which calls for attention and immediate action.



China CBDT Regulatory Trends



China CBDT General Requirements



Governing Authority

Cyberspace Administration of China (“CAC”)

Scope (Data collected from Mainland China)

- Important Data^[1]
- Personal Information if certain thresholds are met^[2]
- Sensitive Personal Information if certain thresholds are met^[2]
- Critical information infrastructure operators (“CIIO”)^[3] Data
- Other conditions set by the CAC or relevant laws and regulations



Typical Cross-border Data Transfer Scenarios

(Apply when network operator provides **personal information and important data collected and generated from operations inside the People's Republic of China** to institutions, organizations, and individuals located outside of the territory of China by network and other ways).

- The data is stored in a system which is located overseas.
- The data is transferred from system in Mainland China to a system which is located overseas.
- The data is stored within the territory of Mainland China, but can be accessed by agencies, organizations, and individuals abroad, or is used to provide services to entities not registered or under jurisdictional regulations in Mainland China.



^[1]: Criteria to identify important data is further governed in the GB/T 43697-2024 Data security technology — Rules for data classification and grading.

^[2]: Personal information and sensitive personal information is further governed in the GB/T 35273-2017 Information Security Technology-personal Information Security Specification.

^[3]: Critical Information Infrastructure Operator (CIIO) refers to the information infrastructures such as public communications and information services, energy, transportation, water conservancy, finance, public services, e-government, national defense science and technology industry and other important industries and fields, as well as other important network facilities, information systems, etc. that once damage, or suffers from loss of function or data leakage, may seriously endanger national security, national livelihood and the public interest.

China CBDT Key Highlights

Depending on the scenario, data types or threshold hit, organization shall follow one of the below three compliance processes defined by the Authority, and kick start compliance process **as soon as possible to avoid regulatory penalty**. Below are the updated options should be followed according to the newly published Regulations on Promoting and Regulating the Cross-Border Data Flows.

| | Option 1: Self-compliance (Exemption) | Option 2: SCC / PI Protection Certification | Option 3: Security Assessment |
|-------------------------------|--|--|---|
| Scope of Application | <ul style="list-style-type: none"> Non-CIIO Organization which cross-border transfer less than 100k PI since Jan 1st current year and non-important data cross border transfer; Free Trade Zone^[4] data NOT on negative list The below additional exemptions scenarios | <ul style="list-style-type: none"> Non-CIIO Organization which cross-border transfer since Jan 1st current year: <ul style="list-style-type: none"> More than 100k PI (excluding SPI) and less than 1 mio PI Less than 10k SPI Without any important data Cross border transfer Free Trade Zone^[4] data on negative list and require SCC or certification | <ul style="list-style-type: none"> Non-CIIO Organization which cross-border transfer more than 1 mio PI (excluding SPI) or more than 10k SPI since Jan 1st current year or has important data cross border transfer CIIO organization conducts PI or important data cross border transfer Free Trade Zone^[4] data on negative list and require security assessment |
| Authority or Evaluator | <ul style="list-style-type: none"> No authority submission Internal team to ensure compliance (e.g. through internal audit and data protection programs) | <ul style="list-style-type: none"> Provincial CAC | <ul style="list-style-type: none"> National CAC |
| Way of provisioning | <ul style="list-style-type: none"> Self-compliance | <ul style="list-style-type: none"> Self-assessment, PI Protection Certificate & Filing, Sign-off SCC | <ul style="list-style-type: none"> Self-assessment, then CAC Review & Approval |
| Pre-requisites | <ul style="list-style-type: none"> Not applicable | <ul style="list-style-type: none"> Consent from individuals List of materials in Annex 1 - Guidelines for the Filing of Standard Contracts for Outbound Transfer of Personal Information (Second Edition). | <ul style="list-style-type: none"> Consent from the individual List of materials in Annex 1 - Guidelines for Security Assessment and Declaration of Cross-border Data Transfer (Second Edition) |
| Valid Duration | <ul style="list-style-type: none"> Not applicable | <ul style="list-style-type: none"> Submit material through https://sjc.cac.gov.cn or offline channel No expiration period unless any changes occurs | <ul style="list-style-type: none"> Submit material through https://sjc.cac.gov.cn or offline channel 3 years Extension of the validity period could be applied through the provincial CAC. |
| Timeline | <ul style="list-style-type: none"> Not applicable | <ul style="list-style-type: none"> 15 working days inspection by provincial CAC | <ul style="list-style-type: none"> 5 working days completeness check by provincial CAC 7 working days for acceptance check by national CAC |
| Business Impact | <ul style="list-style-type: none"> CBDT is allowed to proceed | <ul style="list-style-type: none"> CBDT is allowed to proceed in parallel of the filing | <ul style="list-style-type: none"> Approval is needed prior to proceeding the CBDT |

More complex

Exemptions:

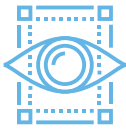
- Data subject as a party of an international contract:** Personal information (PI) involved in cross-border activities such as shopping, delivery, remittance, payment, account opening, flight and hotel bookings, visa applications, and examination services.
- Cross-Border HR management:** Implementing cross-border human resources management in compliance with labor rules, regulations, and collective contracts.
- Emergency situation for life or property protection:** Processing PI in emergency situations to ensure the safety of individuals' life, health, and property.
- Process PI collected overseas:** Transfer of personal information collected and generated by data handlers outside mainland China for domestic processing, without incorporating domestic personal information or important data during the processing.

^[4]: The new regulations officially grant the governments of each free trade zone the right to take the lead by setting up negative lists that can be adjusted and updated in a timely manner, creating a more convenient cross-border data management environment for enterprises in the zone.

How Can Deloitte Help?

Supporting your journey in sustaining and expanding global operation and vision beyond CBDT compliance. As data privacy and protection in both law and industry good practice are much more beyond CBDT, we could support you in the following areas.

Deloitte's End-to-end CBDT Service Suite



Data Classification, Discovery, and Inventory

Assisting Client in reviewing and **enhancing data classification to ensure appropriate and effective security measures**, gaining a **clear understanding of the data flow across its lifecycle** and the respective CBDT scenarios along with **scoping / threshold analysis** to determine **applicable and practical compliance path / options**.



Privacy by Design

Assisting in building and ensuring that **proper data protection measures governed in the procedures** (e.g. privacy policy, consent management, etc.) are **adhered and integrated to the technology implementation** (e.g. perform de-identification, masking of sensitive data for secure CBDT, etc.) since the **initial stage and during its lifecycle**.



Data Privacy and Protection Assessment

Providing impact assessment for Client **prior to the release of new, or updates to, existing business processes, activities (incl. CBDT), products and applications** to identify **key privacy risks** and propose **remedial actions**, assisting in developing privacy-enhancing measures to **protect personal information** and **maintain regulatory compliance**.



Privacy and Security Related Policies, Procedures, and E-training

Reviewing existing **policies, procedures and standards** based on **regulatory and industry best practices**, and **Deloitte's recommended practices**. Furthermore, providing **E-Training and education programs** on various topics in **CBDT, privacy and security** across various industries with **flexible delivery models** depending on Client's needs.



Data Localization and Migration Strategy, Analysis and Implementation

Providing Client with the latest interpretation and updates on **good practical handling in compliance fulfilment of data localization / residency across multiple jurisdiction**. Moreover, consultancy for **data migration strategy**, assisting in **application assessment and technical implementation** (e.g. to enable data localization).



Turning your data privacy and security challenges into opportunities

Global expansion in secure and compliant manner

Uplift overall data flow security for creating a secure and customer-trusted environment

Enhance customer trust by demonstrating compliance

Build trustworthy and seamless digital ecosystem



Are you ready to learn more about how this impacts your business? Reach out for conversation.

Our team has the experience and knowledge to get you prepared for this challenging transition.

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