



## Legislative amendments on the regulation of digital technology

Dear Friends, In this alert we will be discussing the most important of a number of changes to the regulation of digital technology signed into law by the President on 25 June 2020 "On amendments and additions to some legislative acts of the Republic of Kazakhstan on the regulation of digital technologies" ("*Law*").

## Digital assets

The term “digital assets” has been introduced to mean property, excluding financial instruments, created in digital form using cryptography and computer tools, and electronic and digital forms of certifying property rights. Digital assets are not a means of payment and can be either secured or unsecured.

Secured digital assets include digital tokens and other digital assets used to certify property rights to goods and/or services issued (provided) by the entity that issued the secured digital asset. The types of secured digital assets, as well as the rights certified by digital tokens, are established by the entity issuing the digital token in the manner prescribed by Kazakhstan law.

Unsecured digital assets include digital tokens received as a reward for supporting blockchain consensus in the manner prescribed by Kazakhstan law.

The right to a digital asset is certified by the entity person issuing the digital asset making a record in the blockchain on a specific data platform.

## Recognition of foreign electronic signatures (“EDS”)

With the new Law, foreign EDS are now recognised in Kazakhstan when:

- 1) the authenticity of a foreign EDS is verified by a trusted third party of Kazakhstan;
- 2) the person signing an electronic document is the rightful owner of a closed foreign EDS key;
- 3) the foreign EDS is used in accordance with information specified in its registration certificate;
- 4) it has been formed using an EDS of a foreign certification centre registered in a trusted third party of Kazakhstan, or a foreign certification centre registered in a trusted third party of a foreign country registered in a trusted third party of Kazakhstan.

Prior to the amendments, foreign EDS were recognised in Kazakhstan in accordance with ratified international treaties, after the registration of foreign certification centres in a trusted third party of Kazakhstan or the registration of trusted third parties of foreign countries in a trusted third party of Kazakhstan.

## Personal data

The new Law amended Law No. 94-V dated 21 May 2013 On Personal Data and its Protection by appointing the Ministry of Digital Development, Innovation and the Aerospace Industry as the authorised body for the protection of personal data.

Secondly, a requirement has been introduced limiting the processing of personal data to achieving specific, predetermined and legitimate goals. Personal data whose content does not relate to the goals of it being processed should not be processed.

Thirdly, new obligations have been introduced for personal data owners and/or operators requiring them to provide the subject or a legal representative with the opportunity to review their own personal data. If the owner and/or operator is a legal entity, then a person responsible for organising the processing of personal data should be appointed to:

1. implement internal controls to ensure personal data owners and/or operators and their employees comply with the Kazakhstan personal data law, including the requirements to protect personal data;
2. ensure personal data owners and/or operators are aware of the provisions of Kazakhstan personal data law with respect to personal data processing and the requirements for protecting personal data;
3. monitor the reception and processing of requests from owners or their legal representatives.

Fourthly, a “personal data security service” has been introduced to provide data interaction between owners and/or operators with the subject. Personal data subjects can use the service, to allow the collection and/or processing of personal data.

Fifthly, voluntary cyber insurance has been introduced to compensate for property damage caused to subjects, owners and/or operators or third parties.

## Private Venture Investors

Article 251-1 of the Entrepreneurial Code dated 29 October 2015 now includes a concept of “private venture investors”, who are individuals providing venture financing and expert support for start-up companies.

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