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Vietnam

Introduction to new Data Law

ベトナム初の「データ法」が2024年11月20日に公布され、本年7月1日に施行される。本法は、民間企業を含む法人や個人がデータ処理の過程で遵守すべき基本的な原則を明示しており、データ処理に起因するリスクの管理に関する規定を定めている。民間企業には、状況によって国家に対するデータ供出義務を負う場合があり、その管理するデータの種類によってはリスク評価を実施し、管轄機関に通知する義務を負う可能性がある。本稿では、民間企業が注目すべきデータ法の重要なポイントについて紹介する。

**Background**

In a significant move towards advancing digital transformation, e-government, and the digital economy in Vietnam, the new Data Law, marking the first version of its kind in Vietnam, including 5 chapters and 46 articles was officially promulgated by the National Assembly of Vietnam on 20 November 2024 (the “**Data Law**”). The Data Law regulates digital data; the building, development, protection, management, processing, and use of digital data; the national data center; the national integrated database; and digital data products and services. The Data Law, together with the draft law on personal data protection, is expected to enhance cybersecurity and decrease data breach risks which may have an effect on operations of both domestic and foreign invested enterprises in Vietnam.

**Application**

The Data Law takes effect from 1 July 2025 and applies to not only Vietnamese agencies, organizations, and individuals; but also foreign agencies, organizations, and individuals in Vietnam; and foreign agencies, organizations, and individuals directly involved in or related to digital data activities in Vietnam. If provisions of a law enacted before the Data Law takes effect align with the Data Law’s principles, such law will prevail; otherwise, subsequent laws with provisions conflicting with the Data Law must specify which rules to follow.

**Provisions****Key Definitions**

Under the Data Law, digital data (sometimes referred to as “data”) is broadly defined as data about objects, phenomena, and events, including one or a combination of forms such as sound, images, numbers, text, and symbols, represented in digital form. This definition may be interpreted as inclusive of personal data.

Digital data may be categorized in various ways, and amongst others, includes the following:

Classification according to the sharing nature of data:

- Shared Data: Data that can be accessed, shared, exploited, and used collectively by the Party (the Communist Party of Vietnam) and State agencies, the Vietnam Fatherland Front, and political-social organizations.
- Exclusive Data: Data that can only be accessed, shared, exploited, and used within the internal scope of Party and State agencies, the Vietnam Fatherland Front, and political-social organizations.
- Open Data: Data that is accessible, shareable, exploitable, and usable by any agency, organization, or individual with a need.

Classification according to the importance of data:

- Important Data: Data that can affect national defense, security, foreign relations, macroeconomics, social stability, health, and public safety, as defined in a list issued by the Prime Minister.
- Core Data: Important data that directly impacts national defense, security, foreign relations, macroeconomics, social stability, health, and public safety, as defined in a list issued by the Prime Minister.

The Data Law has also provided the following definitions regarding data-related entities:

- A data subject is the agency, organization, or individual that the data reflects.
- A data administrator is the agency, organization, or individual responsible for building, managing, operating, and exploiting the data according to the requirements of the data owner.
- A data owner is the agency, organization, or individual who has the authority to decide on the building, development, protection, governance, processing, usage, and exchange of the value of the data they own.

### **Data as Property**

The Data Law stipulates that the rights of data owners over their data are property rights under the provisions of civil law. For the first time, the property right of data has been recognized, and the owner can capitalize on this asset while also using strong anti-infringement measures in laws relating to property to protect their data.

### **Cross-border Transfer**

The Data Law has outlined the basic principles to be followed in the data processing process for agencies, organizations, and individuals; governance, identification, and management of risks arising from data processing.

Notably, the Data Law allows for free data transfer from overseas to Vietnam and processing of foreign data in Vietnam. Further, the Data Law also contains provisions regulating cross-border transfer and processing of core data and important data, which includes: (i) transferring data currently stored in Vietnam to storage systems outside Vietnam; (ii) transferring data from Vietnamese agencies, organizations, or individuals to foreign entities, individuals and (iii) using platforms outside Vietnam for data processing. Both (1) data transfer from overseas to Vietnam and processing of foreign data in Vietnam, and (2) cross-border transfer and processing of core data and important data must ensure national defense, security, public interest, and comply with Vietnamese laws and international treaties to which Vietnam is a party.

### **Obligation to Identify and Manage Risks**

The data administrators that are not state agencies are obligated to self-assess and identify risks arising from data processing, and to notify these risks to data subjects and relevant agencies, organizations, or individuals. The data administrators of core and important data must periodically assess the risks associated with the processing activities of such data in accordance with regulations and notify the specialized authorities to coordinate in ensuring the safety and security of such data.

Therefore, to fulfill new obligations under the Data Law, data owners and data administrators must categorize

their data into core data, important data, and other data. Specific guidance on the requirements, conditions, and procedures to ensure national defense, security is expected to be stipulated by future government's decrees.

### **Data Provision Obligation**

Under the Data Law, organizations and individuals must provide data when required by competent authorities, without needing the consent of the data subject, in following cases: (i) emergency response situations; (ii) national security threats that do not yet require emergency response; (iii) disasters; (iv) prevention of riots and terrorism.

Since the drafting stage, this regulation on data provision has sparked debates, particularly from enterprises concerned about being forced to disclose sensitive business information or data under private confidentiality obligations. However, the Data Law appears to address this concern by only encouraging domestic and foreign organizations and individuals to provide data under their ownership to competent authorities, and limiting data provision obligations to four above-mentioned situations, offering a reasonable environment for businesses in Vietnam.

### **Digital Data Products and Services**

The Data Law regulates data-related products and services in data intermediary activities, data analysis, data aggregation, electronic verification, and data exchanges platform ("*sàn dữ liệu*" in Vietnamese). A data exchange platform is a platform that provides data-related resources to support research, startup development, and innovation; offers data-related products and services to promote socio-economic development; and serves as an environment for trading and exchanging data and related products and services. The service of electronic verification and data exchanges platform shall be conducted by public non-business units and state-owned enterprises that meet the conditions for providing such services and are licensed for establishment in accordance with the law.

Each data-related product and service does not have a clear scope and includes a variety of activities (i.e. data intermediary products and services are products and services designed to establish a commercial relationship between data subjects, data owners, and the users of products and services, through agreements aimed at exchanging, sharing, and accessing data, as well as exercising the rights of data subjects, data owners, and data users.). Therefore, products and services that are not truly data intermediaries may inadvertently or due to misinterpretation be considered data intermediary products and services in certain cases. The Data Law entrusts the government to give further guidance on these contents.

### **Conclusion**

The Data Law is an important step in providing a fundamental legal framework for digital data management aligning with the country's digital transformation. The recognition of data as property marks a significant shift in how data is treated legally and provides data owners with more control and protection over their digital assets. However, some provisions in the law are still general and require detailed guidance from the government to ensure feasibility and effectiveness in implementation. Specially, enterprises should pay attention to the drafting and issuance of decrees and circulars guiding the Data Law, in order to stay updated on potential obligations that may arise, such as: obligations regarding the cross-border transfer of core and important data, obligations regarding risk assessments, obligations regarding data provision, and obligations for business registration of data products and services.

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## Malaysia

## Establishment of the Johor-Singapore Special Economic Zone (JS-SEZ)

2025年1月7日、マレーシアとシンガポールの両政府は、マレーシアで開催された第11回マレーシア・シンガポール首脳会談において、ジョホール・シンガポール経済特区（JS-SEZ）協定に署名した。ジョホール州はシンガポールに隣接するマレーシアの南端に位置する州であり、シンガポールとの経済的な結びつきが強い。この経済特区は両国にとって更なる経済成長を促進することを企図するものであり、今後この特区への投資が期待される場所である。本稿ではこの経済特区の概要について紹介する。

### Introduction

On 7 January 2025, the governments of Malaysia and Singapore executed the Johor-Singapore Special Economic Zone (JS-SEZ) agreement during the 11<sup>th</sup> Malaysia-Singapore Leaders' Retreat held in Malaysia. This landmark event followed the signing of the Memorandum of Understanding entered into between the two governments on 11 January 2024. The JS-SEZ represents both nations' shared vision to further strengthen economic cooperation by leveraging on geographical proximity, economic complementarities, and cross-border synergies.

Malaysia and Singapore are each nation's key trading partner. In 2023, Malaysia ranked as Singapore's third-largest trading partner, while Singapore was Malaysia's second-largest trading partner.<sup>1</sup> For reference, the bilateral trade between the two nations reached USD79.58 billion in 2023, and between January and November 2024, it grew by 6.7% year-on-year, totaling USD78.59 billion.<sup>2</sup> Such growth was contributed by, amongst others, higher trades in electrical and electronic products, machinery, and chemicals products.

With both nations' longstanding and bilateral relations, it is contemplated that the JS-SEZ will further improve cross border flow of goods and people and strengthen the business ecosystem of both nations. In this regard, the JS-SEZ is expected to allow both countries to tap on their complementary value propositions to, amongst others, drive innovation, enhance productivity, compete for global investments, and drive economic growth.

### 1. JS-SEZ Coverage and Project Targets

The JS-SEZ occupies 3,571 sq km of land (which is approximately 4 times the size of Singapore) across southern Johor, and such special economic zone will encompass 9 flagship zones with the following nature of activities:

Flagship Zones   Nature of Activities	Business Services	Digital Economy	Education	Energy	Financial Services	Food Security	Health	Logistics	Manufacturing	Tourism
(i) Desaru			●			●	●			●
(ii) Forest City					●					
(iii) Iskandar Puteri	●	●	●				●		●	●
(iv) Johor Baru City Centre	●	●					●			

<sup>1</sup> Joint Statement by PM Lawrence Wong and PM Dato' Seri Anwar Ibrahim at the 11th Malaysia-Singapore Leaders' Retreat on 8 January 2025. <https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2025/01/Joint-Statement-at-the-11th-Malaysia-Singapore-Leaders-Retreat>

<sup>2</sup> Ibid.

Flagship Zones   Nature of Activities	Business Services	Digital Economy	Education	Energy	Financial Services	Food Security	Health	Logistics	Manufacturing	Tourism
(v) Pasir Gudang				•				•	•	
(vi) Pengerang Integrated Petroleum Complex				•				•	•	
(vii) Sedenak	•	•	•	•		•	•	•	•	•
(viii) Senai-Skudai		•	•					•	•	•
(ix) Tanjung Pelepas-Tanjung Bin				•				•	•	

The Malaysia Minister of Economy mentioned that the nation has a target of 50 new high-value projects in the JS-SEZ in the next 5 years, followed by a total of 100 projects in the next 10 years.<sup>3</sup>

## 2. Government Incentives

On 8 January 2025, the Johor State Government and the Malaysia's Ministry of Finance announced a tax incentive package for the JS-SEZ that would be effective from 1 January 2025, in a bid to enhance Malaysia's competitive landscape, foster economic growth, drive high-value investments into Johor. Subject to further details of the tax incentives and relevant flagship zones, that will be released in due course, the salient terms that were reported about such incentives are as follows:

- (i) Special Corporate Tax Rate: Companies undertaking new investment in qualifying manufacturing and services activities, such as Artificial Intelligence and Quantum Computing Supply Chain, Medical Devices, Aerospace Manufacturing and Global Services Hub, will benefit from a special tax rate of 5% for up to 15 years.
- (ii) Flagship Development Focus: Additional tailor-made incentives are allocated to businesses operating in certain flagship areas in JS-SEZ.
- (iii) Special tax rate for knowledge workers: Special tax rate of 15% for 10 years for eligible knowledge workers working in JS-SEZ.

## 3. Other Main Support from the Governments

Some additional key initiatives that were reported to support the implementation of the JS-SEZ are as follows:

- (i) Malaysia will establish a fund for infrastructure development in order to facilitate and expedite investments into the JS-SEZ, with Singapore also providing funding to facilitate investments in the JS-SEZ. It has been proposed that Malaysia's infrastructure development fund would be set at Ringgit Malaysia 5 billion (approximately USD1.1 billion) initially, and this fund size may be increased depending on the return on investment.<sup>4</sup>
- (ii) Malaysia has also established the Invest Malaysia Facilitation Centre-Johor which will act as a one-stop center that provides consultation services and facilitates application processes for investor

<sup>3</sup> <https://www.thestar.com.my/news/nation/2025/01/07/js-sez-targets-50-high-value-projects-within-five-years-says-rafizi>

<sup>4</sup> <https://www.businesstimes.com.sg/international/asean/malaysia-proposes-rm5-billion-infrastructure-fund-johor-singapore-sez-economy-minister>



approvals, complementing the existing advisory service centre at the Malaysian Investment Development Authority (MIDA).

## **Conclusion**

The establishment of the JS-SEZ while representing a significant milestone in Malaysia–Singapore relations also opens up opportunities for foreign companies and investors in specified sectors to operate in the JS-SEZ with attractive tax benefits, paving the way for enhanced investment, and regional economic development. With robust incentives and collaborative governance, the JS-SEZ is set to become a model for cross-border economic cooperation. The relevant authorities of both Malaysia and Singapore have indicated that more updates on the JS-SEZ would be announced in due course.

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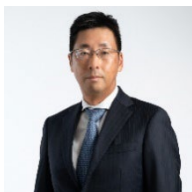
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