

China Cybersecurity Law - Recent Legal Developments and Impacts on Businesses

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Outline

- Recent updates of CSL regime
- Enforcement Actions
- Several challenging questions
- Case study
- Strategies and practical solutions



Recent updates of CSL regime

Encryption Law of PRC Regulations on Protection of Children's Personal Data

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| Draft Rules | Regulations on Multi-Level Protection of Cybersecurity |
| | Measures on Cybersecurity Review |
| | Measures on Data Security |
| | Measures for Security Review for Cross-Border Personal Data Transfer |
| | Regulations on Network Vulnerabilities |
| | Measures on Protection of Personal Financial Information |
| Guidelines, Specifications and Standards | MPLS standards V2.0 |
| | MPS Personal Data Protection Guidelines |
| | GBT/35273 Personal Data Specifications |
| | GB standards on Personal Data Collection by Apps |

Enforcement Actions

- Crowded space by multiple regulators (九龙治水)
- Active enforcements
- Stronger awareness by general public
- Increased liabilities

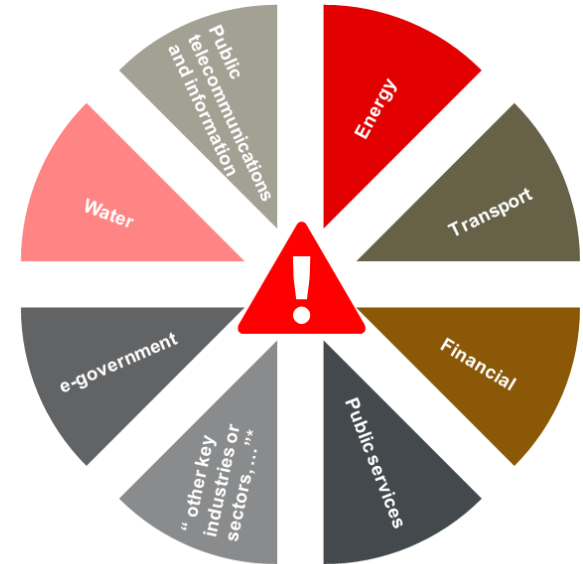


Several Challenging Questions to Answer



Q1: How to Handle CII and Data Localisation

- Critical Information Infrastructure
 - Financial, energy, telecom and information services, water, transportation, e-government
 - AND “OTHER KEY INDUSTRIES”
 - PERSONAL DATA and IMPORTANT DATA collected/generated in China
 - Stored within the territory of China
 - Export of data only allowed for business necessity and pass security assessment



*“other key industries or sectors, which can seriously harm national security or public interest, if destroyed or tampered with or if data is leaked”

Q1: How to Handle CII and Data Localisation

- Where are the boundaries?



- Regulations/standards being drafted but not completed

Q2: How to Handle Cross-Border Data Transfer?

- Data localisation for personal data and important data collected/generated by CII operators
- New draft regulations try to narrow down the scope of data subject to data localisation
- On one hand, employment data and business/operation data likely to be carved out
- On the other hand, security assessment and governmental filing requirements may expand to apply to non-CII operators
- Possibility of adopting Chinese Standard Contract Scheme for cross-border transfer of personal data

Q3: I heard MLPS standards have come into force on 2019-12-01. What is this MLPS about? What does it mean to our company?

Q3: What is MLPS regime? What does it mean to our company?

- MLPS regime not new
- Focus on IT system to be classified into 5 levels with corresponding security requirements
- Reconfirmed under CSL

Q3: What is MLPS regime? What does it mean to our company?

- MLPS standards 2.0 came into force on 1 Dec 2019
- Expanded scope for cloud, big data, IoT, industrial automation
- Not mandatory yet pending the MLPS Administrative Regulations, but strongly promoted by MPS
- Can be perceived as best practice
- Possibility to be put in a disadvantaged position in bid projects without MLPS certification



Q4: We have done GDPR compliance review. GDPR regime is so strict that we are OK under Chinese law?

Q4: We have done GDPR compliance review, so we are OK under Chinese law?

- GDPR compliant \neq CSL compliant
- Major differences between CSL and GDPR
 - Cybersecurity + Data Privacy
 - Legal basis for data collection and handling
 - Data breach
- CSL compliance review is still necessary



Q5: Chinese cybersecurity and data regime is still evolving. So we do not have to do anything for now?

Q5: PRC regime is still evolving, so we do not have to do anything for now?

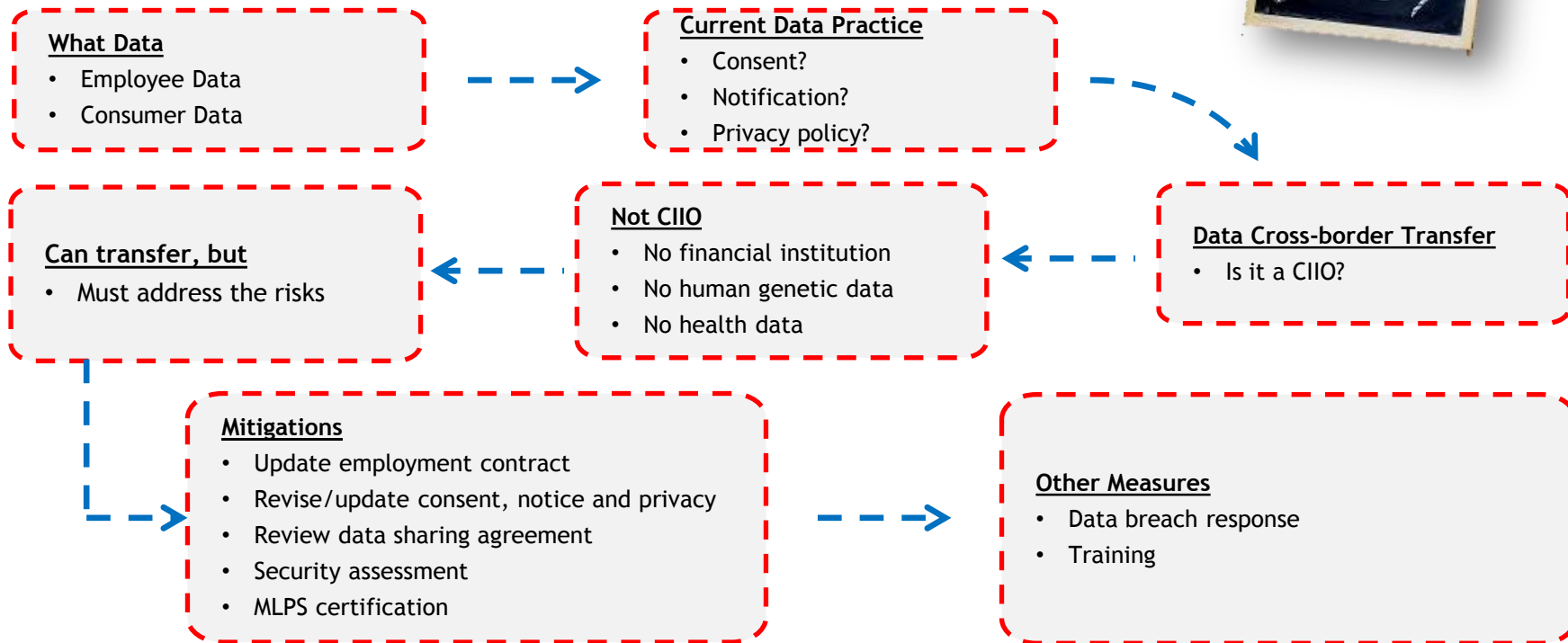
- CSL effective from 1 June 2017
- Only CII and security assessment for cross-border data transfer are less settled
- Other legal requirements are already in place and being enforced by authorities
- Necessary for compliance review, gap analysis and remedial/preventive actions

Case Study

- US-based global consumer goods manufacturing company with 3 WFOEs in China
- 1,000 employees whose personal data are to be shared with regional HR centre in Hong Kong
- Customer data to be transferred to US for user profiling and R&D



Case Study



Strategies and Practical Solutions

- Data mapping / gap analysis
- Localise documents/contracts
- Training
- Close watch on regulatory and technical developments



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