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Top developments and predictions in the Technology, Media and Communications sector in Asia-Pacific

Begin ›

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Our reflections and predictions

We look back at the top developments over the last 12 months in the technology, media and communications (**TMC**) sector and we look to the future with our top predictions for the coming year for businesses operating across the Asia-Pacific region, specifically in mainland China, Hong Kong and Singapore.

Over the last year, mainland China, Hong Kong and Singapore demonstrated their commitment to fostering a secure and innovative digital landscape by introducing a range of new regulations and measures. From cross-border personal information transfer and artificial intelligence service management to data security and combating cybercrime, these initiatives strike a balance between protecting the rights of individuals and enabling the growth of the TMC sector.

As we look to the future, businesses can expect greater relaxation of data export requirements, which will help unleash the full potential of data as a key driver of economic growth. Additionally, more legislation related to artificial intelligence is expected, which will create a more supportive environment for companies looking to invest in cutting-edge technologies.

Our experts will be closely monitoring these developments and predictions during the course of the year, providing regular updates and analysis through free platforms such as our eAlert service, Law-Now, LinkedIn at 'CMS Asia Pacific' and on WeChat at 'CMS Asia'.

For now, we hope you find our reflections on 2023 and our predictions both interesting and helpful as you plan for the year ahead.

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Top developments of 2023

Mainland China

Cross-border Personal Information Transfer Regulations fully implemented

Article 39 of China's Personal Information Protection Law provides three channel options for exporting personal information from China: security assessment by the regulator, certification by an approved institution, and the conclusion of a standard contract with the data recipient. In 2022, the implementation rules for the security assessment and certification of cross-border transfer of personal information were released, but the standard contract option was not released, leaving the last piece of the puzzle missing. On 1 June 2023, China's Measures for Standard Contracts for Cross-border Transfer of Personal Information (**Measures**) took effect, signifying the full implementation of China's cross-border personal information transfer mechanism. These Measures stipulate the specifics regarding the applicable scope, filing requirements for standard contracts for personal information export. In addition, the Cyberspace Administration of China (**CAC**) has released the Guidelines for Filing Standard Contracts for Personal Information Export (First Edition) (**Guidelines**), detailing requirements on filing methods, processes, documents and other specifics. With the issuance of the Measures and Guidelines and the roll out of the filing procedure for standard contracts, the regulatory requirements for cross-border transfer of personal information as set out in the Personal Information Protection Law have now been fully implemented. In addition, on 22 March 2024 China issued the Provisions on Regulating and Promoting Cross-Border Data Transfers on 22 March 2024, signifying a relaxation of China's administration of cross-border data transfers by exempting the channel options requirements for certain personal information transfer activities, modifying of security assessment thresholds, and delegating the free trade zones to set up pilot programs.

China rolls out regulations on Generative AI Services

Effective 15 August 2023, China's Interim Measures for the Management of Generative AI Services (**AIGC Measures**) officially went into force. The AIGC Measures apply to services within the territory of the People's Republic of China that provide generative text, images, audio, and video content using generative AI technology. According to the AIGC Measures, the state emphasises the importance of balancing development and security, promoting innovation, and legal governance, and advocates cautious and classified supervision of generative AI services. Service providers in this domain bear several key responsibilities under the AICG Measures, including ensuring compliance with legal and ethical norms, maintaining data and algorithm integrity, and preventing discrimination. They are also tasked with protecting user privacy and personal information, and must establish transparent and reliable service mechanisms, including effective content monitoring and response systems. Furthermore, providers are required to manage user agreements, advocate for responsible AI usage and maintain robust complaint and reporting channels. In light of China's existing legislation on algorithm-related services and deep synthesis technologies, the AIGC Measures represent a continuation and expansion of the country's regulatory framework on ethical governance in scientific and technological advancement.

Mandatory registration for mobile internet applications in China

The Ministry of Industry and Information Technology (**MIIT**) released the Notice on Carrying Out the Record-filing Work for Mobile Internet Applications, mandating the registration of mobile internet applications (**APPs**), including mini-programmes like WeChat Mini-Programmes. All China-based operators of APPs and providers of internet information services are now required to complete this registration process, applicable to both existing and new APPs. Non-compliance could result in enforcement actions against those failing to register. Previously, websites hosted on Chinese servers were required to register for an ICP Recordal, but APPs were not explicitly included. This notice expands this registration obligation to network service providers operating through APPs, including mini-programmes.

Sectoral specific data regulations

In late 2022, China released the first piece of sector-specific data regulations – the Industrial and Information Technology Sector Data Security Management Measures. In 2023, the People's Bank of China and the Ministry of Finance, in collaboration with the Cyberspace Administration of China, introduced new drafts for data security management in their respective domains – the Draft People's Bank of China Data Security Management Measure and the Draft Interim Measures for Data Security Management in Accounting Firms. These two regulations, which target the financial and accounting sectors, illustrate China's ongoing efforts to adapt and enhance its data protection framework to suit the distinct needs of various industries.

Hong Kong

Hong Kong's virtual assets licence regime came into effect on 1 June 2023

Virtual asset trading platform operators | Securities & Futures Commission of Hong Kong (sfc.hk)

On 1 June 2023, Hong Kong's new licensing regime surrounding virtual asset trading platforms ("VATPs") came into effect. The regime is established under the Securities and Futures Ordinance (Cap.571) ("SFO") and the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap.615) ("AMLO").

The SFC oversees two types of VATP licence. The first relates to those VATPs that deal in non-security tokens, which are governed by the AMLO. The second relates to VATPs that do deal in securities. These VATPs require a licence from the SFC for Type 1 (dealing in securities) and Type 7 (providing automated trading services) activities, which is governed by the SFO.

Some elements of the licensing regime are already familiar in Hong Kong, including the appointment and designation of key personnel, and the obligation to ensure said personnel maintain their competence to serve in their capacity. Other elements are specific to crypto currencies. In particular, given the fact that VATPs are open to retail investors, the licensing regime features specific and stringent guardrails designed to protect members of the public from the risk associated with dealing in cryptocurrency and digital assets.

The SFC has issued guidance encouraging VATPs to apply for both licences, thereby allowing trading of both securitised and non-securitised assets.

Facilitation of Cross-Border Data Flows within the Greater Bay Area: MoU between Hong Kong and Mainland China

OGCIO: Facilitating Cross-boundary Data Flow within the Greater Bay Area

On 29 June 2023, a Memorandum of Understanding on Facilitating Cross-boundary Data Flow within the Guangdong-Hong Kong-Macao Greater Bay Area was signed by the Innovation, Technology and Industry Bureau ("ITIB") and the Cyberspace Administration of China ("CAC"). Pursuant to the MOU, the CAC and ITIB jointly issued new guidelines on the implementation of standard contracts on 10 December 2023 to promote the safe and orderly cross-boundary flow of personal information within the GBA. This is a pilot programme and highly anticipated development in the sector.

Individuals and organisations registered (in the case of organisations) or located (in the case of individuals) in Mainland cities within the GBA, (Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing), may adopt the GBA Standard Contract on a voluntary basis. The GBA Standard Contract provides a pre-designed template which outlines the obligations and responsibilities of the contractual parties in protecting personal information transferred between the abovementioned Mainland cities and Hong Kong.

The Hong Kong Government has allocated USD25.6 billion for fintech and AI

The Hong Kong government has displayed its commitment to investing in and promoting the development of the fintech sector by committing USD 25.6 billion for such purposes. The aim of the investment is to establish and position Hong Kong as a global fintech hub through innovation and technology. Concurrently, the government is also supporting homegrown startups through various initiatives and projects.

A key mandate for the Office for Attracting Strategic Enterprises ("OASES") is to attract high-potential fintech companies to establish operations in Hong Kong. OASES offers bespoke one-stop services to facilitate the launch and expansion of these companies. These efforts have proved fruitful as OASES has already successfully drawn approximately 30 fintech and other strategic companies to Hong Kong.

The Hong Kong Applied Science and Technology Research Institute (ASTRI) is leveraging technologies like 5G and blockchain to expedite innovation and industrialisation of fintech. ASTRI's goal is to help local companies gain competitive advantages and capture new opportunities in the dynamic fintech landscape.

Cyberport, Hong Kong's digital technology hub, has been essential in facilitating the digitalisation of enterprises across various industries and adopting cloud and other technologies into their businesses. In doing so, such organisations can improve operational efficiencies, explore new ventures and capture developing opportunities in fields such as fintech.

Meanwhile, the government has identified cross-border data transfers as an area that it wants to facilitate to encourage the development of fintech solutions for banks and financial institutions.

Announcement of cross-border data verification platform between Shenzhen and Hong Kong

To facilitate and verify the creditability of cross-border data, it was announced at the Shenzhen International Fintech Festival that Hong Kong and Shenzhen plan to launch a platform to verify such data using blockchain. The platform will be built on distributed data transfer protocols and the mainland China blockchain platform FISCO BCOS. In this regard, the platform envisaged does not transfer or store cross-border data but will conduct a verification process based on the hash value of the data.

It is anticipated that the initial trials will be between Hong Kong and Shenzhen as part of the first phase once the platform becomes operational. This initiative exemplifies commitment in the GBA to data cooperation and follows on from the launch of a cross-border verification platform between Guangdong province and Macau.

Although the platform is expected to be first used in the financial industry, the platform has the potential to be applied beyond traditional industries and introduced to other sectors. Meanwhile, the Bank of China and the Bank of East Asia has been reported to be amongst the first batch of financial institutions that will use the platform.

https://www.scmp.com/tech/article/3243266/shenzhen-and-hong-kong-launch-cross-border-data-verification-platform-move-smooth-flows-across

China proposes Greater Bay Area (GBA) Data Transfer Certification Regime

OGCIO: Press Releases (2023-11-17)

China's National Information Security Standardisation Technical Committee ("TC260") on 1 November 2023 published a draft of its "Practical Guidelines on Cross-border Personal Information Protection Requirements in the Guangdong-Hong Kong-Macau Greater Bay Area" (the "Guidelines"). The Guidelines are intended to promote the safe and orderly cross-border flow of personal information in the GBA.

The release of the draft Guidelines follows the signing of the Memorandum of Understanding on 29 June 2023 to focus on the cross-border transfer of data in the GBA. The Guidelines only apply to data controllers within specified areas of the GBA, namely Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing and Hong Kong.

For data controllers in Hong Kong transferring personal data to the Mainland, the Guidelines will impose a more demanding set of practices in order to ensure compliance. Currently the Hong Kong Personal Data (Privacy) Ordinance (Cap.486) ("PDPO") requires that data users take "all practicable steps" against "unauthorised or accidental access, processing, erasure, loss or use" of personal data.

The new requirements imposed by the Guidelines include those which are currently considered to be best practice in order to comply with the PDPO. However, for those organisations which are not yet set up with a 'best practice' approach, compliance with the following will require considerable investment:

(a) Minimum 3 years record keeping obligation for cross-border data transfers;

(b) Ensuring that employees are only able to access or view data on a need-to-know based on that which is required for them to carry out their duties by establishing an access control policy;

(c) Appointing a Data Protection Officer;

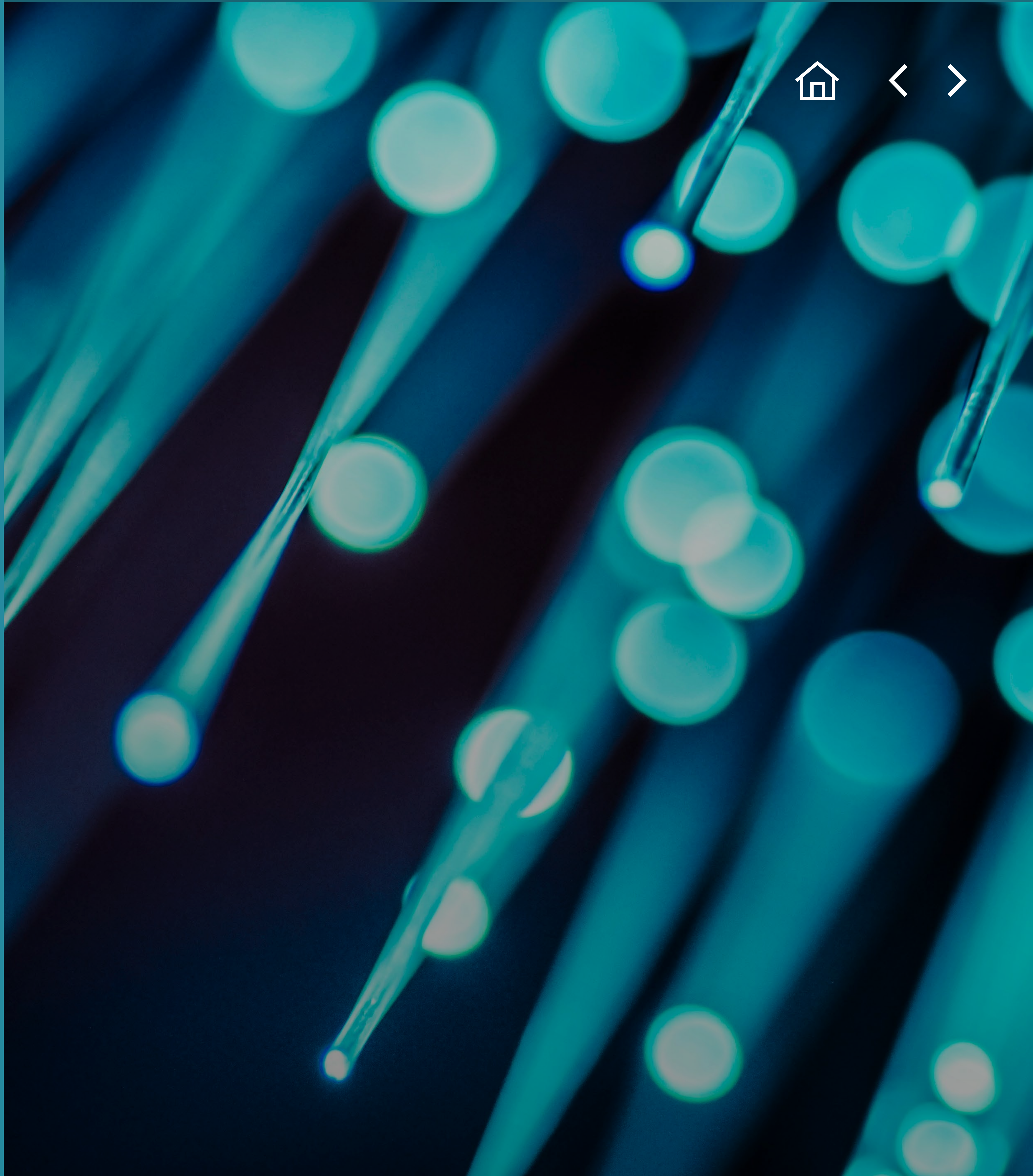
(d) Encrypt personal information which is sensitive;

(e) Ensuring that employees who handle personal information have signed confidentiality agreements;

(f) Ensure that important processes involving personal data are subject to internal approval mechanisms;

(g) Developing an incident response plan and regularly conducting tabletop simulations; and

(h) Committing to accept continuous supervision by certification authorities on cross-border processing activities.



Singapore

IMDA and AI Verify Foundation – Unprecedented Generative AI Evaluation Sandbox

On 31 October 2023, the Infocomm Media Development Authority (**IMDA**) and the AI Verify Foundation announced a Generative AI Evaluation Sandbox. At the same time, the IMDA and the AI Verify Foundation released a draft catalogue for Large Language Models Evaluations (**LLM Catalogue**). The Sandbox and LLM Catalogue provide industry players with the resources and a safe environment to construct "evaluation tools and capabilities". In addition to ensuring that AI is developed responsibly, safely and in a trustworthy manner, the Sandbox and LLM Catalogue encourage collaboration between model developers, application developers and third-party testers. The Sandbox and the LLM Catalogue seek to provide a common language for evaluating generative AI and a standard of evaluation benchmarks and methods. Both will assist in building a consolidated knowledge bank on how generative AI products should be tested. Notable participants in the Sandbox include technology titans such as Amazon, Google, Microsoft, IBM, NVIDIA, as well as public authorities such as the Personal Data Protection Commission (**PDPC**).

Release of the National AI Strategy 2.0

On 4 December 2023, the Ministry of Communications and Information released its National AI Strategy 2.0 (**NAIS 2.0**). The NAIS 2.0 outlines Singapore's approach to investing in AI capabilities to maximise its benefits and mitigate concerns about potential misuse. The NAIS 2.0 supersedes the National AI Strategy published in 2019 (**NAIS 1.0**). There are three broad changes from the NAIS 1.0 to the NAIS 2.0. First, NAIS 2.0 recognises that AI is no longer "good to have" but is now a "must know". Second, the focus has shifted from a local context to a global one with the view that Singapore's people and businesses should aim to be world leaders in AI. Third, the strategy seeks to move beyond flagship National AI Projects and create systems to bring stakeholders together, thereby adding to national capabilities and infrastructure, accelerating the exchange of ideas, and enabling the administration of AI-enabled solutions at scale. To achieve these goals, efforts under the NAIS 2.0 will be directed towards three broad systems: Activity Drivers, People & Communities, and Infrastructure & Environment, with targeted strategies to address each of these areas.

Regulation of Stablecoins

On 15 August 2023, the Monetary Authority of Singapore (**MAS**) announced a new regulatory framework that seeks to ensure a high degree of value stability for stablecoins regulated in Singapore. Stablecoins are cryptocurrencies or digital payment tokens that are pegged against one or more specified fiat currencies. The framework applies to single currency stablecoins (**SCS**) issued in Singapore that are pegged to the Singapore Dollar or any G10 currency. Issuers of a SCS will have to fulfil key requirements relating to value stability, capital, redemption at par, and disclosure. Stablecoin issuers that fulfil all requirements may apply to the MAS to be recognised and labelled as "MAS-regulated stablecoins", which will serve to distinguish them from other payment tokens not subject to the stablecoin regulatory framework. Stablecoins that do not fulfil all requirements will continue to be regulated as digital payment tokens under the existing regulatory regime.

MAS and IMDA – Shared Responsibility Framework for phishing scams

On 25 October 2023, the MAS and IMDA released a Shared Responsibility Framework (**SRF**) for phishing scams. Among other things, the SRF imposes specific duties on financial institutions (**FIs**) and telecommunication companies (**Telcos**) to combat phishing scams and compensate victims where such duties are breached. The SPF is based on three key policy objectives: (1) to preserve confidence in digital payments and digital banking in Singapore; (2) to strengthen the relevant entities' direct accountability to consumers for losses incurred from digital scams; and (3) to emphasise the individual's responsibility to be vigilant against scams. To this end, Guidelines on SRF have been drafted outlining the expectations and duties imposed on FIs and Telcos, as well as an operational workflow for the relevant account holder, FIs and Telcos to follow regarding mitigate phishing scams.

Online Criminal Harms Act

On 24 July 2023, the Online Criminal Harms Act (**OCHA**) was passed and went into effect on 1 February 2024. The OCHA gives the government more power to proactively deal with online criminal activities, scams, and malicious cyber activities. For instance, the OCHA empowers the government to issue Government Directions upon reasonable suspicion that online activity is being carried out to commit certain specified offences or when it is suspected that any online activity is being conducted in preparation for or as part of the commission of scams or malicious cyber activities. Issuable Government Directions include: Stop Communication Directions; Disabling Directions; Account Restriction Directions; Access Blocking Directions; and App Removal Directions. Finally, the OCHA empowers the Singapore government to issue Codes of Practice to require designated online services to have systems, measures, and processes in place to counter scams and malicious cyber activities.

Top predictions of 2024

Mainland China

China's Plan to unleash the multiplier effects of data elements

On 31 December 2023, the National Data Bureau, along with seventeen other departments, issued the Data Element X Three-Year Action Plan (2024-2026), a strategic plan to tap into the potential of data as a key production element to generate greater economic and social benefits. "Data Element X" enables deep integration and synergy of data elements with other economic factors like labour, capital and land across sectors spanning manufacturing, agriculture, commerce, transportation, finance, healthcare, governance, etc. Major supporting measures include the exploration of data assetisation and transaction paths and the mechanism of "separation of three data rights", which is the separation of data resource ownership rights, data processing and usage rights, and data product operation rights. Since the plan's launch, local data bureaus have been established across China. As of 24 January 2024, bureaus were instituted in ten provinces and cities. Concurrently, the Ministry of Finance released guidelines to strengthen data asset management, including utilising and managing public data resources to facilitate and standardise data asset development, circulation and usage. To further standardise data circulation and transactions, on 25 August 2023 the National Information Security Standardisation Technical Committee issued a draft national standard, Information Security Technology – Security Requirements for Data Trading Services for public comments. Looking ahead, we can expect the roll out of data transaction pilot programmes, as well as the introduction of supporting regulations on data collection and transactions.

Release of important data catalogues

For the first time since its entry into force on The Data Security Law (**DSL**) categorises data as general data, important data and core data based on the importance to China's economy, national security, livelihood of Chinese citizens, and public and private interests. More stringent protection obligations are imposed for data deemed as "important data" and "core data" to the level of sensitivity and potential impact. The DSL requires local authorises to develop detailed catalogues identifying the scope of "important data" in their regions and sectors. The release of these data catalogues are eagerly anticipated. On 19 September 2023, the Ningxia Hui Autonomous Region MIIT issued a Notice of Launching 2023 Data Security Classification in the Industrial Sector. This included the Identification and Risk Analysis Form for Important Data and Core Data in the Industrial Sector to provide detailed standards for entities classifying and identifying important data and core data. Additionally, the State Council's Plan to Support Beijing in Deepening National Service Sector Opening-Up Comprehensive Demonstration Zone Construction and Master Plan on Fully Aligning with International High-Standard Economic and Trade Rules to Advance High-Level Institutional Opening-Up of the China (Shanghai) Pilot Free Trade Zone were issued on 18 November 2023 and 8 December 2023 respectively. These plans explore formulating data categorisation guidelines, important data catalogues for sectors like autonomous driving and biogenetics, and support of the Shanghai FTZ as it takes the lead in compiling important data catalogues based on hierarchical data protection. Looking ahead, we expect more important data and core data catalogues to be released with localised catalogues tailored to specific sectors and regions.

China refines requirements for personal information processing and cybersecurity incident reporting

On 3 August 2023, the CAC released the Measures for the Administration of Personal Information Protection Compliance Audits (Draft for Comments). The audits outlined in these measures represent the obligations for personal information handlers (i.e. entities or individuals who independently determine the purposes and methods for processing personal information), including regular self-assessments and special audits required by authorities. These measures provide specifics on operational matters that were previously unclear, such as frequency requirements based on data processing scale. According to the new requirements, the processing of personal information for over one million individuals requires annual audits while smaller-scale processing requires biennial audits. These measures detail timelines and audit methods and outline cooperation, reporting and rectification obligations for special audits, and provide guidance on key audit focus areas applicable to both regular self-assessments and special audits in the appendix. Additionally, on 8 December 2023, the CAC issued Management Measures for Cybersecurity Incident Reporting (Draft for Comments), which marked a significant step in defining cybersecurity incident (including data breach incident) reporting obligations. Once finalised, these measures explicitly formalised procedures and content details for cybersecurity incident reporting. Key aspects outlined in this draft include the designation of regulatory authorities for different types of network operators, triggers and deadlines for reporting, report content requirements and legal liabilities. The accompanying guidance on cybersecurity incident grading and reporting templates, attached as an appendix to this draft, offered precise definitions for classifications and reporting details. Together, these two drafts signify a move towards more detailed regulation of personal information in China, and provide businesses with clearer instructions for adhering to personal information protection and network security compliance obligations.

Hong Kong

Hong Kong Government to further develop Hong Kong as an IP centre, with tax incentives and attracting R&D

ci20231219cb1-1138-2-e.pdf (legco.gov.hk)

On 19 December 2023, the Hong Kong Legislative Council released a panel discussion piece covering the Government's proposal to amend the Inland Revenue Ordinance (Cap. 112) (IRO) to implement the "patent box" tax incentive, so as to put into effect a major policy measure under the 2023 Policy Address to promote the development of IP trading.

To encourage the TMT sector, increase research and development (R&D) endeavours and foster the creation of valuable intellectual property, the Hong Kong Government announced the implementation of a "patent box" tax incentive in the 2023-24 Budget. This incentive aims to provide tax concessions for qualifying profits generated within Hong Kong from eligible IP assets resulting from R&D activities.

In order to enhance the competitiveness of the "patent box" tax incentive, the Hong Kong Government considered several factors. These included:

— The existing normal profits tax rate (16.5%) and the commonly adopted concessionary tax rate in other preferential tax regimes (8.25%) within Hong Kong

— The tax rates applied in overseas "patent box" regimes, such as Luxembourg (4.99%), Ireland (10%), Israel (5% to 16%), Korea (4.5% to 18%), and Singapore (5% or 10%).

— Feedback received during trade consultations.

As a result, the Chief Executive announced in the 2023 Policy Address that the concessionary tax rate for the "patent box" tax incentive would be set at 5%. This move aims to encourage more research and development (R&D) activities and facilitate the transformation and commercialization of R&D outcomes.

The ultimate goal is to enhance Hong Kong's position as a regional hub for IP trading and maintain its competitive edge, and this latest tax incentive shows this is likely to be a trend which continues in 2024.

The growing role of AI

In terms of infrastructure, Cyberport (Hong Kong's digital community with 1000 digital tech companies) is preparing for the establishment of the AI Supercomputing Centre. The primary goal is to meet the robust local demand for computing power, bolster Hong Kong's research and development (R&D) capabilities across diverse fields and drive industrial growth. Additionally, the Government has implemented facilitation measures to encourage the development of data centres.

Hong Kong is endeavouring to keep up with the fast-moving climate of AI by monitoring developments worldwide and amending regulation accordingly. For example, the Hong Kong Government have engaged the InnoHK research center for 2024, specializing in generative AI, to explore and propose relevant rules and guidelines. These guidelines will address accuracy, responsibility, and information security considerations related to generative AI technology and its practical applications. We expect this to be an area of much development in 2024.

The IPD is also currently preparing a consultation document on copyright to be released later in 2024. It will be addressing copyright of AI-generated content, models and machine-learning responses as well as safeguarding the rights of AI content creators - matters that are not covered in the current legislation.

Hong Kong

The increase in cryptocurrency adoption and regulation

Hong Kong Monetary Authority - HKMA launches Phase 2 of the e-HKD Pilot Programme

The Hong Kong Monetary Authority (HKMA) announced in March 2024 the launch of Phase 2 of the e-HKD Pilot Programme, with a view to further exploring innovative use cases for an e-HKD in Hong Kong. The HKMA has undertaken comprehensive research initiatives in collaboration with the CBDC Expert Group. These research projects delve into critical aspects such as programmability, privacy, and interoperability. Insights and findings from both phases of the e-HKD Pilot Programme, along with the CBDC Expert Group's studies, will inform the HKMA's assessment of the feasibility of implementing an e-HKD. Additionally, the HKMA remains committed to ongoing engagement with local and international stakeholders to stay abreast of the latest developments in Central Bank Digital Currencies (CBDCs).

Furthermore, Hong Kong remains dedicated to becoming a centre for stablecoins. Considering the significant roles that stablecoins play in the Web3 and virtual asset (VA) ecosystem, along with the growing interconnections between the traditional financial system and VA markets, the Hong Kong Government believes that a regulatory framework should be established for issuers of fiat-referenced stablecoins (FRS) and we expect this to come into fruition in 2024. Bringing FRS issuers within the regulatory scope through a risk-based and adaptable approach will enable effective management of potential monetary and financial stability risks, while also providing clear and appropriate guidelines given the rising prominence of VAs.

Continuing adoption of e-filing of government forms with the Electronic Transaction (Amendment) Bill 2023 Gazetted

Electronic Transactions (Amendment) Bill 2023 gazetted (info.gov.hk)

On 17 November 2023 the Government gazetted the Electronic Transaction (Amendment) Bill. The Bill seeks to amend the Electronic Transactions Ordinance (Cap.553) ("ETO") and its related subsidiary legislation to provide for electronic service of documents where the relevant legislation requires service by registered post or any other means, and to provide that service of a single electronic copy satisfies the requirement of service of a document in multiple physical copies.

The Amendment Bill is part of the effort to meet the target set in the 2022 Policy Address to ensure that submission of all suitable government forms and applications be possible by electronic means.

Increase in popularity of active ETFs

Exchange-traded funds (ETFs), a type of pooled investment security that trades on an exchange and with a price that fluctuates all day, have witnessed a surge in popularity in Hong Kong which we expect to continue into 2024. The concept of active ETFs is relatively nascent in APAC, with Hong Kong only welcoming its first ETF listing in mid-2019. By the end of 2023, there were 24 active ETFs being traded on the Hong Kong Stock Exchange with a combined market capitalisation of over HK$8 billion.

Many of these ETFs cover sectors such as virtual assets and technology. In late 2022, the first virtual asset ETF was listed which focussed on Bitcoin Futures. Thematic ETFs, which are bespoke in nature and focus on long-term secular trends such as technology innovation, robotics and AI or biotech, are expected to gain significant traction in the coming years. The SFC has just approved the applications of several 'spot Bitcoin' and 'spot Ether' ETFs. These allow retail investors to invest in a vehicle which tracks the current price of Bitcoin or other cryptocurrencies, the first time retail investors have had access to do so in the region. This represents a move away from the Mainland's broader crackdown on cryptocurrency trading and is a milestone in Hong Kong's journey to be a leading crypto hub.

The ETF market in Hong Kong is yet to reach its potential, with existing ETF providers set to grow and net entrants to enter the space. More investors are looking at active ETFs as a medium to invest in secular trends, for example in the ESG space. We predict this to be an exciting new space for both market makers and investors in the coming year.

Singapore

Release of Advisory Guidelines for Use of Personal Data in AI Recommendation and Decision Systems and for Children's Personal Data

September 2023 brought the closure of the public consultations for the proposed Advisory Guidelines on the Use of Personal Data in Artificial Intelligence Recommendation and Decision Systems (**Guidelines on AI Systems)** and the proposed Advisory Guidelines on the PDPA for Children's Personal Data (**Guidelines on Children's Personal Data**). Based on the proposed Guidelines on AI Systems, the PDPC will determine which of the existing PDPA exceptions are applicable to the different uses of AI models and systems, and whether these exceptions are required to be expanded upon or restricted to activities not involving AI. Based on the proposed Guidelines on Children's Personal Data, the PDPC recognises the vulnerability of the personal data of children and seeks to require that organisations conduct a Data Protection Impact Assessment in certain situations and inform a child's parent or guardian if their child's personal data has been compromised in a notifiable data breach. The PDPC released the Guidelines on AI Systems on 1 March 2024 and will likely provide the Guidelines on Children's Personal Data in the first half of 2024.

Addition of 11th data protection obligation – data portability

The 2020 amendments to the PDPA introduced requirements on data portability in Singapore. However, while most of these amendments came into effect on 1 February 2021, provisions relating to data portability (under Part 6B) remain pending. Under the 2020 amendments, organisations will be required to comply with an individual's request for the transmission of the individual's data to another organisation where:

- the receiving organisation is formed or recognised under the law of Singapore or a prescribed foreign jurisdiction, or is resident or has an office or a place of business in Singapore or a prescribed jurisdiction (sections 26F(1) and 26H(1) of the PDPA);
- the applicable data is in electronic form (on the date that a Data Porting Request was received) and was collected or created by the porting organisation within the prescribed period before the date of the data porting request (section 26F(2) of the PDPA); and
- the porting organisation has an ongoing relationship with the requesting individual at the time it receives the data porting request (section 26H(3) of the PDPA).

It remains to be seen whether the provisions on data portability will come into effect in 2024.

PSA amendments

The Payment Services Act 2019 (**PSA**) amendments seek to expand the scope of the PSA and impose additional measures on Digital Payment Tokens (**DPTs**) service providers to mitigate money laundering and terrorism financing risks. The scope of what constitutes "DPT services" has been amended to include the following three activities:

- The facilitation of transmission of DPTs from one account to another.
- The provision of custodian wallets for or on behalf of customers.
- The facilitation of exchange of DPTs where the services provider does not come into possession of the money or DPTs involved.

In addition, the PSA amendments give the MAS the power to impose measures on DPT service providers to better ensure consumer protection, maintain financial stability and safeguard the efficacy of monetary policy. The measures include: anti-commingling measures to require DPT service providers to segregate customer assets from their own assets; ring-fencing customer assets to protect them from creditor claims in the event of the licensee's insolvency; and maintaining the customer assets and licensee's assets in a prescribed manner. DPT service providers and entities that deal with DPTs should familiarise themselves with the proposed amendments to ensure their compliance with local regulations.

Amendments to the Cybersecurity Act 2018

On 15 December 2023, the Cyber Security Agency of Singapore published a consultation paper on a draft amendment bill to the Cybersecurity Act 2018 and sought public consultations, which ended on 15 January 2024. The Bill proposes several changes further to the increasing use of cloud computing vendors and computer systems that are not owned by the providers of essential services. It also expands the scope of the Act beyond computer systems designated as Critical Information Infrastructure (**CII)**. The Bill proposes extending regulatory coverage to computer systems that are located wholly outside of Singapore and cannot be designated as CIIs under the Act. It also proposes extending coverage to the provider of essential services responsible for cybersecurity of non-owner-provided CII (e.g. where the CII provider uses computing or cloud vendors who are the owners of the computer systems). Under the proposed amendments, providers of services using non-provider-owned CIIs must obtain legally binding commitments from CII owners. The Bill makes clear that responsibility for the cybersecurity of the CII still ultimately rests with the provider.

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