Policy and Standardisation on Cross-Border Data Flows: Thailand’s Experience

Submitted by: Thailand

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Volume of data created, captured, copied and consumed worldwide from 2010-2025

To meet the envisaged Thailand 4.0 Strategy, Thailand realises that data sharing is a key component to achieve a data-driven economy.

Source: Statista 2021
Key Economic Impacts of ASEAN economy

Data is key to every ASEAN growing unicorns.

Digital integration in ASEAN will add **US $1 trillion** more to the GDP by 2025

SMEs export cost saved over **US $339 billion** in export: Thailand; China; India; and Korea using digital tools

Top benefits realised through the use of data worldwide in 2019

- Improved productivity: 64%
- Faster decision making: 56%
- Better financial performance: 51%
- New product creation: 46%
- Improved customer retention: 46%
- Improved customer experience: 44%
- Competitive advantage: 43%

Source: Statista, worldwide; 2019; 500 respondents; business intelligence and analytics professionals
Most common mechanisms for companies transferring personal data outside EU in 2020

- Policy-based additional safeguards: 45%
- Contract-based safeguards: 53%
- Technical-based safeguards: 50%
- Standard contractual clauses (SCC): 75%

Mechanisms used:
Most common mechanisms for companies transferring personal data outside EU in 2020

- 20% Binding corporate rules
- 19% Adequacy
- 19% Consent
- 4% Privacy shield (under renegotiation)

Source: IAPP; EY; 2020; 473 respondents; privacy experts; Online survey
# Tools to standardise data sharing: AMS perspectives

<table>
<thead>
<tr>
<th>Economy</th>
<th>Personal data protection regulation</th>
<th>Cross-border data transfer grounds</th>
<th>Regulator</th>
</tr>
</thead>
<tbody>
<tr>
<td>Malaysia</td>
<td>Comprehensive</td>
<td>Adequacy protection level of destination economy, consent, contracts, appropriate safeguards, vital interests.</td>
<td>Ministry of information, culture, and communication (MIC)</td>
</tr>
<tr>
<td>The Philippines</td>
<td>Comprehensive</td>
<td>Accountability is placed to a data controller to ensure contracts or other means that provide a comparable protection level.</td>
<td>National privacy commission (NPC)</td>
</tr>
<tr>
<td>Singapore</td>
<td>Comprehensive</td>
<td>Comparable protection level of destination economy, consent, contracts, binding corporate rules (BCRs)</td>
<td>Personal data protection commission (PDPC)</td>
</tr>
<tr>
<td>Thailand</td>
<td>Comprehensive</td>
<td>Adequacy protection level of destination economy, consent, contracts, legal obligation, important public task, vital interests.</td>
<td>Office of Personal Data Protection Committee</td>
</tr>
<tr>
<td>Indonesia</td>
<td>In process: drafting comprehensive data protection law</td>
<td>Most likely to adhere to the same standards as other AMS data protection law</td>
<td>Ministry of communication and informatics (MOCI)</td>
</tr>
</tbody>
</table>

**Common tools:** Contracts for cross-border data sharing
Thailand’s Data Sharing Strategy: Standardisation

Global and Regional Standards

• The OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data
• GDPR – Standard Contractual Clauses and Adequacy Requirements
• ASEAN Cross-Border Data Flows (CBDF) Mechanism (Model Contractual Clauses/Certification) & APEC CBPR Certification scheme

Domestic regulations to resonate with global standards

• Thailand’s Personal Data Protection Act –PDPA (to be enforced on 1 June 2022)
• Sub-regulations and guidelines under PDPA to facilitate cross-border data transfer
• Learn from follow AMS -Singapore (Trusted Data Sharing Framework) and The Philippines (Guidelines on Data Sharing Agreements)
Thailand’s Data Sharing Strategy: Standardisation

Two approaches:

Make domestic regulations resonate with regional and global standards

- Draft regulations on Cross-Border Data Transfer Mechanism
- Draft regulations on standard and certification & international cooperation
- Both drafts are undergoing public hearing between Q2-3 2021: expected completion Dec 2021
- The complete drafts are expected to resonate with the principles of ASEAN’s MCC to be a tool to share data
- PDPC also has power to prescribe further rules regarding cross-border data sharing (e.g. certification)

Capacity building

- To ensure that people and organizations can reap benefits of data sharing by using data transfer tools (MCCs and other mechanisms)
Thank you

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