

Briefing Note

**FRASERS**  
LAW COMPANY

# Note on the Extraterritorial Scope of Data Protection Laws of Vietnam's Major Trading Partners

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	Extraterritorial Scope	Penalties
<p><b>General Data Protection Regulation - EU (GDPR)</b></p>	<p>Yes, organisations established outside the EU (that includes Vietnam) will have to comply with the GDPR or face enforcement action from the data protection authorities in the EU.</p> <p>GDPR applies to entities domiciled and doing business in Vietnam in the following circumstances:</p> <ul style="list-style-type: none"> <li>• If the processing of personal data in the context of the activities of an establishment of a controller or a processor in the EU, and the actual data processing is undertaken by an entity in Vietnam;</li> <li>• If the Vietnam-domiciled entity is a data controller or data processor that: <ul style="list-style-type: none"> <li>○ offers goods or services to EU-based individuals (irrespective of whether a payment is required);</li> <li>○ conducts monitoring of behavior of EU-based individuals (including but not limited to the use of cookies or logging IP addresses or location data tracking from smartphones) as far as their behavior takes place within the EU;</li> <li>○ is contractually obligated to comply with the GDPR by its business partners.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Up to EUR20 million or up to 4% of an undertaking's total global turnover of the preceding fiscal year, whichever is higher.</li> </ul>
<p><b>The California Consumer Privacy Act (CCPA)</b></p>	<p>Yes, the CCPA does not require for an organisation to have a physical presence in California. If an entity is located outside California, such as Vietnam, but is “doing business in California”, the CCPA may apply.</p> <p>CCPA applies to any entity that:</p> <ol style="list-style-type: none"> <li>(i) collects and controls personal information of California residents;</li> <li>(ii) does business in the state of California<sup>1</sup>; and</li> <li>(iii) meets one or more of the following thresholds: <ul style="list-style-type: none"> <li>• has annual gross revenue in excess of USD \$25 million;</li> <li>• annually buys, receives, sells or shares for commercial purposes, the personal information of 50,000 or more consumers, households or devices; or</li> <li>• derives 50% or more of its annual revenue from selling California residents' personal information.</li> </ul> </li> <li>(iv) any entity that controls or is controlled by a business that meets the requirements above;</li> <li>(v) any entity that shares common branding with a business that meets the requirements above, such as a shared name, service mark, or trademark.</li> </ol>	<ul style="list-style-type: none"> <li>• Up to US\$2,500 per violation of any kind or US\$7,500 for each intentional violation.</li> </ul>

<sup>1</sup> While the CCPA does not define this phrase, “doing business”, it could be interpreted as any entity that regularly offers goods or services to persons or entities in California or otherwise purposefully derives benefit from its activities in California, regardless of its physical presence or place of incorporation. Another widely accepted interpretation is: businesses without a physical presence in California so long as they collect the personal information of California residents.

	<b>Extraterritorial Scope</b>	<b>Penalties</b>
<b>Act on the Protection of Personal Information – Japan (APPI)</b>	<p>Yes, the APPI in force applies to private-sector entities including entities overseas (such as those domiciled in Vietnam), regardless of their size, that handle the personal information of those located in Japan (whether a natural or legal person), in connection with supplying goods or services in Japan.</p> <p>The earlier version of the APPI only applies to foreign business operators that acquire personal information directly from data subjects in Japan.</p> <p>Under the APPI in force, the extraterritorial scope extends to foreign business operators that acquire personal information of individuals and entities in Japan indirectly via a third party.</p>	<ul style="list-style-type: none"> <li>Up to JPY100 million (approximately US\$753,000)</li> </ul>
<b>Personal Information Protection Act – Korea (PIPA)</b>	<p>PIPA does not expressly provide for is extraterritorial application.</p> <p>However, there may be wide acceptance that the PIPA applies to both Korean companies and companies established abroad (including those companies set up in Vietnam) that process personal information in Korea, or to the processing of personal information of Korean individuals regardless of the location of the processing activities.</p> <p>If the processing is undertaken by an entity in Vietnam, then that entity should comply with the provisions of the PIPA.</p>	<p>Obtaining personal information or consent by unlawful means:</p> <ul style="list-style-type: none"> <li>Imprisonment for up to 3 years or</li> <li>Fine up to KRW30 million (approximately US\$23,000)</li> </ul> <p>Personal data security breach due to the failure to implement protective measures:</p> <ul style="list-style-type: none"> <li>Imprisonment for up to 2 years or</li> <li>Fine up to KRW20 million (approximately US\$15,400)</li> </ul>
<b>Personal Data Protection Act - Singapore (PDPA)</b>	<p>The PDPA applies to all organisations, regardless of their size, that collect, use, or disclose personal data in Singapore, whether or not the organisation itself has a physical presence or is registered as a company in Singapore.</p> <p>If an organisation domiciled in Vietnam collects, uses, or discloses personal data of data subjects in Singapore, then the PDPA could be applicable to that Vietnam-domiciled entity.</p>	<p>Up to 10% of an organisation's annual turnover in Singapore for those with annual turnover in Singapore that exceeds SGD10 million or SGD1 million</p>