

LEGAL ALERT – 6 AUGUST 2018

NEW LAW ON CYBERSECURITY

On 12 June 2018 the National Assembly of Vietnam passed the new Law 24/2018/QH14 on Cybersecurity (***Law on Cybersecurity***), which will take effect from 1 January 2019. While the official version signed by the State's President has not been issued yet, the Law on Cybersecurity is available on the official website of the National Assembly. Some of the key provisions contained in the Law on Cybersecurity, include:

1. Objectives of the new Law on Cybersecurity

The principles and objectives of the Law on Cybersecurity are enshrined under Article 4, and include ensuring the interests of the State (Article 4.1), the leadership by the Vietnamese Communist Party (Article 4.2), and the proactive prevention, detection and fighting of all acts using cyberspace to infringe national security, social order and safety, or the lawful rights and interests of organisations and individuals (Article 4.4).

2. Prohibited contents and conducts

Article 8 of the Law on Cybersecurity provides for a broad list of conducts that are defined as "strictly prohibited" and include, among others:

- Posting and/or disseminating in cyberspace any "contents being propaganda against the Socialist Republic of Vietnam" (which also includes any "distortion or defamation of the people's administrative authorities");
- Organising, instigating, or manipulating people to oppose the State of the Socialist Republic of Vietnam;
- Providing false information, causing confusion amongst the citizens, causing harm to socio-economic activities, causing difficulties for the operation of State agencies or of people performing public duties; and

- Conducting activities of gambling, prostitution, human trafficking, or publishing information which is lewd, depraved or criminal.

3. **New specialised force for Cybersecurity under the Ministry of Public Security**

The Law on Cybersecurity provides for the creation of a new specialised agency, known as Cybersecurity Task Force (**CTF**) under the Ministry of Public Security. The CTF is empowered to conduct inspections for the purposes of enforcing the Law on Cybersecurity, and is awarded with broad powers, including:

- Requiring the suspension of network information, and of the supply and use of telecom networks and of the internet;
- Requiring the deletion, access to or removal of unlawful or false information in cyberspace which infringes national security, social order and safety, or the lawful rights of organisations and individuals;
- Collecting e-data relevant to acts in cyberspace infringing national security, social order and safety, or the lawful rights of organisations and individuals;
- Suspending or restricting the operation of information systems and domain names; and
- Bringing charges and conducting investigations, prosecutions and trials in accordance with the Criminal Procedure Code of Vietnam.

4. **New data storage requirements**

Under Article 26.3 of the Law on Cybersecurity, any domestic or foreign enterprise providing services on telecom networks and on the Internet and other value added services in cyberspace in Vietnam (**Cyberspace Service Provider**) who collect, use, analyse or process data being personal information, data about service users' relationships, or data generated by service users in Vietnam must store those data in Vietnam for a period of time specified by the Government. An issue with respect to this provision is that the term 'data' is not clearly defined and, if interpreted broadly, may drastically expand the scope of application of Article 26.3.

5. **New local presence requirements**

The same Article 26.3 of the Law on Cybersecurity further provides that Cyberspace Service Providers must establish a branch or a representative office in Vietnam. This is a new requirement under the law and, together with the data storage requirements discussed above, will require the Government to issue further implementing legislation to regulate this in detail and to better define the scope of these provisions.

6. **New obligations for foreign and local telecommunications service providers**

Pursuant to Article 26.2, any domestic or foreign Cyberspace Service Providers in Vietnam shall have the following responsibilities:

- to authenticate information when users register a digital account, and to maintain the confidentiality of the information and accounts of the users;
- to provide user information to the CTF when so requested in writing in order to serve investigation of and dealing with breaches of the Law on Cybersecurity;

- to prevent the sharing and to delete certain prohibited contents within twenty four (24) hours after being so requested by the CTF or by another relevant agency under the Ministry of Information and Communications; and
- to save/maintain system logs in order to serve investigations of, and dealing with, breaches of the Law on Cybersecurity.

Please contact us at legalenquiries@frasersvn.com if you are interested in receiving further updates on the Law on Cybersecurity, or would like to receive an English or Vietnamese language version of the Law on Cybersecurity.

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