Cloud Computing, Data Privacy and Security

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Applicable Laws and Regulations in Vietnam
Cloud Computing Definition/Registration

- In 2012, there was a Draft Decree on IT Services defining cloud computing as an IT service (includes infrastructure as a service, platform as a service, and software as service);

- If passed as worded, cloud computing service providers must:
  ➢ (i) appoint a local representative in Vietnam;
  ➢ (ii) register its service with the MIC;
  ➢ (iii) apply for license; and
  ➢ (iv) meet certain technical and safety standards (undefined).

- Unclear as to when this draft may be passed.
Overview

 Relevant law

- Data Privacy
- Cyber Information Security
Data Privacy

- Protected Information
- Consent Requirement/Exception
- Legal Basis
- Key Obligations

Data Privacy
Key obligations

- Notification (purpose)
- Consent obligation
- Access and correction
- Transfer

* Applicable to data intermediaries
Transfer of personal data outside Vietnam

Best Practice:

- Ensure comparable protection of personal data
- Obtain consent of the individual for the transfer
- Transfer is necessary for performance of service
Sanctions for Improper Use of Personal Data

10-20 million VND for not employing necessary security measures to protect Personal Data; OR for using Personal Data outside of the advertised purpose/without Data Subject’s consent.
For Cloud Provider: Cybersecurity

- Law on Cyber Information Security
  - Cyber information security services and products (Decree 108/2016/ND-CP)
  - Security level of Information System (Decree No. 85/2016/ND-CP)
  - Trading of civil encryption products and services and importation, exportation of civil encryption products (Decree 58/2016/ND-CP)
Recommendations
What to do? (best practice)

- Know where the servers are located
- Encrypt data
- Implement security measures
  - malware detection, removal, forensic readiness
- Establish in-house policies and procedures
  - transfer, access, and processing
  - for data breach and recovery
Choose your service provider carefully

Check compliances with VN law (both customer and provider)

Use 3rd party standards to evaluate service (i.e., ISO, CSA CCM)

Negotiate contracts (limitation of liability clauses?)

https://downloads.cloudsecurityalliance.org/initiatives/surveys/financial-services/Cloud_Adoption_In_The_Financial_Services_Sector_Survey_March2015_FINAL.pdf

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