

# China Monthly Data Protection Update

December 2022

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## Legislation

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### **Standing Committee of Beijing Municipal People's Congress Passes *Beijing Digital Economy Promotion Regulations***

On November 25, 2022, the forty-fifth meeting of the Standing Committee of the 15th Beijing Municipal People's Congress passed the *Beijing Digital Economy Promotion Regulations* (“*Regulations*”), which comes into effect on January 1, 2023. The Regulations stipulates rules of data collection, utilization, opening, and transactions, etc., and will establish a data catalog and pricing mechanism.<sup>1</sup>

### **NISTC Solicits Comments on National Standard *Information Security Technology – Framework for Cybersecurity Emergency System of Critical Information Infrastructure (Draft for Comments)***

On November 17, the National Information Security Standardization Technical Committee (“NISTC”) issued the *Information Security Technology – Framework for Cybersecurity Emergency System of Critical Information Infrastructure (Draft for Comments)* (“*Framework*”) to solicit public opinion. The Framework is applicable for critical information infrastructure operators to establish a sound cybersecurity emergency response system and carry out cybersecurity emergency response activity. The content includes organization establishment, analysis and recognition, emergency plan, monitoring and warning, emergency handling, post-event recovery and summary, incident reporting and information sharing, emergency protection, and drills and training.<sup>2</sup>

### **CAC Issues Newly Revised *Provisions on the Management of Internet Comment Threading Services***

On November 16, the Cyberspace Administration of China (“CAC”) issued the newly revised *Provisions on the Management of Internet Comment Threading Services* (“*Provisions*”), which comes into effect on December 15, 2022. The Provisions consists of 16 articles, focusing on the management responsibilities of comment threading service providers as well as the relevant requirements that comment threading service users and public account operators should comply with.<sup>3</sup>

### **Shenzhen Administration for Market Regulation Issues *Requirements for Public Data Security***

On November 14, Shenzhen Administration for Market Regulation approved and issued three Shenzhen local standards, including the *Requirements for Public Data Security* (“*Requirements*”)

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<sup>1</sup> <https://www.bjnews.com.cn/detail/166938081914483.html>

<sup>2</sup> [https://www.tc260.org.cn/front/bzzqyjDetail.html?id=20221117111713&norm\\_id=20201104200013&recode\\_id=49437](https://www.tc260.org.cn/front/bzzqyjDetail.html?id=20221117111713&norm_id=20201104200013&recode_id=49437)

<sup>3</sup> [https://mp.weixin.qq.com/s/9Nu9OitcAGbXILpKNPFzvA?scene=25#wechat\\_redirect](https://mp.weixin.qq.com/s/9Nu9OitcAGbXILpKNPFzvA?scene=25#wechat_redirect)

and its official interpretation. The Requirements came into effect on December 1, 2022. It's the first local standard in the field of public data security.<sup>4</sup>

**NISTC Solicits Comments on *Cybersecurity Standard Practice Guide — Security Certification Regulations on Personal Information Cross-border Process (V2.0-Draft for Comments)***

On November 8, the NISTC issued the *Cybersecurity Standard Practice Guide — Security Certification Regulations on Personal Information Cross-border Process (V2.0-Draft for Comments)*. The draft improves the requirements for the foreign recipients in terms of fundamental principles, legal agreements, and responsibilities and obligations.<sup>5</sup>

**National Standard *Information Security Technology – Cybersecurity Requirements for Critical Information Infrastructure Protection (GB/T 39204-2022)* Published**

On November 7, Standard and Technology Department of SAMR, Cybersecurity Coordination Department of CAC and Cybersecurity Protection Department of Ministry of Public Security jointly held a press briefing in Beijing to issue the National Standard *Information Security Technology – Cybersecurity Requirements for Critical Information Infrastructure Protection (GB/T 39204-2022)*. The standard put forward three fundamental principles, six aspects of activities, and 111 pieces of security requirements for critical information infrastructure security protection.<sup>6</sup>

**CAC and SAMR Jointly Issues *Personal Information Protection Certification Implementation Rules***

On November 4, in order to regulate personal information processing and promote the reasonable use of personal information, CAC and SAMR decided to implement personal information protection certification and encourage personal information handlers to improve their personal information protection capabilities through certification. Certification agencies engaged in personal information protection certification shall carry out relevant certification activities upon approval and make certification in accordance with the *Personal Information Protection Certification Implementation Rules*.<sup>7</sup>

**MIIT Solicits Comments on *Notice on Carrying out the Pilot Program on Intelligent Connected Vehicle Access and Driving (Draft for Comments)***

On November 2, Ministry of Industry and Information Technology (“MIIT”) issued the *Notice on Carrying out the Pilot Program on Intelligent Connected Vehicle Access and Drive (Draft for*

<sup>4</sup> [http://amr.sz.gov.cn/xxgk/qt/tzgg/bzh/content/post\\_10242457.html](http://amr.sz.gov.cn/xxgk/qt/tzgg/bzh/content/post_10242457.html)

<sup>5</sup> <https://www.tc260.org.cn/front/postDetail.html?id=20221108180519>

<sup>6</sup> [https://mp.weixin.qq.com/s/7G\\_agdnbtbjVLcjkVaAk\\_A?scene=25#wechat\\_redirect](https://mp.weixin.qq.com/s/7G_agdnbtbjVLcjkVaAk_A?scene=25#wechat_redirect)

<sup>7</sup> [https://mp.weixin.qq.com/s/n2vtPj6\\_XC2Uy0HfE\\_BFmQ](https://mp.weixin.qq.com/s/n2vtPj6_XC2Uy0HfE_BFmQ)

*Comments*). It puts forward the requirements of management capabilities for cybersecurity and data security of vehicles at four levels: pilot cities, pilot vehicle manufacturers, pilot products, and pilot users. It emphasized that intelligent connected vehicle manufacturers should have data security protection capabilities.<sup>8</sup>

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<sup>8</sup> [https://www.miit.gov.cn/gzcy/yjzj/art/2022/art\\_4ae46de7edee4a72adb611b3c67b9d6e.html](https://www.miit.gov.cn/gzcy/yjzj/art/2022/art_4ae46de7edee4a72adb611b3c67b9d6e.html)

## Enforcement Authority

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### **CAC Responds to the Question: Whether the Enhanced Cybersecurity Construction Would Restrict Foreign Companies in China**

On November 7, 2022, the State Council Information Office held a press briefing to introduce the white paper *Jointly Build a Community with a Shared Future in Cyberspace* and answer questions from reporters. A reporter from Japan's Kyodo News Agency asked China's response to the concerns that some foreign companies are worried about restrictions on their operation in China as China has been enhancing cybersecurity. Qi Xiaoxia, Director of the International Cooperation Bureau of CAC, replied that it is unnecessary to have such concern, China will open the door wider and wider to other countries.<sup>9</sup>

### **Cyberspace Administration of Shanghai: Practical Q&A on Application of Security Assessment for Outbound Data Transfer**

On November 3, in order to better serve Shanghai data processors to carry out the application of security assessment for outbound data transfer, according to the *Security Assessment Measures for Outbound Data Transfers* and *Guidelines to Application of Security Assessment for Outbound Data Transfers (1st Edition)*, combined with the recent consultation, Cyberspace Administration of Shanghai answered 10 common practical questions.<sup>10</sup>

### **Cyberspace Administration of Guangdong Opens the Application Access of Security Assessment for Outbound Data Transfer**

On November 1, in order to regulate and orderly carry out the application of security assessment for outbound data transfer, according to the *Security Assessment Measures for Outbound Data Transfers* and *Guidelines to Application of Security Assessment for Outbound Data Transfers (1st Edition)*, Cyberspace Administration of Guangdong Province formally opened the application access of security assessment for outbound data transfer to receive the materials submitted by data processors in Guangdong.<sup>11</sup>

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<sup>9</sup> <http://finance.sina.com.cn/china/2022-11-07/doc-imqgsmrp5247209.shtml>

<sup>10</sup> [https://mp.weixin.qq.com/s/PEzV4-LLa2WCg3-LBNeRiQ?scene=25#wechat\\_redirect](https://mp.weixin.qq.com/s/PEzV4-LLa2WCg3-LBNeRiQ?scene=25#wechat_redirect)

<sup>11</sup> [https://mp.weixin.qq.com/s/hQ2Q7LrDRPcl2eoz\\_hT-kA?scene=25#wechat\\_redirect](https://mp.weixin.qq.com/s/hQ2Q7LrDRPcl2eoz_hT-kA?scene=25#wechat_redirect)

## Enforcement Cases

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### RMB 1.4 million Fine for Bank of Panjin for the Disclosure Risk of Sensitive Information

On November 4, 2022, China Banking and Insurance Regulatory Commission Liaoning Office imposed a fine of RMB 1.4 million on Panjin Bank and a warning on the responsible persons according to the *Law of the People's Republic of China on Banking Regulation*. The fine showed that Panjin Bank's major violations included: serious failure to implement regulatory requirements, disclosure risk of sensitive information, deficiencies in outsourcing management responsibilities, and concealment of information system emergencies.<sup>12</sup>

### CAC Investigates and Deals with a Number of Illegal Apps

On November 3, the CAC investigated and dealt with 135 illegal apps in accordance with the *Personal Information Protection Law*, *Measures for the Determination of the Collection and Use of Personal Information by Apps in Violation of Laws and Regulations* and other laws and regulations.<sup>13</sup>

### Beijing Communications Administration Notifies 20 Problematic Apps

On October 29, the Beijing Communications Administration issued a notice on 20 problematic apps. Beijing Communications Administration organized third-party testing agencies to carry out technical testing of Apps based in Beijing, and found that 20 Apps had problems such as infringement of users' rights and security risks.<sup>14</sup>

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<sup>12</sup> <https://baijiahao.baidu.com/s?id=1748562149113351206&wfr=spider&for=pc&searchword=辽宁盘锦银行因数据泄露被罚>

<sup>13</sup> [http://www.cac.gov.cn/2022-11/03/c\\_1669106604621340.htm](http://www.cac.gov.cn/2022-11/03/c_1669106604621340.htm)

<sup>14</sup> [https://bjca.miit.gov.cn/zwgk/tzgg/art/2022/art\\_17bd05f33d934928b016f5610ec0fe7e.html](https://bjca.miit.gov.cn/zwgk/tzgg/art/2022/art_17bd05f33d934928b016f5610ec0fe7e.html)

## Courts Litigation

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### Shanghai Court Releases First Batch of Typical Cases on Digital Economy

On November 17, 2022, Shanghai Jiading District People's Court held a press conference to release the first batch of typical cases of Shanghai Court's Digital Economy Judicial Research and Practice (Jiading) Base. The first batch of typical cases focused on four major aspects involving (1) personal information processing or using the network to infringe other personality rights, (2) property rights and interests of data forms and protection of market competition, (3) legal obligations of platform operators/data algorithm users and protection of rights and interests of related subjects, (4) infringement of data form rights and interests, use of data technology to implement cybercrime and prevention of gray and black industries.<sup>15</sup>

### Obtain and Sell Personal Information Using Mini Programs: Procuratorate Files Incidental Civil Public Interest Litigation

Since August 2020, Zhong (the suspect) has developed mini programs to obtain citizens' personal information to sale to fraud rings, who have used the information to profit RMB 490 million unlawfully, seriously harming public interests. In February 2022, Miluo City Procuratorate filed an incidental civil public interest litigation against Zhong for infringement of citizens' personal information. In May, the court sentenced the defendant Zhong to three years and six months' imprisonment, and a fine of 1.75 million. The court also ordered Zhong to pay public interest damages of RMB 1.75 million and to make public apologies on national media. In November, Yueyang Intermediate Court issued a final ruling rejecting the appeal and upholding the original verdict.<sup>16</sup>

### Guangdong High People's Court Releases Typical Cases on Personal Information Protection

On October 31, Guangdong High People's Court released typical cases of personal information protection, including two criminal and four civil cases, covering the strict crackdown on crimes against citizens' personal information, the prevention of "excessive collection" of personal information, the protection of the exercise of the right to access and copy personal information, and the regulation of the use of personal information by online platforms in accordance with the law, etc.

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<sup>15</sup> [https://mp.weixin.qq.com/s/rmP7ZGqQH-6WjE3YY33gdA?scene=25#wechat\\_redirect](https://mp.weixin.qq.com/s/rmP7ZGqQH-6WjE3YY33gdA?scene=25#wechat_redirect)

<sup>16</sup> [http://newspaper.jcrb.com/2022/20221108/20221108\\_004/20221108\\_004\\_2.htm](http://newspaper.jcrb.com/2022/20221108/20221108_004/20221108_004_2.htm)

<sup>17</sup> [https://mp.weixin.qq.com/s/IO7SPwry3ZABchPuCjQsjA?scene=25#wechat\\_redirect](https://mp.weixin.qq.com/s/IO7SPwry3ZABchPuCjQsjA?scene=25#wechat_redirect)

## WeChat Public Accounts

Name: Personal Information and Data Protection Practice Review

ID: DataProtectionReview

This Public Account focus on updates of China's personal information, data and privacy protection, including legislation, authorities, public enforcement, private litigation, academia, etc. Case study, theory introduction, practice guidance, original personal information, data and privacy protection reviews and articles are also contained. Welcome to join us.

