



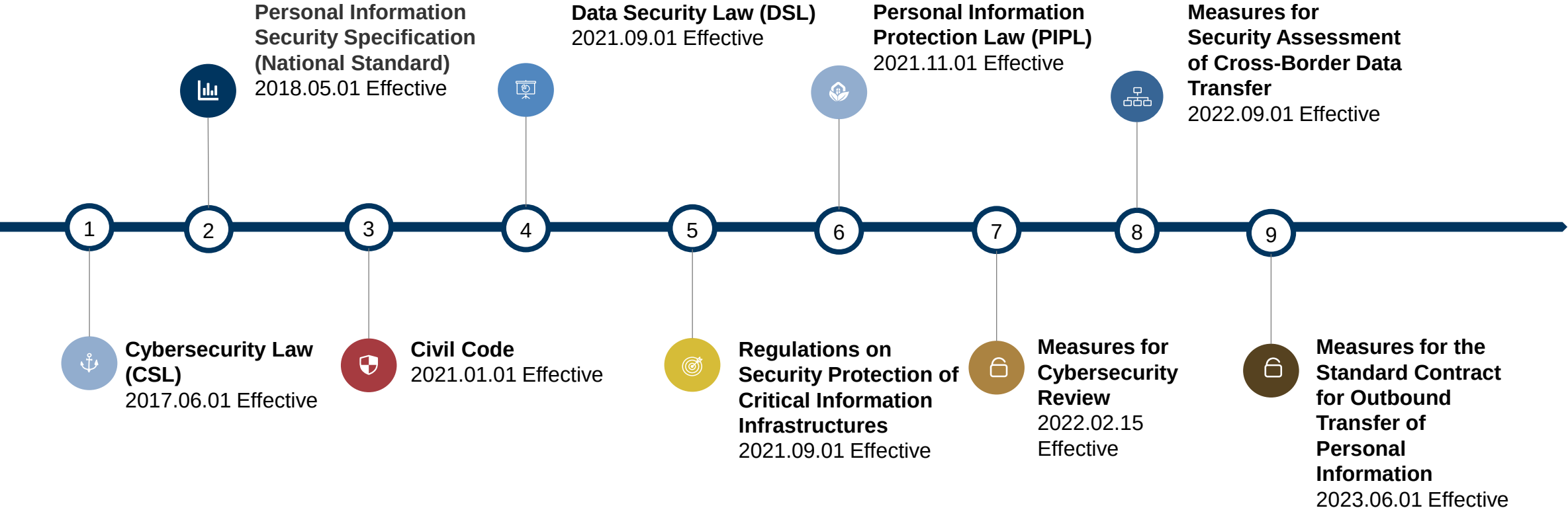
China's Data Regulation – an Overview

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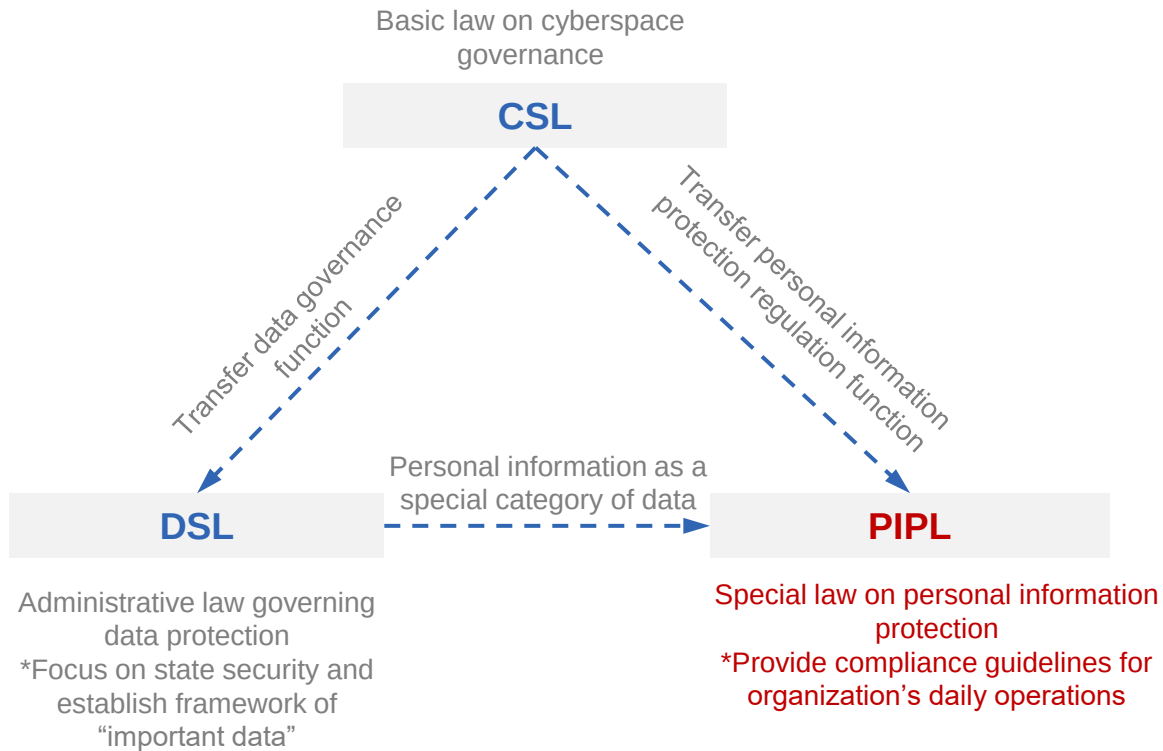
Data Protection Legal Framework

Milestones in China's Data Legislation



Data Protection Legal Framework Overview

Three Pillars of PRC Data Protection Legislation



Specific Regulations in Certain Industries

- Automotive
- Healthcare
- Banking
- Securities
- Credit investigation
- Mapping

Data Protection Legal Framework

One of “Three Pillars”——PIPL

Chinese “GDPR”



Extraterritorial effect

- Offshore processing for offering products or services to individuals within China
- Offshore processing involved analyzing behaviors of individuals happened within China



Comprehensive rules

- Introduce several legal bases for processing
- Specify safeguards for outbound data transfer
- Offer a greater level of protection and control for individuals over their personal information (PI)



High penalties

- Cap penalties of RMB 50 million or 5% of annual turnover in the prior year



Macro Security Perspective

Criteria: importance and damage to national security, public interest, or the interests of individuals/ organizations if leaked

- Core data
- Important data
- General data

Individual Perspective

Criteria: whether the data can, directly or indirectly, identify or link to a specific natural person

- Personal information (PI)
- Non-PI

Data localization: data must be stored or processed locally in China and can only be transferred cross-border upon completion of a security assessment.



Large PI Handlers

PI handlers (controllers) process PI in an amount reaching a certain quantitative threshold (likely 1 million)



CII Operators

Critical Information Infrastructures (CII) refer to important network facilities and information systems in important industries, e.g., public telecommunications and information services, energy, transportation, etc.

Outbound Data Transfer Mechanism

Three Safeguards



01

Security Assessment

- This safeguard is mandatory for certain data transfers, for example:
 - Outbound transfer of important data
 - Outbound transfer of PI by PI handlers who have processed PI of 1 million or more individuals
- Assessments are organized by Cyberspace Administration of China (CAC)

02

China SCC Filing

- China SCC template is released by CAC
- Provisions of China SCC cannot be modified
- Executed China SCC should be filed with local CAC

03

Certification

Certification by a CAC-accredited certifying institution

International Judicial Assistance

Disclose Data to Offshore Judicial or Law Enforcement Authority



Approval is required for data disclosure to offshore judicial or law enforcement authorities.

- Applicable request - a request to the PRC competent authority for the taking of evidence abroad
- Requesting party - an offshore judicial or law enforcement authority
- Requested disclosing party - a PRC entity
- Competent authority - Ministry of Justice of the PRC (MoJ)



Zhihua (David) Tang
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Partner*

Practice Areas

Data protection
Mergers and acquisitions
Foreign direct investment
General corporate
Corporate compliance

Qualifications

Member of the PRC Bar

Working Languages

Chinese, English

■ Professional Experience

Mr. Tang's extensive professional experience includes positions with government authorities and international and local law firms. Prior to joining Han Kun, Mr. Tang was a partner at a leading Chinese firm and had also practiced in the China practice groups of three pre-eminent international law firms. Mr. Tang has been consecutively ranked as one of the leading PRC Corporate and M&A lawyers by legal ranking organizations such as Chambers & Partners, Asialaw Profiles, and The Legal 500. He has also been appointed as an extramural graduate student advisor by Fudan University School of Law and East China University of Political Science and Law.

Mr. Tang's primary practice areas are general corporate and commercial, foreign direct investment, and cross-border mergers and acquisitions. Mr. Tang has been advising numerous Fortune 500 Global and other multinational and foreign companies on their investments, acquisitions and daily business operations since he started his professional career. Mr. Tang advises large and medium sized Chinese companies on doing business in overseas markets, particularly in assisting with Chinese companies' outbound direct investments and mergers and acquisitions.

Mr. Tang also focuses on corporate compliance and data protection. He regularly advises clients on their China operations in connection with compliance policies and guidelines, internal compliance reviews, audits, and government investigations involving commercial bribery and other regulatory compliance matters. He also conducts internal investigations for clients, including those concerning vendors and company employee conflicts of interest, self-dealing, PRC anti-bribery rules, the UK Bribery Act (2010) and the US Foreign Corrupt Practices Act. Mr. Tang regularly counsels clients on compliance matters relating to cybersecurity and data and personal information protection, assists clients in establishing data compliance systems, applying governmental procedure for cross-border data transfer, and investigating and managing data incident crises. The clients which Mr. Tang represents come from a wide variety of industry sectors such as advertisement, aircraft, automotive, clean energy, FMCG, food and beverage, hospitality, life sciences, logistics, petrochemical, power, retail, and TMT.

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Qualifications

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Chinese, English

■ Education

Mr. Tang received an LL.B. degree and an LL.M. degree from Fudan University School of Law.

■ Honors and Awards

Regulatory and Compliance

Recommended Lawyer in Data protection (The Legal 500 Asia Pacific, 2021-2023)
Recommended Lawyer in Regulatory/Compliance (Legal 500 Asia Pacific, 2019-2023)
Asialaw Leading Lawyer in Financial Services Regulatory (Asialaw Profiles, 2017)
Shortlisted for Regulatory & Compliance Lawyer of the Year (China Law and Practice, 2017-2019)
Leading lawyer in Banking & Finance (China Law & Practice, 2014)

Corporate/M&A

Leading Lawyer in Corporate/M&A (Chambers Global, 2016-2023)
Leading Lawyer in Corporate/M&A (Chambers Greater China Region, 2022-2023)
Leading Lawyer in Corporate/M&A (Chambers Asia-Pacific, 2012-2021)
Hall of fame in Corporate and M&A (The Legal 500 Asia Pacific, 2021-2023)
Distinguished practitioner in Corporate/M&A (Asialaw Profiles, 2020-2023)
Highly Regarded Lawyer in M&A (IFLR1000, 2021-2023)
China Top 15 M&A Lawyer (Asian Legal Business, 2021)
Leading Lawyer in Corporate and M&A (The Legal 500 Asia Pacific, 2016-2020)
Shortlisted as Shanghai M&A Lawyer of the Year (IFLR1000 China Awards, 2021)
Recommended Lawyer in Corporate and M&A (The Legal 500 Asia Pacific, 2012-2015)
Asialaw Leading Lawyer in Corporate/M&A (Asialaw Profiles, 2016-2019)
Leading lawyer in Corporate and M&A (China Law & Practice, 2012-2015)

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