



**Comments of the Global Data Alliance on the  
Draft Notification of the Personal Data Protection Committee on Rules and Principles of  
Appropriate Personal Data Protection for International Transfer  
under the Personal Data Protection Act 2019**

**October 24, 2022**

We write to introduce the Global Data Alliance (**GDA**)<sup>1</sup> and provide our comments to the Ministry of Digital Economy and Society (**MDES**) and Office of the Personal Data Protection Committee (**PDPC Office**) regarding the draft Notification on Rules and Principles of Appropriate Personal Data Protection for International Transfer under the Personal Data Protection Act (**PDPA Data Transfer Notification Rules**).

### **Introduction**

The GDA is a cross-industry coalition of companies, operating around the world, that are committed to high standards of data privacy and security and that rely on the ability to transfer data responsibly across borders to create jobs and make local industries more competitive. With operations and personnel in Thailand and across Southeast Asia, GDA members work to advance policies that promote the responsible handling of data without imposing unnecessary data localization mandates or restrictions on data transfers. Alliance members are active across many sectors including the agriculture,<sup>2</sup> automotive,<sup>3</sup> clean energy,<sup>4</sup> finance,<sup>5</sup> healthcare and medical technology,<sup>6</sup> logistics,<sup>7</sup> media,<sup>8</sup> pharmaceutical,<sup>9</sup> software, semiconductor, and telecommunications sectors.<sup>10</sup> The Global Data Alliance develops studies and reports, as well as model legal texts, on the cross-border aspects of data privacy, cybersecurity, and other legislative or regulatory proposals. This includes the GDA Cross-Border Data Policy Principles,<sup>11</sup> the GDA Report on Data Transfers and Sustainable Economic Development,<sup>12</sup> and the GDA Position Paper on Data Transfers and Data Localization Measures.<sup>13</sup>

The ability to transfer data in a trusted and secure manner across transnational digital networks is of central importance to the national policy objectives of many countries, including Thailand. Data transfers support COVID-19 recovery,<sup>14</sup> cybersecurity,<sup>15</sup> fraud prevention,<sup>16</sup> and other activities relating to the protection of health, privacy, security, safety, consumers, and the environment. They also support shared economic prosperity:<sup>17</sup> Cross-border access to marketplaces, purchasers, suppliers, and other commercial partners allows Thai enterprises of all sizes and in all sectors<sup>18</sup> to engage in mutually beneficial international transactions with foreign enterprises. 75 percent of the value of data transfers accrues to companies in sectors such as manufacturing, agriculture, and logistics<sup>19</sup> and at every stage of the value chain.<sup>20</sup> Finally, scientific and technological progress require the exchange of information and ideas across borders<sup>21</sup>: As the WTO has stated, “for data to flourish as an input to innovation, it benefits from flowing as freely as possible, given necessary privacy protection policies.”<sup>22</sup>

### **Discussion**

Recognizing that economies and societies thrive in an environment of digital trust that involves robust standards of data protection and the ability to responsibly transfer data, the GDA strongly supports Thailand’s efforts to develop and implement the PDPA.

The GDA appreciates the provision of further details on binding corporate rules and the provision of additional mechanisms to allow the international transfer of personal data, specifically standard contractual clauses, codes of conduct and certification. These are welcome additions to support

international data transfers, and we look forward to hearing more details on the internationally recognized certifications and codes of conduct that would be recognized by the PDPC.

On the requirement to submit appropriate safeguards to the PDPC Office, we wish to confirm that approval from the PDPC is not required prior to the international transfer of personal data. GDA respectfully submits that as long as the appropriate safeguards are submitted to the PDPC Office, organizations may proceed with the international transfer of personal data. We caution against requiring prior approval as this would be unnecessarily burdensome on both the PDPC Office and on organizations for compliance, resulting in a chilling effect on international transfers.

Additionally, to promote interoperability with prevailing international data protection norms around which many enterprises have designed their data protection controls, we also recommend that the PDPC adhere to those international norms in its treatment of different cross-border data transfer scenarios and contractual relationships.<sup>23</sup> For example, various data transfer scenarios, as well as various relationships and responsibilities among processors and controllers, are described in the OECD Privacy Framework;<sup>24</sup> the APEC Privacy Framework,<sup>25</sup> the APEC Privacy Recognition for Processors (PRP) system,<sup>26</sup> the APEC Cross Border Privacy Rules (CBPR) system,<sup>27</sup> the Global Cross-Border Privacy Rules Forum,<sup>28</sup> and the ASEAN Model Contractual Clauses.<sup>29</sup> They are also integrated into national laws including those of the EU,<sup>30</sup> Japan,<sup>31</sup> New Zealand,<sup>32</sup> and Singapore.<sup>33</sup> Ensuring compatibility and interoperability with the transfer scenarios, relationships, and responsibilities described in these prevailing legal frameworks will allow for consistency in the treatment of both Thai data and data emanating from other jurisdictions, thus easing administrative burdens without compromising the data protection.

### **Conclusion**

GDA appreciates the opportunity to provide our comments and recommendations on the PDPA Data Transfer Notification Rules. We support the Government of Thailand's efforts in implementing the PDPA and look forward to continuing working with the MDES and the PDPC Office on these matters.

Sincerely,

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Executive Director  
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- <sup>1</sup> Global Data Alliance members are headquartered across the globe and are active in the advanced manufacturing, aerospace, automotive, electronics, entertainment, financial and payment services, health, consumer goods, supply chain, and telecommunications sectors, among others. BSA | The Software Alliance administers the Global Data Alliance. For more information, please see [www.globaldataalliance.org](http://www.globaldataalliance.org)
- <sup>2</sup> Global Data Alliance, *GDA Website – Agriculture* (2022), at: <https://globaldataalliance.org/sectors/agriculture/>
- <sup>3</sup> Global Data Alliance, *GDA Website – Automotive* (2022), at: <https://globaldataalliance.org/sectors/automotive/>
- <sup>4</sup> Global Data Alliance, *GDA Website – Energy* (2022), at: <https://globaldataalliance.org/sectors/energy/>
- <sup>5</sup> Global Data Alliance, *GDA Website – Finance* (2022), <https://globaldataalliance.org/sectors/finance/>
- <sup>6</sup> Global Data Alliance, *GDA Website – Healthcare* (2022), <https://globaldataalliance.org/sectors/healthcare/>
- <sup>7</sup> Global Data Alliance, *GDA Website – Supply Chain Logistics* (2022), <https://globaldataalliance.org/sectors/supply-chain-logistics/>
- <sup>8</sup> Global Data Alliance, *GDA Website – Media and Publishing* (2022), <https://globaldataalliance.org/sectors/media-publishing/>
- <sup>9</sup> Global Data Alliance, *GDA Website – Biopharmaceutical R&D* (2022), <https://globaldataalliance.org/sectors/biopharmaceutical-rd/>
- <sup>10</sup> Global Data Alliance, *GDA Website – Telecommunications* (2022), <https://globaldataalliance.org/sectors/telecommunications/>
- <sup>11</sup> Global Data Alliance, *Cross-Border Data Policy Principles* (2021), <https://globaldataalliance.org/wp-content/uploads/2021/07/03022021gdacrossborderdatapolicyprinciples.pdf>
- <sup>12</sup> Global Data Alliance, *Cross-Border Data Transfers & Sustainable Economic Development* (2020), <https://globaldataalliance.org/wp-content/uploads/2021/07/05062021econdesvelopments1.pdf>
- <sup>13</sup> Global Data Alliance, *Cross-Border Data Transfers & Data Localization Measures* (2020), <https://globaldataalliance.org/wp-content/uploads/2021/07/02112020GDACrossborderdata.pdf>
- <sup>14</sup> Global Data Alliance, *Cross Border Data Transfers & Remote Work* (2020), <https://globaldataalliance.org/wp-content/uploads/2021/07/10052020cbdtremotework.pdf>
- <sup>15</sup> Global Data Alliance, *Cross-Border Data Transfers & Data Localization Measures* (2020), <https://globaldataalliance.org/wp-content/uploads/2021/07/02112020GDACrossborderdata.pdf>
- <sup>16</sup> Global Data Alliance, *GDA Website – Finance* (2022), <https://globaldataalliance.org/sectors/finance/>
- <sup>17</sup> Global Data Alliance, *Cross-Border Data Transfers & Economic Development: Access to Global Markets, Innovation, Finance, Food, and Healthcare* (2021), <https://globaldataalliance.org/wp-content/uploads/2021/07/05062021econdesvelopments1.pdf>
- <sup>18</sup> Global Data Alliance, *The Cross-Border Movement of Data: Creating Jobs and Trust Across Borders in Every Sector* (2020), <https://globaldataalliance.org/wp-content/uploads/2021/07/GDAeverysector.pdf>
- <sup>19</sup> Global Data Alliance, *Cross-Border Data Transfer Facts and Figures* (2020), <https://globaldataalliance.org/wp-content/uploads/2021/07/gdafactsandfigures.pdf>
- <sup>20</sup> Global Data Alliance, *Global Data Alliance Infographic: Jobs in All Sectors Depend Upon Data Flows* (2021), <https://globaldataalliance.org/wp-content/uploads/2021/07/infographicgda.pdf>
- <sup>21</sup> Global Data Alliance, *Cross-Border Data Transfers & Innovation* (2020), <https://globaldataalliance.org/wp-content/uploads/2021/07/04012021cbdtinnovation.pdf>
- <sup>22</sup> WTO, *Government Policies to Promote Innovation in the Digital Age*, 2020 World Trade Report (2020), at: [https://www.wto.org/english/res\\_e/booksp\\_e/wtr20\\_e/wtr20-0\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/wtr20_e/wtr20-0_e.pdf)
- <sup>23</sup> As described in GDPR Chapters IV and V, and subsequent guidance on EU guidance on standard contracts and supplemental measures, those relationships are controller-controller, processor-processor, controller-processor, and processor-controller relationships.
- <sup>24</sup> OECD Privacy Framework (2013), [http://www.oecd.org/sti/economy/oecd\\_privacy\\_framework.pdf](http://www.oecd.org/sti/economy/oecd_privacy_framework.pdf)
- <sup>25</sup> APEC Privacy Framework (2015), [https://www.apec.org/Publications/2017/08/APEC-Privacy-Framework-\(2015\)](https://www.apec.org/Publications/2017/08/APEC-Privacy-Framework-(2015))
- <sup>26</sup> APEC Privacy Recognition for Processors (2021)
- <sup>27</sup> APEC Cross Border Privacy Rules system, <https://www.apec.org/About-Us/About-APEC/Fact-Sheets/What-is-the-Cross-Border-Privacy-Rules-System>
- <sup>28</sup> Global Cross-Border Privacy Rules Forum (2022), <https://www.commerce.gov/global-cross-border-privacy-rules-declaration>
- <sup>29</sup> ASEAN Model Contractual Clauses (2021), at: [https://asean.org/wp-content/uploads/3-ASEAN-Model-Contractual-Clauses-for-Cross-Border-Data-Flows\\_Final.pdf](https://asean.org/wp-content/uploads/3-ASEAN-Model-Contractual-Clauses-for-Cross-Border-Data-Flows_Final.pdf); See also, Singapore Personal Data Protection Commission, *Guidance for Use of ASEAN Model Contractual Clauses for Cross-Border Data Flows in Singapore* (2022), at: <https://www.pdpc.gov.sg/-/media/Files/PDPC/PDF-Files/Other-Guides/Singapore-Guidance-for-Use-of-ASEAN-MCCs.pdf?la=en#:~:text=The%20ASEAN%20Model%20Contractual%20Clauses%20%28ASEAN%20MCCs%29%20are,parties%20that%20protects%20the%20data%20of%20data%20subjects.>
- <sup>30</sup> Directive 95/46/EC (General Data Protection Regulation), <https://eur-lex.europa.eu/eli/reg/2016/679/oj>
- <sup>31</sup> Act on the Protection of Personal Information, <https://www.ppc.go.jp/en/legal/>
- <sup>32</sup> Privacy Act 2020, <https://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html>
- <sup>33</sup> Personal Data Protection Act 2012, <https://www.pdpc.gov.sg/Overview-of-PDPA/The-Legislation/Personal-Data-Protection-Act>