



## PRESSROOM

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**1<sup>st</sup> ASEAN Digital Ministers' Meeting approves Singapore-led initiatives on ASEAN Data Management Framework, ASEAN Model Contractual Clauses for Cross Border Data Flows and ASEAN CERT Information Exchange Mechanism**

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*Joint Press Release by MCI, IMDA and CSA***1st ASEAN Digital Ministers' Meeting approves Singapore-led initiatives on ASEAN Data Management Framework, ASEAN Model Contractual Clauses for Cross Border Data Flows and ASEAN CERT Information Exchange Mechanism**

1. Minister for Communications and Information and Minister-in-charge of Cybersecurity Mr S Iswaran attended the 1<sup>st</sup> Association of Southeast Asian Nations (ASEAN) Digital Ministers' Meeting (ADGMIN)<sup>1</sup>. The virtual meeting which took place on 21-22 January 2021, was hosted by Malaysia and attended by the ten ASEAN Digital Ministers. The meeting approved key Singapore-led initiatives, including the **ASEAN Data Management Framework (DMF)**, **ASEAN Model Contractual Clauses for Cross Border Data Flows (MCCs)** and the proposal to establish an **ASEAN CERT Information Exchange Mechanism** for enhancing cybersecurity cooperation. The meeting also approved the **ASEAN Digital Masterplan 2025 (ADM2025)**, which will help accelerate inclusive digital transformation so that ASEAN will emerge stronger and more resilient from the COVID-19 crisis.
2. Minister Iswaran said, "The ASEAN Digital Masterplan 2025 sets out the important role digitalisation will play to accelerate post-COVID-19 recovery. We are glad that ASEAN has pushed ahead with developing the ASEAN Data Management Framework and ASEAN Model Contractual Clauses for Cross Broder Data Flows, and agreed to establish an ASEAN CERT Information Exchange Mechanism. These tangible projects will help ASEAN businesses, especially the Small and Medium Enterprises (SMEs), seize the opportunities that the Digital Economy offers and strengthen our collective cybersecurity cooperation."



Minister for Communications and Information Mr S Iswaran speaking to ASEAN Digital Ministers at 1<sup>st</sup> ADGMIN.

#### ASEAN Data Management Framework (DMF) and ASEAN Model Contractual Clauses for Cross Border Data Flows (MCCs)

3. The ASEAN Data Management Framework and ASEAN Model Contractual Clauses for Cross Border Data Flows<sup>2</sup> are key resources and tools for ASEAN businesses to utilise in their data-related business operations. The ASEAN DMF is a guide for businesses, particularly Small and Medium Enterprises to implement a data management system. This includes guidelines for data governance structures and appropriate data protection safeguards depending on the underlying purpose of the dataset of interest throughout its lifecycle. MCCs are contractual terms and conditions that may be included in the binding legal agreements between businesses when transferring personal data to each other across borders.
4. The initiatives were developed by the ASEAN Working Group on Digital Data Governance, in close consultation with key associations and businesses in the ASEAN industry. These initiatives also received positive feedback from various international organisations, business associations and companies<sup>3</sup>, underscoring their practical value. The ASEAN Working Group on Digital Data Governance is chaired by Singapore.



Minister for Communications and Information Mr S Iswaran at the Opening Ceremony of 1<sup>st</sup> ADGMIN.

## ASEAN Digital Masterplan 2025

5. Singapore also welcomed the new ADM2025, which includes the following key elements:

- a. Establishing bridges with markets, how businesses should digitally connect beyond borders and how to facilitate more cross-border transactions via interoperable digital utilities and cross-border data flows;
- b. The need to build digital skills and literacy capabilities so that people can thrive, and more tech job opportunities can be created;
- c. The importance of digitalising businesses so that MSMEs/SMEs can transform; and
- d. The need for resilient digital infrastructure and connectivity, as well as the necessary supporting policies and regulations.

## ASEAN Cybersecurity

6. During the meeting, the ASEAN Ministers also noted that enhancing cybersecurity cooperation is key to the security of our future economy and digitalisation initiatives especially in view of the recent rise of global cybersecurity and supply chain attacks and threats. They welcomed the proposal to enhance ASEAN cybersecurity cooperation through the formalising of existing AMS National CERT-level exchanges with the establishment of an ASEAN CERT information exchange mechanism as a core component of the future ASEAN CERT. The mechanism will support national CERTs through the exchange of information and best practices, and coordinate CERT capacity building programmes in the region.

### Annexes:

Annex A: Background on ASEAN DMF and MCCs

Annex B: Quotes from international organisations, associations, companies and law firms

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<sup>1</sup> The ADGMIN was formerly known as the ASEAN Telecommunications and Information Technology Ministers Meeting (TELMIN).

<sup>2</sup> Refer to Annex A for more information

<sup>3</sup> Refer to Annex B for the quotes from international organisations, business associations and companies



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## **Annex A: Background on ASEAN DMF AND MCCS**

### **ASEAN Data Management Framework (DMF)**

1. The ASEAN DMF is a guide for businesses, particularly Small and Medium Enterprises (SMEs), to put in place a data management system, which includes data governance structures and safeguards based on data sets' purpose throughout its lifecycle. The DMF will help raise the knowledge and competence of ASEAN businesses in managing data and assist in complying with personal data protection requirements while enabling companies to use the data for business growth.

2. The ASEAN DMF proposes six foundational components consistent with globally recognised personal data protection and privacy management programmes. Businesses are encouraged to consider these concepts as part of its digital transformation journey. This is because good data management practices are key to help businesses unlock the value of personal data while ensuring adequate safeguards are in place.

### **ASEAN Model Contractual Clauses for Cross Border Data Flows (MCCs)**

3. The MCCs are contractual terms and conditions that may be included in the binding legal agreements between businesses transferring personal data to each other across borders. The MCCs are templates setting out responsibilities, required personal data protection measures, and related obligations of the businesses. The MCCs have been created, in particular, to identify for businesses key issues when transferring personal data across borders.

4. To rely on the ASEAN MCCs as a legal basis for the cross-border transfer of data, businesses must employ the contractual provisions outlining key data protection obligations in their commercial contracts between the parties to the data transfer(s). These obligations are derived from the ASEAN Framework on Personal Data Protection (2016) and, to the extent possible and relevant to the ASEAN context, are aligned with global best practices to ensure accountability and that personal data is secured, when data is transferred between businesses. The clauses are baseline in nature, and businesses are encouraged to check if individual AMS have provided further guidance or templates, including those that are sector-specific, that are specific to those AMS' requirements.

5. MCCs are a voluntary standard designed to provide guidance on baseline considerations for transferring personal data. Businesses may, by written agreement, adopt or modify the MCCs in accordance with the principles set forth in the ASEAN Framework on Personal Data Protection (2016) or as required by any ASEAN Member States' Law. This does not preclude the businesses from adding clauses, by written agreement, as appropriate for their commercial or business arrangements so long as they do not contradict the MCCs. Businesses are free to negotiate commercial terms provided they do not contradict the MCCs.

6. Businesses are also free to use any other valid data transfer mechanisms recognised within ASEAN, if or when they are available or relevant to AMS. ASEAN recognises that these mechanisms include, but are not limited to, self-assessment that transfer of data overseas shall be protected to a comparable level of protection, consent, codes of conduct, binding corporate rules, certifications, such as ISO series relating to security and privacy techniques, APEC Cross Border Privacy Rules and Privacy Recognition for Processors Systems, or other legally enforceable mechanisms. Businesses have the flexibility to choose the most

appropriate personal data protection- or privacy-enhancing data transfer mechanism for a particular context.

## **Annex B: Quotes from international organisations, associations, companies and law firms**

<b><u>International Organisations</u></b>	
<b>Ms. Joo-Ok Lee, Head of the Regional Agenda, Asia Pacific, World Economic Forum</b>	“The endorsement of the ASEAN Data Management Framework and the ASEAN Model Contractual Clauses for Cross Border Data Flows today means that ASEAN is one step closer to the harmonization and interoperability of its regional data policy. Through the <a href="#">Digital ASEAN Initiative</a> , the World Economic Forum was proud to convene multi-stakeholder experts under the Pan-ASEAN Data Policy Task Force that provided input to the Implementing Guidelines and the MCCs. We are pleased that many of the community’s feedback regarding the best practices on data classifications and existing cross-border data flows mechanisms have been reflected in the endorsed documents. We trust that these documents will contribute to empowering ASEAN businesses, particularly SMEs, such that they can deploy innovative data-driven value creation models in full compliance with applicable data protection requirements. These developments are particularly timely and meaningful as we believe regional digital economy will serve as a key driver for ASEAN’s recovery from the COVID-19 pandemic.”
<b><u>Associations</u></b>	
<b>Mr. Jared Ragland, Senior Director, Business Software Alliance</b>	“BSA commends ASEAN’s efforts in developing the ASEAN Model Contractual Clauses (MCCs) as a voluntary data transfer mechanism. The MCCs provide useful guidance on important data protection aspects for companies to consider when drafting contractual terms and conditions surrounding the transfer of personal data. ASEAN’s work on the MCCs demonstrates the importance of promoting an internationally interoperable approach to data transfers and complements other data transfer mechanisms in use by enterprises throughout the region.”
<b>AsiaDPO</b>	<p>“As a self-organising peer-to-peer community of Data Protection Officers, AsiaDPO (<a href="https://www.asiadpo.org/about">https://www.asiadpo.org/about</a>) supports any effort by policy makers to make legal requirements and voluntary mechanisms for cross-border data transfers more compatible and interoperable, so that the compliance burden is made lighter for DPOs and their companies. The ASEAN MCCs will be part of a toolkit for DPOs when they are seeking to meet this challenge, and we encourage policy makers to also consider any undue cost to organisations of having to meet the challenge of differing and possibly conflicting transfer mechanisms in a global context.”</p> <p><i>AsiaDPO is a Singapore registered society of a self-organising peer-to-peer community of Data Protection Officers (DPOs). We are committed to the development and advancement of data protection and privacy domains through a practice-led approach, serving as an expert group with a distinctive voice.</i></p>
<b>Mr Lam Yi Young, CEO,</b>	“The ASEAN Digital Data Governance Initiatives is a welcomed step in enabling Singapore companies to utilise digital data in their business operations with greater ease. A consistent regulatory framework across the region and standard contractual clauses will help reduce

<b>Singapore Business Federation</b>	compliance costs and legal complexities for our companies. This will help facilitate the free flow of cross-border data, and enable businesses to innovate, scale, and serve customers across borders. The Singapore Business Federation looks forward to working with the Ministry of Communications and Information and the Infocomm Media Development Authority to help businesses leverage these initiatives and tap on the opportunities of ASEAN's digital economy, which is projected to be worth US\$300 billion by 2025."
<b><u>Companies</u></b>	
<b>Mr. Lam Chee Kin, Group Head of Legal, Compliance and Secretariat, DBS</b>	"Being mindful of predictions that ASEAN could be the world's fourth largest economy by 2030, and given the relative importance of data flows and trusted data frameworks to sustainable growth, we must applaud the effort to publish the ASEAN DMF and MCCs. Over time, efforts like this can make it easier to do business together, lower the cost of compliance, and increase customer trust in the way companies use and share data."
<b>Quek Siu Rui, CEO and co-founder, Carousell Group</b>	<p>"Our users' privacy and ensuring the protection of our users' data within Carousell, and with our partners, are of utmost importance to us. As one of the world's largest and fastest growing marketplaces with six of our eight markets being in Southeast Asia, we are definitely excited about the ASEAN Digital Data Governance initiatives.</p> <p>Some challenges we have faced in Southeast Asia is that data protection laws and regulations can differ across jurisdictions and result in higher compliance costs. With the ASEAN leaders taking the lead to harmonise regulations, these initiatives will give Carousell the confidence and necessary safeguards to operate, grow in the region, and increase the awareness and education of the importance of good data management practices. This also allows Carousell to be heads-down focused on innovation and growth, instead of being tied down with ensuring compliance across different data protection regulations."</p>
<b>Ms. Tenzin Norbhu, Director, Government Affairs &amp; Public Policy, Google</b>	The ASEAN Digital Data Governance initiative is a strong example of ASEAN's leadership in international digital integration, and provides a strong framework for other parts of the world in harmonising different regulatory approaches. We're committed to developing the future of digital ecosystems in the region and applaud the efforts by ASEAN to develop practical guides that will come in handy for businesses that are keen to go digital and manage their data securely
<b>Mr. Antony Cook, Regional Vice President and Chief Legal Counsel, Microsoft Asia</b>	We welcome the effort by ASEAN member states to improve regulatory coherence in the region. ASEAN is a dynamic region for digital transformation, and stronger regulatory coherence will allow data to move across borders while ensuring privacy is protected. This will help unlock new opportunities for businesses across the region to innovate and grow, which is especially important for the COVID-19 economic recovery. The ASEAN Model Contractual Clauses contribute to this by providing non-binding guidance that helps increase interoperability between ASEAN privacy regulations. We especially welcome that the guidelines give flexibility to organisations across ASEAN to use the most

	appropriate mechanisms for transferring data across borders, including the Model Contractual Clauses, or building on international standards like those developed in the International Standards Organisation (among others).
<b>Legal Fraternity</b>	
<b>Jeffrey Lim, Chair of the Singapore Law Society Committee for Cybersecurity and Data Protection</b>	“As Chair of the Singapore Law Society Committee for Cybersecurity and Data Protection, I am keen work with fellow committee members to promote awareness and discussion of the MCCs.”
<b>Joyce A. Tan &amp; Partners LLC</b>	“We at Joyce A. Tan & Partners LLC are very encouraged and pleased to see the promulgation of, the ASEAN MCCs. We have been privileged to share a small part in the development of the MCCs and we feel strongly that, as with Standard Contract Clauses used in the EU, these standard form clauses are a sensible, efficient, and effective way to help businesses facilitate the transfer of data across borders. ASEAN is a burgeoning region of promise, and with her economies rapidly digitalising, the move towards MCCs for the region can only spur growth and help reduce doubt and fear from businesses who see the region for its potential. Whether you are a business who sees potential markets for customers, or a valuable network of supply chains or resources, the MCCs will help smooth the way for you regionalise and digitalise.”
<b>Ms. Charmian Aw, Counsel, Reed Smith LLP</b>	“We believe that the ASEAN MCCs will be very welcomed by businesses that either already have a digital presence in ASEAN or have plans to operate or expand in the region. They provide much needed legal and commercial certainty in what has otherwise been considered a particularly complex area of regulation.”
<b>Ms. Stella Cramer, Co- Head of Intellectual Property and Technology Norton Rose Fulbright</b>	Given rapid digitisation across the region and increased regulation of the use and transfer of personal data, compliance with the applicable regulatory frameworks can be challenging. The model clauses provide a practical solution to assist corporates across ASEAN to ensure they are transferring personal data in accordance with relevant requirements. We welcome the introduction of this additional tool and look forward to working with our clients on the adoption of these terms where appropriate