



NEWSLETTER

EuroCham Digital Sector Committee

Issue No. 2 /2021

Message from the New Chairman

It is a great pleasure and an honour to take the leadership of the Digital Sector Committee and carry on what previous boards have built so far. Although it takes place at a challenging time for Vietnam, who is now more than ever battling the COVID Crisis.

In this context, the Digital Sector Committee role is to keep up its work in advising the Government of Vietnam on the new array of policies relative to the digital economy. As our reliance on such tools has dramatically increased recently, a fitting regulation is of daunting importance. Our mission is to participate in shaping a framework that is coherent and implementable by everyone at an economical, legal and technical level.

Each second Friday of the month, you are welcome to join us, simply to get to know us, or to participate by sharing your knowledge, your insights and your experience, our doors are wide open! Cyber-security, E-commerce, Robotic Process Automation, Data Privacy, Fintech are few examples of the topics on which an expertise would be helpful.

Mr. Bruno Sivanandan - Credify (1 October 2021)

Board Election

16 July 2021 | the Digital SC held a meeting to elect Mr. Bruno Sivanandan as new Chairman of the Eurocham Digital Sector Committee. Mr. Pavel Poskakukhin was nominated as Vice-Chairman, and Mr. Alexandre Sompheng was nominated as Treasurer.

The Digital SC looks forward to welcoming more members in the coming time. Should you wish to participate in Digital SC activities, feel free to contact the Digital SC through our [mailbox](#).

Activities updates

11 August 2021 | The Digital SC co-hosted EuroCham's webinar *The new draft Decree 72 - how will internet services & data management change in business?*

15 October 2021 | The Digital SC will co-host EuroCham's webinar *Vietnam's E-invoice: The road ahead for digital transformation.*

Membership updates

The Digital SC has recently welcomed new members: Prudential, Home Credit Vietnam, Rouse Legal, and Tek-ID.

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Electronic Invoices

E-invoice implementation has been increasingly appearing in Vietnamese business news headlines and capturing the attention of business leaders for the last few years. However, the adoption of this initiative has been mixed, with a significant proportion of companies still opting to issue paper invoices the traditional way. Some reasons include confusion over the process and worries about risk due to mistakes, forgery and timeliness.

There have been numerous decrees issued on this, with Article 9, Decree 123/2020/ND-CP from the Vietnam government providing further guidance on the requirements, with the latest timeline for all businesses to adopt e-invoicing from July 2022. Although there are a variety of government licensed e-invoice vendors that businesses can work with to set up and issue their e-invoice, making the necessary changes remains a challenge.

From a technical standpoint the benefits are clear as e-invoices make use of XML files that can be read automatically rather than the manual (i.e. human) effort to read paper (or PDF) invoices and keying the data into a company's finance system. The digitization of the e-invoice processes and data management can help save time, reduce mistakes and provide scalability to growing businesses.

Further benefits can be attained by integrating Robotic Process Automation (RPA) in the e-invoice framework. In short, RPA is the application of a technology that allows configuring computer software or a "robot" to capture and interpret existing applications for processing a transaction, manipulating data, triggering responses and communicating with other digital systems. Globally, RPA expenditures are expected to surge from a modest \$125 million in 2015 to nearly \$4 billion by 2024. RPA is also becoming increasingly adopted in Vietnam, particularly in accounting, finance and other functions with large and repetitive volumes of work. It has been estimated that one half to 70% of the work done by shared service, captive, or outsourced operations can be automated using robotic software. There are a number of options for businesses to apply the RPA model, but many do not know where to start and even if they have applied e-invoicing, are not taking the full advantage of being able to automate this process.

Comments to the Draft Decree Amending Decree 72/2013

In response to the draft decree amending Decree 72/2013 (Draft Decree 72) released on 5 July 2021, the Digital SC has coordinated different advocacy efforts such as hosting a webinar on 11 August 2021 titled *"The New Draft Decree 72 – How will internet services and data management change in business?"* and submitting specific comments to the Vietnamese Government as part of the legislative process. The Digital SC voiced views from the industry and legal experts as to prospective changes and recommended amendments.

Often referred to as the "Internet Decree", Decree 72/2013's scope covers a wide range of activities in cyberspace. The proposed amendments under the Draft Decree 72 attracting the most attention are related to (1) general information websites and social networking platforms, (2) licensing requirements for online service providers, (3) cross-border information provision, (4) information security, (5) data center services and (6) domain name registration and maintenance services. Specifically, members of the Digital SC commented that the proposed requirements on cross-border internet service providers are unclear and would pose undue burdens. Calls for removal of the data localization requirement and licensing requirements as well as requests for review and clarification of unclear and impractical procedural regulations on handling illegal user-generated contents (e.g., short timeframe, lack of appeal mechanism, the use of technical measures to detect, filter and suspend illegal contents) were made. The public consultation phase for Draft Decree 72 ended on 5 September 2021. As the next step, the Ministry of Information and Communication will consolidate and review the comments on Draft Decree 72 as contributed by relevant entities. It remains to be seen if there will be further changes. The Digital SC will continue to track Draft Decree 72 and keep members updated.





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A Focus on Data Localization

As early as the enactment of Decree 72/2013 and more recently the Law on Cybersecurity (Cybersecurity Law) and Draft Decree guiding the implementation of the Cybersecurity Law (Draft Cybersecurity Decree), Vietnam has continued to display its intention of practicing data localization. Further to the abovementioned instruments, storage of original data in Vietnam is a requirement to cross border data transfer under the Draft Personal Data Protection Decree (Draft PDP Decree), and local data storage requirements are imposed on insurance service providers under the draft amendment to the Law on Insurance Business.

In general, a data localization regulation requires relevant entities to store certain types of data within a nation's borders. The Cybersecurity Law, which came into effect on 1 January 2019, imposes the data localization and local office requirements on entities that:

- provide telecommunication services, Internet services, or value-added services in Vietnam's cyberspace;
- collect, exploit, analyze, or process users' personal data, data on relationships of the service users, and user-created data in Vietnam.

The Cybersecurity Law, however, lacks the needed details to implement the data localization. The Draft Cybersecurity Law Decree, which is expected to feature the guiding set of rules for implementation, has been pending since 2018 so the data localization requirement has not yet been enforced. Recently though, a full text of the Draft Decree on Sanctions against Administrative Violations in Cybersecurity was released on 20 September 2021. Under this draft legislation, entities that fail to store data or establish a branch or a representative office in Vietnam in accordance with the Cybersecurity Law may face sanctions of up to VND 200 million (approx. US\$8,600) or 5% of the total revenue of the violating organizations, enterprises (upon its third violation). Other than monetary fines, violating entities may have their Vietnamese business licenses revoked. This draft legislation is currently undergoing a two-month public consultation phase and will tentatively take effect on 1 December 2021. As with the Cybersecurity Law, this draft legislation is proposed to have extra-jurisdictional effect.

Data localization reflects the Vietnamese Government's efforts to exercise greater sovereign control over data, enhance data security, ensure national security, and serve the public interest. On the other hand, businesses have cited financial and administrative burdens relating to setting up/maintaining servers and physical presence as reasons why the data localization requirement should be removed. Arguments that data localization would act as a barrier to trade, hinder innovation and cross-border data flow, and ultimately be a setback to Vietnam's economic development have been made as well.

With the draft decrees under the Cybersecurity Law and Draft PDP Decree pending issuance, it remains to be seen how Vietnam will strike a balance between the use of personal data, data protection, and successfully facilitating cross-border data flows.

Acknowledgement: Rouse Legal Vietnam

For further inquiry, please contact the Digital SC through our [mailbox](#).

