

# Navigating data protection

What lies ahead for Thailand: international case studies and emerging privacy trends in Asia

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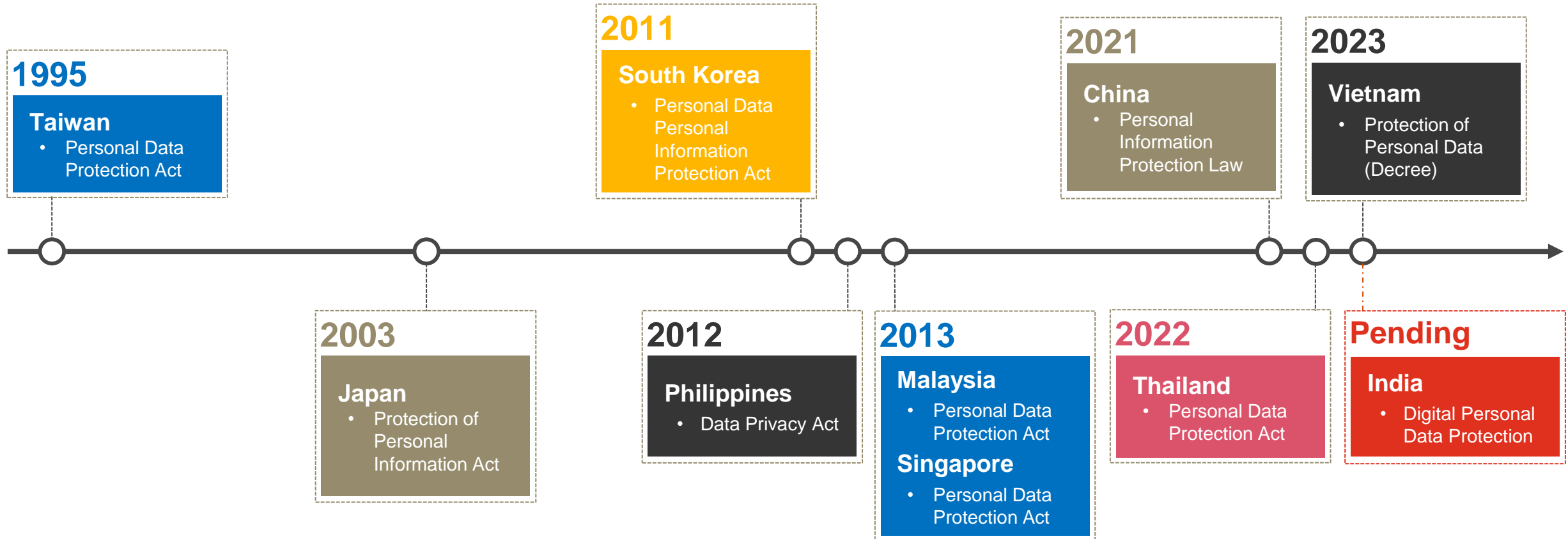




# Personal Data Protection



# Personal data protection laws in Asia



# Thailand's Personal Data Protection Act development

## Enactment of the PDPA (2019)

## Postponement of PDPA enforcement

- Royal Decree postponing the enforcement of the PDPA (2020)
- Royal Decree postponing the enforcement of the PDPA (2021)

## Full enforcement of the PDPA

- Enactment of various secondary laws
- Appointment of various committees

## Notifications under the PDPA

- 1 Consideration of complaints
- 2 Record of processing activities (ROPA)
- 3 Security measures
- 4 Personal data breaches
- 5 Imposition of administrative fines
- 6 Data Protection Officers

## Committees

- Personal Data Protection Committee
- Office of the Personal Data Protection Committee
- Expert committees

# 1. Consideration of complaints

## Regulation of the PDPC Re: Filing, Rejection, Termination, Consideration, and Duration for Consideration of Complaints 2022

### Complaint requirements

- Written or electronic format
- Must be clear, plain, polite, and appropriate language
- Must not be directly or indirectly extorting or intimidating.

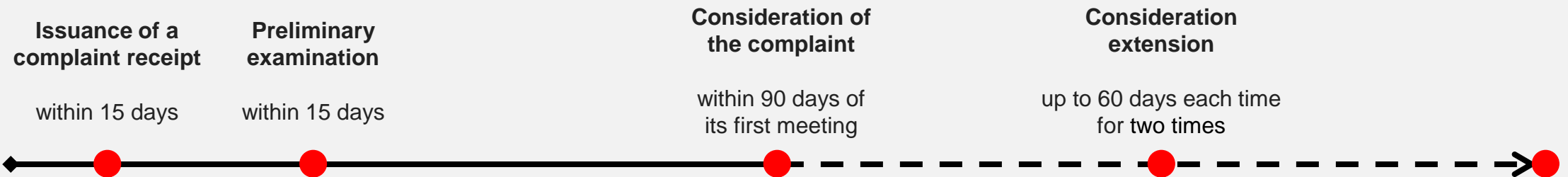
### Submission channels

- Submit directly to the PDPC
- Submit via post
- Submit via electronic or any other channels

### Outcomes

- After concluding its examination, the Expert Committee will notify the complainant of the outcome and provide the relevant reasoning.

### Time period for considering complaints



## 2. Record of processing activities (ROPA)

Notification of the PDPC Re: Exemption of the Record of Processing Activities Requirement for Data Controllers who are Small Businesses 2022  
 Notification of the PDPC Re: Rules and Methods for Preparing and Maintaining Records of Processing Activities for the Data Processor 2022

**Exemption:** Certain small-sized organisations are exempted from preparing and maintaining a full ROPA.

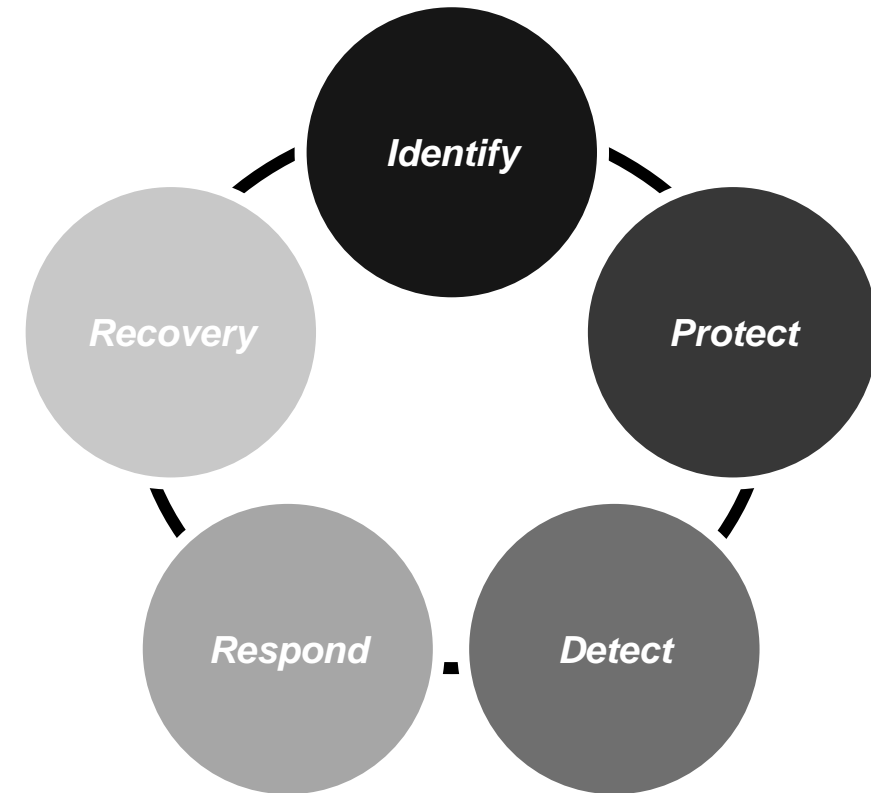
Particulars	Data Controller (S. 39)	Data Processor (Notification of the PDPC)
Collected personal data	✓	✓
Purpose of the collection of the personal data in each category	✓	✓
Details of the Data Controller	✓	✓
Details of the Data Processor (and sub processor)		✓
Details of the Data Protection Officer		✓
Retention period of the personal data	✓	
The rights and methods for accessing personal data	✓	
Use or disclosure of personal data	✓	✓
Rejection of data subject rights	✓	
Explanation of appropriate security measures	✓	✓

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# 3. Security measures

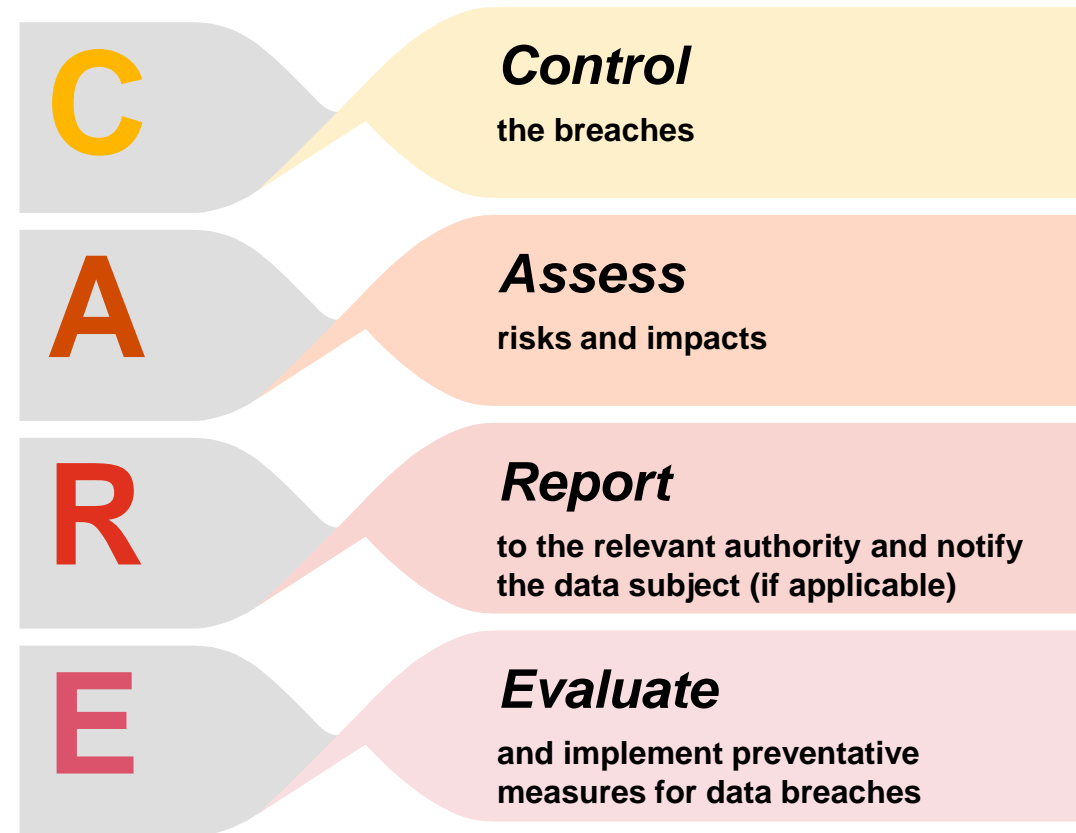
Notification of the PDPC Re: Security Measures of the Data Controller 2022

- 01 Principle of defense in depth**  
Appropriate organisational and technical measures, which may include necessary physical measures, covering all systems involved in the collection, use and disclosure of personal data.
- 02 Appropriate authorisation of access and use**  
Access control of personal data and key information system components that include identity proofing and authentication.
- 03 Review and revision**  
Security measures must be reviewed as necessary or as technology changes to effectively maintain the appropriate security.



# 4. Personal data breaches

Notification of the PDPC Re: Criteria and Procedures for Handling Personal Data Breaches 2022



# 5. Imposition of administrative fines

Notification of the PDPC Re: Rules for Consideration of Issuing Order to Impose Administrative Fines by the Expert Committee 2022

## Not serious

- Warning
- Order to do or not do something to stop the damage
- Order to limit the collection, use or disclosure of personal data

SEVERITY LEVEL

## Serious

Up to **5m**  
**administrative liability**

- Administrative penalties may apply to the data controller or the data processor, or any person who violates any of the PDPA's provisions.

Details of violation		Intention	
Level of existing responsibility and security measures			
Size of business	Factors		Precedent penalty
The value and seriousness of the damage			
Damage mitigation and remedial action		Other facts	

# 6. Data Protection Officers

Notification of the PDPC Re: Appointment of Personal Data Protection Officers in accordance with Section 41 (2) of the PDPA 2023



## Core activities

Tracking

Monitoring

Profiling

Number of data subjects

Quantity, type or nature of personal data

Duration or permanence

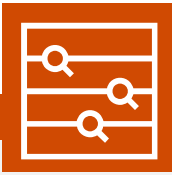
Large scale of personal data

# Case studies



## Amazon 2022

Luxembourg's National Commission for Data Protection (CNPD) imposed a **roughly US\$877m** fine on Amazon for target marketing without an appropriate lawful basis.



## Google 2022

France's data protection authority (CNIL) fined Google **roughly US\$102m** for making it hard for YouTube users to refuse cookies.

## Google 2019

CNIL fined Google **roughly US\$57m** for an ambiguous privacy notice.



## Meta 2022-2023

### WhatsApp

Irish Data Protection Commission (DPC) fined WhatsApp **roughly US\$267m** plus an additional **c. US\$6m** for:

- non-transparent privacy policy, and
- inappropriate choice of legal basis.

### Facebook

DPC imposed a **roughly US\$226m** fine for inappropriate choice of lawful basis for the purposes of the delivery of behavioural advertising.

### Instagram

DPC fined Instagram **roughly US\$193m** for the same reason as Facebook and issued a **c. US\$435m** fine for breaching principles about handling of children's data.

# Case studies



## Singapore

Transferring personal data abroad to the parent company and affiliates in the UK and Malaysia without having intra-group agreements and relying on inappropriate consent.

The court directed that the transferred company, based in Singapore, review and modify their intra-group agreements, consent and notification.



## Philippines

An email server used for 'marketing purposes' was hit by a breach in the process of transferring data.

No fine was imposed due to:

- sufficient implementation of safety measures, and
- efficient security protocols to notify and provide guidance to clients.



## Taiwan

Taiwan's Ministry of Transportation and Communications issued a 90,000 yuan (approximately US\$12,500) fine to a vehicle-sharing platform for:

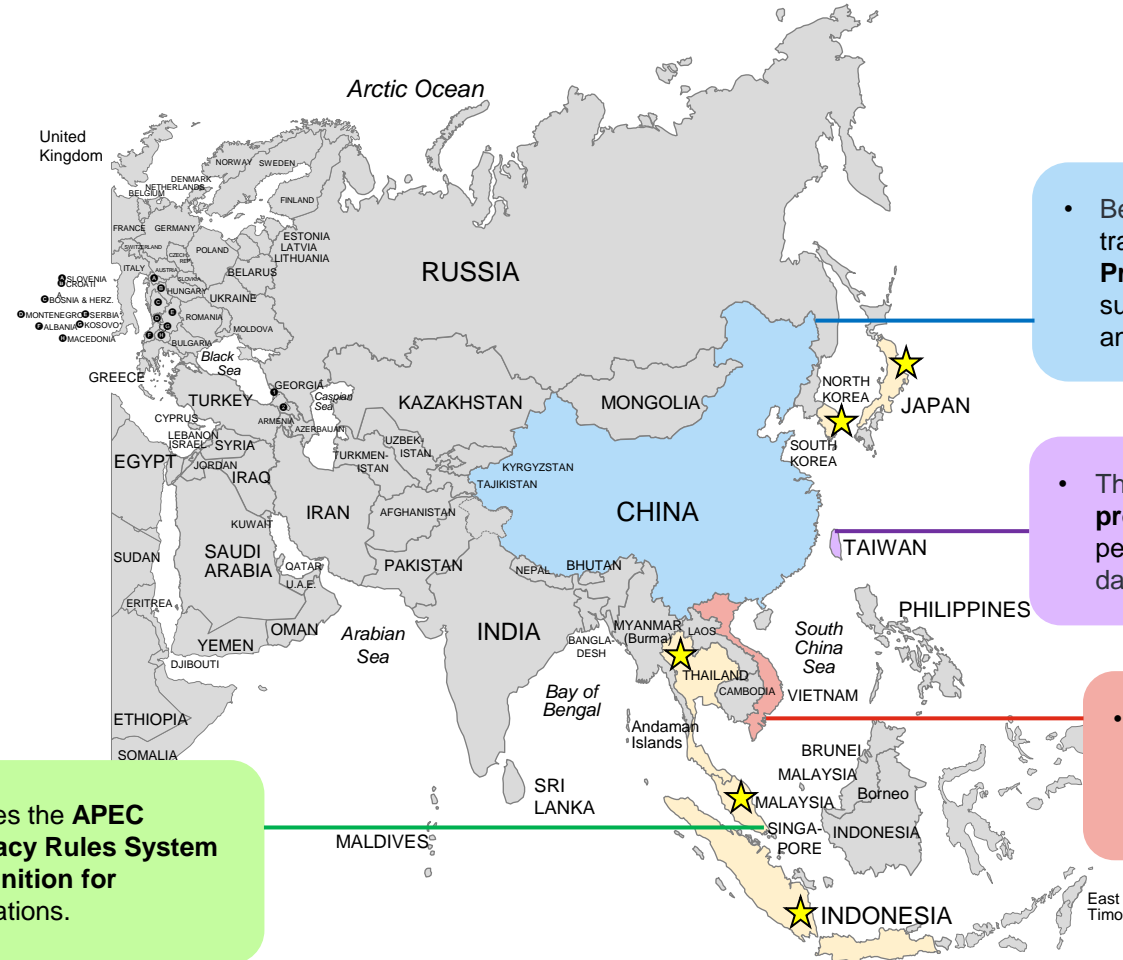
- data leakage, and
- insufficient security measures and remedy protocols.

# Cross-border transfer rules in Asia



Transfers of personal data to third countries are permissible only if there is a legal basis for the processing/transfer and one or more of the following applies:

- Lawful basis, such as consent, contract performance, necessity to establish, exercise or defend legal claims
- Approved adequate/whitelisted jurisdictions
- Special measures



• Singapore recognises the **APEC Cross-Border Privacy Rules System** and **Privacy Recognition for Processors** certifications.

• Before the outbound transfer of personal information, a transferor should **complete a Personal Information Protection Impact Assessment report** which must be submitted for filing together with the **standard contract** and other required materials.

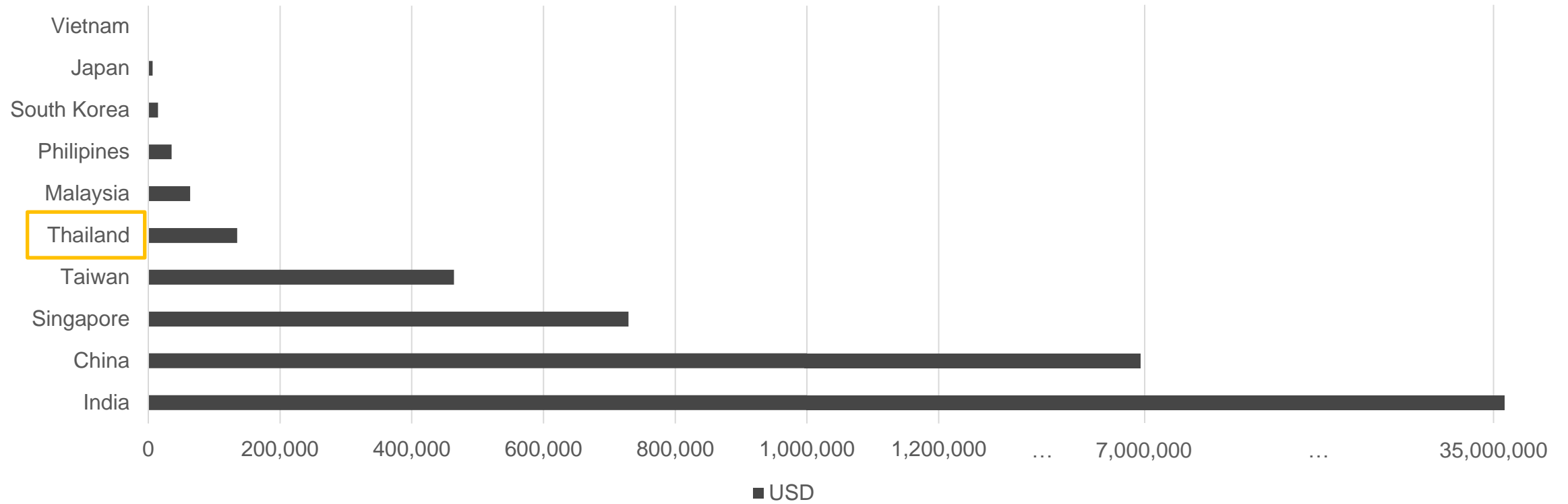
• The National Communications Commission has **prohibited** communications enterprises from transferring personal data to **China** on the grounds that the personal data protection laws are still inadequate.

• The transferor of personal data must first **create a Dossier of Impact Assessment for the Cross-Border Transfer of Personal Data** before transferring personal data out of Vietnam.



# Penalties

## Maximum penalties



# Contact



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# Thank you

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