

Hong Kong and Mainland China Authorities Announce Milestone Standard Contract Clause to Enable Seamless Cross-Boundary Data Flows in the Greater Bay Area



A significant step forward in establishing aligned data governance for cross-boundary data flows in the Greater Bay Area was announced today (December 13th, 2023) with the release of a new Standard Contract for Cross-boundary Flow of Personal Information Within the Guangdong–Hong Kong–Macao Greater Bay Area (Mainland, Hong Kong) (GBASCC). This legally binding contract represents important progress to realize the vision for orderly cross-boundary data flows outlined in the Memorandum of Understanding between Mainland China and Hong Kong SAR authorities on June 29th, 2023.

Seamless cross-boundary data connectivity is critical for the Greater Bay Area to achieve its immense economic growth potential. Integrated data policies across jurisdictions will enable benefits such as increased knowledge exchange, expanded economies of scale, coordinated resource allocation, efficient administration, enhanced day-to-day business dealings and greater living convenience.

Among its key provisions, the GBASCC eliminates volume limits on data transfers, streamlines impact assessment requirements, and expedites filing process review timelines. Other salient features include encompassing existing definitions and classifications of personal data across regulatory regimes without forcing unified definitions, allowing each jurisdiction to maintain its own definitions while enabling alignment between them, and designating Hong Kong oversight bodies to govern data received by entities in its jurisdiction.

The GBASCC is consent-based and voluntary. Before providing any personal information to a recipient cross-boundary, the data exporter shall comply with applicable local laws and regulations. The data exporter must obtain consent of the personal information subject prior to any cross-border transfer of personal information.

According to Mr. Allen Yeung, Founding Chairman of the Institute of Big Data Governance and President of the GBA International Information Technology Industry Association, “We have been lobbying for this cross-boundary data flow for many years. Today, we are so thrilled to see this great step forward. This GBASCC significantly lowers the cost of compliance for companies conducting business within GBA.”

Fully optimizing broader governance policies will require sustained collaboration as technologies rapidly advance. Mr. Yeung stated, “The GBASCC marks a great starting point, but ongoing partnership with regulators is crucial to develop future-proof aligned frameworks that uphold Hong Kong’s stature as a viable international data hub.”

While work remains, the GBASCC represents substantive initial progress toward a joint approach that furthers the Greater Bay Area’s potential as an integrated regional hub of digital innovation.

Institute of Big Data Governance (IBDG)
GBA Int'l Info Tech Industry Association (GBAITA)
December 13th, 2023

香港與內地宣佈個人信息跨境流動標準合同，實現粵港澳大灣區無縫跨境數據流動

《粵港澳大灣區（內地、香港）個人信息跨境流動標準合同》（大灣區標準合同）於今天（2023年12月13日）正式發佈，標誌著粵港澳大灣區在建立跨境數據協同治理邁出了重要一步。這一具有法律約束力的合同條款是實現內地與香港特別行政區政府於2023年6月29日簽署的《促進粵港澳大灣區數據跨境流動的合作備忘錄》中提出的跨境數據有序流動願景的重要進展。

無縫的跨境數據連接對於大灣區實現其巨大的經濟增長潛力至關重要。跨司法管轄區的數據政策將為跨境帶來更多益處，如加強知識交流、擴大規模經濟、協調資源配置、提高行政效率、改善日常業務往來和提供更多生活便利。

大灣區標準合同豁免了個人信息流動數量限制，簡化個人信息保護影響評估要求，並加快了備案流程檢查時間。其他顯著特徵包括：各監管制度對個人信息的現有定義和分類，而沒有強制要求統一定義。通過納入一個共同的詞彙表，契約能以包容定義多樣性的方式彌合以往各司法管轄區在數據類別上的差異。這樣，各司法管轄區既能保持各自的定義，又能實現定義之間的統一。此外，大灣區標準合同指定香港監督機構管理其管轄範圍內的機構所接收的數據，解決了執法權方面的不確定性。

大灣區標準合同是基於個人同意且自願原則。在向跨境接收方提供任何個人信息之前，個人信息處理者應遵守當地適用的法律法規。在個人信息跨境傳輸前，必須取得個人信息主體同意。

大數據治理公會創會主席、大灣區國際信息科技協會主席楊德斌先生表示：「我們多年來一直在推動實現內地與香港之間的跨境數據流動，今天很興奮看到這一重大進展。大灣區標準合同大大降低了在大灣區開展業務的公司的合規成本。」

隨著技術的快速發展，全面優化更廣泛的數據治理政策需要持續的合作。楊先生表示：「大灣區標準合同是一個很好的起點，未來還需與監管機構的持續合作，這對制定未來的統一框架、維護香港作為國際數據樞紐的地位至關重要。」

大灣區標準合同代表著粵港澳大灣區在共同推進大灣區作為綜合區域科技創新中心取得了實質性的進展。

大數據治理公會
大灣區國際信息科技協會
2023年12月13日