

# CLIENT NOTE



## CLIENT NOTE: INTRODUCTION TO THE CYBERSECURITY ACT 2018

23 October 2018

### Introduction

1. The Cybersecurity Act 2018 (the “**Act**”) came into force on 31 August 2018 with a view to establishing a legal framework for the oversight and maintenance of Singapore’s national cybersecurity.
2. Specifically, the Act aims to
  - (a) strengthen the protection of Critical Information Infrastructure (“**CII**”) in Singapore against cyber-attacks;
  - (b) authorize the Cyber Security Agency of Singapore (“**CSA**”) to prevent and respond to cybersecurity threats and incidents;
  - (c) establish a framework for sharing cybersecurity information; and
  - (d) establish a light-touch licensing framework for cybersecurity service providers.

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### CII

3. In order to ensure the routine protection of CII in Singapore, the Act imposes a host of obligations on owners of computer or computer systems designated by the Cybersecurity Commission as “CII owners” under the Act. Such a designation will be made if the Commissioner is satisfied that:
  - (a) the computer or computer system is necessary for the continuous delivery of an essential service, and the loss or compromise of the computer or computer system will have a debilitating effect on the availability of the essential service in Singapore; and
  - (b) the computer or computer system is located wholly or partly in Singapore.<sup>1</sup>

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Designation as a CII owner is for 5 years.<sup>2</sup>

4. The Act defines an “essential service” as:

*“any service essential to the national security, defence, foreign relations, economy, public health, public safety or public order of Singapore, and specified in the First Schedule of the Act”.*

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<sup>1</sup> The Act, s 7(1).

<sup>2</sup> The Act, s 7(3).

The First Schedule provides a list of 46 “essential services”. These include electricity distribution services, mobile telephony services, water supply services, acute hospital care services, banking services, air navigation services, monitoring and management of road and shipping traffic, services relating to the electronic delivery of Government services to the public and newspaper publication services.

5. The Act also provides the Commissioner with the power to obtain information to determine if a computer or computer system fulfils the criteria of CII.<sup>3</sup>
6. The Act sets out the duties that designated CII owners would have to fulfil, including:
  - (a) Furnishing information relating to the CII, if required by way of notice from the Commissioner;
  - (b) Complying with the relevant codes of practice, standards of performance and written directions;
  - (c) Informing the Commissioner of a change in the beneficial or legal ownership of the CII not later than 7 days after the change in ownership;
  - (d) Reporting to the Commissioner occurrences of cybersecurity incidents in respect of CII, upon awareness of any such incidents;
  - (e) Causing audits of the compliance of the CII with the Act, applicable codes of practice and standards of performance;
  - (f) Conducting cybersecurity risk assessments of the CII;
  - (g) Furnishing copies of the reports of the audit and assessment to the Commissioner; and
  - (h) Participating in cybersecurity exercises when directed in writing to do so by the Commissioner.
7. Failure to comply with most of the above obligations without a reasonable excuse would constitute an offence under the Act.

## **Response to Cybersecurity Threats and Incidents**

8. The Act provides the Commissioner with powers to investigate a cybersecurity threat or incident.<sup>4</sup>
9. If an alleged cybersecurity threat or incident is deemed as a severe threat or incident, the Commissioner may exercise additional powers to investigate the threat or incident,<sup>5</sup> such as requiring any person to carry out remedial measures and taking possession of any computer or other equipment to carry out further examination.<sup>6</sup>
10. If the Minister is satisfied that it is necessary to prevent, detect or counter any serious and imminent threat to the provision of any essential service or the national security, defence, foreign relations, economy, public health, public safety or public order of Singapore, he has the power to authorise or direct any person or organisation to take such measures or

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<sup>3</sup> The Act, s 8.

<sup>4</sup> The Act, s 19.

<sup>5</sup> The Act, s 20.

<sup>6</sup> The Act, s 20.

comply with such requirements as may be necessary to prevent, detect or counter any threat to a computer or computer system or any class of computers or computer systems.<sup>7</sup>

## Cybersecurity Service Providers

11. Aside from the regulation of CII owners, the Act seeks to regulate cybersecurity service providers, making Singapore one of the first countries in the world to do so.
12. Under the Act, it is an offence for a person to provide, advertise or hold out that he is providing and/or can provide managed security operations centre (“SOC”) monitoring or penetration testing services (collectively, “**licensable cybersecurity services**”) without a licence.<sup>8</sup> Anyone who wishes to provide such services must apply for the relevant licence.<sup>9</sup>
13. The licensing officer has the discretion to refuse to grant a licence to the individual or business entity. The Act provides guidance for the licensing officer to consider when determining whether an individual or business entity should hold (or continue to hold) a licence and the conditions for the licence.<sup>10</sup>

## Commentary

14. The Act plugs an important lacuna in the law. While other statutes, such as the Computer Misuse Act, empower the authorities to take measures to secure computer material against unauthorized access, this Act addresses threats to Singapore’s national security by regulating the protection of CII. This is especially useful in view of the surge of cybersecurity attacks in today’s digital age.

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<sup>7</sup> The Act, s 23.

<sup>8</sup> The Act, s 24.

<sup>9</sup> The Act, s 24.

<sup>10</sup> The Act, s 26(8).