

The AEC Agenda

The Free Flow of Data



Executive Summary

[This is the one page leave behind which we will developed once document is complete. To be included here and as a standalone.]

Introduction

The digital economy is central to an integrated ASEAN. ASEAN combines a young population, fast growth and tech-savvy audience. Digital trade should be at the centre of the ASEAN Economic Community going forward.

There are successes but there can be many, many more in years to come. For that to happen, data must flow freely both between member states and with the region's trading partners.

All business is affected; this isn't just for technologists. The free flow of data is an ingredient that makes the AEC bigger, more inclusive and more vibrant.

The AEC is the biggest single economic policy initiative in Southeast Asia at the present time. Its aim is to put ASEAN on to a higher and more sustainable growth path by creating a single market and production base that is ever more competitive and ever more integrated into the global economy. Digital trade can be a powerful enabler of the transition to the more dynamic, networked and innovative region that the AEC is intended to create. It can do so by:

- Delivering on the potential of digital commerce (whether electronic, mobile or social). As a region, ASEAN is home to 636 million people (taken together, the 3rd largest population in the world) with favourable demographics and a sizeable, emerging middle class. Those people are tech-savvy, early adopters of technology ~ taken together, ASEAN is No. 3 globally in terms of mobile subscribers and No. 4 as internet users. And yet, digital commerce is a small part of the ASEAN marketplace and a fraction of what it will become. It currently generates approximately US\$ 150 billion in revenues. It is expected to become one of the world's top-five digital economies by 2025²

ASEAN as

ASEAN as a single country, would rank

#2



in the world for
FDI inflow in 2013¹

#3



for global mobile subscribers:
10.2% (Behind China and India)¹

#7

in GDP globally - behind

¹2016 Digital Yearbook

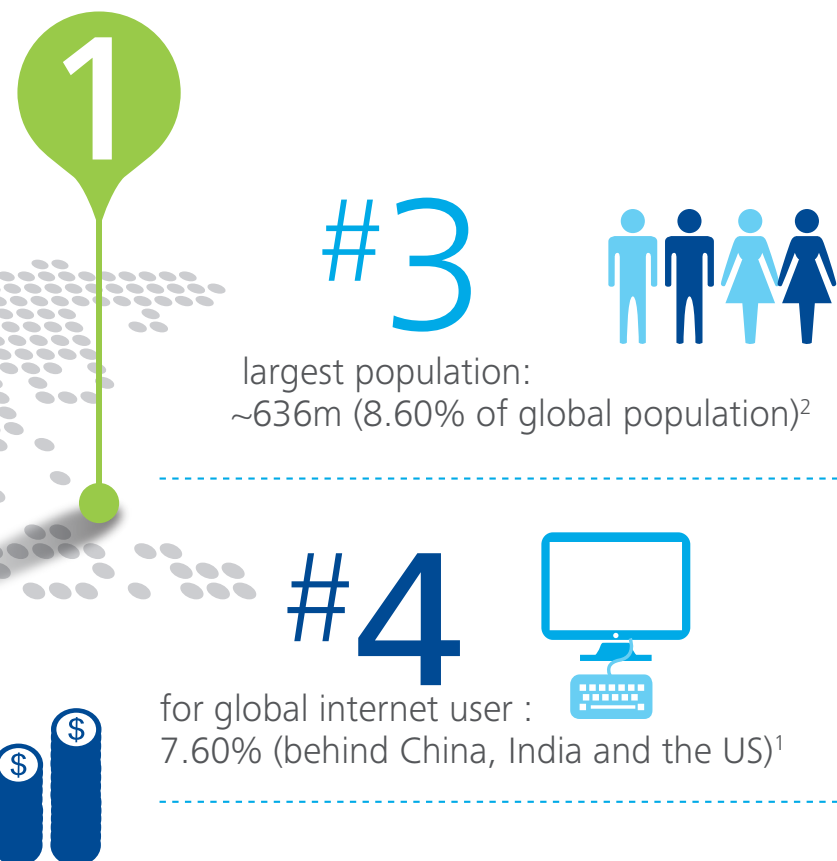
²AT Kearney – The ASEAN Digital Revolution

- Facilitating development of ever-more connected and networked value and supply chains within the region and with trading partners. The diversity of ASEAN can become a core strength if digitization makes it ever-faster, easier and cheaper to trade both within the region and with it
- Tapping into the potential of the regions' legions of small and medium sized enterprises. Digital trade can bring as-yet unconnected SME's into the regional marketplace, both for cross-border retail consumption within the region and as a growing part of the value and supply chains of larger businesses
- Building on the attractiveness of Southeast Asia as an investment destination. Last year, ASEAN attracted US\$ 137 billion of foreign direct investment. It is the world's 2nd largest destination. The businesses making these investments are increasingly reliant on their ability to collect, analyse and act on data collected across the markets they serve. Freely flowing data is a critical determinant of attractiveness for them

Bringing digital trade into the centre of regional integration efforts will make Southeast Asia a bigger market overall, open up new segments of the market and lower the costs of doing business. All of which will doubtless lead to large increases in economic welfare.

Doing so requires a new initiative that is specific to the free flow of data. It is essential that such an initiative should treat data as a horizontal, and not a vertical issue as it affects all business. It must also have a plan and a timeline all of its own.

The time is right now to enter into a dialogue to create such an initiative. This document is a contribution for the consideration of policy makers in member states, who create the frameworks for business to operate within, and for business leaders, whose organisations work within those frameworks to make the AEC vision a reality. We hope it will also be of interest to a wider group of stakeholders within civil society, as an important topic for the development of this vibrant region at this exciting time.



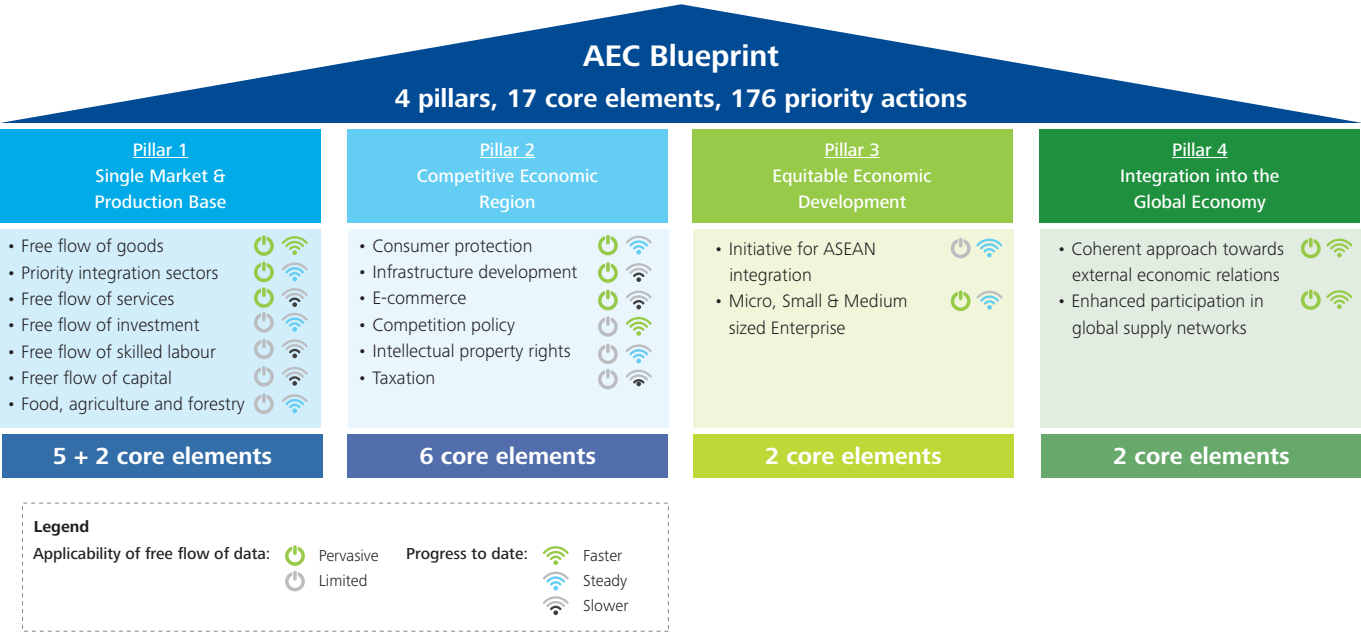
and US, China, Japan, Germany, UK and France²

State of play

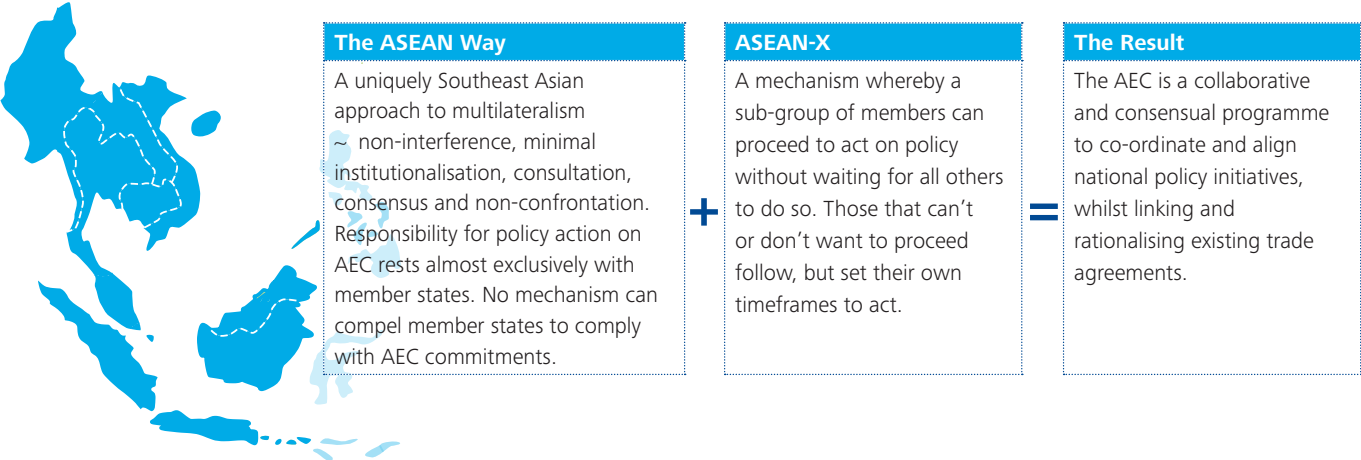
AEC Framework

ASEAN is a region that wishes to be networked, competitive, innovative, highly integrated and contestable. The free flow of data is a seminal requirement for that wish to come into being. And yet, it is striking that there is no single initiative ~ in place, in development or in planning ~ that directly addresses this requirement.

That's not to say that ASEAN hasn't made progress. Much has been done to make the AEC a reality and certainly much more than most realise. We reviewed both the AEC framework and progress in implementation in our briefing document ["The ABC of the AEC"](#). As a refresher of the essential elements, the framework and progress to date are laid out below:



How it works



³GSMA: Capitalizing on ASEAN's mobile moment

Progress to date

Pillar I

The **Free Flow of Goods** has seen good progress. Tariffs have been substantially eliminated on ASEAN-originating goods and progress has been made on trade facilitation. A push is under way to address non-tariff measures by 2018. Efforts are under way to standardize and share declarations. Seven of ten member states have implemented National Single Windows and are participants in the ASEAN Single Window pilot project. The other three are establishing a platform for their windows. The pilot standardises customs reporting and facilitates data exchanges between customs and traders. The result is that it is now easier, faster and cheaper than ever before to trade with and within ASEAN.

Progress in the **Free Flow of Services** and in the **Priority Sectors** has been slower, steadier and less even. Both are critical to integration ~ because services facilitate industrial development, innovation and efficiency; and because the Priority Sectors are at the heart of the economies of member states. Digital ASEAN is a critical part of both elements.

Free Flow of Capital flows was always seen to be a challenge and this has proven to be the case. Ambitions have been more limited and timelines to implement lengthened. The new focus is on financial inclusion as a strategic objective and payment and settlement systems as an area of focus. Both have a direct, positive effect on digital trade and for both, data must flow freely both to widen the distribution channels to address as-yet underserved communities (including MSMEs) and to deliver the lower costs needed to do so efficiently.

Pillar II

An area where progress has been mixed. In three core elements (**Competition Policy, Consumer Protection** and **Intellectual Property Rights**), frameworks have broadly been introduced and the process of coordination for implementation have been started. Concerted action has been called for, but not always delivered, in two of the three other core elements:

Infrastructure Development

Infrastructure has been an area where achievement overall has lagged needs. The infrastructure priority for ASEAN must include universal, affordable Internet access. Fixed broadband deployment is only [15%] and net connection speeds lag global averages (only Singapore and Thailand are higher than global averages). In a region where mobile penetration is 124%, it is essential that mobile data costs become and remain affordable. The returns to such development are high ~ one study estimated that countries with higher Internet penetration reap up to 25 percent more benefit from cross-border data flows than those with limited Internet penetration.

E-Commerce

Progress has been made on the statute books in this regard. [Nine] out of ten member states have electronic transactions legislation in place. In all ten, some form of legislation on domain-names has been implemented. The majority of member states now have some form of cybercrime legislation, while three out of ten have enacted privacy legislation.

E-commerce Harmonization						
Status	Electronic Transactions	Privacy	Cybercrime	Consumer protection	Content Regulation	Domain Names
Enacted	90%	30%	80%	60%	70%	80%
Partial	10%	30%	10%	30%	20%	20%
None	-	40%	10%	10%	10%	-

Note - (Percentages indicate the status of legislation in 10 member states)

Those advances have yet to translate into higher digital transactional activity, whether for business in the cloud computing or for consumers to convert already high online search and engagement to digital commerce. Focus on raising online security and other measures to eliminate the online trust deficit are needed.

It is...
...uniquely
ASEAN

It is not...
...the EU

It is...
...open, outward
looking, inclusive

It is not...
the creation of
"Fortress
ASEAN"

It is...
...using diversity
as a strength

It is not...
...making SEA
uniform

Pillar III

Micro, Small and Medium Sized Enterprises are a vital part of the ASEAN story ~ representing up to 96% of all enterprises, between 60% and 90% of all employment and between 30% and 60% of GDP. And yet, the programme to make regional integration work for them has made steady, but not stellar, progress. It is striking that in all the parameters slated for development ~ access to finance, global supply chain linkages, human capital development (especially women and youth), access to information, fostering innovation ~ digital trade and the free flow of data can make a positive impact. To that end, the member states have made this an area of focus in the 2025 Blueprint.

Pillar IV

An area where progress has been made. Top-of-mind at present are two over-arching free trade agreements:

- **TPP**

Regarded by many as the model for the next generation of trade agreements. Led by the US over [seven] years, concluded in [2015] and likely to be in ratification until [2017]. It encompasses [twelve] countries, of which [four] are from ASEAN. Whilst seeking to lower barriers to trade and investment, it is notable for its breadth of coverage ~ including IPR, government procurement, labour and environmental standards and, critically, digital trade.

TPP takes a strong pro-trade stance on digital trade. It requires the free flow of data across borders and prohibits forced localization of data centres, with exceptions under limited circumstances (including, but not limited to a 'legitimate public policy' objective). It bars customs duties on digital products, adopts consumer protection laws against online fraud, to prevent spam and to protect online privacy. It prohibits forced disclosure of software source code with governments or commercial rivals. TPP also encourages cooperation on cybersecurity and the provision of assistance to SMEs

- **RCEP**

Notable for having been initiated by ASEAN and, as a first, being negotiated by ASEAN as a bloc. The process has been ongoing for almost [three] years and is expected to be concluded in [2016]. It encompasses [sixteen] countries, all within Asia Pacific and (naturally) including all ASEAN member states.

Due to the member composition, it is understandable that there is a greater emphasis both on market access and supply chain matters, as well as on inclusiveness and developmental goals. It does not include specific provisions on digital trade or on the free flow of data.

Much is made of these over-arching free trade agreements being competitive. In fact, it is perhaps more useful to see them as mutually reinforcing platforms for regional integration and as possible pathways for the negotiation of the Free Trade Agreement for the Asia Pacific. It is in that agreement that we may see the digital trade provisions of TPP being adopted across the region.



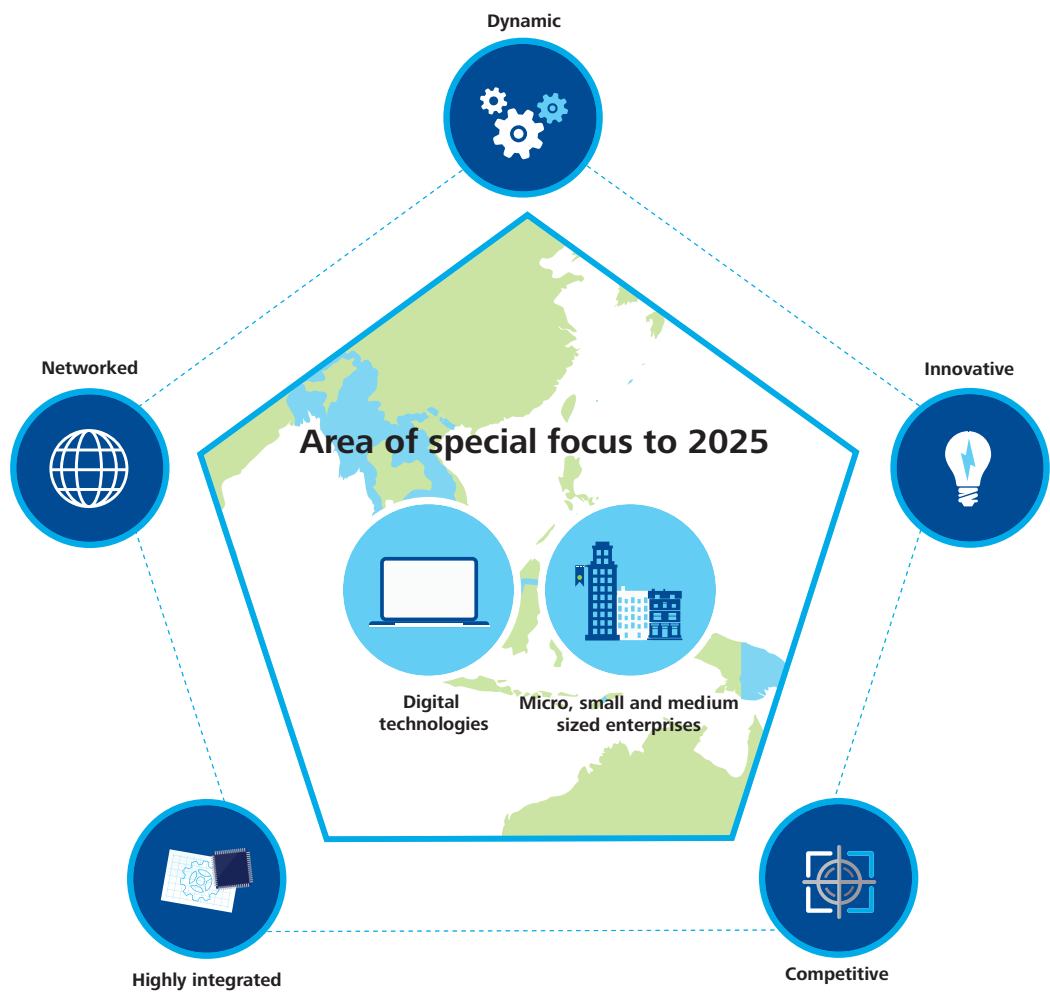
AEC Blueprint 2025

Much has been delivered in the run up to the initial 2015 deadline, but more remains to be done as member states implement the AEC Blueprint 2025.

The immediate priority is to complete implementation of measures unfinished under the AEC Blueprint 2015. But more than that, there is an explicit recognition that regional economic integration is a dynamic, ongoing process. To that point, it is striking to note that one of the two new areas of emphasis is the need to embrace evolving digital technologies as a means of leverage on higher trade and investment levels.

The digital economy has been identified as an area of special focus for regional integration. What exactly are the nature of the opportunities that it will bring? We answer that in the next section.

ASEAN will be:



The opportunities

Most accept that regional integration and digital trade have the potential to transform ASEAN by 2025. What isn't clear to many is why a laissez faire policy on data is a necessary condition for the benefits that these phenomena will bring.

We want to demonstrate that link. We can't hope to do so in an all-encompassing way, nor can we definitively attribute primacy to data flows. But as pragmatists, we can use the power of example to show how the free flow of data will help to achieve a good outcome.

We focus on four areas where the combination of regional integration and digital trade will make for big opportunities in the next 10 years. We highlight how that gives rise to large scale opportunity at an in-principle level. We then show the link by example and anecdote, using the expertise and on-the-ground know-how of regional businesses that not only see the potential, but also are acting to capture it.



A market of
**US\$
200B**
by 2025
6x in
10 years

#1 – Digital Commerce (whether e-, m- or s-) Can Be A Large Part Of The Growth

Point

- This can be a significant contributor to the growth agenda for ASEAN for the next 10 years
- So far, digital commerce has been a story about unfulfilled potential (insert fact)
- A number of the key drivers are there; but there are inhibitors that need to be dealt with
- A policy to let data flow freely is one essential factor to turn the potential of digital commerce into a reality

Evidence

- Use the Google survey, MGI Digital & ATK Digital ASEAN for evidence & for argument
- Driven by e-commerce, online media & travel
- All 6 markets markets > US\$5bn p.a.
- In ASEAN, e-Economy is <1% of GDP in 2015; by 2025 it will be ~ 5% (as % growth, much higher)

Explanation

- The underlying factors - 70% of the population is under 40; Growing penetration and internet speeds; development of trusted payment and data ecosystem
- How does data fit in? – Free flow of data underpins e-commerce

Challenges led approach

- US\$ 40 to 50B of investment ~ a consequence (more on that later)
- Even with the money, 5 challenges:
 1. Talent shortages
 2. Payments infrastructure
 3. Internet infrastructure
 4. Logistics support
 5. Lack of consumer trust
- Security & privacy are must-haves; argument is that specialisation is better; specialists operate on a regional/global level; data must flow
- Which drives penetration, so then payments ~ Cash only transacting for the 90%; debit card penetration? pervasive, low cost; that needs minimum efficient scale & thereafter scale economies; mostly local to local, but better if there aren't barriers; more players, lower cost, more innovation, better service; regional is the link to data; sand in the gears analogy
- Analytics makes most sense at greater scale ~ important, later; 2020 not now; innovation, service standards
- Internet infrastructure ~ returns issue; volume but no return; scale matters; data must flow to make sense of investment

Link & Punchline

- The firms that will seek to address the challenges need the free flow of data on 4 of 5 parameters ~ consumer trust, payments, fulfilment, investment
- Digital commerce thrives on Data – Data on Consumers (e-commerce), Data on preferences & demographics (Target Ads); financial Data (payments)
- Let the boys play...

Case Study

Direct tax advisory

Enhanced tax understanding

As the Organising Committee for the Singapore 2010 Youth Olympic Games, SYOGOC's dealings with the International Olympic Committee, sponsors, contractors, athletes and other Singapore 2010 stakeholders entailed transactions taking place in Singapore and across the borders. Deloitte was asked by SYOGOC to provide advisory on the Singapore tax implications on such transactions, as well as identify any potential tax issues that may arise.

Based on SYOGOC's needs at the varying phases of the Youth Olympic Games, Deloitte provided timely advice to SYOGOC on tax matters in Singapore and across the border. This included tax concessions, tax deductibility on sponsorships for the Youth Olympic Games, withholding tax obligations on payments to non-Singapore residents, and tax clearance for foreign employees who will leave Singapore when their employment have ceased.



Intra-ASEAN trade

is the largest contributor of trade comprising **24.1%** of total share amongst trading partners.

#2 – Intra-ASEAN Trade Must Thrive For ASEAN to Be Competitive

Point

- Industry 4.0
- Efficient system for Intra-ASEAN trade will increase productivity and efficiency by reducing factor input cost and increasing mobility of technology (fostering increase in productivity) hence making ASEAN more competitive as a region with an aim to capitalize the manufacturing opportunity.

Evidence

- pg. 10 AEC Blue print - <http://www.asean.org/storage/images/2015/November/aec-page/AEC-2015-Progress-and-Key-Achievements.pdf>
- ASEAN is already a major manufacturing hub, but three developments could stimulate substantial growth in the sector: the implementation of the ASEAN Economic Community (AEC) integration plan, which aims to increase intra-regional and global trade; attracting more production from multinationals as labor costs rise in China; and the application of big data and mobile Internet, disruptive technologies where many ASEAN manufacturing firms lag behind their multinational counterparts. (http://www.mckinsey.com/~media/McKinsey%20Offices/Singapore/PDFs/Understanding_ASEAN_The_Manufacturing_Opportunity.ashx)

Explanation

- Trade with less barriers reduces factor input cost.
- Free-flow of technology data – In manufacturing, disruptive technologies could increase profit margins and lower costs, potentially creating \$25 billion to \$45 billion of annual economic impact in ASEAN by 2030, according to research by MGI. The use of big data and the Internet of Things could improve demand forecasting and production planning, leading to better customer service and higher profit margins.

Sample Lab Agenda



- 1 Define Current State and Desired State
- 2 Establish A Common Vision of Success
- 3 Benchmark Board Governance Maturity
- 4 Define and Engage with Key Relationships
- 5 Create and Commit To an Action Plan

Punchline

Examples of YCH supporting large manufactures and driving the point on how integration in AEC and data flows will reduce overall logistics costs, access to low factor inputs and lead to productivity gains.

Case Study

Direct tax advisory Enhanced tax understanding

As the Organising Committee for the Singapore 2010 Youth Olympic Games, SYOGOC's dealings with the International Olympic Committee, sponsors, contractors, athletes and other Singapore 2010 stakeholders entailed transactions taking place in Singapore and across the borders. Deloitte was asked by SYOGOC to provide advisory on the Singapore tax implications on such transactions, as well as identify any potential tax issues that may arise.

Based on SYOGOC's needs at the varying phases of the Youth Olympic Games, Deloitte provided timely advice to SYOGOC on tax matters in Singapore and across the border. This included tax concessions, tax deductibility on sponsorships for the Youth Olympic Games, withholding tax obligations on payments to non-Singapore residents, and tax clearance for foreign employees who will leave Singapore when their employment have ceased.



SMEs
contribute
a third of
GDP and
70%
of employment
across the
ASEAN 5.

#3 – MSME development ~ a critical part of the inclusion agenda

Point

Early adopters of digital technologies will lead the way in the digital economy and as these SMEs flourish, they will provide more opportunities to the lower-income strata of the society

Evidence

- Most SMEs have poor or low level of technology, resulting in low productivity, inconsistent product quality and high wastage. This is due to lack of technological know-how, R&D funds, awareness and inadequate mechanism for technology transfer. (<http://www2.deloitte.com/content/dam/Deloitte/sg/Documents/financial-services/sea-fsi-digital-banking-small-medium-enterprises-noexp.pdf>)
- Interesting take on the SME segment in Europe by Deloitte – article printed. ([http://eclass.uoa.gr/modules/document/file.php/ECON168/KES-6.%20Doing%20Business%20in%20the%20Digital%20Age%20\(EU\).pdf](http://eclass.uoa.gr/modules/document/file.php/ECON168/KES-6.%20Doing%20Business%20in%20the%20Digital%20Age%20(EU).pdf))

Explanation

- As these SMEs adopt new technologies and become further connected, hence increasing their access to capital, bigger markets, improving productivity
- Resulting in incremental GDP and improvement in livelihood for 70% employed with them leading to better inclusive development of the Economy.



Case Study

A passion to perform

A Singapore government agency approached Deloitte for a proof of concept to demonstrate the impact of data analytics in the fight against fraud and corruption.

The agency's main challenge to Deloitte was: demonstrate the value of data analytics in the public sector.

As an agency with millions of payments each month to various types of vendors and recipients, effective processes and controls are critical to ensuring that this agency upholds its obligation to be a responsible steward of public funds.

To that end, Deloitte developed a 12-week project to extract and analyse 24-months' worth of transactions from the client's purpose-built Oracle-based vendor management application. After generating the initial results, the analytics team joined Deloitte's domain and industry experts to review and interpret the results in order to understand them in context and confirm the direction of further analytic inquiry.

Punchline

Example of Ci-Agri and how all these factors will come together in solving their issues.



#4 – Investment Flows ~ a necessary condition for success overall

Point

FDI / Investment flows are a prerequisite to the growth that the region is expected to witness and the resultant growth will further foster investment. Hence, creating a cyclical effect – Investing Right promoting further investment.

Different in type, in that is a consequence ~ comfort thing (survey); knowledge thing (data); promotes further investment ~ a necessary condition to growth (by survey, example, interview, infographic)

- US\$ 40 to 50B of investment ~ a consequence (more on that later)

Evidence

- For ASEAN to get the right benefits of a growing E-Economy, there's a need of approximately 40 – 50 bn to be invested.

Explanation

- Investment in the right businesses that enjoy the benefits from all factors discussed above (productivity, lower input costs, bigger markets, access to better resources) will grow over time hence increasing investor confidence.

Case Study

A passion to perform

A Singapore government agency approached Deloitte for a proof of concept to demonstrate the impact of data analytics in the fight against fraud and corruption.

The agency's main challenge to Deloitte was: demonstrate the value of data analytics in the public sector.

As an agency with millions of payments each month to various types of vendors and recipients, effective processes and controls are critical to ensuring that this agency upholds its obligation to be a responsible steward of public funds.

Foreign investors are attracted to governments that:

- 66% are open minded about new business models (e.g. sharing economy)
- 66% invests in education and digital skills boosting (e.g. literacy, high tech)
- 65% protects freedom of expression on the internet
- 65% invests/enables investing in the Internet and mobile infrastructure
- 64% activates policies aimed at reducing taxes and fees for endInternet and mobile users
- 62% promotes open data use
- 57% facilitates policies enabling process access to spectrum and backhaul
- 57% adopts policies aimed at liberalizing mobile payments
- 57% releases transparent regulatory roadmaps and holds public consultations on all new legislative proposals on Internet/mobile regulation

Reference⁴

Investors' sentiments

- 78% of investors would be deterred from investing in Internet businesses if user data can be disclosed to law enforcement without following international baseline standards⁴
- 77% of investors say that If a country adopts policies aimed at reducing regulations for the mobile apps ecosystem, this would increase their interest in investment in internet businesses in that country⁴

Punchline

Examples of investment in all of the above leading to development in the overall economy and how capital creates a successful cycle of investment.

The opportunities

A 4-part segment of the document, structured around (say) 5 case studies as follows:

- a. Overall ~ we need to make highlight the nature of the opportunities that the free flow of data can unleash in the context of a single market & an integrated production base. This needs development
- b. Case Studies #1 & 2 ~ Financial Services ~ say, payments & insurance
- c. Case Study #3 ~ Transportation ~ likely a logistics business (whether time-sensitive package delivery or air transport)
- d. Case Study #4 & 5 ~ Information Technology~ say, 1 party focused on services & another on infrastructure

In each case, the intent is to demonstrate the upside from liberalised data flows in the context of the 3 key parameters.

Grab

Introduction/Scene Setting

- o Challenge – What is the key challenge that the industry/sector is facing currently in terms of productivity etc. and how does that impact the economy in general
- o Profile – What does the business described in the case study do and what are the key features

Opportunity being addressed

- o How is the business/business plan dealing with the challenges being faced and are trying to solve the problem?
- o What is the impact that it can have on the industry/economy if it is successful and what is the likely impact if it doesn't succeed?

Importance of data to the business

- o How is data important to the business and how the flow of data could impact the region as a whole
- o What would be a potential data flow scenario that would have a strong positive impact on the business case.

- | | |
|-------------------|----------------------|
| ✓ Digital economy | ✓ Intra ASEAN trade |
| ✓ SME | ✓ Better utilisation |
| ✓ Inclusive | ✓ Lower costs |

Challenges

Focusing on the Big Issues

The opportunities arising from the free of data within ASEAN will be many and their overall impact substantial. But, such opportunity will bring with it challenges that are equally numerous and as substantial.

Part A: Generic challenges

Some of the expected challenges are not specific to the free flow data, but rather reflect the challenge of competing priorities. Three specifics are likely to predominate as challenges:



Narrow Thinking: When one mentions digital or data, the immediate reaction is to consider the matter as a narrow, technological matter. And yet, this is evidently not the case. Indeed, to do so is to miss the big picture. It has been estimated that over 75% of the benefits arising from the digital economy accrue to businesses that do not have a specific focus on technology



Differing Positions: Diversity is one of the defining characteristics of ASEAN. Various, it is possible that member states may feel that this is a solution that is needed only by the more established and higher income nations. In fact, this thinking is in error ~ the free flow of data has been shown to have a disproportionate impact on the micro, small and medium sized enterprise segment of business and the lower income consumers. Put simply, it can serve to significantly reduce costs and by doing so increase access to new and bigger markets



Crowding Out: The fact remains that the resources available to the member states are limited and much of the time, energy and money available will be directed to implementing that which is committed, but not yet done. It is to be expected that limited resource will be made available for new initiatives. Acknowledging this to be the case, the free flow of data should rank at the top of the list as to impact all the key priority areas on the 2025 Blueprint

The manner in which change is implemented within the ASEAN framework will also represent a specific type of challenge. The ASEAN Way and the ASEAN minus X formula will mean change will be incremental, will take time to build the required consensus and will be achieved gradually and in waves. That isn't a reason not to start, but is rather a factor to be borne in mind when setting expectations for timelines.

Part B: Specific challenges

On the other hand, we can see that there are three major challenges that will be encountered when seeking to implement the free flow of data:



Localisation: Data will naturally flow across borders unless nations erect digital barriers.

Usually, when such barriers are put in place, they involve requirements to store data locally, to process data locally or to use local data service providers. Whatever the specifics, such barriers harm overall economic welfare in exactly the same way as happened in the past with goods and services through tariffs and non-tariff measures.

There may indeed be some beneficiaries of regulations which put up some barriers. Generally, these beneficiaries are a small number of (almost by definition, powerful) local interest groups who press the case that data stays local under the guise of boosting local enterprise and jobs. The reality, as highlighted in a number of locations and by a range of independent experts, that the harm far outweighs the good. Specifically:

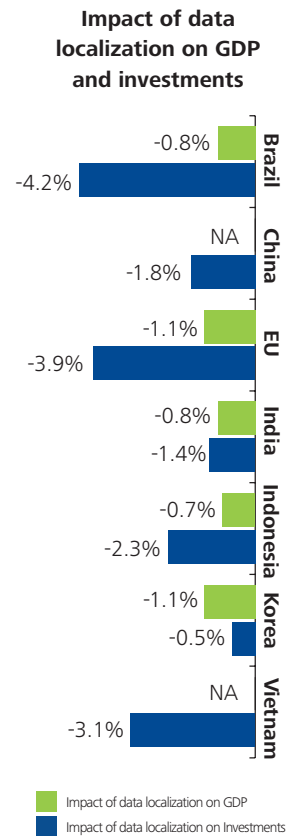
- Requirements to localise limit access for business and consumers in the affected nation to access digital commerce networks. The cost in this case is fewer opportunities, less choice, less service and frequently higher cost
- Restricting data to local markets constricts access for business and consumers in the affected nation to online resources & opportunities
- Imposes limits on the ability of leading businesses to synthesise large data sets. This in turn deprives local business and consumers of improved products and services perhaps at lower costs
- By imposing a requirement to invest in what are frequently sub-scale facilities, reduces overall levels of efficiency and raises the costs of doing business for those that the local providers serve
- Worryingly, steps down this path may encourage others to retaliate leading to the balkanisation of the Internet

In sum, data localisation causes harm by reducing opportunity, crimping innovation, reducing choice, lowering service levels and (frequently) raising costs. All this, at the expense of the many (especially MSMEs) for the benefit to the few.

There have been instances in the recent past where member states of ASEAN have deliberated or indeed introduced legislation which goes down this path:

- Malaysia passed a local data server requirement under its PDPA law in 2013, but has not yet implemented it
- In 2014, Indonesia began considering Regulation 82, "Draft Regulation with Technical Guidelines for Data Centres" that would require Internet-based companies to set up local data storage centers. The Technology and Information Ministry is now implementing this regulation under the country's Electronic Information and Transactions (ITE) Law
- In Vietnam, a Decree on Information Technology Services requires digital service providers or websites to locate at least one server within the country. There is a IT Services Decree in draft that would include additional data localization requirements as well as restrictions on cross-border data flows

There is a need to build a regional consensus and an enforceable regime that provides for the free flow of data across borders within ASEAN. Such a regime must take make specific, narrow exemptions both to permit lawful government access to data and to preserve reasonable privacy, otherwise nations will be more likely to restrict cross-border data flows and trade, commerce, law enforcement, and intelligence gathering will all suffer.



67% of investors are uncomfortable investing in internet businesses that are legally obligated to store user data on servers located in the same country where users are located and/or build their own data centers locally in each country of operations⁴

⁴The cost of data localisation: Friendly fire on economic recovery



Cyber Security: A region that runs on data flows is vulnerable to cyberattacks. Cyberattacks can give rise to consumer data breaches, financial crimes, market manipulation and the theft of intellectual property. So, concerns around cyber security are understandable ~ not only because of the possibility of substantial dollar costs, but also the risks to public safety and even national security. These risks are especially relevant in ASEAN ~ a recent report cited that eight out of ten countries most threatened by cyberattacks are in Asia and of those eight, four are ASEAN member states.

The answer though is not to conflate the legitimate desire for cyber security with a call to localise data. Experience and logic indicates exactly the opposite conclusion. Private companies are now most often at the forefront of ensuring cybersecurity, especially if they have global experience and operations. For that reason, allowing data to flow across borders can actually improve rather than lessen cybersecurity.

Much has been done to address cybersecurity in ASEAN as part of the AEC. A recent UNCTAD report acknowledged the extent of progress, but highlighted that important pieces of legislation are still missing in some locations. To fill these gaps, sharing best practices between governments up-front would make the process faster, smoother and more consistent. It would also be helpful to have a regional online dispute resolution facility.

As a further step beyond implementation of the 2015 Blueprint, it would be helpful if ASEAN member states invested in research, shared information, modelled good security practices and mandated thoughtful standards for securing consumer data.



Data Privacy: Concerns around data privacy are understandable. If data is to flow freely, it is reasonable that frameworks to address legitimate privacy concerns are in place.

The good news is that much has been done in ASEAN to put those legislative and regulatory frameworks in place. Malaysia started the ball rolling by passing privacy legislation in 2010, followed by Philippines and Singapore in 2012. Indonesia and Vietnam both have partial privacy legislation in place (contained in their omnibus e-commerce laws). Thailand has been discussing draft general data protection legislation. Brunei has just begun discussing privacy legislation and is watching the experience of Malaysia, Philippines and Singapore closely. Cambodia, Laos and Myanmar have not yet begun significant work in this area.

Of course, more can be done and improvements can be made. Specifically, steps should be taken to ensure both that there are agreed standards and that there will be mutual recognition provided such standards are adhered to.

There have been situations though in ASEAN where data privacy has been cited (most commonly along with the other specific threats) as a reason to localise data. The reality is though that requiring data to stay onshore does little to protect privacy. As long as there is a legal nexus to an ASEAN member state, the entity concerned is subject to the laws and regulations of that state; moving data does not and should not give a free pass to ignore laws and regulations.

The Call To Action

The Right Course

Digital trade can be a powerful, positive force for the transition to the higher growth, less volatile, more innovative and more inclusive region that the AEC is intended to bring into being:

- Digital commerce can create a stronger and more stable base of demand from within the region, by realizing the potential of 636 million tech-savvy consumers. Both [RedMart] and [Grab] illustrate what is possible from within the region. Such success can be both further developed and multiplied with supportive policy and development initiatives.
- The diversity that is one of the defining characteristics of ASEAN can be made into a source of real strength as new technologies facilitate the development of ever-more connected and networked value and supply chains. The work of [YCH] and [OCBC] shows how this reality is unfolding. Digitization can make it ever-faster, easier and cheaper to trade both within the region and with global trading partners.
- Digital trade can spread the benefits of regional integration. The legions of small and medium sized enterprises can be brought into the regional marketplace, both by tapping into cross-border retail consumption and as part of the value and supply chains of larger businesses. [Ci-Agri] and [Go-Jek] are good examples of how this has been done.
- The global industry leaders that have made Southeast Asia the 2nd largest global recipient of foreign direct investment will continue to drive innovation and deploy investment if they are able to deploy their capability to collect, analyse and act on data collected in the markets they serve.

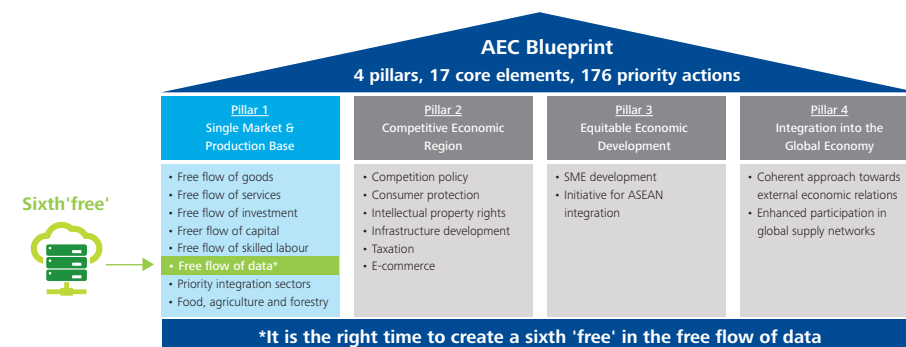
All of this is possible if data is permitted to flow freely across borders within Southeast Asia and with our major trading partners. While it will naturally do so unless harmful policies are put in the way, it is preferable that the principle of the free flow of data across the region be adopted as a core principle of the ASEAN Economic Community.

The Call to Action

The time is right for a new initiative to focus attention on this critical condition. While the exact shape of the programme will be the subject of dialogue amongst stakeholders, any successful programme should have at least the following three elements:

- It must be a new initiative and it must be specific to the topic. Nowhere in the existing programme for the AEC is this aspect clearly addressed
- It has to look at the free flow of data as a horizontal issue, not as a vertical specific to information technology. The free flow of data impacts all business in all segments. Indeed, the bulk of the benefit is expected to be in the “traditional”, rather than the digital economy
- It must have both a concrete plan and a firm timeline all of its own. The AEC programme thus far shows very well (however imperfectly) that the member states work best together when there is an explicit programme for change

One possible way forward is to create a sixth freedom within the first pillar of the AEC Framework. It certainly isn't the only way forward and may well not be the best. But, it does address the three key elements that any successful programme must have.



A Last Word

Southeast Asia has the ambition to be more dynamic, to be better networked, to be more innovative and to be more competitive. The ASEAN Economic Community is the cornerstone policy initiative that will realise that intent. The digital economy should be a central element of an integrated ASEAN and the free flow of data should be an essential ingredient. The time is now to embed the free flow of data in the AEC Agenda.

Learning more

To find out more information on the AEC, please visit www.deloitte.com/sg/aec or contact any of our specialists

Attend

[Please let us know what events are coming up in the next 6 months]

Read

[Deloitte AEC website](#)

[US ASEAN Business Council](#)

[The ABC of AEC](#)

[AEC 2025 Blueprint](#)

Contact

Deloitte



AEC Leader for Southeast Asia & Singapore

Jeff Pirie

jpirie@deloitte.com

About Deloitte Southeast Asia

About Deloitte Southeast Asia Deloitte Southeast Asia Ltd – a member firm of Deloitte Touche Tohmatsu Limited comprising Deloitte practices operating in Brunei, Cambodia, Guam, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam – was established to deliver measurable value to the particular demands of increasingly intra-regional and fast growing companies and enterprises.

Comprising over 270 partners and 7,300 professionals in 25 office locations, the subsidiaries and affiliates of Deloitte Southeast Asia Ltd combine their technical expertise and deep industry knowledge to deliver consistent high quality services to companies in the region.

US ASEAN Business Council (to input contacts)

(to input their role in advocacy)



Designation

Name

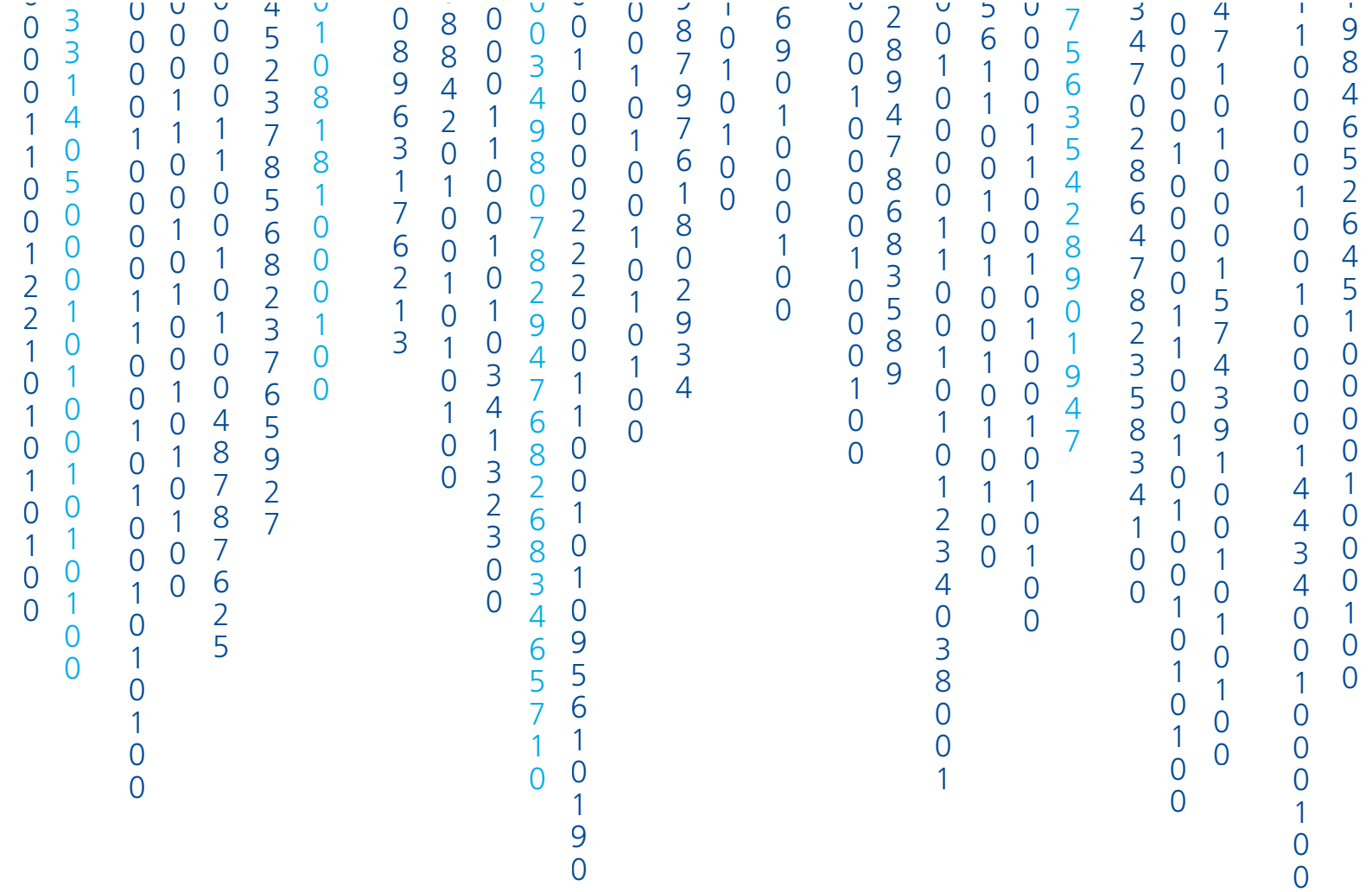
Email

About US Asean Business Council

For over 30 years, the US-ASEAN Business Council has been the premier advocacy organization for US corporations operating within the dynamic Association of Southeast Asian Nations (ASEAN). Worldwide, Council Members generate over \$6 trillion in revenue and employ more than 13 million people. Members include the largest US companies that have been working in Southeast Asia for over 100 years. The Council has offices in: Washington, DC; New York, NY; Bangkok, Thailand; Hanoi, Vietnam; Jakarta, Indonesia; Kuala Lumpur, Malaysia; Manila, Philippines; and Singapore.

Thanks to our sponsors





Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see www.deloitte.com/sg/about for a more detailed description of DTTL and its member firms.

Deloitte provides audit, consulting, financial advisory, risk management, tax and related services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte’s more than 225,000 professionals are committed to making an impact that matters. Deloitte serves 4 out of 5 Fortune Global 500® companies.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte network”) is, by means of this communication, rendering professional advice or services. No entity in the Deloitte network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

Deloitte & Touche LLP (Unique entity number: T08LL0721A) is an accounting limited liability partnership registered in Singapore under the Limited Liability Partnerships Act (Chapter 163A).