INTERNATIONAL COUNSEL BUREAU
مكتب المستشار الدولي

Kuwait – CITRA Cloud Regulatory Framework and regulations

Needs for and growth of cloud services

The increasing needs of government and businesses to store and manage large amounts of data 'big data' and find diverse ways to process and use it for particular requirements without the resources and costs for local IT systems, has made use of 'cloud services' a valued and essential requirement. Cloud services provide varied and lower cost solutions.

There are, however, risks and responsibilities associated with the adoption of different cloud service models, such as Iaas, Paas and Saas models, and particularly with regard to the protection and security of data.

CITRA and Cloud Computing Regulatory Framework

The laws and regulation of such models are continuing to develop and need to be understood and complied with. The laws typically distinguish between the responsibilities and obligations of the users and owners of the services known as 'subscribers' and the providers of the services themselves 'cloud service providers'.

CITRA, the Communication and Information Technology Regulatory Authority, established under Law No. 37 of 2014 is Kuwait's applicable regulatory authority with oversight of activities relating to use of the cloud and this includes the implementing of necessary law, regulations and guidance as well as licensing of cloud service providers. Its policy and procedures are developing in an area that is very dynamic.

Under Resolution No. 112 of 2021, CITRA recently issued its Cloud Computing Regulatory Framework, which became law on 4 July 2021. The Framework includes a set of mandatory and indicative policies and guides and regulations concerning the legitimate use of cloud services. The framework includes a Data Classification Policy, Cloud Service Providers Regulations and Commitments and Data Privacy Protection Regulations which subscribers and cloud service providers must follow.

The Data Classification Policy is an essential policy that requires the concerned business users to review and classify the data that they hold and ensure that security measures are commensurate to the sensitivity of that data. It requires classification under four tiers with particular concern for enhanced security and controls where 'private sensitive' data and 'highly sensitive data' is processed.

The Cloud Service Providers Regulations and Commitments provide requirements for the appointment of cloud service providers by subscribers and the legal terms which must be put in place in the agreements between them.

The Data Privacy Protection Regulations require data privacy controls and protections for individuals where their personal data is collected, stored and processed on the cloud.

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Policy towards 'public' and 'private' sectors and government data

CITRA's policy and practice distinguishes between the public and private sector, and it has been actively ensuring controls over the public sector and controls relating to government data. This focus will involve efforts to ensure ministries and public departments implement requisite controls on use of cloud service providers. Whilst CITRA is conscious of stimulating competition and allowing the private sector flexibility in use of cloud services, it recognizes that such private businesses are also potentially holding and using government data, such as minutes or communications with the government entities and departments, so additional controls and restrictions apply to safeguard data in such circumstances.

Transition to the new requirements

The Cloud Computing Regulatory Framework and applicable regulations and policies require specific compliance with their requirements by subscribers and cloud service providers. However, there is transition to the new requirements in recognition of the significant changes to controls, procedures and agreements that businesses must implement to comply.

With regard to the Cloud Computing Regulatory Framework, there has been a grace period and transition of 6 months starting from 11 February 2022 to comply with the Regulatory Framework.

With regard to the Data Privacy Protection Regulations, which became law on 4 April 2021, there continues to be a transition period to compliance, but this will end on 4 April 2022 (unless extended).

Law regarding data privacy in general

In relation to data privacy generally, businesses must also adhere to Law No.20 of 2014 concerning Electronic Transactions. This law has broader and more general data privacy obligations and applies to all businesses which includes requirements for the issuing of privacy notices, securing consents to processing of personal data and other controls that go beyond cloud services.

More detailed analysis of the circumstances of each subscriber and the particular data that it uses in connection with its cloud services is required to fully understand and ensure ongoing compliance with regard to these laws and regulation.

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