



香港中文大學圖書館

The Chinese University of Hong Kong Library



研究及知識轉移服務處

Office of Research and
Knowledge Transfer Services

WORKSHOP – AN INTRODUCTION ON IMPORT AND EXPORT OF RESEARCH DATA AND MATERIALS

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SPEAKER

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THE MAIN GOAL FOR TODAY IS TO RAISE AWARENESS

OUTLINE

- 01 Research Data Management (RDM) Overview**
 - 02 Legal Requirements in Different Jurisdictions: Examples**
 - 03 Measures to Consider in Research Data Exchange**
 - 04 Exporting Data from Mainland China**
 - 05 Where to Seek Help?**
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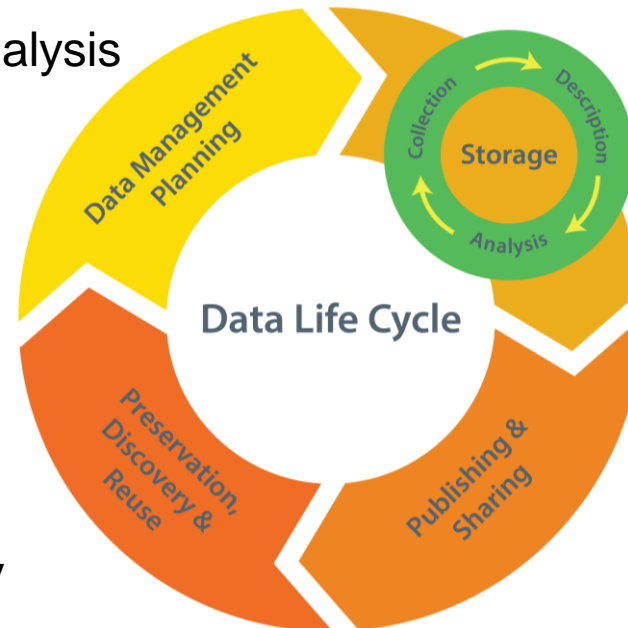
THE MAIN GOAL FOR TODAY IS TO RAISE AWARENESS

01 RESEARCH DATA MANAGEMENT (RDM) OVERVIEW

RESEARCH DATA MANAGEMENT (RDM) OVERVIEW

What is Research Data Management (RDM)?

- Data management planning
- Data collection, description, analysis
- Data storage and backup
- Data publication, sharing, preservation and reuse



What to do?

- Write Data Management Plan (DMP) at proposal stage and update throughout the research and data life cycle
- Proper data management throughout the research and data life cycle
- Preserve and share data where possible at the end of a project

Rationale for RDM

- Demonstrate research integrity
- Better research impact of researchers
- Reuse of research data
- Funding being used more cost-effectively
- Request from funders and publishers

Support by CUHK

- Committee on Research Data Management
- RDM training, workshops, and events
- CUHK DMP service with CUHK DMP template
- CUHK Research Data Repository
- Library guides and consultation service

RESEARCH DATA EXCHANGE

- Research very often involve data, some data
 - Are collected outside of Hong Kong by CUHK staff
 - Are obtained by non-CUHK individuals then transferred to CUHK
 - Are provided by parties that impose specific requirements
 - Are sensitive and/or private (regardless of origin)
 - Have national security implications (regardless of origin)
 - Are subject to legal requirements
- Members of CUHK are responsible for ensuring that the different requirements are met before importing or exporting data
- Different agreements and contracts may be required for data exchange
- Some data exchange may be illegal without approval from government authorities
- For agreements and contracts related issues, ORKTS is here to help

02 LEGAL REQUIREMENTS IN DIFFERENT JURISDICTIONS: EXAMPLES

DATA IMPORT / EXPORT

- To address the growing challenges of data privacy and security, governments worldwide such as the UK, the US and Canada have implemented data protection laws and regulations.
 - Some of the laws address data export
- Specific laws that govern data export have also been enacted for Mainland China.
- All teaching/research staff and research postgraduate students are advised to take extra precaution to ensure compliance with all applicable laws and regulations.

EXAMPLES OF DATA POLICIES OUTSIDE OF MAINLAND CHINA

UNITED KINGDOM:

Export licence is required if there is a high risk that research, software, or technology could be used for military purposes. Applied research, usually in STEM subjects, is high risk and could potentially be misused for military purposes.

UNITED STATES OF AMERICA:

Export control laws govern how information, technologies, software, technical data and commodities may be transferred to anyone outside of the United States or to foreign nationals within the United States.

CANADA:

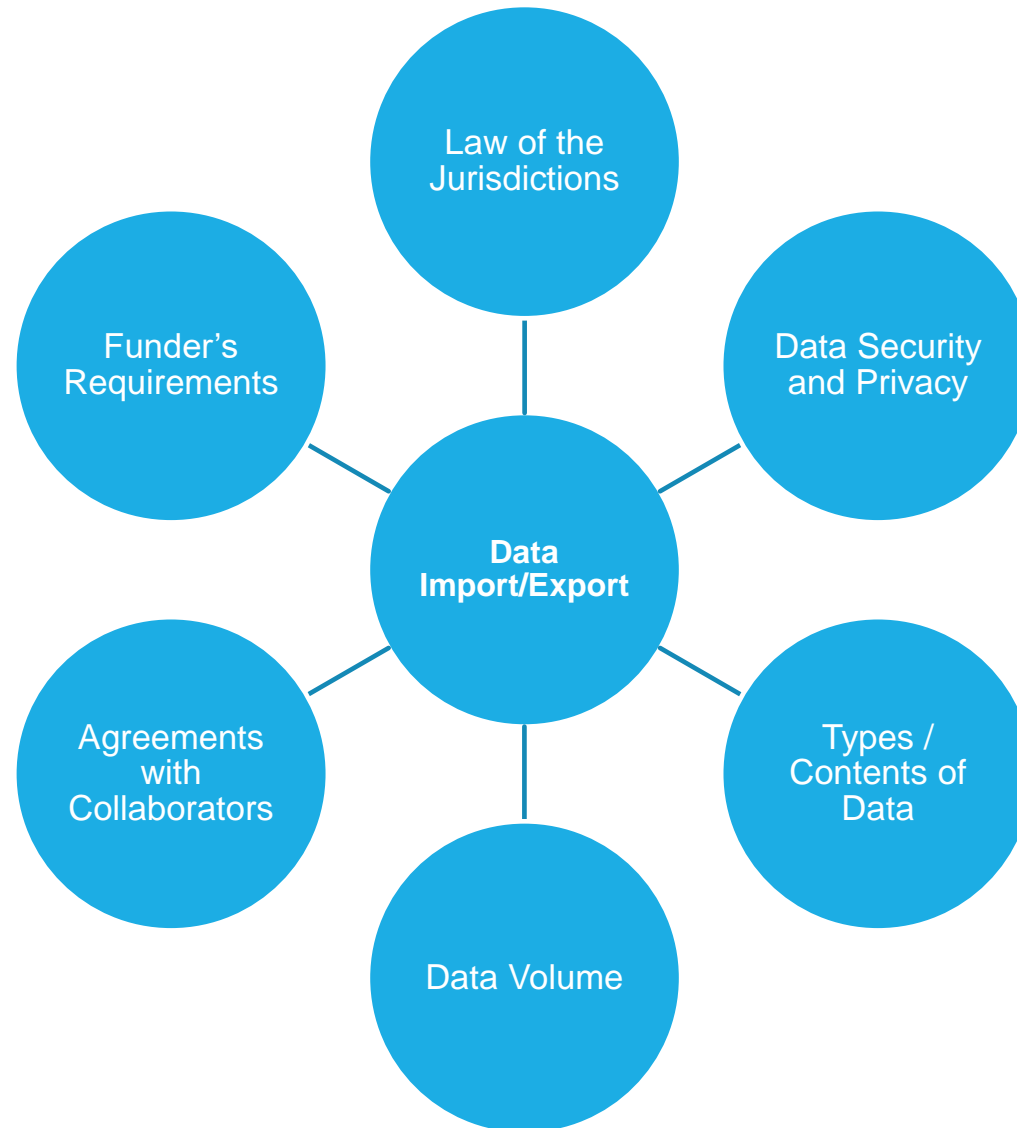
Personal Information Protection and Electronic Documents Act (PIPEDA) states that organizations are free to transfer any type of personal data to other organizations as they see fit. As long as a business follows the proper security protocols, and there is a legitimate reason to transfer personal information, organizations are allowed to transmit both generic and sensitive private information across provinces and around the world.

RELEVANT CUHK POLICY AND GUIDELINES

- CUHK Policy and Guidelines addresses legal compliance related to data import/export
 - Policy on Research (UPDATED)
 - Guidelines on Research Data Management (UPDATED)
 - Guidelines on Cross-border Transfer of Research Data from Mainland China (NEW)

03 MEASURES TO CONSIDER IN RESEARCH DATA EXCHANGE

FACTORS AFFECTING THE DECISION AND PROCESS OF RESEARCH DATA EXCHANGE (IMPORT & EXPORT)



MEASURES TO CONSIDER WHEN HANDLING RESEARCH DATA AND MATERIALS

- a) **Classify research data/materials** based on their sensitivity, confidentiality, volume and export control restrictions. For example, pay special attention to biometric data, genomic data, health data, geolocation data, personal identifiers, trade secrets, proprietary information and state secrets. The definition of “state secret” in HKSAR can be found under Section 29 of the Safeguarding National Security Ordinance – 維護國家安全條例 (SNSO).
- b) **Implement proper handling procedures** such as encryption and access controls to protect sensitive data/materials during transit and storage. Deletion of data is often one of the procedures.
- c) **Establish a systematic record-keeping process** and maintain accurate and complete documentation of import/export of sensitive research data/materials, including permits, licenses, invoices and shipping documents.

MEASURES TO CONSIDER WHEN HANDLING RESEARCH DATA AND MATERIALS

- d) **Perform due diligence** on the parties involved in the import/export process such as suppliers, distributors and collaborators, to ensure their reliability.
- e) **Establish clear protocols and define obligations** when establishing international or Mainland collaborations that involve import/export of sensitive research data/materials, and provide sufficient information to ORKTS before preparing an agreement regarding import/export of sensitive research data/materials.
- f) **Provide guidance to students and research staff on relevant laws and regulations** relating to the import/export of sensitive research data/materials.

MEASURES TO BE TAKEN WHEN HANDLING RESEARCH DATA AND MATERIALS

It is important to enter into an agreement before the exchange.



Please contact the Legal and Compliance team of ORKTS for further assistance.
Email: orkts-contracts@cuhk.edu.hk

04 EXPORTING DATA FROM MAINLAND CHINA

TWO CATEGORIES OF DATA/MATERIALS

HUMAN GENETIC RESOURCES (HGR)

Data:

- “data of human genes or genomic data derived from HGR materials, which include organs, tissues, cells or other genetic materials that contain a human genome or human genes.”
 - *Regulations of the People's Republic of China on Management of Human Genetic Resources* 《中華人民共和國人類遺傳資源管理條例》
 - *Implementing Rules on the Administration of Human Genetic Resources* 《人類遺傳資源管理條例實施細則》
- 關於HGR Data 的描述，《人類遺傳資源管理條例實施細則》作了補充說明，是上述表達，參考應增加《實施細則》

Materials:

- The human genetic resources materials include all types of cells, whole blood, tissues/tissue slices, semen, cerebrospinal fluid, pleural/ascitic fluid, blood/bone marrow smears, hair (with follicles), and so on.
- 人類遺傳資源材料包括所有類型細胞、全血、組織/組織切片、精液、腦脊液、胸/腹腔積液、血/骨髓涂片、毛髮（帶毛囊）等
 - 《關於發布人類遺傳資源管理常見問題解答的通知》

VS

NON-HGR

Data:

- Data do not involve HGR information

Materials:

- The other human secretions, body fluids, and swabs that do not contain cells do not need to be reported. Biological samples such as urine, feces, serum, and plasma that may contain only a very small amount of exfoliated, residual or free cells or genes are no longer included in the scope of human genetic resource materials management.
- 其他不含細胞的人體分泌物、體液、拭子等無需申報，尿液、糞便、血清、血漿等可能含有極少量脫落、殘留或游離細胞或基因的生物樣本不再納入人類遺傳資源材料管理範圍。
 - 《關於發布人類遺傳資源管理常見問題解答的通知》

CROSS-BORDER TRANSFER OF RESEARCH DATA FROM MAINLAND CHINA: HUMAN GENETIC RESOURCES

1. In 2019, *The Regulations of the People's Republic of China on Administration of Human Genetic Resources (2019 《中華人民共和國人類遺傳資源管理條例》)* was implemented to govern human genetic resource activities in China. To address practical issues, MOST introduced the “Implementation Rules for the Regulations on the Management of Human Genetic Resources” (《人類遺傳資源管理條例實施細則》) effective from 1 July 2023.
2. Pursuant to the Implementation Rules, MOST established the Information Backup Platform (人類遺傳資源信息管理備份平台) to promote real-time management, ensuring that human genetic resource management information is traceable and accessible for querying by MOST.

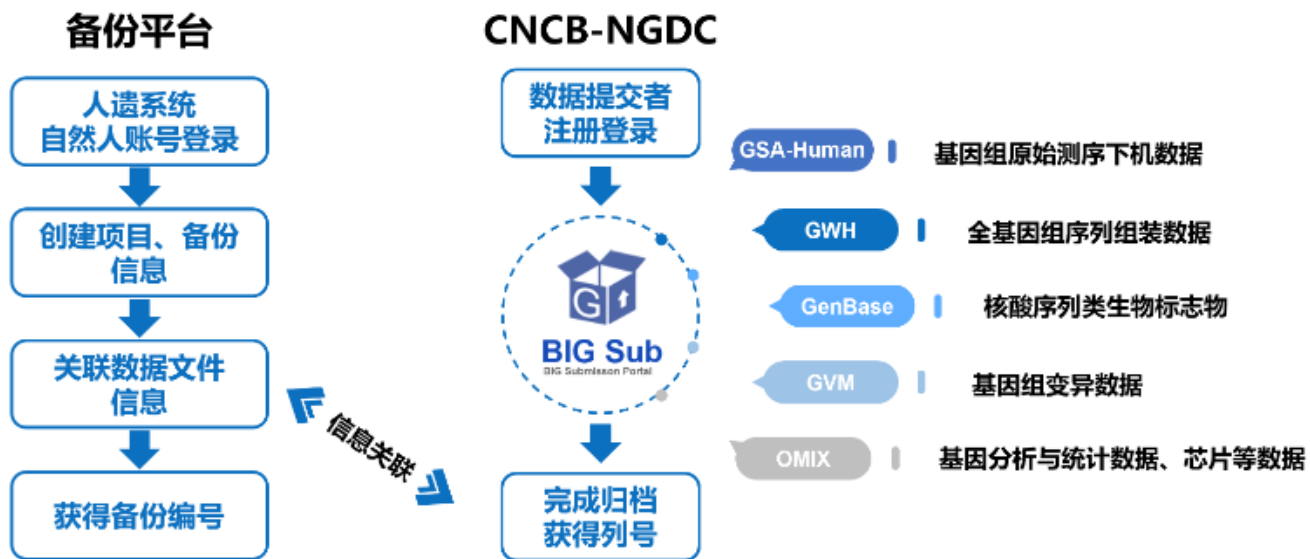


CROSS-BORDER TRANSFER OF RESEARCH DATA FROM MAINLAND CHINA: HUMAN GENETIC RESOURCES

(需要備份的情況)

中國人類遺傳資源信息對外提供或開放使用事先報告信息類型：

1. 全基因組測序：包括全基因組原始測序數據、全基因組組裝數據、全基因組變異數據、全基因組分析與統計數據；
2. 全基因組芯片：包括全基因組芯片原始數據、全基因組變異芯片數據、全基因組芯片相關統計或分析數據；
3. 全外顯子組測序：包括全外顯子組原始測序數據、全外顯子組變異數據、全外顯子組分析與統計數據；
4. 基因組靶向測序：包括基因組靶向原始測序數據、核酸類生物標志物、基因組靶向分析與統計數據；
5. 表觀組測序：包括表觀組原始測序數據、核酸類生物標志物、表觀組分析與統計數據；
6. 轉錄組測序：包括轉錄組原始測序數據、核酸類生物標志物、轉錄組分析與統計數據。

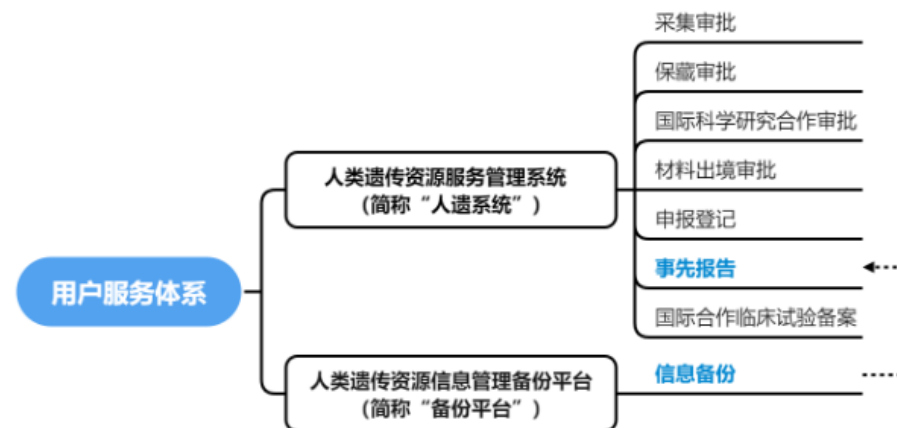


CROSS-BORDER TRANSFER OF RESEARCH DATA FROM MAINLAND CHINA: HUMAN GENETIC RESOURCES

Should any CUHK researchers intend to export HGR data outside Mainland China, first and foremost, they have to collaborate with a **qualified Chinese entity**.

The Chinese entity should

- i. notify the HGR Administration of China (中國人類遺傳資源管理工作辦公室) of its disclosure or sharing of any HGR data with a foreign entity (i.e outside of Mainland, including HKSAR & CUHK) by obtaining approval from MOST through the HGR Services System (人類遺傳資源服務系統) and filing a copy of the data on the HGR Information Backup Platform (人類遺傳資源信息管理備份平台);



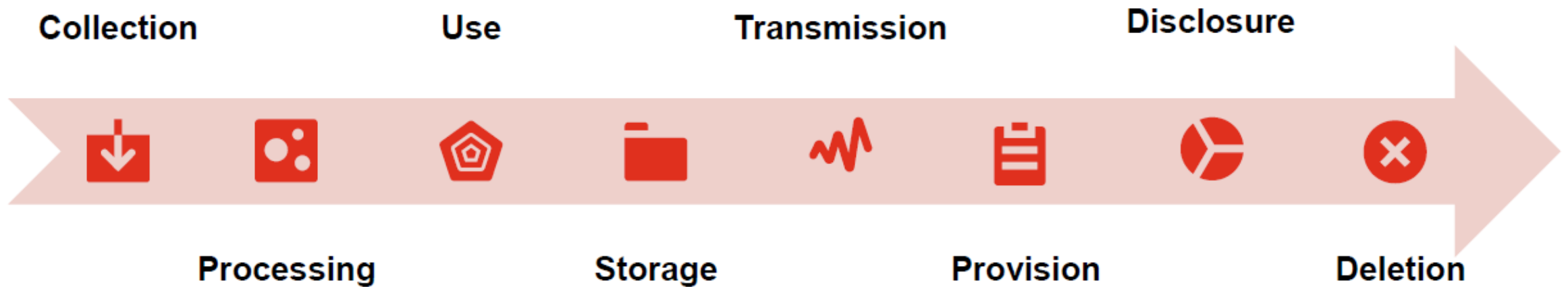
and

- ii. seek approval from the **Cyberspace Administration of China (CAC)** (國家互聯網信息辦公室) through a data export security assessment.

CROSS-BORDER TRANSFER OF RESEARCH DATA FROM MAINLAND CHINA: NON-HUMAN GENETIC RESOURCES

1. Mainland China has adopted new laws (2021) and implementation guidelines (2022) for exporting non-human genetic resources, to be consistent with other international regions.
2. Cross-border (research) data transfer from Mainland China (including the transfer to HKSAR) must comply with the new laws.
3. Formal assessment by the **Cyberspace Administration of China** – 國家互聯網信息辦公室 (CAC) may be required for transfer of **regulated data** in accordance with the relevant regulations.

WHAT ACTIVITIES ARE COVERED?



SCENARIOS OF CROSS-BORDER TRANSFER OF RESEARCH DATA

Various scenarios may be considered as cross-border data transfer, including the scenarios below.

Remote access and electronic exchanges can be considered transfer.

Scenario 1

CUHK researcher located in Hong Kong receives and stores regulated data (i.e. Important Data, PI or SPI collected and generated within Mainland, see next) shared by its Chinese Mainland-based counterpart, such as through email, system, and third-party cloud services etc.

Scenario 2

CUHK researcher hosts its data centre, systems, and third-party cloud services within Hong Kong and collects regulated data from the Mainland.

Scenario 3

CUHK researcher hosts its data centre, systems, and third-party cloud services within the Mainland, where it collects regulated data, and allows Hong Kong staff to remotely search, access, download, and export the corresponding data.

Under different scenarios, CUHK researchers should carry out a self-assessment and define the nature of the data, to determine the next actions.

DATA CLASSIFICATION (NON-HUMAN GENETIC RESOURCES)

Important Data

Examples:

- Undisclosed government information, work secrets, intelligence data and law enforcement and judicial data.
- National natural resources and environmental basic data (e.g. undisclosed water regime information, etc)
- Data on scientific and technological strength and impact on international competitiveness (e.g. describing intellectual property rights related to national defence and national security)
- Important data reflecting network security plans, system configuration information, core software and hardware design information, system topology, emergency plans, etc.
- Basic data reflecting the health and physiological conditions of a group, ethnic characteristics, genetic information, etc.

Personal Information (PI)

Examples:

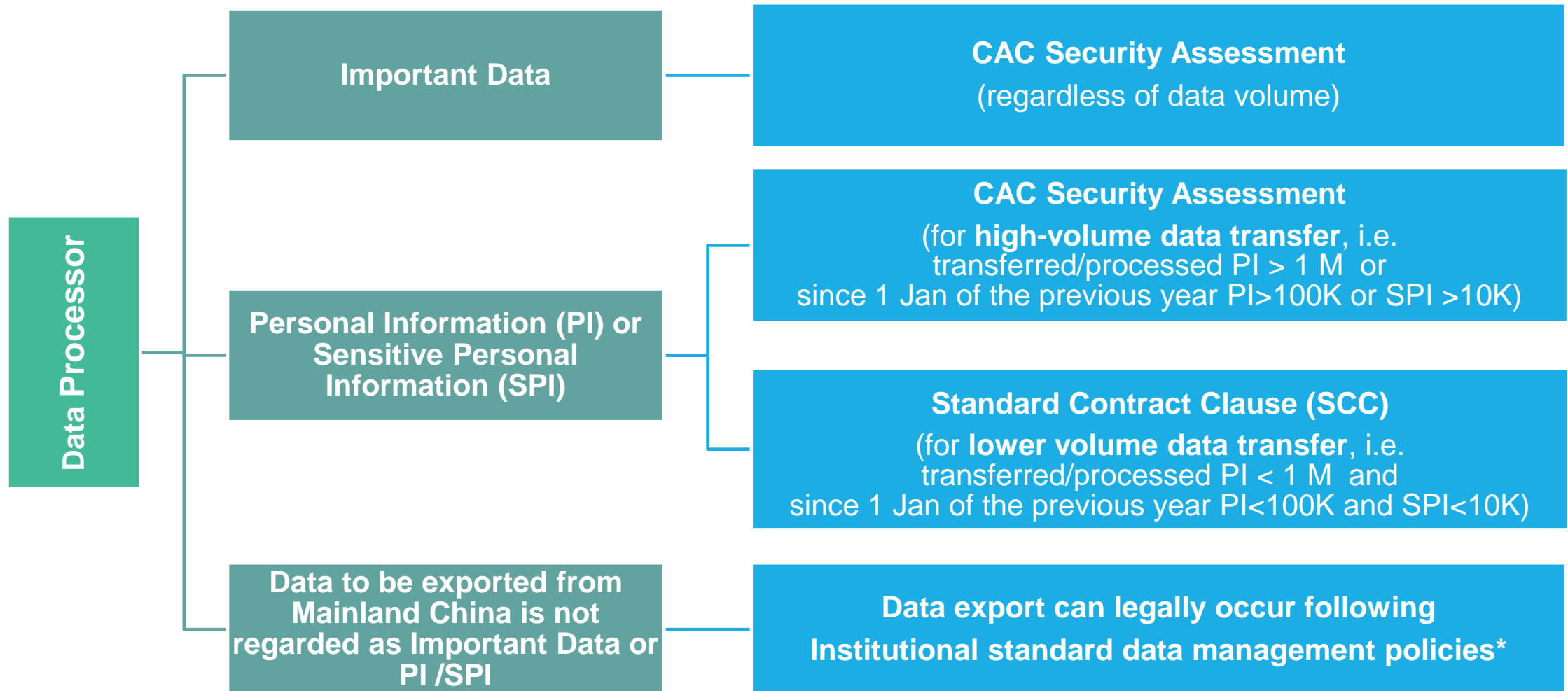
- Name, Telephone number, Email address

Sensitive Personal Information (SPI)

Examples:

- Bank Account, ID Card number or Passport number, Personal health record

PATHS TO COMPLIANCE FOR CROSS-BORDER TRANSFER OF NON-HGR RESEARCH DATA



*subject to additional regulations and sectoral requirements in Mainland China as well as the evolving legal landscape.

PATHS TO COMPLIANCE FOR CROSS-BORDER TRANSFER OF NON-HGR RESEARCH DATA

If data export is regulated, two scenarios

CAC Security Assessment

- Important data or high volume of PI or SPI
- Submit an application for CAC assessment

Standard Contract Clause (SCC)

- Lower volume of PI or SPI
- Import and export parties sign a standard contract and file it to CAC

“STANDARD CONTRACT FOR THE CROSS BORDER FLOW OF PERSONAL DATA” ON CAC

《個人信息出境標準合同辦法》已經2023年2月3日國家互聯網信息辦公室2023年第2次室務會議審議通過，現予公佈，自2023年6月1日起施行。

Click here – the [template for Standard Contract](#)

This contract applies to data transfer from anywhere in Mainland China (including inside and outside of the Greater Bay Area)



RECENT DEVELOPMENT.....

When data transfer occurs only within the Greater Bay Area, a simpler process is being piloted

- Both parties must be within GBA
- A pilot program (for now)

CROSS-BOUNDARY DATA FLOW WITHIN THE GREATER BAY AREA

Features of The “GBA Standard Contract for the cross-border flow of personal information” – 《粵港澳大灣區（內地、香港）個人信息跨境流動標準合同》（2023年12月）

- Participation on a voluntary basis (i.e., can still use the standard, non-GBA contract).
- Applicable to:
 - Mainland cities within the GBA, i.e. [Guangzhou, Shenzhen, Zhuhai, Foshan, Huizhou, Dongguan, Zhongshan, Jiangmen and Zhaoqing](#)
 - Personal information processor recipients who are registered (applicable to organisations)/located (applicable to individuals) in Mainland cities within the GBA
 - Conduct cross-boundary flow of personal information between these Mainland cities and Hong Kong (i.e., flow of the personal information from the Mainland cities in the GBA to Hong Kong, and vice versa)
- 需要滿足條件：
 - 個人信息處理者跨境提供個人信息前，應當按照個人信息處理者屬地法律法規要求告知個人信息主體或者取得個人信息主體的同意；
 - 不得向粵港澳大灣區以外的組織、個人提供。

CROSS-BOUNDARY DATA FLOW WITHIN THE GREATER BAY AREA

Extract from the Office of the Government Chief Information Officer

– 政府資訊科技總監辦公室 (OGCIO):



簡化一

豁免個人信息流動數量
上的限制

豁免了個人信息處理者跨
境流動個人信息數量上的
限制



簡化二

簡化個人信息保護影響評估

個人信息保護影響評估的重點
評估內容由6項減少至3項



簡化三

縮短備案流程

備案文件檢查時間從15個工作
日縮短至10個工作日內完成

“STANDARD CONTRACT” FOR GBA

OGCIO has organised a briefing on the “[early and pilot implementation](#)” arrangement on 13 December 2023.

Click here – the [template for GBA Standard Contract](#) (under useful reference)

CUHK GUIDELINES ON CROSS-BORDER TRANSFER OF RESEARCH DATA FROM MAINLAND CHINA

- [Guidelines on Cross-border Transfer of Research Data from Mainland China](#) have recently been approved.
- Steps for self-assessment and steps to obtain approval (if necessary) are outlined.
- ORKTS can help.



REMINDER ABOUT CUHK SHENZHEN RESEARCH INSTITUTE (SZRI)

- Data that are stored in SZRI are subject to the same legal requirements as data from any other Mainland sources
- Retrieving data stored in a computer/server at SZRI from Hong Kong may not be legal

REMARKS:

The rules for Mainland China and elsewhere could change.

If there is any doubt on the relevant legal or regulatory rules, it is recommended to seek professional advice.

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TAKE-HOME MESSAGE

- Exchange of research data is subject to terms of data exchange agreements as well as legal requirements of different jurisdictions
- Before receiving or sending research data, it is important to assess whether
 - an agreement should be signed to protect the interests (intellectual properties, legal obligations) of both parties
 - the data exchange is restricted by the law
 - approval from the relevant government agency is required

05 WHERE TO SEEK HELP?

WHERE TO SEEK HELP?

- ❖ Questions about Research Data Management
 - Link to [Guidelines on Research Data Management](#)
 - Research Consultation Service, Library (email: research@lib.cuhk.edu.hk)
- ❖ Questions about Research Collaboration Agreements (including data exchange clauses)
 - Link to [Policy on Research](#)
 - The Legal and Compliance Team, ORKTS (email: orkts-contracts@cuhk.edu.hk)
- ❖ Questions about Cross-Border Transfer of Research Data (Non-HGR Data)
 - Link to [Guidelines on Cross-border Transfer of Research Data from Mainland China](#)
 - The Legal and Compliance Team, ORKTS (email: orkts-contracts@cuhk.edu.hk)

WHERE TO SEEK HELP?

- ❖ Questions about Research including Human Genetic Resources
 - Link to [Guidelines for medical research including human genetic resources related projects at the Shenzhen Research Institute](#) (See Schedule 10 of the Policy of Research)
 - SZRI (email: cuhkszri@cuhkri.org.cn)

- ❖ Questions about CUHK Policy on Research
 - Link to [Policy on Research](#)
 - Research Administration Team, ORKTS (email: orkts-admt@cuhk.edu.hk)

- ❖ Questions about conducting research at SZRI
 - SZRI (email: cuhkszri@cuhkri.org.cn)



THANK YOU