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LEGAL UPDATE

Regime for the Installation and Operation of Data Centres

With the purpose of optimising the existing system of data centre services and attracting investors, Administrative Regulation no. 13/2024, of 27 March (the “Regulation”) was introduced to establish the legal regime for the Installation and Operation of Data Centres. With effects from 1 April 2024, the Regulation creates a separate and autonomous permit intended for performing data centre services and a specific licensing procedure for its issuance – further revoking the previous regime under which interested parties would be required to go through a public tender procedure.

Find out more about this Regulation below:

1. What is a data centre?

Data centre is a physical space made available to third parties, for a fee, with a secure, stable and suitable environment, equipped with the appropriate equipment (including, in particular, electricity and Internet access), to meet the needs of its users, where applications and services can be developed, executed and made available for storing and processing data.

2. Who is eligible to install and operate a data centre in Macau?

Eligible entities include Macau incorporated companies, with the corporate object of data centre management, and with share capital of

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no less than MOP 5,000,000 (in comparison to the minimum share capital of MOP 50,000,000 from the previous regime).

3. What should I do if I want to install and operate a data centre in Macau?

The installation and operation of a data centre are currently subject to a permit (*prévia autorização*) granted by the Macau Chief Executive.

Interested parties must submit an application to the Macau Post and Telecommunications Bureau (“CTT”), with the following documents:

- (i) Valid commercial registration certificate issued by the Commercial and Movable Property Registry Office (issued within 3 months);
- (ii) Documentation proving the legal use of the physical space for installing the data centre (for instance, land registry certificate or lease agreement); and
- (iii) Installation and operation project for the data centre.

The applicant may also be required to provide additional clarifications and/or documentation to the CTT, if necessary.

4. Are there any fees associated?

Upon the grant of permit, it is mandatory for the applicant to furnish CTT with a bond valued at MOP 2,000,000, which may be provided in the form of either a first-demand bank bond or first-demand insurance bond, with the Government of Macau designated as the beneficiary.

The permit holder is also subject to the payment of an annual fee (MOP 200,000), as well as a fee for the issuance or renewal of permit (MOP 200,000, within 15 days counting from the date of publication of Chief executive dispatch granting the permit).

5. What is the duration of the permit?

The permit is valid for 10 years, with the possibility of successive renewals.

6. Is it possible to transfer the permit to a third party?

The Regulation does not address this matter specifically.

However, the Regulation foresees that the transfer of 15% or more of shareholdings by the permit holder requires the prior authorization from the Chief Executive.

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Furthermore, the permit holder is required to report all shareholding transfers in writing to the CTT, within 10 days of the transaction taking place.

7. What happens if I provide data centre services without the respective permit?

Without prejudice of other types of liability, the installation and operation of data centres without the respective permit constitutes an administrative infraction, punishable by fine between MOP 40,000 and 200,000.

8. If I am a holder of fixed network license and am currently rendering data centre services, will I be affected by this Regulation?

Licenses issued under the previous regime shall remain valid and subject to the previous regulatory framework until its expiry (30 September 2024, *inclusive*). In other words, holders of the referred licenses may continue to perform their activities until the respective license expires, under which case these entities may apply for a new permit prior to 31 August 2024, in accordance with the procedure set out under the Regulation.

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