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G En bref

NUMÉRIQUE :

- Depuis le 1er juin, les chinois souhaitant rejoindre le board d'une entreprise indienne doivent préalablement obtenir une autorisation du Ministry of Home Affairs.
- Après plus d'un an d'interdiction, l'Inde réautorise Mastercard à acquérir de nouveaux clients.
- La RBI accorde 3 mois supplémentaire aux sociétés de paiements et cartes bancaires pour supprimer les données de leurs cartes et les remplacer par un « unique code (token) ».
- Le think tank gouvernemental NITI Aayog publie des recommandations pour soutenir les Indiens employés dans l'économie des plateformes, qui devrait représenter environ 23,5 millions d'emplois (6,1 % du travail non agricole) d'ici 2029-30.
- En réponses aux menaces des fournisseurs de VPN de cesser leurs services en Inde, la cyber-agence Cert-In leur accorde trois mois supplémentaires pour se conformer à ses directives en matière de cybersécurité.

TÉLÉCOMMUNICATIONS:

- Le tribunal de Delhi convoque le PDG de Huawei India, Li Xiongwei, et trois autres personnes pour avoir dissimulé des informations au département des impôts..
- Le gouvernement prolonge d'un an le programme PLI, et dédie 40 Mds INR de son budget au développement des capacités domestiques de design de produits.

Revue de presse

1. NUMÉRIQUE

Chinese Nationals Need Government Nod Before Joining Any Indian Board

Medianama, 04/05/2022

What's the news? Starting June 1, any national from a country that shares a land border with India must seek security clearance from the Ministry of Home Affairs if they wish to be appointed as a director on the board of an Indian company, a notification issued by the Ministry of Corporate Affairs stated.

Why is this important? While the notification appears to target all neighbours that share a land border with India—China, Pakistan, Bhutan, Myanmar, Afghanistan, Nepal and Bangladesh—it is, in practice, largely going to affect Chinese nationals the most because the country has far more investments in Indian companies than the other neighbours. This requirement is in line with Press Note 3 of 2020, which mandates government approval for foreign investment coming from countries sharing land borders with India.

Why was this law introduced? According to Economic Times, this requirement has been imposed after it was found that Chinese and Hong Kong investors were circumventing the restrictions imposed in 2020 on foreign investments from neighbouring countries. "In some instances, it was found that a Chinese company would create a US or Cayman Islands-based entity through which it routed the investment without any restrictions. It would subsequently appoint senior Chinese executives as directors to exercise control," the report explained. Speaking to Hindu Business Line, Atul Pandey, Partner, Khaitan & Co said that the Ministry of Corporate Affairs has recently investigated multiple complaints against many companies with Chinese directors, hinting at another possible reason for this new requirement.

Why was the 2020 law introduced? The 2020 law was introduced at a time when there were growing concerns that China is using its financial might to buy distressed assets across the globe. Prior to Press Note 3, investments from Chinese companies in India could proceed unimpeded in the "automatic route."

What else? The notification, titled Companies (Appointment and Qualification of Directors) Amendment Rules, 2022, also states that no application number can be generated if a person applying for the Director Identification Number (DIN) is a national of a country that shares a land border with India unless the Home Ministry's security clearance is attached with the application.

India lifts ban on Mastercard

TechCrunch, 16/06/2022

India has lifted business restrictions on Mastercard, nearly a year after imposing the ban, once again allowing the cards giant to add new customers in the South Asian market after it demonstrated "satisfactory compliance" with the local data storage rules, the central bank said on Thursday.

In a series of moves last year, the Reserve Bank of India indefinitely barred Mastercard, American Express and Diners Club from issuing new debit, credit or prepaid cards to customers over noncompliance with local data storage rules (PDF). The business restrictions on American Express and Diners Club remain in place in the country, though they are permitted to continue to serve their existing customer base.

"In view of the satisfactory compliance demonstrated by Mastercard Asia / Pacific Pte.

Ltd. with the Reserve Bank of India (RBI) circular dated April 6, 2018 on Storage of Payment System Data, the restrictions imposed, vide order dated July 14, 2021, on on-boarding of new domestic customers have been lifted with immediate effect," the RBI said in a statement on Thursday.

Unveiled in 2018, the local data-storage rules require payments firms to store all Indian transaction data within servers in the country. Visa, Mastercard and several other firms, as well as the U.S. government, previously requested New Delhi to reconsider its rules, which they argued were designed to allow the regulator "unfettered supervisory access."

Mastercard, which prior to the ban commanded roughly 33% market share in India, has identified the world's second largest market as a key growth region and has invested over $2 billion in the country over the past decade.

"We welcome and are grateful for today's decision by the Reserve Bank of India (RBI), enabling us to resume onboarding of new domestic customers (debit, credit and prepaid) onto our card network in the country with immediate effect. As we have in our engagement with the RBI, we reaffirm our commitment to support the digital needs of India, its people and its businesses. We are glad we have met this milestone and will continue to ensure ongoing delivery against the goals and regulatory requirements that have been established," a Mastercard spokesperson said in a statement.

"India is an important market for us, both in terms of the innovation created here and the value we deliver to our customers and partners. We take great pride in being able to contribute to the government's vision of a Digital India and will continue to invest in the country's future with the same passion and dedication as we always have."

The resumption of Mastercard's business in India will provide a boost to the local banks and fintechs that for the last year have only been able to offer customers debit and credit cards powered by Visa and Rupay, a homegrown card network that is promoted by the National Payments Corporation of India, a special body of RBI.

The business restriction on the global cards giants took many banks by surprise last year. RBL Bank, for instance, scrambled to transition to Visa and took weeks to complete the process.

RBI extends card tokenisation deadline till September 30, 2022

ETTech, 22/06/2022

The Reserve Bank of India (RBI) on Friday announced the extension of the deadline for tokenisation of debit and credit cards by another three months to September 30, 2022. The RBI had earlier set a deadline of June 30, whereby merchants and payment aggregators had to delete all card details and replace it with tokens.

The regulator said that industry stakeholders have highlighted some issues related to implementation of the framework in respect of guest checkout transactions. Also, number of transactions processed using tokens is yet to gain traction across all categories of merchants, it said. The regulator added that these issues were being dealt with in consultation with the stakeholders.

"This extended time period may be utilised by the industry for, (a) facilitating all stakeholders to be ready for handling tokenised transactions; (b) processing transactions based on tokens; (c) implementing an alternate mechanism(s) to handle all post-transaction activities (including chargeback handling and settlement) related to guest checkout transactions, that currently involve /require storage of CoF data by entities other than card issuers and card networks; and (d) creating public awareness about the process of creating tokens and using them to undertake transactions," the regulator said.

RBI also encouraged cardholders to tokenise their cards for their own safety. Till date, about 19.5 crore tokens have been created. Opting for creating tokens is voluntary for the cardholders. Those who do not wish to create a token can continue to transact as before by entering card details manually at the time of undertaking the transaction.

Tokenisation is a process by which card details are replaced by a unique code or token, allowing online purchases to go through without exposing sensitive card details.

As per the Reserve Bank of India's latest order, all merchants must delete customer debit and credit card data on or before June 30 and replace card payments with unique tokens for all online, point-of-sale and in-app transactions.

ET reported on June 6 that several large online merchants were nervous about the readiness of the ecosystem to handle transaction and tokenisation volumes, while wanting to avoid payment disruptions for consumers.

Several large merchants had told ET earlier that they were unsure about the scalability of the payments network for tokenisation, as they feared disruptions in the payment experiences of consumers.

India's Gig Workforce to Touch 2.35 Crore by 2029-30: Niti Aayog Study

PTI, 28/06/2022

New Delhi: India's gig workforce is expected to expand to 2.35 crore by 2029-30 from 77 lakh in 2020-21, a NITI Aayog report said on Monday, June 27, and recommended extending social security measures for such workers and their families in partnership mode as envisaged in Code on Social Security.

The report titled 'India's Booming Gig and Platform Economy' further said gig workers are expected to form 6.7% of the non-agricultural workforce or 4.1% of the total livelihood in India by 2029-30.

Gig workers can be broadly classified into the platform and non-platform workers. Platform workers are those whose work is based on online software apps or digital platforms while non-platform gig workers are generally casual wage workers, working part-time or full-time.

Gig workers prefer a flexible work schedule, typically with a low to middle level of education. Income through gig work is not their primary source of income and they are often holding another regular job.

According to the NITI report, it is estimated that in 2020-21, 77 lakh workers were engaged in the gig economy and they constituted 2.6% of the non-agricultural workforce or 1.5% of the total workforce in India.

Similarly, it estimated that there were 68 lakh gig workers in 2019-20, using both principal and subsidiary status, forming 2.4% of the non-farm workforce or 1.3% of the total workers in India.

The report pointed out that the employment elasticity to GDP growth for gig workers was above one throughout the period 2011-12 to 2019-20, and was always above the overall employment elasticity.

To harness the potential of the gig-platform sector, the report recommended accelerating access to finance through products specifically designed for platform workers, linking self-employed individuals engaged in the business of selling regional and rural cuisine, street food, etc, with platforms to enable them to sell their produce to wider markets in towns and cities.

Other recommendations include undertaking a separate enumeration exercise to estimate the size of the gig-platform workforce and collecting information during official enumerations.

As per the report, in terms of industrial classification, about 26.6 lakh gig workers were involved in retail trade and sales, and about 13 lakh were in the transportation sector.

About 6.2 lakh were in manufacturing and another 6.3 lakh in the finance and insurance activities, it added.

At present, about 47% of the gig work is in medium-skilled jobs, 22% in high skilled, and about 31% in low-skilled jobs.

According to the report, the trend shows the concentration of workers in medium skills is gradually declining and that of the low skilled and high skilled is increasing.

It suggested bridging skill gaps by carrying out periodic assessments and partnering with platform businesses for onboarding skilled women and persons with disabilities.

The report pitched for incentivising inclusive businesses women led-platforms or platforms that encourage recruitment of women employees and those with disabilities.

Speaking on the occasion, NITI Aayog vice-chairman Suman Bery said the report will become a valuable knowledge resource in understanding the potential of the sector and drive further research and analysis on gig and platform work.

Indian cyber agency gives VPN providers 3-months breather

ETtech, 28/06/2022

The Indian Computer Emergency Response Team (Cert-In) on Tuesday extended a deadline for complying with its cybersecurity guidelines, to September 25.

It provided the nearly three-month relaxation – from the earlier 60-day deadline of June 28 - to micro, small and medium enterprises (MSME), data centres, virtual private server (VPS) and virtual private network (VPN) and cloud service providers, according to an official statement from the Ministry of Electronics and Information Technology (MeitY).

The ministry said the extension was provided after MSMEs, data centres, VPS, VPN, and cloud service providers sought time to "build capacity" required to implement the guidelines, which Cert-In issued on April 28.

The requirement of registration and maintenance of validated names of subscribers and customers, their addresses and contact numbers by data centres, VPS, VPN and cloud service providers will be effective from September 25, the ministry said.

The extension is likely to come as a breather for several companies, especially MSMEs which had said that they did not have the capacity or bandwidth to comply with the Cert-In norms at such short notice.

While some MSMEs and other companies told the ministry that they would comply with the norms but needed more time, VPN service providers such as ExpressVPN, Surfshark, NordVPN and others said earlier that they would stop their services in India by June 28.

It is the first time that the ministry has softened its stand on the issue.

On May 18, during a press conference to explain the FAQs on the Cert-In guidelines, Minister of State for Electronics and Information Technology Rajeev Chandrasekhar said VPN service providers that did not want to adhere to the guidelines were "free to leave India".

Tech policy groups and cybersecurity experts also welcomed the extension of the deadline and said it was "a step in the right direction".

"MSMEs would have to find added human resources to stay compliant with the Cert-In direction and the extension would aid in the human resource management of MSMEs, where additional time could save MSMEs from the daily operation disruption," said Kazim Rizvi, founder of public policy group The Dialogue.

On June 10, the IT ministry had met stakeholders, including MSMEs, VPS, VPN, and other cloud service providers to understand their position on the guidelines and answer their queries.

In the meeting attended by about 25 executives from VPN service providers, technology companies, policy groups and other experts, the IT ministry had made it clear that it would notrelent on the six-hour deadline forreporting cybersecurity incidents, ET had reported.

The IT ministry had, however, told stakeholders that for smaller companies and MSMEs, it would give some relaxation on a case-to-case basis after examining their applications.

Cert-In's April 28 guidelines required all companies, intermediaries, data centres and government organisations to report any data breach to the government within six hours of the organisation becoming aware of it.

The guidelines had also mandated VPN service providers to maintain all the information they had gathered as part of know-your-customer rules and hand it over to the government as and when required.

On May 18, the IT ministry came out with a set of FAQs on the Cert-In guidelines, during which it clarified certain aspects of how the six-hour norm would work, along with the details that the VPN service providers would have to keep for five years.

2. Télécommunications

Huawei India CEO, 3 executives summoned in I-T case

ET Bureau, 11/06/2022

A Delhi court has summoned Huawei Telecommunications (India), its chief executive officer Li Xiongwei and three top company officials in a complaint filed by the Income Tax (I-T) Department, which accuses them of withholding information that had been sought.

"The non-compliance by the accused company and its officers had resulted in obstruction and stifling of search action of authorised officers," the court said in the order passed on Thursday. "The culpable mental state of the accused is to be presumed.

There is sufficient material on record to summon the company and four accused for commission of offence punishable under Section 275-B read with Section 278-B of the Income Tax Act." The charges carry a maximum jail term of two years.

Before passing the order, the court examined statements of the four company officials recorded by the Income Tax Department. "It is apparent from these statements and other documents annexed with the complaint that the accused deliberately chose to give vague answers to some questions," said the order, which ET has reviewed. "Regarding other questions, answers given by the accused were incongruous (with) each other."

The court order said, "It seems the accused were only trying to somehow confuse the authorised officer in order to deny access to books of account and other documents of the company. Unreasonably long time was also sought by the accused persons for furnishing data and information, which ought to have been readily available with the company."

The court held that the executives hold key positions and are in charge of the company's day-to-day affairs. Apart from the chief executive, the Huawei executives summoned are deputy chief financial officer Sandeep Bhatia, head of tax Amit Duggal and Long Cheng, who is in charge of transfer pricing. None of them could be immediately reached for comment. The I-T Department alleged that the four officials "wilfully and deliberately did not comply with relevant provisions of the Income Tax Act."

The executives acted in concert with each other and wilfully failed to provide adequate facility to authorised officers to inspect books of account, it said, adding that they didn't provide the relevant documents when asked. The court said it would see "whether prima facie a case is made out against the accused persons or not."

LOOK-OUT CIRCULAR

ET was the first to report on May 26 that Huawei India CEO had petitioned the Delhi HC challenging a look-out circular that prevented him from leaving India in May for a business meeting. Li, a Chinese national, was stopped at New Delhi airport on May 1 and not allowed to board a flight to Bangkok to attend a meeting on behalf of Huawei India.

The Delhi High Court, which is hearing that petition, asked the Income Tax Department — at whose behest the circular was issued — why the LOC shouldn't be quashed.

Li's counsel, Vijay Aggarwal, argued that the LOC was against the principle of natural justice of "audi alteram partem (every individual should get a chance to be heard)." In interim relief, the Delhi HC had said Li can approach the investigating officer in case he needs to travel abroad for emergency reasons

The search and seizure operations were undertaken on February 15 by income tax authorities at locations in Gurgaon and Karnataka, including Li's residence. The searches lasted eight days, during which documents and gadgets as well as electronic records in laptops, hard drives and mobile phones of employees were seized.

The department also attached bank accounts and trade receivables of Huawei India. It is alleged that Huawei made inflated payments against the receipt of technical services from related parties outside India.

Government extends PLI scheme for telecom manufacturing by a year; provides Rs 40 billion incentive for design-led manufacturing in telecom

Tele.net, 21/06/2022

The Department of Telecommunications (DoT) has extended the production-linked incentive (PLI) scheme for telecom equipment manufacturing by a year. In addition, the DoT has also amended the scheme to facilitate design-led manufacturing. Going forward, with effect from June 21, 2022, companies can apply for design-led manufacturing, with incentives worth Rs 40 billion.

The extension comes in the background of failure of multiple small and medium firms to submit their investment plans and meet the production targets for the current fiscal year.

With the extension, the existing PLI beneficiaries will be given an option to choose financial year 2021-22 or financial year 2022-23 as the first year of incentive. The companies which have met the targets can register for the incentives in 2021-22 while the others have been given a year extension to avail the benefits.

Besides, the design-led manufacturing has been incorporated into the PLI scheme, since the outlay of PLI scheme amounting to Rs 121.95 billion was not utilised fully. To this end, the DoT will give an option to companies selected under telecom PLI to also apply for design-led manufacturing, which gives 1 per cent higher incentive. However, in order to get selected, the companies have to design locally and register the source code in India.

Meanwhile, DoT has also approved addition of 11 new telecom and networking products to the existing list. Notable companies selected under the scheme include Flextronics, Foxconn, Jabil, Nokia, Rising Star, Dixon Technologies, VVDN Technologies, Tejas Networks, HFCL, ITI, Coral Telecom and Lekha Wireless, among others.

Commenting on the initiative, Ashok Gupta, chairman, Optiemus Infracom, said, "We thank Hon'ble Prime Minister and DoT on this bold initiative, this will encourage and benefit the industry tremendously. It's our view that especially the proactive step to promote design-led manufacturing, can be the gamechanger in strengthening the desired ecosystem for India to become the electronics manufacturing hub."

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