



THE  
**LAW SOCIETY**  
OF HONG KONG  
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**Legal Professionals Joining Efforts  
in Advancing **EIGHT MAJOR STEPS** to Build  
High Quality Belt and Road Cooperation**

# 以高水平法律服务护航数据产业发展

Provide High-quality Legal Services to Support the  
Development of Data Industry

杨建伟



**数字中国建设是数字时代推进中国式现代化的重要引擎，对于全面建设社会主义现代化国家、全面推进中华民族伟大复兴具有重要意义。**



**The construction of Digital China is a significant engine propelling Chinese-style modernization in the digital era, bearing immense importance for comprehensively building a socialist modern country and fully advancing the great rejuvenation of the Chinese nation.**



## 我国数据基础制度建设进程

2016年以来:

颁布《网络安全法》《数据安全法》《个人信息保护法》

2022年12月:

中共中央、国务院印发《关于构建数据基础制度更好发挥要素作用的意见》，拉开了我国数据基础制度建设的大幕

# The process of building our data legal system

Since 2016, the following laws have been enacted: Cybersecurity Law, Data Security Law, and Personal Information Protection Law.

In December 2022, the Central Committee of the Communist Party of China and the State Council issued the "Opinions on Establishing a Basic Data System to Better Leverage the Role of Data as an Element" marking the beginning of the construction of China's basic data system.



## 律师行业在数据要素市场化改革中应发挥的作用

律师行业应顺应数据产业发展方向和趋势，充分运用专业优势和实践优势，为相关组织机构提供合规服务，为行业规则制定、制度体系建设、国际合作与交流等提供智库支撑。

## The Role of Lawyers in the Market-Oriented Reform of Data Elements

The legal industry should align with the development direction and trends of the data industry, leveraging its professional and practical advantages to provide compliance services to relevant organizations. It should also serve as a think tank to support the formulation of industry regulations, the establishment of institutional frameworks, and international cooperation and exchanges.



# 一、为数据要素市场化配置改革贡献律师力量

Contribute legal expertise to the reform of market-based allocation of data



**数据作为新型生产要素**，是数字化、网络化、智能化的基础，已快速融入生产、分配、流通、消费和社会服务管理等各个环节。

**数据要素市场化配置改革**是释放数据价值、促进经济增长的重要途径，围绕数据“供得出、流得动、用得好、保安全”，通过完善数据基础制度体系，促进数据开放共享，推动数字基础设施建设，培育数据产业生态等举措，使我国海量的数据优势转化为国家竞争新优势。



Data, as a new type of production element, forms the foundation for digitalization, networking, and intelligentization. It has rapidly integrated into all aspects of production, distribution, circulation, consumption, and social service management.

The market-oriented allocation reform of data elements is a crucial approach to unlocking data value and fostering economic growth. And through improving foundational data systems, promoting data openness and sharing, advancing digital infrastructure, and cultivating massive data advantages into a new competitive edge for the nation.



**数据资源持有权、数据加工使用权、数据产品经营权在实践中较难界定。**

The right to hold data resources, the right to use data processing and the right to operate data products are more difficult to define in practice.

**律师的职责是要运用专业能力帮助数据持有主体进行专业分析和判断，解决权属关系模糊不清问题，明确数据资源可开发、可利用、可交易的边界，保护用户隐私，并在构建适应数据要素特征、符合市场规律、契合发展需要的基础制度中发挥职能作用。**



The duty of lawyers is to use their professional ability to help data-holding subjects to make professional analysis and judgment, to solve the problem of ambiguous ownership relationships, to clarify the boundaries within which data resources can be developed, utilized, and traded, to protect user privacy, and to play a functional role in constructing a basic system that is adapted to the characteristics of the data elements, conforms to the laws of the market, and meets the needs of development.



**数据交易的活跃程度和数据资源的禀赋优势还需进一步激活与释放。**

The active degree of data transactions and the endowment advantages of data resources need to be further activated and released.

**律师应深入数据交易流程核心环节**，帮助企业系统梳理并确定其数据资产价值，协助企业进行数据交易磋商，深度参与新兴领域市场规则制定，保护数据创造者和经营者的合法权益，帮助各方主体探索公共数据、企业数据、个人数据等不同数据类型价值释放的合规路径，促进数据资源共享和数据运营机制的不断完善。



Lawyers should go deep into the core links of the data transaction process, help enterprises systematically sort out and determine the value of their data assets, assist enterprises in data transaction negotiations, deeply participate in the formulation of market rules in emerging fields, protect the legitimate rights and interests of data creators and operators, help all parties to explore the compliance path for releasing the value of different data types, such as public data, enterprise data, personal data, etc., and promote the sharing of data resources and the continuous improvement of data operation mechanism.

## 二、为企业数据资源合规管理提供精准服务

Provide services for enterprise data resource compliance management





**数据资源入表是将数据资产纳入企业财务报表的重要举措。**

The inclusion of data resources in financial statements is a key measure for integrating data assets into corporate financial reporting.

2023年，我国财政部对外发布《企业数据资源相关会计处理暂行规定》，明确适用于符合企业会计准则规定、可确认为无形资产或存货等资产类别的数据资源，以及不满足资产确认条件而未予确认的数据资源的相关会计处理，为数据资产纳入企业财务报表提供了制度性支持。



In 2023, China's Ministry of Finance issued the "Interim Provisions on the Accounting Treatment of Corporate Data Resources," which clarifies accounting treatment for data resources that qualify as intangible assets or inventory under corporate accounting standards, as well as for those that do not meet asset recognition criteria and are therefore not recognized. This provision provides institutional support for the inclusion of data resources in the financial statements of an enterprise.



针对数据资产纳入企业财务报表需要解决的法律问题，律师的法律服务包含：

The legal services provided by lawyers to address legal issues involved in incorporating data resources into a company 's financial statements include:

- 帮助企业审查数据来源、收集方式及使用的合法性；
- 起草修改数据资产交易、使用许可等法律文本；
- 出具数据合规、数据保护、隐私保护、网络安全方面的法律意见；
- 识别和评估企业在数据处理活动中的法律风险；
- 协助解决因数据资产权属引发的争议等。

- Assisting the company in reviewing the legality of data sources, collection methods, and usage;
- Drafting and revising legal documents for data asset transactions, usage licenses, etc.;
- Providing legal opinions on data compliance, data protection, privacy protection, and cybersecurity;
- Identifying and assessing legal risks in the company's data processing activities;
- Assisting in resolving disputes arising from data asset ownership issues.



律师在数据资源入表过程中不仅可以帮助企业处理相关法律问题，还能通过提供专业服务帮助企业防范风险，加强企业数据资产的合法性、合规性和有效性。随着数字经济的不断发展，企业数据资产确权、估值、资产化运营中的法律服务需求将会不断扩大，律师需要进一步聚焦前沿法律问题，为企业数据资源合规管理提供更加有力的法律支持。



Lawyers can not only help enterprises deal with relevant legal issues in the process of data resource listing, but also help them prevent risks and strengthen the legality, compliance and effectiveness of enterprise data assets by providing professional services. With the continuous development of the digital economy, the demand for legal services in the confirmation, valuation, and capital operation of enterprise data assets will continue to expand, and lawyers need to further focus on cutting-edge legal issues to provide more powerful legal support for the compliance management of enterprise data resources.

### **三、为促进和规范数据跨境流动展现 专业能力**

Demonstrate professional competence  
in facilitating and regulating the cross-  
border flow of data



建立高效便利安全的数据跨境流动机制，在保证数据安全的前提下规范数据跨境流通，已成为数字经济和数字贸易发展的关键，并对促进数字产业化和产业数字化具有重要意义。





The establishment of efficient and convenient and secure mechanisms for cross-border flow of data, and the regulation of cross-border flow of data under the premise of ensuring data security have become the key to the development of digital economy and digital trade, and are of great significance to the promotion of digital industrialization and digitization of industries.



律师在促进和规范数据跨境流动中扮演着重要角色。

- 律师通过法律审查和法律咨询，协助企业合规开展数据跨境流动业务，确保企业在跨境数据传输中遵守相关法律法规，有效防范法律风险。
- Through legal review and legal counseling, lawyers assist enterprises to carry out data cross-border flow business in a compliant manner, ensure that enterprises comply with relevant laws and regulations in cross-border data transmission, and effectively prevent legal risks.



- 律师基于对数据跨境相关政策的精准理解及把控，还可为相关组织机构提供定制化的专项服务，如为企业精心构建并优化跨境数据流通合规架构，通过细致梳理企业数据出境实况及多样应用场景，引导企业进行数据出境自我评估，助力企业顺利通过数据出境安全评估，为企业数据跨境运营与管理奠定坚实的合规基础。

- Based on their accurate understanding and control of data cross-border related policies, lawyers can also provide customized special services for relevant organizations, such as carefully constructing and optimizing cross-border data flow compliance structure for enterprises, guiding enterprises to conduct data exit self-assessment by meticulously sorting out the realities of data exit and various application scenarios of the enterprises, and assisting enterprises to successfully pass the security assessment of data exit and laying a solid compliance foundation for the cross-border operation and management of enterprise data.



# Thank you!

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