



18 November 2025

## KAZAKHSTAN DRAFT DIGITAL CODE AMCHAM ISSUE BRIEF

### SUMMARY

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#### **Current Situation:**

On November 12, 2025, Majilis deputies approved the draft Digital Code in the first reading. The current draft, while marking significant improvements over earlier versions, introduces substantial regulatory controls, particularly on data localization, biometric authentication, AI governance, and liability of digital platforms. While intended to enhance oversight, these provisions have raised concerns among stakeholders that, in their current form, they may create unintended barriers to innovation, investment, and the adoption of modern cloud technologies.

Leading international regulatory frameworks emphasize a risk-based approach over prescriptive prohibitions. These models prioritize accountability and impact assessments to ensure data is secure, regardless of location. They foster innovation by creating clear, technically feasible standards and engaging stakeholders.

**Proposal:** To align the Digital Code with these best international practices, we propose a set of policy refinements focused on:

1. Conducting a formal Analysis of Regulatory Impact (ARV) to assess the economic and technical feasibility of new obligations.
2. Establishing clear transitional provisions to allow for gradual and non-disruptive implementation of major requirements.
3. Refining ambiguous legal norms (e.g., AI "documentability") to provide legal certainty and protect intellectual property.
4. Embedding a continuous and substantive stakeholder consultation process within the Ministry of AI as a nodal agency to ensure that the practical adoption of a novel and complex document remains balanced.

We are prepared to engage in further discussions with regulators, policymakers and expert groups. We stand ready to share detailed analysis and international expertise to help refine the Digital Code, ensuring it successfully balances national interests with the goals of innovation and sustainable economic growth.



## OPPORTUNITY

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The Republic of Kazakhstan is developing a comprehensive Digital Code, a significant legislative initiative to govern the nation's rapidly expanding digital economy. This draft code aims to create a foundational legal framework for key areas in the digital domain.

As part of the ongoing legislative consultation, AmCham working group has analyzed the draft's provisions. Given that the draft continues to evolve, we acknowledge numerous constructive amendments to the earlier publicly available version, addressing potentially contentious clauses and definitions. These developments include, in particular, removal of the extritoriality clause, clarification of several legal definitions, such as "digital records", introduction of framework-based approach to platform architecture and risk-based approach to critical infrastructure operated by the private sector and easing certain compliance requirements.

Several key issues, while intended to establish oversight, may have significant operational, financial, and technical implications for both local and international entities operating in Kazakhstan. A bespoke compliance regime that diverges from global standards mandates international companies to maintain Kazakhstan-specific product versions, deploy localized workflows, or adjust core identity flows. This fragmentation may increase operational overhead, complicates maintenance, and serve as a deterrent to investment and the local deployment of advanced, secure technologies.

The following issues have been identified with the draft document:

- **Data localization requirements:** While already embedded in several laws. mandating the storage and processing of "national digital objects" inside Kazakhstan, and prohibiting the storage and processing of biometric data (including "digital facial images") outside the country, may limit the ability of state and quasi-state sectors to use global cloud services. This might also pose operational barriers for international platforms, potentially forcing costly local infrastructure investments or leading to the disabling of standard features for users in Kazakhstan. Given the pace of technological development, especially in AI, data transfer restrictions reinstated in the Code may create additional barriers to the government's Cloud First policy and use of hybrid systems.
- **Risk of restrictive access controls to the state systems:** The proposal for a blanket prohibition on private sector access to state systems, as advocated by some during the parliamentary session (notably MP Aimagambetov), bears significant risks. If implemented, such a restrictive access control policy, rather than a proportionate, risk-based approach, could block secure, innovative public-private partnerships. This would prevent the integration of globally-



utilized secure technologies and hinder, rather than enable, Kazakhstan's digital transformation goals.

- **Unfeasible 3-hour breach notification:** The proposed amendment to Article 24 mandates that in the event of a biometric data leak, the platform owner must notify authorities within three hours. This is an operationally unfeasible timeline compared to the global best-practice of 72 hours and sets companies up for inevitable non-compliance, undermining the collaborative goal of data security.
- **AI governance and compliance:** The requirement for mandatory registration ("accounting") of digital models, combined with a technically ambiguous "documentability" mandate and a right to human review, risks creating substantial compliance burdens. These obligations increase development costs and administrative overhead, and the ambiguity around "documentability" raises concerns about the potential risk of intellectual property exposure, which could deter AI innovation.
- **AI liability and state oversight:** Introducing potential strict liability for "the consequences of [AI's] functioning," alongside broad state authority to restrict AI based on vague "threats," heightens regulatory uncertainty, which can discourage companies from deploying advanced AI solutions and investing in the local AI ecosystem.

#### **Detailed policy proposals:**

To address the identified challenges and foster a regulatory environment that balances oversight and innovation, the following policy refinements are proposed:

- **Conduct a comprehensive regulatory impact analysis:** Prior to enactment, all new prohibitions and obligations (such as the data localization of biometrics and the "documentability" requirements for AI) should be subjected to a formal Analysis of Regulatory Impact (ARV), as stipulated by the Entrepreneurial Code. This analysis must evaluate:
  - Economic Impact: The direct and indirect costs to businesses, including potential impacts on foreign investment and local competitiveness.
  - Practical and Technical Feasibility: A thorough assessment of whether the requirements are technically achievable with current technology and within the local market context.
  - Sectoral Influence: The potential long-term effect on the development and adoption of key technologies like cloud computing and artificial intelligence in Kazakhstan.
- **Establish clear transitional provisions and compliance timelines:** For significant new mandates, particularly those involving complex technologies like AI, it is essential to establish clear and practical transitional periods. This provides organizations with a structured and realistic pathway to achieve compliance, allows time for necessary technical and infrastructural adjustments, and mitigates the risk of service disruption for citizens and businesses.



- **Refine and detail ambiguous legal norms:** Key technical terms and obligations, such as the requirement for AI "documentability" require precise, objective, and detailed definitions within the law or its accompanying regulations. This legal clarity is crucial to ensure businesses have a clear understanding of their compliance duties to prevent subjective interpretation by regulatory bodies and to safeguard proprietary information and intellectual property.
- **Foster proactive and substantive stakeholder engagement:** We recommend establishing a formal and continuous consultation framework that proactively engages a broad spectrum of stakeholders, including private sector industry groups, independent technical experts, and civil society. Incorporating this structured input prior to the code's final adoption will ensure that all provisions are thoroughly vetted for technical feasibility, practical implementability, and economic impact, thereby preventing unintended consequences and ensuring the final code is balanced and supportive of sustainable digital innovation.

### **Implications of the proposal:**

By grounding the Code in international best practices, these changes will directly support the goals stated in the Code, such as stimulating innovation and attracting investment, creating conditions for sustainable and balanced digitalization, ensuring digital resilience, and developing international cooperation.

### **Benefits:**

The government and a broader state sector:

- **More effective and durable legislation:** Proactive stakeholder engagement and a formal ARV will help create a law that is sustainable and avoids unintended negative economic or technical consequences.
- **Enabling digital transformation:** A more balanced approach to data governance will allow state-owned enterprises and public institutions to safely adopt modern cloud technologies, enhancing efficiency and public service delivery.

For industry (local and international tech companies):

- **Increased regulatory certainty:** Businesses will benefit from clear, precise, and technically feasible rules, which reduces compliance ambiguity and lowers legal risk.
- **Protection of intellectual property:** Refining ambiguous terms like "documentability" will provide a clearer, safer framework for protecting proprietary algorithms and trade secrets.



- **Improved investment climate:** A predictable and technically-informed regulatory environment, shaped by stakeholder input, will foster greater confidence for long-term investment in Kazakhstan's digital sector.

For individuals:

- **Continued access to global services:** A practical regulatory approach, including transitional periods, mitigates the risk of service disruption and ensures citizens can continue to use the standard, secure features of global platforms.
- **Access to innovation:** A pro-innovation environment encourages the introduction of new AI-driven services and technologies in the Kazakhstani market.

### **Compliance Costs:**

The policy proposals outlined above could require the following resources:

- Public sector administrative costs: allocating resources to conduct a thorough Analysis of Regulatory Impact (ARV) may involve commissioning independent technical and economic experts to ensure the analysis is objective and comprehensive.
- Private sector would also have to allocate staff time and resources to participate in the proposed stakeholder consultations.