

**ADVANT** Beiten

**NEW REQUIREMENT OF THE LAW ON PERSONAL  
DATA: NOTIFICATION ON CROSS-BORDER  
TRANSFER OF DATA. WHAT BUSINESS SHOULD BE  
PREPARED FOR**

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# LIST OF OUTSTANDING REGULATIONS

The Law provides for the adoption of a number of acts of the Russian Government:

- i. The procedure for making a decision on prohibition or restriction of cross-border transfer (by decision of Roskomnadzor);
- ii. The procedure for making a decision on prohibition or restriction of cross-border transfer (based on the proposal of state bodies);
- iii. The procedure for informing data controllers on the decision to prohibit or restrict cross-border transfer (based on the proposal of state bodies);
- iv. List of federal executive bodies authorized to issue a proposal to prohibit or restrict cross-border transfer in order to protect the economic and financial interests of the Russian Federation;
- v. List of cases in which notification on cross-border transfer is not required.

+ New list of states providing adequate protection of data subjects` rights to be issued by Roskomnadzor

# NOTIFICATION OF ROSKOMNADZOR ON CROSS-BORDER TRANSFER (1)

The notification shall contain:

- details of a data controllers,
- list of foreign states (to which territory the transfer is planned),
- link to the date and number of the notification of Roskomnadzor (sent in accordance with Article 22 of the Law on Personal Data),
- details of the person responsible for organization of PD processing (DPO),
- legal ground and purpose of cross-border transfer and further PD processing,
- categories of data subjects,
- categories and list of data to be transferred,
- the date of the data controller's assessment of ensuring by foreign data recipients of confidentiality and security of data during its processing.

# NOTIFICATION OF ROSKOMNADZOR ON CROSS-BORDER TRANSFER (2)

## Requirements to submission of a notification:

- Notification on cross-border transfer is submitted **separately** from the general notification on PD processing;
- Notification form - free (paper or electronic document (<https://pd.rkn.gov.ru/cross-border-transmission/form/>)) (the signor shall be duly authorized);
- Preconditions for submission of a notification on cross-border transfer:
  - a) Notification in accordance with the Art. 22 of the Law on Personal Data;
  - b) Assessment of ensuring by foreign data recipients of confidentiality and security of data during its processing;
  - c) Requesting and receiving information (which, upon request, shall be transferred to Roskomnadzor) on:
    - measures taken by foreign recipients of data to protect the data to be transferred and the conditions for stopping their processing;
    - legal regulation in the sphere of personal data of a foreign state (in case of transfer to countries that are not members of the 1981 Council of Europe Convention and are not included into the list of Roskomnadzor);
    - details and contacts of the data recipients.
- Prior notification is required, unless cross-border transfer is already exercised as of 1 September 2022 ->
- In the latter case submission until 1 March 2023 (see the letter of Roskomnadzor addressed to data controllers and sent on 10 August 2022).
- Suspension of cross-border transfers to the US and certain other countries for 10+ business days after notification on 1 March 2023?
- There is no register of notifications on cross-border transfer that would be similar to register of data controllers.

# NOTIFICATION OF ROSKOMNADZOR ON CROSS-BORDER TRANSFER (3)

Prohibition or restriction of the cross – border transfer:

- Carried out by Roskomnadzor: 1) based on the results of consideration of the notification and (optionally) information received by the data controller from potential recipients of data, 2) or based on the proposal of state bodies.
- The Law on Personal Data does not differentiate between the consequences of 1) prohibition and 2) restriction of cross-border transfer.
- In case of a decision on prohibition or restriction of cross-border transfer the data controller is obliged to ensure that the foreign recipient destroys the data previously transferred.

# NOTIFICATION OF ROSKOMNADZOR ON CROSS-BORDER TRANSFER (4)

Risks in case of failure to notify:

- 1) Fine in the amount of up to RUB 5000 for the company for failure to submit, late submission, or submission of incomplete notification. Fine for the CEO or other official in the amount of up to RUB 500 (migration risks for foreign citizens).
- 2) Issue of a prescription to rectify a non-compliance revealed setting a deadline for execution + risk of a fine in case of failure to comply with the prescription by the set date.
- 3) Increase of risks of audits and other control activities in the company.
- 4) «Suspension of activities» of a data controller (<https://rkn.gov.ru/news/rsoc/news74484.htm>).
- 5) Recognition as outdated of the information on cross-border transfer specified in the general notification on the processing of personal data submitted to Roskomnadzor in line with Art. 22 of the Law on Personal data and issue of a prescription to rectify a non-compliance revealed.

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## FOCUS ON

- Data Protection Law
- TMT
- Employment and Migration law

## LANGUAGES

- Russian, German, English

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**THANK YOU FOR YOUR ATTENTION!**

**Q&A**

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