

# Linklaters

## China – At-a-glance summary of the new data transfer regime

	Security assessment	Standard contract	Certification
<b>Implementation timeline</b>	1 September 2022	TBC <i>(Draft standard contract released, but remains to be finalised and implemented)</i>	4 November 2022 <i>(Certification guidelines released, but national standards remain to be finalised and implemented)</i>
<b>Key rules and guidelines</b>	Data Export Security Assessment Measures (“ <b>Assessment Measures</b> ”) Application Guidelines on the Data Export Security Assessment	Draft Personal Information Export Standard Contract Provisions	Implementation Rules on Personal Information Protection Certification Cybersecurity Standards Practice Guide – Technical Specifications for the Security Certification of Personal Information Cross-Border Processing (version 2.0) Draft national standards on the Certification Requirements for Cross-border Transmission of Personal Information (draft to be released for public consultation)
<b>Scope of application</b>	Mandatorily applicable to: <ul style="list-style-type: none"> <li>transfers of <b>important data</b> by data handlers;</li> <li>transfers of personal information by CIO or by other data handlers processing more than 1 million individuals’ personal information;</li> <li>transfers of personal information of more than 100,000 individuals cumulatively since 1 January of the previous year;</li> <li>transfers of sensitive personal information of more than 10,000 individuals cumulatively since 1 January of the previous year; and</li> <li>other transfers that are specified by the CAC</li> </ul>	Cross-border transfers of personal information that are not subject to a mandatory security assessment	Cross-border transfers of personal information that are not subject to a mandatory security assessment

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<b>Key requirements</b>	<p>Data handler must:</p> <ul style="list-style-type: none"> <li>conduct an <b>internal data export risk assessment</b>; and</li> <li>submit an <b>application</b> for a CAC-led security assessment to the branch of CAC in the province where the data handler is located</li> </ul>	<p>Personal information handler must:</p> <ul style="list-style-type: none"> <li>conduct a <b>personal information protection impact assessment</b> (PIPIA) before export of personal information; and</li> <li>enter into a <b>standard contract</b> with the offshore recipient of the exported personal information</li> </ul>	<p>Personal information handler and the offshore recipient must:</p> <ul style="list-style-type: none"> <li>enter into a <b>legally binding agreement</b>;</li> <li>appoint personal information protection <b>officers</b> and establish personal information protection <b>bodies</b>;</li> <li>specify <b>transfer rules</b> that bind both parties; and</li> <li>safeguard the rights and interest of the individuals</li> </ul> <p>Onshore personal information handler must also:</p> <ul style="list-style-type: none"> <li>conduct a <b>PIPIA</b> on the export of personal information</li> </ul>
<b>Approval/filing requirements</b>	<p>Application materials below must be submitted to the CAC for review and approval:</p> <ul style="list-style-type: none"> <li>an application form;</li> <li>a data export risk self-assessment report;</li> <li>a legally binding document such as a contract to be concluded between the data handler and its offshore recipient in respect of the data export; and</li> <li>any other materials designated by the CAC as necessary for the assessment</li> </ul> <p>Re-application:</p> <ul style="list-style-type: none"> <li>where any change may <b>affect the security</b> of the data export; and</li> <li><b>60 days</b> before the validity term of the prior approval expires</li> </ul>	<p>Materials below must be filed, within 10 working days after the standard contract takes effect, with the branch of the CAC in the province where the data handler is located:</p> <ul style="list-style-type: none"> <li>the standard contract executed with the offshore recipient; and</li> <li>a PIPIA report</li> </ul> <p>Re-filing where any change may affect the rights and interests of personal information subjects</p>	<p>Certification application requires:</p> <ul style="list-style-type: none"> <li>materials to be submitted to a certification institution;</li> <li>technical verification by a relevant technical verification institution;</li> <li>on-site examination by the certification institution; and</li> <li>post-certification supervision by the certification institution</li> </ul> <p>Renewal <b>six months</b> before the validity term of the prior certification expires</p>
<b>Term of validity</b>	Two years	N/A	Three years

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Further reading	<ul style="list-style-type: none"><li>• <a href="#">China's data export assessment rules released</a></li><li>• <a href="#">Completing Your China Data Export Security Assessment: CAC guidance released!</a></li><li>• <a href="#">China Data Export Security Assessment: A flow chart of the application process</a></li></ul>	<ul style="list-style-type: none"><li>• <a href="#">China's Standard Contractual Clauses at Long Last – Draft Contract for Cross-Border Data Transfers Unveiled</a></li></ul>	<ul style="list-style-type: none"><li>• <a href="#">Are China's new Binding Corporate Rules set to take centre-stage? Or do we let the bullets fly?</a></li><li>• <a href="#">Embracing the alternative – certification regime for cross-border data transfers</a></li><li>• <a href="#">Ready, set, go! China's certification regime for cross-border data transfers about to run</a></li></ul>

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