

# Data Transfers to Countries of Concern

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## SESSION DESCRIPTION

How are organizations navigating emerging U.S. restrictions on data transfers to countries of concern, including China? These are reflected in the Department of Justice’s final rule, finalized pursuant to Executive Order 14117 (Preventing Access to Americans’ Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern), as well as the new national legal framework established by PADFAA (Protecting Americans’ Data from Foreign Adversaries Act) aimed at addressing national security risks of sensitive personal and U.S. government-related data.

## 5–8 KEY DISCUSSION QUESTIONS

1. How extensive are KYC requirements for determining whether third country recipients of data are or are not fronts for “countries of concern” or have offices / employees in those countries?
2. What are industry approaches to dealing with the onward transfer problem, even if an initial transfer recipient has satisfied the EO 14117 KYC requirements?
3. Has the FTC indicated how it intends to interpret its PADFAA enforcement authority? Has it made any statements on whether it will deploy Section 5 sanctions against data brokers?
4. How does the PADFAA definition of “sensitive data” compare to the use of the term in EO 14117? Other U.S. law such as the CCPA?
5. Are there significant distinctions between the PADFAA definition of “data broker” and state laws that require data brokers to register?
6. How does PADFAA impact specific industries (e.g. online advertising)?
7. What is the liability situation for transferors that rely on automated or third-party diligence solutions to verify the ownership thresholds for PADFAA compliance (e.g. the IAB’s Diligence Platform, which purports to do this for publishers).

## 0–3 PRE-READ DOCUMENTS (optional)

- Final Rule Implementing EO 14117 (Preventing Access to Americans’ Bulk Sensitive Personal Data and United States’ Government-Related Data by Countries of Concern) (executive summary only) ([link](#)).
- Executive Order 14117 of February 28, 2024, “Preventing Access to Americans’ Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern.” ([link](#)).
- Data Brokerage and the Third Party National Security Problem, Justin Sherman *Lawfare*, ([link](#)).