

国家互联网信息办公室关于《个人信息和重要数据出境安全评估办法（征求意见稿）》公开征求意见的通知

Notice of the Cyberspace Administration of China on Seeking Public Comments on the Measures on the Security Assessment for Personal Information and Important Data to be Transmitted Abroad (Exposure Draft)

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国家互联网信息办公室关于《个人信息和重要数据出境安全评估办法（征求意见稿）》公开征求意见的通知

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为保障个人信息和重要数据安全，维护网络空

间主权和国家安全、社会公共利益，促进网络信息依法有序自由流动，依据《中华人民共和国国家安全法》《中华人民共和国网络安全法》等法律法规，我办会同相关部门起草了《个人信息和重要数据出境安全评估办法（征求意见稿）》，现

向社会公开征求意见。有关单位和各界人士可以在2017年5月11日前，通过以下方式提出意见：

To protect the security of personal information and important data, safeguard cyberspace sovereignty, national security, and social and public interests, as well as promote the orderly

and free flow of network information, in accordance with the State Security Law of the People's Republic of China, the Cybersecurity Law of the People's Republic of China, and other laws and regulations, we, in concert with the relevant authorities, have drafted the Measures

on the Security Assessment for Personal Information and Important Data to be Transmitted Abroad (Exposure Draft), and are hereby seeking public comments thereon. The parties concerned and people from all walks of life may give their opinions in either of the following ways by 11 May 2017.

一、通过信函方式将意见寄至：北京市东城区朝阳门内大街225号国家互联网信息办公室网络安全协调局，邮编：100010，并在信封上注明“征求意见”。

二、通过电子邮件方式发送至：

security@cac.gov.cn。
附件：个人信息和重要数据出境安全评估办法（征求意见稿）

国家互联网信息办公室
2017年4月11日

附件：

个人信息和重要数据出境安全评估办法（征求意见稿）
第一条

为保障个人信息和重要数据安全，维护网络空间主权和国家安全、社会公共利益，保护公民、人和其他组织的合法权益，根据《中华人民共和国国家安全法》《中华人民共和国网络安全法》等法律法规，制定

I. Correspondence: Cybersecurity Coordination Bureau of the Cyberspace Administration of China, 225 Chao Yang Men Nei Street, Dongcheng District, Beijing, 100010 (please specify "public comments" on the envelop).

II. Email: security@cac.gov.cn.

Annex: Measures on the Security Assessment for Personal Information and Important Data to be Transmitted Abroad (Exposure Draft)
(征
Cyberspace Administration of China

11 April 2017

Appendix:

Measures on the Security Assessment for Personal Information and Important Data to be Transmitted Abroad (Exposure Draft)

Article 1 These Measures are enacted in accordance with the State Security Law of the People's Republic of China, the Cybersecurity Law of the People's Republic of China, and other laws and regulations to protect the security of personal information and important data, safeguard cyberspace sovereignty, national security, and social and public interests, as well as promote the orderly and free flow of network information.

本办法。

第二条

网络运营者在中华人民共和国境内运营中收集和产生的个人信息和重要数据，应当在境内存储。因业务需要，确需向境外提供的，应当按照本办法进行安全评估。

第三条

数据出境安全评估应遵循公正、客观、有效的原则，保障个人信息和重要数据安全，促进网络信息依法有序自由流动。

第四条

个人信息出境，应向个人信息主体说明数据出境的目的、范围、内容、接收方及接收方所在的国家或地区，并经其同意。成年人个人信息出境须经其监护人同意。

第五条

国家网信部门统筹协调数据出境安全评估工作，指导行业主管或监管部门组织开展数据出境安全评估。

第六条

Article 2 The personal information and important data generated or collected by a network operator during its operation within the territory of the People's Republic of China shall be stored within China. If it is necessary to transmit data abroad due to business needs, security assessment shall be conducted according to these Measures.

Article 3 Security assessment for the data to be transmitted abroad shall be conducted under the principles of fairness, objectivity and validity to protect the security of personal information and important data, and promote the orderly and free flow of network information.

Article 4 For the transmission of personal information abroad, an explanation on the purpose, scope, content and receiver of the data to be transmitted abroad, and the country or region where the receiver is located shall be given to the owner of the personal information, and the transmission shall be consented by such owners. Outbound transmission of personal information of a minor shall be agreed by the guardian thereof.

Article 5 The state cyberspace administration shall conduct overall coordination for security assessment for the data to be transmitted abroad, and guide industrial authorities or regulators to conduct security assessment for the data to be transmitted abroad.

Article 6 An industrial authority or regulator

行业主管或监管部门负责本行业数据出境安全评估工作，定期组织开展本行业数据出境安全检查。

第七条

网络运营者应在数据出境前，自行组织对数据出境进行安全评估，并对评估结果负责。

第八条

数据出境安全评估应重点评估以下内容：

（一）数据出境的必要性；

（二）涉及个人信息情况，包括个人信息的数量、范围、类型、敏感程度，以及个人信息主体是否同意其个人信息出境等；

（三）涉及重要数据情况，包括重要数据的数量、范围、类型及其敏感程度等；

（四）数据接收方的安

shall take charge of the security assessment for the data to be transmitted abroad in respect of the industry, and shall organize regular security inspections for the data to be transmitted abroad in respect of the industry.

Article 7 Prior to transmitting data abroad, a network operator shall organize on its own the security assessment for the data to be transmitted abroad, and be liable for the assessment results.

Article 8 During security assessment for the data to be transmitted abroad, highlighted assessment shall be made in the following aspects:

(1) Necessity of transmitting the data abroad;

(2) Personal information involved, including the quantity, scope, type and sensitivity of personal information, as well as whether the owner of personal information agrees to transmit his personal information abroad;

(3) Important data involved, including the quantity, scope, type and sensitivity of important data;

(4) Security protection measures, ability and proficiency of the data receiver, as well as the network security environment of the country or region where the data receiver is located;

全保护措施、能力和水平，以及所在国家和地区的网络安全环境等；

(五) 数据出境及再转移后被泄露、毁损、篡改、滥用等风险；

(六) 数据出境及出境数据汇聚可能对国家安全、社会公共利益、个人合法利益带来的风险；

(七) 其他需要评估的重要事项。

第九条

出境数据存在以下情况之一的，网络运营者应报请行业主管或监管部门组织安全评估：

(一) 含有或累计含有50万人以上的个人信息；

(二) 数据量超过1000GB；

(三) 包含核设施、化学生物、国防军工、人口健康等领域数据，大型工程活动、海洋环境

(5) Risks of leakage, damage, alteration and abuse of data after being transmitted abroad and further transferred;

(6) Risks to national security, social and public interests, and personal legitimate interests arising from transmitting the data abroad and gathering the data to be transmitted abroad; and

(7) Other important matters to be assessed.

Article 9 In any of the following circumstances, a network operator shall apply to its industrial authority or regulator to organize security assessment:

(1) The data to be transmitted abroad contains or contains in aggregate the personal information of more than 500,000 users;

(2) The quantity of the data to be transmitted abroad is more than 1,000 gigabytes;

(3) The data to be transmitted abroad contains data in the areas of nuclear facilities, chemical biology, defense industry, population and health, as well as the data of large-scale project activities, marine environment and sensitive geographic information;

以及敏感地理信息数据等；

(四) 包含关键信息基础设施的系统漏洞、安全防护等网络安全信息；

(五) 关键信息基础设施运营者向境外提供个人信息和重要数据；

(六) 其他可能影响国家安全和公共利益，行业主管或监管部门认为应该评估。

行业主管或监管部门不明确的，由国家网信部门组织评估。

第十条

行业主管或监管部门组织的安全评估，应当于六十个工作日内完成，并及时向网络运营者反馈安全评估情况，并报国家网信部门。

第十一条

存在以下情况之一的，数据不得出境：

(4) The data to be transmitted abroad contains system vulnerabilities, security protection and other network security information of critical information infrastructures;

(5) A critical information infrastructure operator provides personal information and important data abroad; or

(6) Other data which may affect national security, and social and public interests, and are necessary for assessment as determined by the industrial authority or regulator.

If there is no definite industrial authority or regulator, the Cyberspace Administration of China shall organize the assessment.

Article 10 The security assessment organized by an industrial authority or regulator shall be completed within 60 working days. The security assessment information shall be made known to the network operator, and reported to relevant departments of the Cyberspace Administration of China.

Article 11 Data shall not be transmitted abroad in any of the following circumstances:

(1) The outbound transmission fails to be approved by the owner of personal information, or

<p>(一) 个人信息出境未经个人信息主体同意, 或可能侵害个人利益;</p> <p>(二) 数据出境给国家政治、经济、科技、国防等安全带来风险, 可能影响国家安全、损害社会公共利益;</p> <p>(三) 其他经国家网信部门、公安部门、安全部门等有关部门认定不能出境的。</p>	<p>may jeopardize personal interests;</p> <p>(2) The outbound transmission causes security risks to the nation's politics, economy, technology and defense, which may affect national security and jeopardize social and public interests; or</p> <p>(3) Other data which are forbidden to be transmitted abroad as determined by the state cyberspace administration , public security authority, security authority and other relevant authorities.</p>
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第十二条

网络运营者应根据业务发展和网络运营情况, 每年对数据出境至少进行一次安全评估, 及时将评估情况报行业主管或监管部门。

当数据接收方出现变更, 数据出境目的、范围、数量、类型等发生较大变化, 数据接收方或出境数据发生重大安全事件时, 应及时重新进行安全评估。

第十三条

对违反相关法律法规和

Article 12 A network operator shall, in light of its business development and network operation, conduct security assessment for the data to be transmitted abroad at least once a year, and shall report the assessment information to the industrial authority or regulator concerned without delay.

In case of any changes to the data receiver, any major changes to the purpose, scope, quantity and type of the data transmitted abroad, or any major security events of the data receiver or the data to be transmitted abroad, another security assessment shall be conducted without delay.

Article 13 In the event of a transmission of data abroad in violation of relevant laws and regulations, or these Measures, any individual

本办法向境外提供数据的行为，任何个人和组织有权向国家网信部门、公安部门等有关部门举报。

or organization may report to the state cyberspace administration, public security authority or other relevant authorities.

第十四条

Article 14 Violations to these Measures shall be penalized in accordance with relevant laws and regulations.

违反本办法规定的，依照有关法律法规进行处罚。

第十五条

Article 15 If the Chinese government has entered into any agreement on the data to be transmitted abroad with other nations or regions, such agreement shall be followed.

我国政府与其他国家、地区签署的关于数据出境的协议，按照协议的规定执行。

The information involving state secrets are subject to relevant regulations.

涉及国家秘密信息的按照相关规定执行。

第十六条

Article 16 These Measures are applicable mutatis mutandis to the security assessment for the abroad transmission of the personal information and important data generated or collected by other individuals and organizations within the territory of the People's Republic of China.

其他个人和组织在中华人民共和国境内收集和产生的个人信息和重要数据出境的安全评估工作参照本办法执行。

第十七条

Article 17 Definitions of the following terms in these Measures:

本办法下列用语的含义：

Network operators, refer to owners, managers and network service providers of network.

网络运营者，是指网络的所有者、管理者和网络服务提供者。

Outbound transmission of data, means providing overseas institutions, organizations and individuals with the personal information and important data generated or collected by network

数据出境，是指网络运营者将在中华人民共和

国境内运营中收集和产生的个人信息和重要数据，提供给位于境外的机构、组织、个人。

个人信息，是指以电子或者其他方式记录的能够单独或者与其他信息结合识别自然人个人身份的各种信息，包括但不限于自然人的姓名、出生日期、身份证件号码、个人生物识别信息、住址、电话号码等。

重要数据，是指与国家安全、经济发展，以及社会公共利益密切相关的信息，具体范围参照国家有关标准和重要数据识别指南。

第十八条

本办法自2017年 月 日起实施。

operators during their operation within the territory of the People's Republic of China.

Personal information, refers to all the information recorded in electronic form or otherwise, which can be used, solely or together with other information, to determine the identity of a natural person, including but not limited to the name, date of birth, ID card number, personal biometric information, address and phone number of the natural person.

Important data, refers to the data closely related to national security, economic development, and social and public interests. Refer to relevant national standards and important data identification guidelines for its specific scope.

Article 18 These Measures shall take effect as of xxx 2017.