

China Regulatory & Compliance Observation

July 2023



Table of Contents

Highlights of this edition	4
Automotive and Machinery	5
1. New Sector standard for Inner Car Handle Call for Comment	5
2. “Test methods for durability of fuel cell engine and its key components” Call for comments in China	5
3. Fuel Cell EV Post-crash Safety Standard Calls for Comments in China	5
CCC	7
4. CNCA-C09-01: 2023 - CCC Implementation Rules for Electronic Products and Safety Annexes Released	7
5. CCC certification bodies and testing labs for lithium-ion batteries designated by CNCA	8
6. New CCC Implementation Rules Released	8
7. CCC Certification will implement on 3 new products from 1 August 2023	8
Standardization	11
8. China Certification and Accreditation Regulation Calling for Comments	11
9. Standard List and Certification Catalogue of Green Product Assessment (fourth batch) announced	11
Radio	13
10. China Updates Radio Frequency Allocation Rules	13
Energy and Energy Efficiency	14
11. Compulsory Water Efficiency & Grades Standard of Flush Valves Revised	14
12. Principles & compliance advice for China’s data cross-border transfer	15
ICT	20
13. Critical Network Equipment and Specialized Cybersecurity Products List Updated in China	20
Electrical and Electronics	24

14. MIIT Launched New NAL Certification Mark	24
BESTAO Reviews and Translations	25
15. English Translation! China RoHS 2.0 Catalogue, Exemption List and FAQ	25
16. English Translation - CNCA-C09-01 2023 CCC Implementation Rules - Electronic Products and Safety Accessories	25
17. English Translation Available – New Edition of GB 19517 for the Safety of Electrical Equipment.....	26
18. English Translation – Regulations of the People's Republic of China on Certification and Accreditation (draft for Comments).....	26
About BESTAO Consulting	27

Highlights of this edition

CNCA-C09-01: 2023 - CCC Implementation Rules for Electronic Products and Safety Annexes Released

On 28 June 2023, the Certification and Accreditation Administration of China (CNCA) published rules for the compulsory product certification of electronic products and safety accessories. This article presents the application scope and main requirements of the document.

Full article available at Page 7 or visit:

https://www.bestao-consulting.com/detail?id=1489&status=china_compliance

China Certification and Accreditation Regulation Calling for Comments

On July 13, 2023, the State Administration for Market Regulation issued the draft of *Regulations of the People's Republic of China on Certification and Accreditation*. It is the fundamental regulation that outlines the general management system of accreditation and certification in China. Read more about the critical contents in the article and check out issue #18 in this report for the complete draft in English.

Full article available at Page 11 or visit:

https://www.bestao-consulting.com/detail?id=1481&status=china_compliance

China Updates Radio Frequency Allocation Rules

Radio frequency is one of the key areas that plays significant role in ICT sector. In early June, China published the revised *Rules on Radio Frequency Allocation*. Read the article to get the main contents of this critical document.

Full article available at Page 13 or visit:

https://www.bestao-consulting.com/detail?id=1484&status=china_compliance

Principles & compliance advice for China's data cross-border transfer

On June 1, the *Measures on the Standard Contract for the Cross-Border Transfer of Personal Information* came into effect. It is one of the regulations that could impact a variety of foreign stakeholders. Read the analysis and briefing to learn the key points, FAQs and compliance advice for this official document.

Full article available at Page 15 or visit:

https://www.bestao-consulting.com/detail?id=1419&status=china_compliance



Automotive and Machinery

1. New Sector standard for Inner Car Handle Call for Comment

On June 27, 2023, SAC/TC114 (the National Technical Committee of Auto Standardization, NTCAS) issued draft of a sector standard ***Inner handle assembly of passenger car door*** (hereinafter referred to as “the Standard Draft”) to call for public comments. The public opinion soliciting period will end on August 6, 2023.

It specifies the terms and definitions, technical requirements, test methods, inspection rules, marking, packaging, transportation and storage of the inner

handle assembly of passenger car door. The application scope of this standard is for the door opening handle assembly of Class M1 passenger cars.

In addition, this sector standard is voluntary, and based on the information disclosed by the TC114, this standard hasn’t adopted any international standards, laws or regulations. Foreign stakeholders may need to further check the technical requirements and take further actions to ensure compliance.

2. “ Test methods for durability of fuel cell engine and its key components” Call for comments in China

On June 28, 2023, the National Technical Committee of Auto Standardization (NTCAS, SAC/TC114) issued draft of national standard Test methods for durability of fuel cell engine and its key components (hereinafter referred to as “the Standard”). The draft is now calling for comments and opinion soliciting period will end on August 27, 2023.

It is a national voluntary standard that specifies durability test methods for fuel cell engines, fuel cell stacks, membrane electrodes, air compressors, and hydrogen circulating pumps. The Standard applies to automotive proton exchange membrane fuel cell engines and key components.

None international standard, laws or regulations are adopted for the formulation of this standard. Therefore, foreign stakeholders may need to further check the technical requirements and take further actions to ensure compliance.

3. Fuel Cell EV Post-crash Safety Standard Calls for Comments in China

On June 28, 2023, the National Technical Committee of Auto Standardization (NTCAS) issued draft of national standard Post-crash safety requirement for fuel cell electric vehicle (hereinafter referred to as “the Standard”). The draft is now calling for comments from public and the deadline will be August 27, 2023.

The Standard specifies special safety requirements and test methods for fuel cell electric vehicles after a crash. It applies to Class M and Class N fuel cell electric vehicles that use compressed gaseous hydrogen and the on-board hydrogen system does not exceed 70 MPa nominal working pressure. It is a national voluntary standard that currently does not adopt any international

existing standards. However, the standard contents refer to following international documents:

- UN R134 (UN Regulation No. 134): Uniform provisions concerning the approval of motor vehicles and their components with regard to the safety-related performance of hydrogen-fuelled vehicles
- GTR 13: Global Technical Regulation concerning the hydrogen and fuel cell vehicles
- SAE J2578: Recommended Practice for General Fuel Cell Vehicle Safety.



CCC

4. CNCA-C09-01: 2023 - CCC Implementation Rules for Electronic Products and Safety Annexes Released

On 28 June 2023, the Certification and Accreditation Administration of China (CNCA) published rules for the compulsory product certification of electronic products and safety accessories.

According to the "Announcement of the SARM on Optimizing the Catalog of Compulsory Product Certification" (No. 18, 2020), "Announcement of SARM on the Implementation of Compulsory Product Certification Management for Lithium-ion Batteries and Other Products" (No. 10, 2023). To make adjustment and optimization of the scope of CCC for electronic products and safety accessories, the National Certification and Accreditation Administration (CNCA) formulated The "Compulsory Product Certification Implementation Rules for Electronic Products and Safety Annexes" (CNCA-C09-01: 2023) (see the attachment, hereinafter referred to as the new version of the rules). The relevant requirements are hereby announced as follows:

The new rules will come into effect on August 1, 2023. "Compulsory Product Certification Implementation Rules for Audio and Video Equipment" (CNCA-C08-01:2014), "Compulsory Product Certification Implementation Rules for Information Technology Equipment" (CNCA-C09-01:2014), and "Compulsory Product Certification Implementation Rules for Telecommunications Terminal Equipment" (CNCA-C16-01:2014) shall be abolished at the same time.

Relevant designated certification bodies shall formulate corresponding certification implementation rules in

accordance with the requirements of the new version of the rules and the general implementation rules for compulsory product certification, and only after filing with the CNCA can they implement certification and issue certification certificates in accordance with the new version of the rules.

The valid compulsory product certification certificates that have been issued before can continue to be used, and the conversion of certification certificates will be completed by natural transition methods such as renewal of expired certificates, product changes, and standard version changes.

The Rules apply to:

- TV set-top boxes;
- Microcomputers;
- Portable computers;
- Display devices for use with computers;
- Printers connected to computers;
- Multi-purpose printers and copiers;
- Scanners;
- Servers;
- Fax machines;
- Mobile user terminals;
- Power supply;
- Power banks;
- Lithium-ion batteries and battery packs.

Applicable certification standards are listed in Article 2. For type I and II equipment, type testing and post-certification supervision are required to be conducted. The post-certification supervision comprises follow-up inspections, sample inspections at the production site and inspections of market sampling.

The certification commissioner should attach the certification mark to the certified products in a conspicuous manner. For lithium-ion batteries constrained by size, it is permissible to print/mold the “CCC” abbreviation in a font

size suitable for the external dimensions of the batteries.

Product certification certificates covered by these rules are valid for a period of 5 years. The rules enter into force on 1 August 2023.

5. CCC certification bodies and testing labs for lithium-ion batteries designated by CNCA

Recently, the State Administration for Market Regulation issued an announcement to implement CCC certification management for lithium-ion batteries, battery packs, and mobile power sources from August 1, 2023 (Announcement No. 10 of 2023 of the State Administration for Market Regulation). The transition period is one year. From August 1, 2024, those who have not obtained the CCC certification and the certification mark are not allowed to be sold, imported or used in China Market.

Certification bodies engaged in CCC certification activities for lithium-ion batteries, battery packs and mobile power supplies, as well as laboratories related to CCC certification for those products, are designated by CNCA.

The list of designated certification bodies and laboratories, and their contact information can be inquired on the “Section of China Compulsory Product Certification” on the website of CNCA.

6. New CCC Implementation Rules Released

On June 28, CNCA published the new rules for CCC of electronics products and safety accessories, namely CNCA-C09-01:2023 Implementation rules for China Compulsory Certification (CCC) – electronic products and safety accessories.

The new rules will come into effect on August 1, 2023 and replace the previous implementation rules for CCC of electronic products, namely, CNCA-C08-01:2014 (for

audio and video devices), CNCA-C09-01:2014 (for IT devices), and CNCA-C16-01:2014 (for telecom terminals). The three implementation rules will be abolished at the same date.

CCC certificates that enterprises have obtained according to previous implementation rules will keep valid till their expiration date, and the enterprises shall apply for certificate renewal according to this new implementation rules by then.

7. CCC Certification will implement on 3 new products from 1 August 2023

In March 2023, the State Administration for Market Regulation announced that it has decided to implement China Compulsory Certification (CCC certification) management for lithium ion batteries and battery packs used in electronic and electrical products, portable power supplies, as well as power adapters/chargers used in telecommunications terminal products. The implementation date is 1st August 2023.

Details are as follows:

Announcement of the State Administration for Market Regulation on Implementation of China Compulsory Certification Management for Lithium Ion Batteries and Other Products

In accordance with the relevant requirements of the Opinions of the General Office of the State Council on Deepening the Reform of the Management System for the Electronic and Electrical Industry (GBF [2022] No. 31), the State Administration for Market Regulation has decided to implement China Compulsory Certification (CCC) management on lithium ion batteries and battery packs used in electronic and electrical products, portable power supplies, as well as power adapters/chargers used in telecommunications terminal products (hereinafter collectively referred to as “Newly Included Products”). The relevant requirements are hereby announced as follows:

I. Starting from August 1, 2023, the designated certification bodies will begin to accept CCC certification commissions for Newly Included Products, and carry out certification work in accordance with the applicable standards listed in the Implementation Rules for China Compulsory Certification - Information Technology Equipment, and the annex. As of August 1, 2024, those enterprises that have not obtained CCC certificate and marked with certification marks shall not be allowed to leave the factory, sell, import, or use in other business activities. The directory of designated certification bodies and laboratories for Newly Included Products will be announced separately.

II. The scope of CCC certification for Newly Included Products is defined in the annex. Among them, the lithium ion batteries and battery packs used in electronic and electrical products are subject to CCC certification at this stage; for the batteries and battery packs used in other electronic and electrical products, CCC certification will be carried out in due course.

III. Considering that the new standard will be implemented mandatorily on January 1, 2024, in order to reduce the cost of obtaining certification for enterprises, the designated certification bodies have carried out CCC certification for relevant products in accordance with this standard.

IV. The designated certification bodies and laboratories should actively rely on existing conformity assessment results on the premise of controllable certification risks and ensuring certification quality to reduce the burden on enterprises and facilitate their certification.

The State Administration for Market Regulation

March 14, 2023

Product Category and Code:	Power supply (0807, 0907)
Description of Product Category:	A device that is directly connected to the power grid, the output can be connected to telecommunication terminal equipment, and it has a voltage conversion function, including power supply nature and electrical parameter conversion. (0907)
Scope of Application:	Power adapters/chargers for telecommunication terminal equipment

Description or Enumeration of the Applicable Scope of the Products:	Power adapters, chargers, power converters, etc. for telecommunications terminal equipment.
Applicable Standards:	GB4943.1; GB/T9254.1; GB17625.1
Product Category and Code:	Portable power supply (0914)
Description of Product Category:	A portable power supply that is not more than 18 kg of mass, including lithium ion batteries and/or battery packs, with AC/DC input/output.
Scope of Application:	Portable power supply
Description or Enumeration of the Applicable Scope of the Products:	Power bank, portable energy storage and outdoor portable power supply for camping, etc.
Applicable Standards:	GB4943.1; GB31241
Product Category and Code:	Lithium ion batteries and battery packs (0915)
Description of Product Category:	A device converts chemical energy into electrical energy by moving lithium electrons between the positive electrode and the negative electrode, and is designed to be a rechargeable combination which is combined with any number of lithium ion batteries with protective circuit and is ready to use.
Scope of Application:	Lithium ion batteries and battery packs for portable electronic products
Description or Enumeration of the Applicable Scope of the Products:	Lithium ion batteries and battery packs for portable electronic products such as portable office products, mobile communication products, and portable audio/video products.
Applicable Standards:	GB31241
Remarks:	Excluding lithium ion batteries and battery packs for electronic cigarettes



Standardization

8. China Certification and Accreditation Regulation Calling for Comments

Reform is th On July 13, 2023, the State Administration for Market Regulation issued the draft of Regulations of the People's Republic of China on Certification and Accreditation (hereinafter referred to as “the Regulations”) to call for public comments. The call-for-comment period will end on July 29, 2023.

The current edition of the Regulations was revised in 2020 and must be adhered to when taking on certification and accreditation projects within the People's Republic of China.

Compared with the present Regulations, the main modifications of this draft include:

- Adding “inspection and testing activities” into applying scope and all the relevant requirements within.
- Specifying the definitions of “inspection and testing” and “conformity assessment”.
- Combining chapters II and III (all regarding accreditation in the present effective version) into a single chapter and adding an additional chapter for inspection and testing requirements.
- Reinforcing trans-department coordination for system management, and specifically stipulate the establishment of a “Ministerial Joint Meeting of Accreditation and Certification Works”.
- Emphasizing the importance of international cooperation and communication in the field and encouraging such activities.

Putting forwards the significance and basic scope of an informatized and digital management system for accreditation and certification in the country.

9. Standard List and Certification Catalogue of Green Product Assessment (fourth batch) announced

On June 13, 2023, the State Administration for Market Regulation (SAMR) issued the Notice on Standard List and Certification Catalogue of Green Product Assessment (fourth batch). The standard list of this batch include:

- GB/T 42065-2022 Green product assessment—Kitchen and sanitary ware fittings (has come into force on May 1, 2023)
- GB/T 42169-2022 Green product assessment—Domestic gas appliances (will come into force on January 1, 2024)

And the full list of the previous three batch of standard list include:

Batch No.	No.	Standard No.	Standard Name
Batch 1 (issued on Apr 12, 2018)	1	GB/T 35601-2017	Green product assessment—Wood-based panels and wooden flooring
	2	GB/T 35602-2017	Green product assessment—Coating material
	3	GB/T 35603-2017	Green product assessment—Sanitary wares

Batch No.	No.	Standard No.	Standard Name
	4	GB/T 35604-2017	Green product assessment—Building glass
	5	GB/T 35606-2017	Green product assessment—Solar water heating system
	6	GB/T 35607-2017	Green product assessment—Furniture
	7	GB/T 35608-2017	Green product assessment—Textile products
	8	GB/T 35609-2017	Green product assessment—Waterproof materials and sealants
	9	GB/T 35610-2017	Green product assessment—Ceramics tiles(Board)
	10	GB/T 35611-2017	Green product assessment—Textile products
	11	GB/T 35612-2017	Green product assessment—Wood plastic composites products
	12	GB/T 35613-2017	Green product assessment—Paper and paper products
Batch 2 (issued on Dec 18, 2018)	1	GB/T 37866-2019	Green product assessment-Packings for express service
	2	GB/T 39020-2020	Green product assessment—Detergents
	3	GB/T 39084-2020	Green product assessment-Packings for express service
Batch 2 (issued on Dec 13, 2021)	1	GB/T 39761.1-2021	Green product assessment—Household electric appliances—Part 1: Refrigerators, air-conditioners and washing machines
	2	GB/T 40718-2021	Green product assessment—Tyres

In addition to these standards, the Certification and Accreditation Administration of China (CNCA) also issued implementation rules for all the product categories above for the certification practice.





Radio

10. China Updates Radio Frequency Allocation Rules

In early June, China published the revised Rules on Radio Frequency Allocation. The new edition of the regulation will bring the following changes.

- Allocated new frequency bands for IMT (including 5G/6G) in the bands of 6GHz, 26GHz, 40GHz, and 70GHz.
- Established provisions for maritime mobile-satellite service and mobile-satellite service in the frequency bands of 150MHz and 400MHz, respectively. Introduced ESIM application to the frequency bands of 17.7-19.7 GHz and 27.5-29.5 GHz. Clarified the working condition of NGSO in some frequency bands between 37.5-51.4 GHz.
- Clarified interference protection for EESS, SRS, radio astronomy, and other radio services.
- Radio positioning services in the 79-81GHz band will be prioritized for applications such as automotive radar.





Energy and Energy Efficiency

11. Compulsory Water Efficiency & Grades Standard of Flush Valves Revised in China

On July 1, 2023, the national mandatory standard *GB 28379-2022 Minimum allowable values of water efficiency and water efficiency grades for flush valves of plumbing fixtures* (hereinafter referred to as “the Standard”) came into force.

The Standards’ implementation announcement was published on December 29th, 2022. As a revision of the previous GB 28379-2019, the Standard specifies the minimum allowable value and grade of the water efficiency of the flushing valve of urinals and that of squat toilets, together with the technical requirements and test methods.

The Standard applies to squat toilet flushing valves and urinal flushing valves for use in cold water supply pipes installed in building facilities contingent on whether the water static pressure is or is not greater than 0.6MPa.

Compared with the withdrawal version, the main changes in the Standard include:

- Chapter 1: Application scope changes from “mechanical flush valve for water closet or urinals, pressurized type flush valve for water closet or urinals and non-contact flush valve for water closet or urinals” into “flush valves of plumbing fixtures”.
- Article 3.2: add the terms and definition for the consumption of flushing water.
- Chapter 4: modify the water efficiency grades.
- Chapter 6: change the measurement and calculation.
- Annex 1: add plumbing fixtures for testing use.

The Standard does not adopt any international standards like the version it replaced. Therefore, relevant foreign manufacturers are advised to review the modified parameters and make product changes when necessary.



Cybersecurity and Data Protection

12. Principles & compliance advice for China's data cross-border transfer

Background

China is putting cross-border data transfers by multinational companies and others under the toughest government oversight ever.

On June 1, the Measures on the Standard Contract for the Cross-Border Transfer of Personal Information came into effect, requiring certain personal data processors, including companies handling data on fewer than 1 million people, to sign contracts with overseas recipients before sending data abroad.

Those new rules became the latest effort by Beijing to tighten its grip over domestic data to protect national security. This article is trying to summarize the Principles & of China's data cross-border transfer and give some compliance advice to the multinational companies

Legislations

The Chinese data protection regime, consisting of the Cybersecurity Law of the People's Republic of China ("CSL"), the Data Security Law of the People's Republic of China ("DSL"), the Personal Information Protection Law of the People's Republic of China ("PIPL") as well as extensive supplementary implementing regulations, which has certain extra-territorial effect imposes comprehensive data protection rules and compliance impact on companies with businesses in China, data cross-border transfer supervision among which has always been the supervision focus. Companies concerning processing of personal information of individuals residing within the territory of China during business operation could fall within the regulatory scope, irrespective of whether or not the companies are established in China.

Along with the official release of the Measures on Standard Contract for Cross-border Transfers of Personal Information ("Measures for CN SCCs") by the Cyberspace Administration of China ("CAC") with its Annex of the Standard Contract for Cross-border Transfers of Personal Information ("CN SCCs"), effective as of June 1, 2023; the Measures for the Security Assessment of Data Cross-border Transfer ("Measures for the Security Assessment"), effective as of September 1, 2022 and the Practice Guideline for Cybersecurity Standards-Specification for Security Certification of Cross- Border Transfers of Personal Information V2.0 ("Specification V2.0") by the TC260* on December 16, 2022, the implementing rules for data cross-border transfer mechanisms in China, i.e., the CAC Security Assessment, the CN SCCs as well as the Certification, have been settled.

*TC260= National Information Security Standardization Technical Committee of China.

Key points

CAC Security Assessment (Effective as of Sep 1, 2022)

Applicable scope (Personal information + Important Data)

When cross-border transfer of:

- Important Data*;
- Personal Information* ("PI") by Critical Information Infrastructure* Operators ("CIIOs") or by data processors processing PI over 1 million individuals;

- PI of 100,000 individuals or sensitive PI of 10,000 individuals accumulatively since January 1 of the previous year; or
- Other circumstances prescribed by the CAC. (Art.4, the Measures for the Security Assessment)

Basic obligations

- Risk assessment required: self- assessment for risks of data cross- border transfers prior to filing for the CAC Security Assessment; (Art.5, Art.8 of the Measures). The self- assessment report for risks of cross- border transfers, shall be prepared strictly in accordance with the CAC Template at the Data Cross-border Transfer Security Assessment Filing Guide (1st edition);
- Data processing agreement to be concluded by the data processor and the overseas recipient. Submission of relevant materials for filing as required. (Art.6, the Measures)

When will the transfers become compliant

- Receive validation for passing the Security Assessment by the CAC. The validity lasts for 2 years unless any re- filing required. (Art.14, the Measures)

Legal reference

CSL, Art.37, DSL, Art.31 and PIPL, Art.36, 38 and 40; Measures for the Security Assessment of Data Cross-border Transfer, effective as of Sep 1, 2022

CN SCCs (Effective as of Jun 1, 2023)

Applicable scope (Personal information only)

Shall meet the following cumulative criteria:

- Not CIIOs;
- Processing PI less than 1 million individuals;
- Not reaching PI of 100,000 individuals accumulatively for cross-border transfers since January 1 of the previous year; and
- Not reaching sensitive PI of 10,000 individuals accumulatively for cross-border transfers since January 1 of the previous year.

And if any other circumstances prescribed by the CAC (Art.4, the Measures for CN SCCs)

Basic obligations

- PIA required: Shall prepare the PIA report, in strict accordance with the Template at the Filing Guide for Standard Contract for Cross- border Transfer of Personal Information (1st edition) issued by the CAC. (Art.5, the Measures for CN SCCs)
- Filing required: Shall, within ten working days after the effective date of the CN SCCs, file with the cyberspace administration at the provincial level: the CN SCCs concluded; PIA report. (Art.7, the Measures for CN SCCs)

When will the transfers become compliant The cross-border transfers of PI at issue shall only be carried out until the CN SCCs concluded enter into force, also the CAC validates the filing of such transfers from supervisory perspective. (Art.6, the Measures for CN SCCs)

Comparison with EU SCCs

- Do not distinguish processing relationships(e.g., modules of C-C, C-P) in the text;
- Specify that the SCCs shall be concluded between a PI Processor* and the overseas recipient.

Legal reference

PIPL, Measures on Standard Contract for Cross-border Transfers of Personal Information, effective as of Jun 1, 2023, 6 month grace period.

Certification (Recommendatory guideline)

Applicable scope - (Personal information only)

- Intra-group cross-border transfer of PI among MNCs, subsidiaries or affiliates of the same business entity; The Chinese entity of the MNCs may be the certified body under this scenario and bear legal liabilities; or
- Extra-territorial application of the PIPL pursuant to Art.3.2 of the Law. Specialized agencies or designated representatives established in China for entities subject to the PIPL pursuant to Art.3.2 of the Law may be the certified body under this scenario and bear related legal liabilities (Art.2, the Specification V2.0)

Basic obligations

- Legally binding data processing agreements;
- Organizational management (Appointments of DPO, PI protection organizations, etc.);
- Rules for cross-border transfers abided by both PI processor and the overseas recipient;
- PIA, focusing on, in addition to potential risks of cross-border transfer, any third country data protection legislation including government access request, etc.
- Effective response to data subject request, provide substantial protection to data subject rights. (Art.5, Art.6, the Specification V2.0)
- When will the transfers become compliant
- Having approved by a qualified certification body, the validity certificate lasts for 3 years

Legal reference

PIPL, Practice Guideline for Cybersecurity Standards- Specification for Security Certification of Cross- Border Transfers of Personal Information V2.0 by the TC 260

FAQs

What is “cross-border transfer”?

Data cross-border transfer refers to Important Data or PI collected and generated by a data processor during operation within the territory of China being transferred overseas or being accessed by overseas institutions, organizations or individuals. key points: 1) Data type: Important Data or PI collected and generated in domestic operations; 2)Method: physical transfer and remote access; 3)“Overseas”: other countries/regions outside Mainland China, including Hong Kong SAR, Macao SAR and Taiwan; 4) Parties: Data exporter discloses by transmission or otherwise makes the data, subject to this processing, available to data importer.

How to understand the “threshold”?

- 1 million- “data processors processing PI over 1 million individuals”: the overall volume of data processed by the data processor, including data of customers, users, employees, etc. For group companies, it is generally considered that the volume of individuals shall be calculated separately for various entities.
- 100,000, 10,000- “cross-border transfer of PI of 100,000 individuals or sensitive PI of 10,000 individuals accumulatively since January 1 of the previous year”: it is believed that if the same data processor involves in providing PI to different recipients, the volume involved should be calculated cumulatively.

About localization?

- On one hand, CIIOs with PI and Important Data collected and generated during its operation

within the territory of the People's Republic of China are subject to localization requirements and shall pass the CAC Security Assessment when truly necessary to provide such data overseas for business purposes.

- On the other hand, there is no necessary correspondence between CAC Security Assessment and data localization by current laws and regulations. With reference to consultation with the CAC, if a company triggers the CAC Security Assessment, it shall conduct the filing as required and the data cross-border transfers can only be carried out lawfully after passing the Security Assessment. The filing for the CAC Security Assessment does not necessarily lead to data localization requirements.
- Processing of Important Data by data processors also do not necessarily fall within the localization requirement, unless as otherwise stipulated by laws and regulations such as the Several Provisions on Automotive Data Security Management (for Trial Implementation) for auto sector and other regulated sectors.

Relationship between binding legal documents and the CN SCCs.

The binding legal documents required under the CAC Security Assessment and the Certification, from legal nature, differ from the CN SCCs, as the CN SCCs is one of the cross-border transfer regulatory mechanism under the PIPL. Though in the context of data cross-border transfer, the CN SCCs may overlap with abovesaid legal documents on the value orientation and certain contents for protecting the rights and interests of data subjects, etc. It shall be noted that legal documents under the Assessment may entail Important Data protection which cannot be found in the text of the CN SCCs.

Whether the CN SCCs or the Certification?

The Certification is relatively a long-term mechanism for regular data transfers for scenarios especially of intra- group processing activities and can count as a relatively stable and continuous mechanism. The Certification Mechanism to certain extent is similar to the binding corporate rules (“BCRs”) under the GDPR which shares similar requirements such as legally binding agreements, organizational management; rules for cross-border transfers, etc. The CN SCCs, as opposed to the Certification, can be a more flexible transfer tool, suitable for relatively short-term, temporary cross-border transfers or continuous transfers with various kinds of business partners based on relatively simple and clear processing purposes, etc.

Compliance advice

1. Overall strategy for data cross-border transfers

Stringent data cross-border transfer regulation will be the continuous supervision focus. Time for companies to develop overall strategy has come as the fundamental laws as well as the supplemental rules have been settled for implementation. With respect to the applicability of the Chinese data protection regime with respect to the data cross-border transfers at issue, please note that due to the extra-territorial effect of related legislation, companies concerning processing of personal information of individuals residing within the territory of China during business operation could fall within the regulatory scope, irrespective of whether or not the companies are established in China.

2. Data inventory, identification of data cross-border transfer scenarios

Carry out data stocking taking in combination with various business scenarios, e.g., with respect to volume, scope, type, sensitivity, etc. of PI transferred, purpose, method of cross-border transfers, overseas systems, etc. Conduct self check with respect to high risk points such as identification of Important Data, CII determination, etc., put prior focus on business lines with over 1 million users, or Important Data, etc.

3. Choose cross-border transfer mechanism

Choose the appropriate cross-border transfer mechanism as stipulated by the laws closely based on the factual situations of the processing at question and company operations.

4. Risk assessment and rectification

Self assessment with respect to risks of cross-border transfers is required for all cross-border transfer mechanisms.

- Conduct self-assessment for risks of data cross-border transfers (before any rectification)
- Make rectification accordingly, including legal bases, compliance management, technical and organizational measures, compliance policies, data processing agreements, etc.
- Self-assessment after rectification, combined with the status quo of business and compliance control after compliance rectification.

5. Implementation of the cross-border transfer mechanism selected

File for CAC Security Assessment;

Conclude the CN SCCs and file accordingly; or

Apply for Security Certification of Cross- Border Transfers of Personal Information.



13. Critical Network Equipment and Specialized Cybersecurity Products List Updated in China

On 3 July, CAC, MIIT, MPS, and CNCA jointly released the 2023 edition of the **Catalogue of Critical Network Equipment and Specialized Cybersecurity Products** (hereinafter referred to as the "Catalogue"). The 2023 Catalogue designates 38 network products subject to mandatory Critical Network Equipment and Specialized Cybersecurity Products Certification (hereinafter referred to as the "CNESCP certification").

The first edition of the Catalogue was released in 2017, with the aim of supporting the implementation of Article 23 of the Cybersecurity Law, which stipulates that critical network equipment and specialized

cybersecurity products shall be certified, or meet the requirements of security inspection prior to being sold or provided to the Chinese market. The 2017 edition of Catalogue identified 4 critical network equipment and 11 specialized cybersecurity products subject to CNESCP certification; minimum technical parameters for compliance were specified. The 2023 edition of the Catalogue, instead, removes the minimum technical parameters of the specialized cybersecurity products, and at the same time adds 20 new specialized cybersecurity products. Consequently, the 2023 Catalogue now contains 4 critical network equipment and 34 specialized cybersecurity products. The full list is provided below:

No.		Categories of Equipment /Products	Product Scope or Description
1	Critical Network Equipment	Routers	Throughput of the Whole System (Bi-direction) ≥ 12 Tbps; Routing Table Capacity of the Whole System $\geq 550,000$ pieces
2		Switches	Throughput of the Whole System ≥ 30 Tbps; Packet Forwarding Rate of the Whole System ≥ 10 Gbps
3		Servers (Rack)	Number of CPUs ≥ 8 ; Number of Cores of a Single CPU ≥ 14 ; Memory Capacity ≥ 256 GB
4		Programmable Logic Controllers (PLC Equipment)	Controller Instruction Execution Time ≤ 0.08 ms
5	Specialised Cybersecurity Products	Data Backup and Recovery Products	Products that can back up and restore the data of an information system and manage the backup and recovery process.
6		Firewalls	Products that analyze data flow and implement access control and security protection functions.
7		Intrusion Detection Systems (IDS)	Products that use network packets as data source, and monitor and analyze all packets of protected network nodes to find abnormal behaviors.

No.		Categories of Equipment /Products	Product Scope or Description
8		Intrusion Prevention Systems (IPS)	Products that are deployed on a network in the form of a bridge or gateway, detect network behaviors with intrusion characteristics by analyzing network traffic, and intercept them before they pass into the protected network.
9		Network and Terminal Isolation Products	Products that establish security control points and provide controllable access services between different network terminals and network security domains.
10		Anti-spam Products	Software or combinations of software and hardware that can identify and process spams, including but not limited to anti-spam gateways, anti-spam email systems, anti-spam software installed on mail servers, and anti-spam products integrated with mail servers.
11		Network Security Auditing Products	Products that collect recorded and activity data of networks, information systems, and their components, and store and analyze such data for incident traceability and detection of security violations or anomalies.
12		Network Vulnerability Scanning Products	Software, or a combination of software and hardware, that detect possible security weaknesses in a target network system by the means of scanning.
13		Secure Database Systems	Database systems that follow a complete set of system security policies from all stages of system design, implementation, use and management, with the aim to ensure data security at the database level.
14		Website Data Recovery Products	Products that provide website data monitoring, anti-tampering, and realize data backup and recovery and other security functions.
15		Virtual Private Network products	Products that establish dedicated secure transmission channels on a public communication network such as Internet.
16		Anti-virus Gateway	Products that are deployed between networks, analyze the communication between the network layers and the application layers, and protect against viruses on the network based on predefined filtering rules and protection policies.
17		Unified Threat Management Products (UTM)	Gateway devices or systems that adopt a unified security policy and integrate multiple security functions to comprehensively defend against security threats to networks and application systems.
18		Virus Control Products	Products that are used to detect or prevent the spread of malicious code as well as the tampering, theft and destruction of the applications of host operating system and user files.
19		Secure Operating System	Operating systems that follow a complete set of security policies covering system design, implementation, and use, with the purpose of ensuring system security at the operating system level.

No.		Categories of Equipment /Products	Product Scope or Description
20		Secure Network Storage	Dedicated storage devices connected to a server over a network based on different protocols.
21		Public Key Infrastructure	An infrastructure that supports public key management and provides authentication, encryption, integrity, and non-repudiation services.
22		Cybersecurity Situation Awareness Products	Products that collect network traffic, asset information, logs, vulnerability information, alarm information, threat information and other data, analyze and process network behaviors, user behaviors, and other factors, grasp network security state, predict network security trend, and conduct display, monitoring, and early warning.
23		Secure Management Platforms of Information System	Platforms that implement unified management of the security policy of information system as well as the security mechanisms in the secure computing environment, security area boundary and secure communication network that execute the policy.
24		Network Flow Control Products	Traffic management systems that monitor data flow and control bandwidth on the network in security domains.
25		Load Balancing Products	Products that provide functions of link load balancing, server load balancing, network traffic optimization, intelligent processing, etc.
26		Information Filtering Products	Products that screen and control text, pictures and other network information.
27		Denial-of-Service Attacks Resistance Products	Products used to identify and intercept denial of service attacks and ensure system availability.
28		Terminal Access Control Products	Products that provide access control function for terminals accessing network
29		USB Mobile Storage Media Management Systems	Products that implement management measures like identity authentication, access control, and audit, etc., to a mobile storage device, so as to realize trusted access between the mobile storage device and the host device.
30		File Encryption Products	Products used to prevent attackers from stealing data stored in files and other forms, to ensure the security of stored data.
31		Data Breach Prevention Products	Products that conduct control and audit for the main output channels of sensitive information in security domains to prevent unauthorized disclosure of sensitive information in the security domains.
32		Data Destruction Software Products	Products that use information technology to eliminate logic underlying data to completely destroy the data carried by a storage media
33		Security Configuration Check Products	Products that realize security configuration and compliance analysis for assets based on security

No.		Categories of Equipment /Products	Product Scope or Description
			configuration requirements, and generate security configuration suggestions and compliance reports.
34		Operation and Maintenance Security Management Products	Products that implement single sign-on, centralized authorization, centralized management, and audit during the maintenance of important assets of information system
35		Log Analysis Product	Security products that collect log data from information systems, while storing and analyzing data centrally.
36		Identity Authentication Product	Products that require users to provide identification information based on electronic information or biological information, and confirm the identity of the users.
37		Terminal Security Monitoring Products	Products that monitor and control the security of a terminal, detect and block unauthorized use of the system and network resources
38		Electronic Document Security Management Products	Products that produce secure electronic documents or convert electronic documents to secure electronic documents, and manage, monitor, audit them in a unified manner.



Electrical and Electronics

14. MIIT Launched New NAL Certification Mark

On June 25, MIIT published notice to initiate new mark for the China Network Access License (NAL) Certification for Telecommunications Equipment.

NAL Certification is a mandatory requirement for telecom products which are within the NAL product categories announced by MIIT.

The new mark will come into force on July 1, 2023. Enterprises can either make application to MIIT for the new mark, or continue using old mark during the period from July 1 to December 31, 2023. MIIT will no longer issue old mark since January 1, 2024, but those that are still in their period of validity will keep valid till the expiration date.



BESTAO Reviews and Translations

15. English Translation Available! China RoHS 2.0 Catalogue, Exemption List and FAQ

In January 2016, 8 Ministries including the MIIT and the AQSIQ, which later merged into the State Administration for Market Regulation (SAMR), jointly published the final revised version of the Administrative Measures for the Restriction of Hazardous Substances in Electrical and Electronic Products (more commonly known as China RoHS 2.0 or China RoHS II).

The new regulation came into effect on 1 July 2016. China RoHS II expanded product scope from electronic information products to cover electrical and electronic products with voltage rating <1,500 V DC and <1,000 V AC which are dependent on electric currents or electromagnetic fields, plus their auxiliary products.

Then in 2018, Ministry of Industry and Information Technology (MIIT) issued two important files under China RoHS II: *Compliance Management Catalogue of China RoHS II (First Batch)* and *Exemptions List of Compliance Management Catalogue of China RoHS II (First Batch)*. They have entered into force on 12 March 2019.

Products listed in the Compliance Management Catalogue must comply with the China RoHS hazardous substance restriction limits unless they fall into the Exemption List. The exemption list includes 39 applications for lead, cadmium, mercury and hexavalent chromium in electrical and electronic products.

BESTAO has translated the three critical documents of China RoHS 2.0 in English:

- Compliance Management Catalogue of China RoHS II (First Batch)

With 6 pages and 1651 words, file available with preview at:

https://www.bestao-consulting.com/detail?id=1169&status=bestao_library

- Exemptions List of Compliance Management Catalogue of China RoHS II (First Batch)

With 6 pages and 1547 words, file available with preview at:

https://www.bestao-consulting.com/detail?id=1168&status=bestao_library

- English Version of Official FAQs on China RoHS II - 2016

With 23 pages and 7433 words, file available with preview at:

https://www.bestao-consulting.com/detail?id=1187&status=bestao_library

16. English Translation - CNCA-C09-01 2023 CCC Implementation Rules - Electronic Products and Safety Accessories

Price: USD 98.00

Page: 17

Number of Words: 3720

Releasing Unit: The Certification and Accreditation Administration of China (CNCA)

For preview or purchase of this document, please visit:

https://www.bestao-consulting.com/detail?id=1502&status=bestao_library

17. English Translation Available – New Edition of GB 19517 for the Safety of Electrical Equipment

Price: USD 80.00

Page: 30

Number of Words: 8958

Mandatory national standard "GB 19517-2023 National technical specification for the safety of electric equipment" was released in May 2023 and will come into force in June 2024.

GB 19517 is so-called China's "Low Voltage Directive". It lays down the market access requirements for almost all low voltage electric equipment. Any product that doesn't follow the requirements of this standard will face huge compliance risk in China, including hefty fine or denied access.

GB 19517-2023 stipulates the basic safety requirements for various types of electrical equipment intended for indoor and outdoor use, including handheld, portable, and fixed equipment, with an AC rated voltage of 1000V (1140V) or below and a DC rated voltage of 1500V or below.

For preview or purchase of this document, please visit:

https://www.bestao-consulting.com/detail?id=1306&status=bestao_library

18. English Translation – Regulations of the People's Republic of China on Certification and Accreditation (draft for Comments)

Price: USD 120.00

Page: 19

Number of Words: 10197

On July 13, 2023, the State Administration for Market Regulation issued the draft of Regulations of the People's Republic of China on Certification and Accreditation to call for public comments. The call-for-comment period ends on July 29, 2023.

BESTAO has translated the full text into English for the convenience of global stakeholders.

Regulations of the People's Republic of China on Certification and Accreditation (Call for Comments)

With 19 pages and 10197 English words, file available with preview as below.

For preview or purchase of this document, please visit:

https://www.bestao-consulting.com/detail?id=1494&status=bestao_library

About BESTAO Consulting

Founded by senior experts with solid industry experience, BESTAO Consulting provides regulatory compliance solutions across a wide range of industries to our global clients who wish to enter Chinese markets. Our areas of expertise include Government Affairs, Industry Policies, Technical Standards and Regulations, Certification and Market Access, and Translation Services.

Accessing the Chinese market has become increasingly more important for overseas companies of all kinds and having a better understanding of the requirements to enter this large and complex market will give you the advantage over your competition. BESTAO Consulting can help you understand the Chinese regulatory environment to quickly and effectively gain access to the Chinese Market.

What We Offer:

- The government affairs team supports our clients in identifying key stakeholders in China to build connections and improve business development.
- Our consulting team helps our clients understand China's legal framework, technical regulations, standardization system and certification schemes, including but not limited to CCC, China RoHS, Medical Device Registration, and Special Equipment Certification. We advise our clients on market access requirements and draw comparisons between EU/US and China.
- Our intelligence collection team gathers up-to-date information on China's technical regulations and standardization in areas such as China Energy Labelling scheme, Green Design and Manufacturing policies, and Regulation Development of New Energy Vehicles, etc. We make sure that our clients stay informed on the latest developments in regulation and standardization.
- Our training team is dedicated to conducting workshops for Overseas companies on understanding key China Technical Regulations to facilitate their entry into Chinese markets.
- Our translation team provides high-quality English translation of laws and regulations, standards, and technical specifications.

For more information on how BESTAO can help your company enter and grow in the Chinese market, please contact us at:

BESTAO Consulting Co., Ltd.

Building No.5, Niuwangmiao, Chaoyang District
Beijing, 100102. P R China
Phone: +86 10 6599 6261
Fax: +86 10 6474 9117
Email: assistant@bestao-consulting.com
Website: www.bestao-consulting.com