

Model Contract for Data Transfers Between the Ukraine and USA

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In response to questions about the ability to use non-Ukrainian cloud storage services, the Ukrainian data protection authority recently released a new guidance. In the guidance, the Ukrainian data protection authority (The State Service on Personal Data Protection) confirmed that Ukrainian data controllers can store data in foreign databases, including in databases located in the US. Although the Ukraine is not a member of the European Union, it has restrictions on exporting data outside of the Ukraine, just as exist under the EU Privacy Directive. In particular, the Ukraine permits companies to export to others if they are signatories to the Council of Europe's Convention for the Protection of Individuals with Regards to Automatic Processing of Personal Data. The US is not a signatory. As a result, there are difficulties in exporting data to the US. However, as clarified in the guidance, data can be moved to the US (including stored in the cloud) if a suitable agreement is put in place. Such agreements place obligations on the data importer, and include protections for the data subjects, similar to the EU "Model Contract." To help with transfers, the American Chamber of Commerce in the Ukraine prepared [a model agreement, available to business in English as well as Ukrainian.](#)

TIP: This new model contract will be helpful for US cloud service companies doing business in the Ukraine, or for US businesses with Ukrainian operations that wish to have data housed in the US.

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