

Companies are required to store and process personal data of Russian citizens in Russia

July 2015

This alert contains important legal information about data privacy for all Crown clients with offices or staff in the Russian Federation.

New legislation will take effect on September 1, 2015. It will require any database used to collect data about Russian citizens to be located in Russia. This alert provides a brief introduction to the law and its compliance requirements.

Russian Federal Law 242-FZ, "On Amendments to Certain Legislative Acts of the Russian Federation for Clarification of the Procedure of Personal Data Processing in Information and Telecommunications Networks," was adopted on July 21, 2014. This law was due to take effect on September 1, 2016, but on December 1, 2014, Russian president Putin signed a bill bringing the deadline forward one year to September 1, 2015.

Definitions

Under the law, a "data operator" is anyone who collects personal data on Russian citizens. Data operators must record, store, update, change and retrieve such data within the Russian Federation. "Personal data" is defined as any information directly or indirectly related to any identified or potentially identifiable person (i.e., Russian citizens in Russia). The law is silent on the collection of personal data of foreign nationals resident in Russia or of Russian citizens living outside Russia.

Scope

Federal Law 242-FZ applies to all Russian corporations, as well as Russia-based branches of foreign corporations, who collect or process personal data on Russian citizens. A foreign corporation that does not have physical offices in Russia, but collects personal data on Russian citizens and provides online services in Russia may be subject to the law.

Database

The law has a very expansive definition of a database that extends from paper records to personnel files, electronic databases and computer servers. Federal Law 242-FZ requires the primary processing of personal data on Russian citizens to take place in Russia. The law does not appear to prohibit mirror copies of servers or the cross-border transfer of data to other countries. However, the law mandates a consent requirement by the data subject prior to processing the individual's personally identifiable information (PII).

Enforcement

The Federal Service for Supervision in the Area of Telecom, Information Technologies and Mass Communications (Roskomnadzor) is the Russian agency charged with registering data processors and enforcing the law. Prior to processing personal data of Russian citizens, a data processor must initially register with Roskomnadzor. Data processors must also notify Roskomnadzor of the location of their servers within the Russian Federation.

Violation

Any organization that violates the rules may pay fines of up to RUB 300,000 (US\$ 5,370). At present, we are unsure whether this amount is charged per data or per incident. By having access to all the domain names of the data processors, Roskomnadzor can highlight the domain names of non-compliant organizations. Non-compliant organizations may have their access to Russian Internet networks blocked. This can be easily achieved because the data centers are based in Russia.

Conclusion

The Internet Ombudsman has requested president Putin to allow Russian data to be alternatively housed in Europe. We are unaware whether a response has been made to this request.

In addition, on July 13, the Moscow Times reported that "Kremlin spokesman Dmitry Peskov confirmed a proposal had been made to push back the deadline and that Putin had ordered a review of whether businesses should have more time to comply."

At present, the assumption is that every organization doing business in Russia should prepare for implementation of the new legislation on September 1, 2015.

In order to comply with Federal Law 242-FZ, Crown is already in the process of setting up physical servers in Russia to collect and store personal data on its clients that are Russian citizens.

Please discuss the details of this alert and your corporate needs directly with your Crown Account Manager as soon as possible. They will provide you with a clear understanding of how Crown plans to make your organization timely compliant with the law.

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Please note that this alert is intended for general awareness only and should not be relied upon as legal advice. Please contact your legal counsel to discuss your organization's specific needs in relation to Federal Law 242-FZ prior to taking any action.

