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The Cross-Border Data Transfer Playbook

How Legal Teams Move Data Across Jurisdictions Without Losing Defensibility

WHAT'S INSIDE
A practical framework for moving data across borders without losing defensibility.

PART 1

Why It Matters

The stakes of cross-border data transfer in modern eDiscovery.

Introduction

Cross-border transfer in eDiscovery is no longer a purely technical task. It is a legally and operationally complex process shaped by evolving privacy regulations, increasing data volumes, and heightened regulatory scrutiny. Organizations must ensure that data movement is not only efficient, but also secure, compliant, and defensible.

Purpose of This Guide

This guide provides a structured framework for managing data transfers across the eDiscovery lifecycle, covering each phase from early case assessment through secure transmission, processing, review, and final disposition.

Who This Guide Is For

Legal, privacy, compliance, forensic, and eDiscovery professionals responsible for overseeing or executing data transfers, particularly in cross-border matters.

Key Takeaways

Readers will gain the ability to:

- Navigate the data transfer lifecycle and its critical control points
- Identify and assess jurisdictional and regulatory risks
- Apply defensible transfer, minimization, and security practices
- Align transfer decisions with downstream processing and review
- Maintain documentation that supports chain of custody and defensibility

Core Principle

Data transfer is a defensibility-critical process, not a standalone task. A structured, lifecycle-based approach ensures data movement supports legal and investigative objectives while reducing regulatory and operational risk.

This guide reflects Lineal's experience managing cross-border data transfers for corporations, law firms, and government entities across five continents. For Lineal clients, the workflows here align with our processing and review capabilities using RelativityOne and the Amplify™ suite.

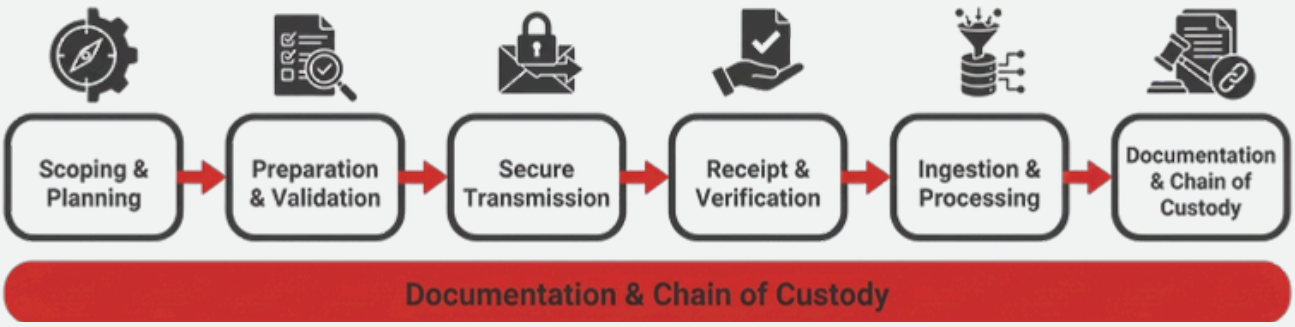
PART 2

The Framework

How to think about cross-border data movement, from lifecycle to jurisdictional risk.

The eDiscovery Data Transfer Lifecycle

Effective data transfer in eDiscovery is not a one-time task. It is a structured lifecycle that spans from initial identification through final ingestion. Each stage maintains data integrity, ensures defensibility, and preserves chain of custody.



Scoping and Transfer Planning

The lifecycle begins with clearly defining the scope of the transfer: source systems, custodians, data types, expected volume, and any legal or regulatory constraints, especially those related to jurisdiction or cross-border movement. Technical considerations such as bandwidth, file size limitations, and time sensitivity must also be accounted for.

Early collaboration between Legal, IT, and Forensic teams is essential. Without proper planning, organizations risk incomplete data collection, redundant transfers, or compliance issues that may require costly remediation later.

Data Preparation and Validation

Before any data is moved, it must be prepared in a way that preserves its original structure and evidentiary value. This typically involves finalizing exports, confirming dataset completeness, generating logs, and where appropriate hashing files to create verifiable fingerprints.

Validation is equally important. Teams must ensure the data aligns with the defined scope and identify anomalies such as corrupted files, missing custodians, or incomplete exports. Maintaining original file formats and metadata is critical, as any alteration can undermine defensibility.

Secure Transmission

Data must be transferred using secure methods appropriate to its sensitivity and size: SFTP, encrypted cloud platforms, APIs, or in some cases encrypted physical media. Security must be enforced throughout the process, including encryption in transit and at rest, multi-factor authentication, restricted access controls, and activity logging. For large datasets, segmented transfers may be necessary. The transfer method must align with any regulatory or geographic restrictions identified during planning.

Receipt and Integrity Verification

Once data is received, its integrity and completeness must be verified immediately. This involves comparing file counts, validating hash values, testing archive integrity, and reviewing transfer logs. Any discrepancies should be documented and escalated promptly.

Ingestion and Processing Alignment

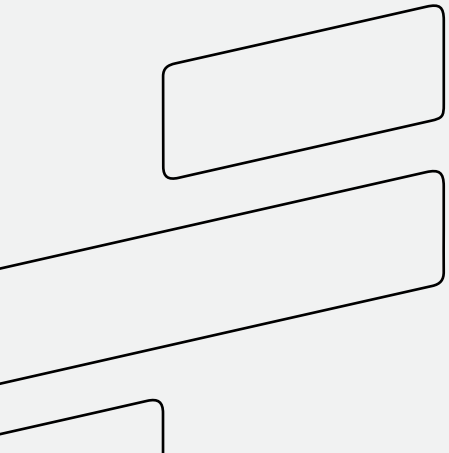
After validation, the data is prepared for ingestion into a review or analytics platform. At this stage, maintaining a clean, untouched copy of the original dataset is essential.
Proper organization of the data, such as separating custodians or preserving source-level groupings, supports defensible reporting. Capturing ingestion timestamps and system processing logs ensures audit readiness.

Documentation and Chain of Custody

Documentation is a continuous requirement throughout the lifecycle. A defensible record should capture the scope of the transfer, preparation steps, hash values, transfer methods, timelines, and all individuals involved. Without it, organizations risk challenges to the integrity of their evidence in litigation or regulatory contexts.

Why a Lifecycle Approach Matters

Treating data transfer as a structured lifecycle, rather than a single technical step, significantly reduces operational and legal risk. Poorly managed transfers can lead to incomplete datasets, corrupted files, metadata loss, or even regulatory violations, particularly in cross-border matters. These issues jeopardize defensibility, increase review costs, and can expose sensitive or privileged information.



Early Case Assessment & Data Mapping

Early Case Assessment (ECA) is a foundational control point in the eDiscovery data transfer lifecycle. Before any data is collected, exported, or moved across systems or jurisdictions, organizations must understand what data exists, where it resides, who controls it, and which legal frameworks apply.

Approaching these questions upfront, rather than reacting later, reduces regulatory risk, prevents unlawful transfers, and avoids costly re-collection efforts. In cross-border matters especially, defensibility begins not at the point of transfer, but at the point of understanding.

Understanding Where Data Resides

Modern enterprise data environments are highly distributed, often spanning cloud platforms, on-premise systems, regional data centers, portable devices, and third-party providers. Identifying "where data lives" requires more than naming a system.
Organizations must distinguish between local storage (such as a cloud tenant or application) and physical hosting location (such as a specific geographic region or data center). Cloud environments frequently replicate data across regions for redundancy, which can unintentionally trigger cross-border transfer considerations. Establishing both system location and underlying hosting region is essential.

Mapping How Data Moves

Data rarely exists in isolation. It is created, shared, synchronized, and replicated across multiple systems, often without full visibility. A structured data flow analysis should trace how data is generated, where it travels, whether it is copied to other environments such as mobile devices or third-party systems, and any risks of changes during copying or extraction.

This process often reveals hidden repositories, shadow IT systems, and cross-border replication pathways that may otherwise go unnoticed.

Accounting for Hosting Region Constraints

The geographic location of data, particularly where it is physically hosted, often determines whether a transfer is considered "international" under applicable law. Transferring EU-hosted data to the United States may invoke GDPR requirements, while data stored in China may be subject to strict export controls under local laws.

Organizations must assess not only primary hosting regions but also backup locations, disaster recovery systems, and the role of any sub-processors. Overlooking these factors can result in unintended violations, even within a single enterprise environment.

Determining Applicable Legal Frameworks

Cross-border data transfers are often governed by overlapping regulatory regimes, including international frameworks such as GDPR, national laws like U.S. state privacy statutes, or sector-specific regulations such as HIPAA. Which laws apply depends on the location of the data subject, where the data is stored, where it is being transferred, and the nature of the data itself.

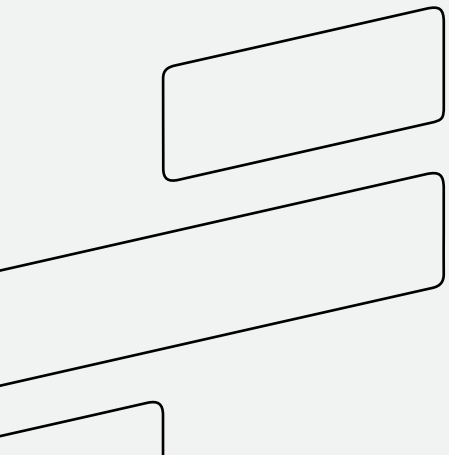
Legal teams must assess whether additional safeguards, such as contractual clauses, risk assessments, or regulatory approvals, are required before transfer.

Establishing a Defensible Pre-Transfer Record

A key outcome of ECA is a documented record demonstrating that risks were identified and evaluated before any data movement occurred. This includes confirming data location, ownership, sensitivity, jurisdictional implications, and any regulatory constraints. This record strengthens defensibility by showing that the organization acted deliberately and in accordance with applicable legal requirements.

Why Early Assessment Matters

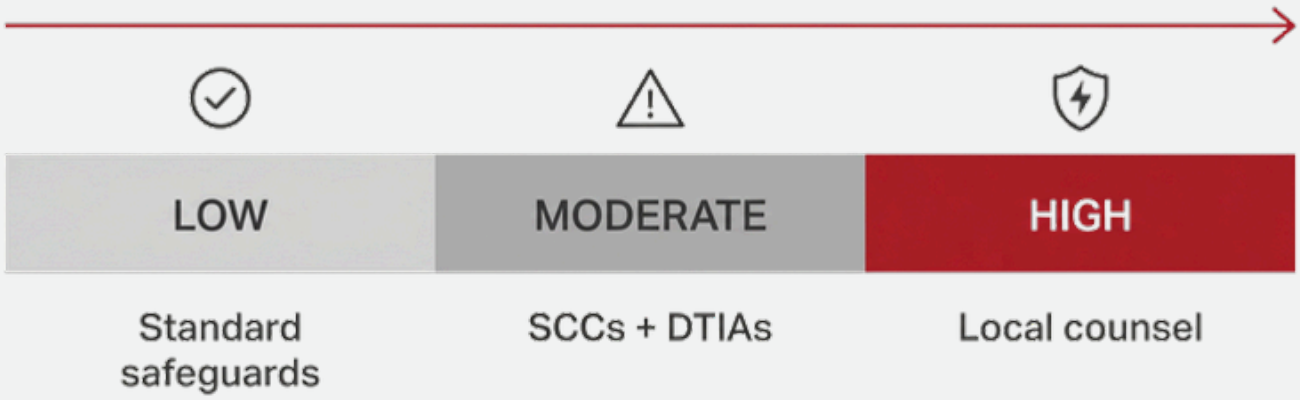
Skipping or rushing ECA introduces significant risk. Organizations may unknowingly violate data transfer restrictions, overlook sensitive data, or trigger regulatory obligations that delay proceedings. In modern eDiscovery, particularly in cross-border contexts, front-loading defensibility is not optional. It is foundational.



Jurisdictional Risk & Lawful Transfer Mechanisms

Cross-border data transfers introduce regulatory and legal risk that can directly impact litigation timelines, defensibility, and corporate exposure. Managing these risks demands a structured approach to assessing jurisdictional constraints, categorizing risk, and applying appropriate legal safeguards before any data is moved.

Categorizing Transfer Risk



Not all cross-border transfers carry the same level of risk. A threshold step is determining whether the data falls into a low, moderate, or high-risk category.

Lower-risk transfers typically involve non-personal or minimally sensitive business data, particularly when moving between jurisdictions with aligned regulatory frameworks or recognized adequacy decisions. These generally require standard contractual safeguards but not extensive regulatory scrutiny.

High-risk transfers involve personal data (especially employee information) or sensitive categories such as health, financial, or government-related data. Transfers originating from jurisdictions with strict localization laws, or involving regulated industries like healthcare, finance, or defense, also fall into this category. These often require formal legal analysis, enhanced contractual protections, transfer impact assessments, and in some cases regulatory filings or escalation to local counsel.

Selecting Lawful Transfer Mechanisms

Once risk is assessed, organizations must determine the appropriate legal mechanism. For EU-origin data, Standard Contractual Clauses (SCCs) remain a primary tool, paired with operational safeguards such as encryption, access controls, and Transfer Impact Assessments where required. Adequacy frameworks offer a simpler pathway between jurisdictions deemed equivalent, but their validity must be confirmed at the time of transfer.

Multinational organizations may also rely on intra-company agreements or Binding Corporate Rules, which require consistent global implementation and clear governance. Where third-party vendors are involved, Data Processing Agreements, hosting locations, and sub-processor activity must be reviewed to prevent unintended downstream exposure.

Addressing Blocking Statutes and Legal Restrictions

Certain jurisdictions impose data localization laws, national security regulations, or blocking statutes that can limit or prohibit the transfer of data in response to foreign legal demands.

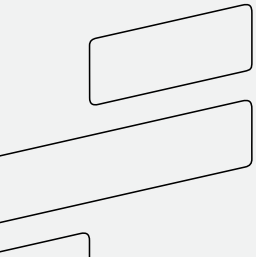
These constraints are most likely to surface in matters involving government-related entities, sensitive industries, or large-scale employee data, and failing to account for them can expose organizations to civil, criminal, or administrative penalties. When red flags appear, escalation to local counsel is strongly recommended.

The Role of Local Counsel

Local counsel plays a key role in navigating jurisdiction-specific risks. Their assessment can determine whether a transfer is legally permissible, whether regulatory notifications or approvals are required, and whether additional measures such as anonymization or data localization must be implemented. Engaging local expertise early helps organizations avoid missteps that delay proceedings or create legal exposure.

Works Council and Employee Considerations

In many jurisdictions, particularly within Europe, transferring employee data can trigger labor and works council obligations. Organizations must determine whether the transfer constitutes a change in monitoring or data processing practices, and whether consultation is required under local labor agreements. This may involve formal notice, meetings, and defined response periods, and failing to incorporate works council timelines into the overall transfer plan can lead to delays, disputes, or even injunctions that halt data transfers.



PART 3

The Controls

How to execute defensibly: minimization, secure transfer, processing, hosting, and review.

Operationalizing Data Minimization

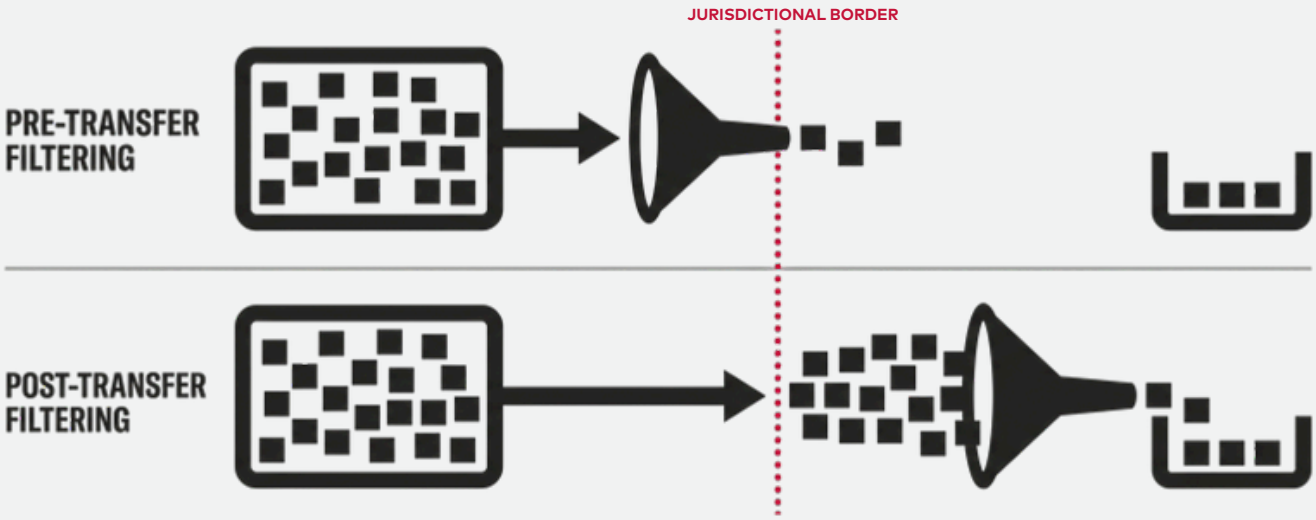
Data minimization is a critical risk control. Transferring more data than necessary increases cross-border exposure, regulatory scrutiny, cost, and downstream review burden. Minimization must be applied deliberately, supported by defensible methods, and clearly documented. At its core, minimization is about moving only what is necessary while maintaining the integrity and defensibility of the dataset.

Targeted Scoping from the Outset

Effective minimization begins before any data is collected. The initial scope should ensure that only relevant data enters the process. This starts with custodian selection. Rather than defaulting to broad organization-wide collections, efforts should focus on individuals with a direct connection to the matter. Documenting why custodians are included or excluded strengthens defensibility.

Applying timelines that align with the underlying events, ideally at the source, reduces irrelevant data early. Restricting data types and sources ensures that only relevant systems, applications, and file categories are included. Excluding non-responsive or system-generated data can significantly reduce volume, but these exclusions must be validated to avoid omitting relevant information.

Balancing Efficiency with Defensibility



One key consideration is whether filtering occurs before or after transfer. Pre-transfer filtering is often preferable in cross-border matters because it reduces the amount of data exposed to foreign jurisdictions. It requires reliable tools and careful documentation to ensure accuracy.

Post-transfer filtering allows for more advanced analytics but increases regulatory exposure by moving a larger dataset across borders. Where jurisdictional risk is high, prioritizing pre-transfer controls is the more prudent approach.

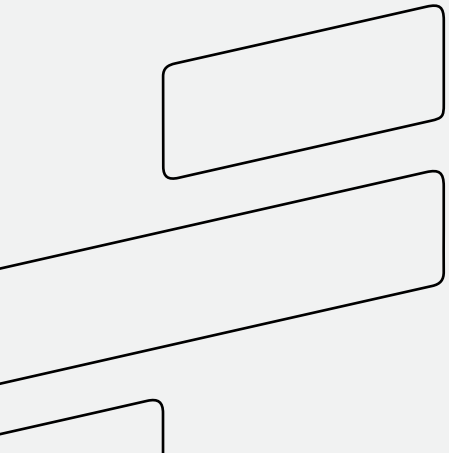
Early-stage culling techniques, including keyword filtering, date restrictions, deduplication, and removal of known system files, can significantly reduce data volume when applied thoughtfully. Maintaining clear records of filtering criteria is essential to demonstrate that these steps were applied consistently and reasonably.

Validating Scope Through Iteration

Minimization should not be treated as a one-time decision. Conducting limited pilot exports before full-scale transfer allows teams to assess data composition, identify sensitive or unexpected content, and confirm that filters are working as intended. If sampling reveals over-collection or regulatory risk, the scope can be adjusted before proceeding further.

Why Minimization Matters

Over-collection is one of the fastest ways to create cross-border risk. Moving excessive data increases compliance obligations and raises the likelihood of exposing sensitive, privileged, or regulated information.



Secure Transfer Controls

Secure transfer controls are a fundamental component of defensible cross-border movement. Encryption, transfer protocols, access governance, and data segregation must be aligned before any data is moved. Applying security controls after transfer introduces unnecessary risk.

Encryption as a Baseline Requirement

Encryption must protect data both in transit and at rest. During transmission, all data should move through encrypted protocols such as SFTP, HTTPS-based portals, or secure API connections, never through unencrypted email or open file-sharing links. At rest, hosting environments must apply industry-standard encryption (such as AES-256), secure storage containers, and managed key controls, with the same protections extended to backups.

Selecting the Right Transfer Method

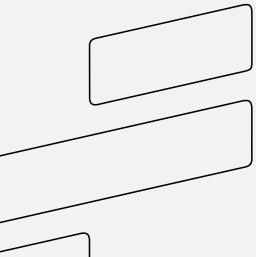
The method should match the size, complexity, and risk profile of the dataset. Secure file transfer protocols (such as SFTP or encrypted portals) suit structured exports and moderate volumes, while API-driven transfers are better for larger or cloud-based datasets, enabling system-to-system movement and stronger metadata preservation. Data may also be transferred directly into a review or analytics environment to reduce duplication and accelerate processing, but only where encryption, chain-of-custody tracking, and jurisdictional compliance are fully verified.

Enforcing Access Controls

Security does not end once data is transferred. Role-based access should limit visibility to authorized individuals, with administrative privileges restricted and monitored. Multi-factor authentication, strong password policies, and session controls should be mandatory across all systems hosting transferred data. Where cross-border considerations apply, geographic access restrictions such as geo-fencing or IP-based controls add an additional layer of protection.

Segregating Data to Reduce Exposure

Separating datasets by jurisdiction, matter, custodian, or sensitivity reduces commingling risk and limits exposure during audits or regulatory inquiries. For high-risk jurisdictions or sensitive datasets involving employee data or regulated industries, organizations should consider separate hosting environments. Logical "ring-fencing" within environments supports targeted review and stronger defensibility.



Processing, Hosting & Review Controls

Once data has been securely transferred, the focus shifts to how it is processed, hosted, and reviewed. This stage is where regulatory compliance, defensibility, and operational efficiency intersect. Decisions here directly impact legal risk, cost, and integrity of the evidence.

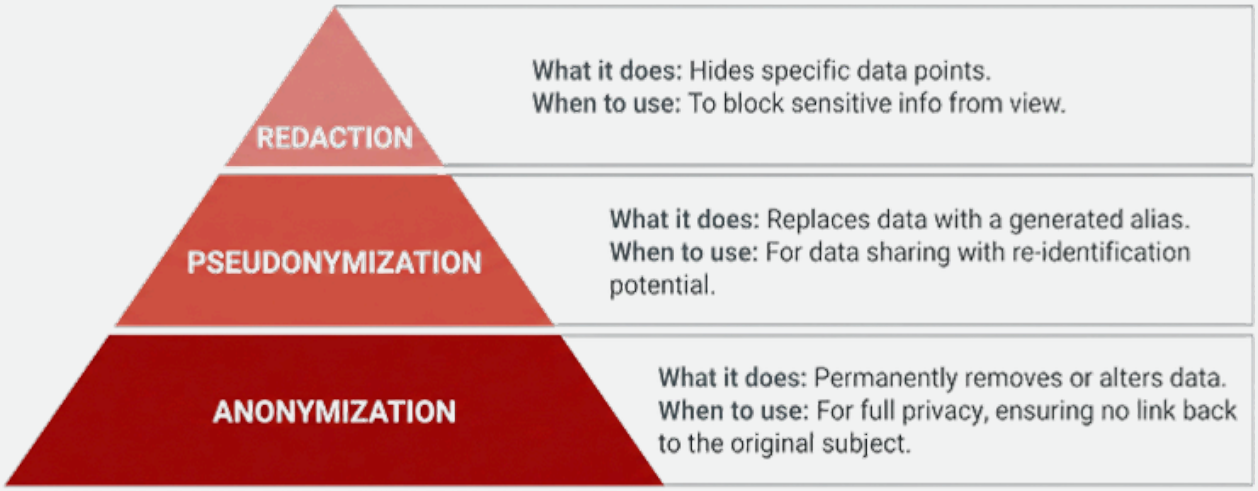
Processing Location Strategy

Before ingestion begins, organizations must determine where data will be processed, aligned with earlier jurisdictional risk assessments and the sensitivity of the dataset. Processing data within its originating jurisdiction is often the most conservative approach. It reduces cross-border exposure, simplifies compliance, and mitigates risks tied to blocking statutes or localization laws, particularly for high-risk datasets such as employee information or regulated industry data. A centralized processing environment can improve efficiency and reduce infrastructure duplication, but introduces cross-border implications and requires that lawful transfer mechanisms already be in place and validated.

Hosting Strategy and Regional Considerations

Hosting decisions require understanding not only the primary data center location but also backup regions, disaster recovery configurations, and any sub-processors involved. Cloud environments often replicate data across regions by default, which can create unintended cross-border transfers if not properly configured. Organizations should confirm hosting configurations in advance and document all hosting decisions as part of the defensible record.

Redaction and Privacy Controls



When datasets contain personal or regulated information, redaction becomes a critical control. Redaction workflows should be applied consistently, preserve document integrity, and maintain a clear audit trail. Automated tools improve efficiency but must be validated through sampling and reviewer oversight.

In cross-border scenarios, redaction can also be used strategically to limit exposure, allowing broader access to sanitized datasets while protecting sensitive information. More advanced privacy techniques may be appropriate: anonymization removes identifying information entirely, while pseudonymization replaces it with coded references that can be reversed under controlled conditions. Both can reduce regulatory risk and facilitate compliant review.

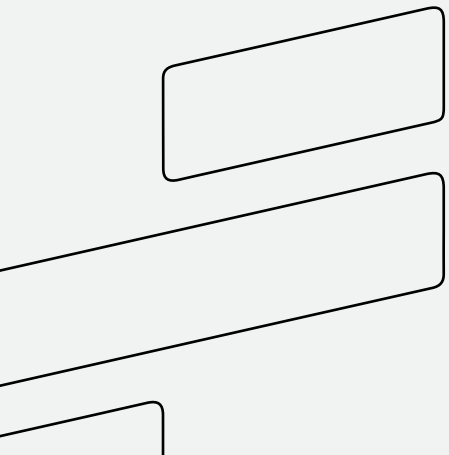
Audit Logging and Oversight

Comprehensive audit logging is essential to maintaining defensibility throughout processing and review. Systems should capture user access, administrative actions, data exports, redactions, and permission changes. These logs provide transparency into how data was handled and can be critical in responding to regulatory inquiries or legal challenges. In cross-border matters, logs should be retained for the duration required by the most restrictive applicable jurisdiction and protected against tampering.

Controlling Review Access and Location

Where and how data is reviewed is just as important as where it is hosted. Before granting access, organizations should confirm the geographic location of review teams, ensure alignment with hosting regions, and enforce appropriate access restrictions.

In cross-border matters, additional controls may be necessary, including limiting access to redacted datasets, implementing geo-fencing or IP-based restrictions, or assigning region-specific review teams. Review personnel should be subject to confidentiality requirements and security training. Organizations should also recognize that granting reviewers in other jurisdictions access to personal data may itself constitute a regulated transfer, even when the underlying data does not physically move.



PART 4

Proving It Was Done Right

Documentation, defensibility, and disposition. The proof layer that holds everything together.

Documentation & Defensibility

Technical controls alone do not establish defensibility. What ultimately demonstrates that a cross-border transfer was lawful, proportionate, and appropriately safeguarded is clear, contemporaneous documentation that explains not just what was done, but why.

Data Transfer Impact Assessments

For certain cross-border transfers, a formal Data Transfer Impact Assessment (DTIA) is required before execution, particularly where personal data moves outside adequate jurisdictions, where SCCs are relied upon, or where data originates from regions with strict localization or surveillance concerns. A defensible assessment outlines the nature of the data, purpose, destination, applicable legal framework, safeguards implemented, and any residual risk. Where uncertainty exists, escalation to privacy counsel is advisable.

Chain of Custody and Transfer Records

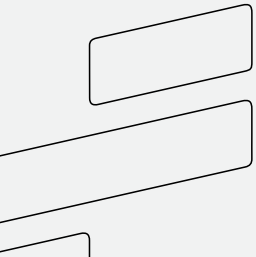
Documentation should track data movement from export through receipt and storage, including methods used and individuals responsible at each stage. Transfer logs should capture timestamps, file counts, data volumes, and access activity. Where feasible, hash values generated at export and validated upon receipt provide objective verification that data has not been altered in transit.

Processing Documentation and Scope Control

Processing logs should document the criteria used to filter and reduce data, including search terms, date restrictions, deduplication methods, and any technology-assisted review tools applied. If adjustments are made based on sampling or regulatory considerations, organizations should record the rationale, decision-maker, and impact on the dataset to demonstrate that minimization was deliberate and proportionate.

Decision Documentation for High-Risk Transfers

For higher-risk transfers, decision memoranda should articulate why the transfer was necessary, why alternatives were not feasible, and how risks were mitigated through safeguards and minimization. Well-reasoned documentation can be critical in responding to regulatory inquiries or judicial scrutiny.



Domestic Transfers & Regulated Industries

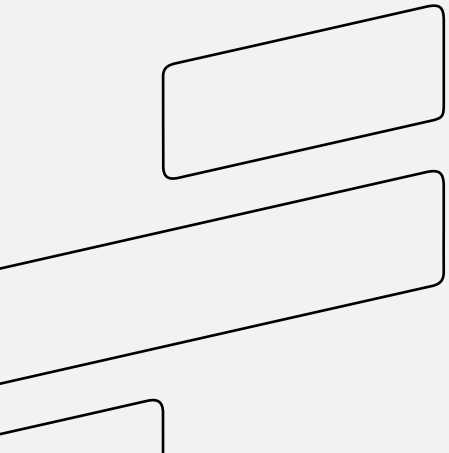
Data transfer risk is not limited to cross-border matters. Domestic transfers, particularly within the United States, can still trigger privacy, regulatory, and industry-specific obligations. Organizations must assess legal exposure before movement, processing, or centralized hosting, even when data remains within a single country.

U.S. Privacy and Sector-Specific Requirements

State privacy laws including those of California, Virginia, Colorado, and a growing list of others apply to domestic data movement, with obligations triggered by personal data, vendor engagement, or repurposing for litigation or investigation. Organizations should confirm which state laws apply based on the residency of the data subjects, not just the location of the data. HIPAA imposes strict requirements where health-related data is involved, including Business Associate Agreements, encryption, access controls, and adherence to the "minimum necessary" standard. Financial institutions face similar scrutiny under the GLBA, FINRA, and SEC frameworks.

Domestic transfers involving government, defense, or critical infrastructure data may be subject to additional restrictions, including export controls, federal security requirements, and U.S.-person review limitations. Educational records under FERPA and consumer credit data under the FCRA carry their own transfer and disclosure constraints that often go overlooked in litigation contexts.

Treating domestic transfers as low-risk by default can create exposure. The same disciplined approach that governs cross-border movement applies here: identify applicable frameworks, implement safeguards, align hosting and access controls, and document decisions.



Post-Matter Disposition

Post-matter disposition is one of the most overlooked stages in the data transfer lifecycle. Once a matter concludes, organizations must determine whether transferred data should be retained, returned, archived, or securely destroyed. Without a structured approach, unnecessary data may persist, creating ongoing regulatory, legal, and cybersecurity exposure. Defensibility does not end when the matter ends. It extends to how data is handled afterward.

Retention and Legal Obligations

Retention decisions should be driven by legal and regulatory requirements, not convenience. Organizations must consider whether a legal hold remains in place, whether recordkeeping obligations apply, and whether contractual terms require continued retention. Retention periods should be clearly defined, justified, and documented, and should not default to indefinite. Where multiple jurisdictions are involved, retention practices should align with the most restrictive applicable requirements.

Secure Deletion and Data Removal

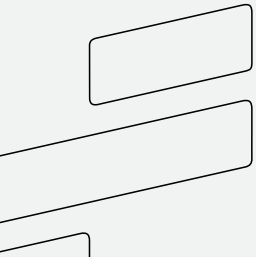
When data is no longer required, deletion must be secure, complete, and verifiable. This includes removing data from primary systems, decommissioning transfer locations, and revoking user access. Where feasible, deletion should also extend to backup environments. Secure deletion methods such as cryptographic wiping should be used to ensure data cannot be reconstructed. Deletion should be documented, not assumed. Without proof of destruction, organizations may still be considered to be in possession of the data.

Return vs. Destruction

Where third-party data is involved, contractual obligations may require that data be returned rather than destroyed. Organizations should confirm whether original datasets must be provided back to the client, whether hosted copies must be deleted, and whether certification of destruction is required. All disposition decisions should align with contractual terms and be clearly documented.

Documentation and Confirmation

Every disposition action should generate a clear record. Documentation should capture when data was deleted or returned, which systems were affected, who performed the action, and how the data was handled, including any impact on backups. Confirmation logs ensure that organizations can demonstrate compliance if questioned later.



PART 5

Putting It Into Practice

What it actually takes to coordinate, execute, and partner on cross-border matters.

Practical Implementation Framework

A defensible cross-border data strategy requires coordination. The most successful matters integrate legal, technical, and operational stakeholders from the outset.

What Successful Teams Do

Obtain advice from Privacy Counsel at the outset.
Privacy analysis should precede export. Early involvement helps confirm lawful transfer mechanisms, assess localization risks, address works council obligations, and approve minimization controls before data moves. Engaging privacy counsel after data has been collected often means redoing work or accepting risk that could have been avoided entirely.

Engage Forensic & Technical Leads.
Technical feasibility must inform legal strategy. Forensic and IT leads validate hosting regions, encryption standards, filtering capabilities, and transfer protocols. Decisions grounded in system realities reduce failure risk and rework. Without this input, legal strategies can collapse against constraints that were knowable from day one.

Align Review Strategy to Transfer Constraints.
Review planning should reflect jurisdictional limitations. This may include regional hosting, geo-restricted review teams, phased access, or pre-review redaction. Transfer and review strategies must operate in alignment, not as sequential decisions made by different teams. Misalignment here is one of the most common causes of mid-matter regulatory exposure.

Maintain Documentation Discipline.
Defensibility depends on contemporaneous records. Effective teams document risk assessments, scope decisions, filtering logic, chain of custody, and key transfer justifications. Documentation should be created during the process, not reconstructed later. Regulators and courts give significantly more weight to records that show reasoning at the moment of decision than to retrospective explanations.

Coordinated Legal, Technical, & Operational Support

	Privacy Counsel	Forensic & Technical	Review	Documentation & QC
Scoping & Planning	●	○	○	○
Preparation & Validation	○	●	●	○
Secure Transmission	○	●	□	○
Receipt & Verification	□	●	□	●
Ingestion & Processing	□	●	●	○
Post-Matter Disposition	●	○	□	●

● Primary responsibility ○ Supporting role □ Not directly involved

Cross-border data movement is inherently multidisciplinary. Privacy counsel, forensic specialists, IT, and review teams each manage part of the risk profile.

When these functions operate in coordination rather than sequentially, organizations achieve early identification of regulatory exposure, technically validated transfer pathways, controlled minimization, secure hosting and access governance, and clear, defensible documentation.

The objective is alignment. Structured collaboration ensures that data movement remains lawful, proportionate, secure, and defensible from initiation through disposition.

Partner with Lineal for Cross-Border Data Transfers

Cross-border data transfers require more than a technical playbook. They require a partner with the infrastructure, regulatory experience, and operational discipline to execute defensibly across jurisdictions.

What Lineal brings to cross-border transfers:

- Global infrastructure with regional hosting in the US, Europe, Middle East, and Asia Pacific
- SOC 2 Type 2, ISO 27001, Cyber Essentials+, and APEC PRP certifications
- Amplify™ suite for data-centric processing, culling, and review within RelativityOne
- Experience with Chinese data export controls, GDPR transfer mechanisms, and multi-jurisdictional investigations
- Forensic collection across enterprise cloud systems, mobile devices, chat platforms, and social media
- 24/7 global support with follow-the-sun coverage

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Have a Cross-Border Matter on Your Hands?

Talk to Lineal's team about how we can help.

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