

The Global Trust in American Online Services Act

Billions of people around the world have entrusted their data to U.S. technology companies. The U.S. receives enormous economic, political, and national security benefits from the worldwide success of our tech industry. One of the factors that contributed to this success is global trust in the U.S. legal system, which, prior to the 2018 CLOUD Act, ensured that governments could only force companies to disclose their customers' sensitive data when ordered by a judge.

Congress enacted the CLOUD Act in 2018, which enables foreign countries to obtain data directly from U.S. firms, bypassing the U.S. legal system, once they enter into an agreement with DOJ. However, the CLOUD Act failed to require foreign countries to adopt the same due process requirements long guaranteed under U.S. law, putting global trust in U.S. firms at risk.

The Global Trust in American Online Services Act addresses serious flaws in the CLOUD Act, to ensure that U.S. technology companies can continue to maintain the trust of their international customers, and that the U.S. can compete, globally, as a safe place for data. The legislation:

- Requires judicial approval, from a judge in that country, for CLOUD Act orders for user data. Currently, under the CLOUD Act, judges are optional, and foreign government officials can directly demand data from companies.
- Allow U.S. providers to challenge foreign CLOUD Act orders in U.S. federal court.
- Require foreign governments to notify surveillance targets after the investigation is over. The government can request an initial delay of up to 90 days, and can seek unlimited extensions, following the standards used by U.S. law enforcement under the Wiretap Act.
- Limits when a foreign government can use CLOUD Act orders to obtain data on residents of third countries without telling those third countries. Requires notice to the third country and 7 days to object if that third country has [enacted](#) the Budapest Convention on Cybercrime. Russia and China have refused to enact this treaty.
- Limit “gag” orders to companies to 180 days, which foreign courts can extend, preventing them from disclosing the existence of a CLOUD Act order, following the same standard used when U.S. law enforcement seek non-disclosure orders.
- Permit U.S. providers to seek compensation from foreign governments for the costs incurred in complying with CLOUD Act orders, similar to the compensation providers can currently obtain from U.S. law enforcement.
- Prevents foreign governments from using the CLOUD Act to require U.S. providers to adopt specific designs for products, reduce the security of a product, or deliver malware to a customer.
- Enables countries that have not yet signed a CLOUD Act agreement with the U.S. to pay an optional “express lane” fee for Mutual Legal Assistance Treaty (MLAT) requests. These requests will be processed by additional DOJ personnel paid for with those fees, rather than waiting to be processed by the current team at DOJ paid by U.S. taxpayers, for which there is a lengthy backlog.
- Requires Congressional approval of CLOUD Act agreements, rather than the current disapproval mechanism, and enables oversight by requiring that each agreement sunset after five years, rather than lasting indefinitely.