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## EY Law Alert

### A Brief Overview of Changes in the Procurement of Software and Electronic Industry Products under State Contracts for 2023 and 2025

In this release, we would like to draw your attention to the changes introduced by Order No. 829/HK of the Minister of Digital Development, Innovations and the Aerospace Industry of the Republic of Kazakhstan dated 20 December 2024 to Order No. 53/HK of the Minister of Defense and Aerospace Industry of the Republic of Kazakhstan “On the Approval of the Rules for the Formation and Maintenance of the Register of Trusted Software and Electronic Industry Products, as well as the Criteria for the Inclusion of Software and Electronic Industry Products in the Register of Trusted Software and Electronic Industry Products” dated 28 March 2018 (the **“Rules for the Formation and Maintenance of the Registry”**).

The key changes address the requirement to obtain an industrial certificate that specifies a localization ratio of at least 80% for software and at least 30% for electronic industry products. A more detailed description of the changes is provided below.



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# I. General Requirements for the Procurement of Software and Electronic Industry Products

The Law on Informatization defines the **registry of trusted software and electronic industry products** as a list of software and electronic industry products that meet information security criteria, established for ensuring the country's defense and state security (the "**Registry**")<sup>1</sup>.

For implementing the requirements for information security for the country's defense and state security, software and electronic industry products are procured from among the

goods and information and communication services included in **the Registry**, in accordance with the Law on Informatization and the legislation of the RK on state procurement, as well as procurement by certain entities of the quasi-state sector<sup>2</sup>.

**Restrictions:** If the necessary product is not available in the Registry, its procurement is permitted in accordance with the legislation of the RK on state procurement and procurement by certain entities of the quasi-state sector<sup>3</sup>.

## II. Historical Background on the Criteria for Inclusion of Software and Electronic Industry Products in the Registry

### ▪ Until 2023

The legislation of the RK provided a number of criteria for the inclusion of software and electronic industry products in the Registry, including, among other things, a requirement for the share of domestic value to be at least 70% for software and at least 20% for electronic industry products.

### ▪ 2023

By Order No. 179/HK of the Acting Minister of Digital Development, Innovations and Aerospace Industry of the RK dated 16 May 2023, the above domestic value requirements for both software and electronic industry products were eliminated.

Thus, at its meeting held on 11 July 2023, the Board of the Eurasian Economic Commission acknowledged that the barrier associated with imposing restrictions on the admission of certain types of products from EAEU countries to state

procurement in the RK had been removed from the internal market of the Eurasian Economic Union and excluded from the restrictions registry.

### ▪ 2024-2025

Order No. 829/HK of the Minister of Digital Development, Innovations and Aerospace Industry of the RK dated 20 December 2024 introduced industrial certification changes by requiring the entities to obtain **an industrial certificate indicating a localization ratio of no less than 80%<sup>4</sup> for trusted software and no less than 30%<sup>5</sup> for electronic industry products**.

These changes came into effect on 6 January 2025.

Accordingly, we understand that the requirements for the inclusion of software and electronic industry products in the Registry have been tightened up.

## III. Obtaining an Industrial Certificate and the Procedure for Inclusion of Software and Electronic Industry Products in the Registry

The issue of obtaining an industrial certificate is regulated by the Rules for the Formation and Maintenance of the Registry of Domestic Producers of Goods, Work, and Services, as well as for the Issuance of an Industrial Certificate (approved by Protocol No. 5 dated 19 March 2024 of the Presidium of the National Chamber of Entrepreneurs of the RK "Atameken"). A more detailed procedure for inclusion in the Registry and the issuance of an industrial certificate is provided on the website of the NCE RK "Atameken" at the following link: [Индустриальный сертификат](#).

As for the inclusion of software and electronic industry products in the Registry, in accordance with the legislation of the RK, the following documents must be submitted to the Ministry of Digital

Development, Innovations and Aerospace Industry of the RK (the "MDDIAI") via the e-government web portal ([www.egov.kz](http://www.egov.kz), [www.elicense.kz](http://www.elicense.kz)) as required by paragraph 9 of Appendix 2 to the Rules for the Formation and Maintenance of the Registry, which provide, inter alia, for the issuance of an industrial certificate indicating a localization ratio of at least 80% for trusted software and at least 30% for electronic industry products.

The period of review of the notification and documents is 14 business days. Based on the results of the review, the MDDIAI issues (i) a notification on inclusion of the software/electronic industry product in the Register, or (ii) a reasoned response on the refusal to provide the state service.

<sup>1</sup> Article 1.52-1 of the Law on Informatization.

<sup>2</sup> Article 54.3-1 of the Law on Informatization.

<sup>3</sup> Ibid.

<sup>4</sup> Paragraph 5.3 of the Rules for the Formation and Maintenance of the Registry.

<sup>5</sup> Paragraph 6.4 of the Rules for the Formation and Maintenance of the Registry.

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