



International Data Transfers

Is your organization ready for the privacy challenge?

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What is an international transfer?

- 1 A controller or a processor (“exporter”) is **subject to the GDPR** for the processing of personal data.
- 2 The personal data is **disclosed by transmission or otherwise made available** to another controller/processor (“importer”).
- 3 The importer is **located in a third country or is an international organization**.



The Schrems II Judgment

On 16 July 2020, the case known as Schrems II was published. In short, the European Court of Justice invalidated the Privacy Shield Decision used for EU-US data transfers. Moreover, the Court specified that **each individual organization is responsible for analyzing and ensuring an equivalent level of protection** (including onward transfers) for all the international data transfers.



Guidance from the EDPB

The European Data Protection Board (EDPB) has issued “Recommendations on Supplementary Measures” for international data transfers. It consists of:

- A **six-step roadmap** to ensure all personal data exported is covered by EU safeguards, including, but not limited to, mapping of international data flows, verification of data transfer tools, assessment of third country laws and supplementary measures (with possible related formal procedural steps) to remediate them. Additionally, it is important to re-evaluate the measures regularly.
- **Supplementary measures that** put forward a non-exhaustive list of **technical, organizational and contractual measures** to be used together with the existing data transfer tools, such as SCCs or BCRs.



Standard Contractual Clauses of the European Commission

The European Commission published modernized Standard Contractual Clauses (SCCs) for data transfers to third countries.

- **What?** The new SCCs provide for **four transfer scenarios or modules**: From controller to processor, and from controller to controller, as well as the new processor to controller and processor to sub-processor.
- **Consequences?** Highlighted responsibilities with respect to assessment of local laws, importer obligations in the context of government access and non-compliance with the SCCs.
- **Timeline?** The old SCCs need to be replaced by the new SCCs before 28 December 2022.
- **Scope?** Organizations that have vendors in their portfolio that are located and/or processing data outside of the EEA, using SCCs as their transfer tool.
- **Fines?** In line with the GDPR, there is potential for fines of up to 4% of the annual global turnover for non-compliance.

Roadmap to Compliance

Identification of Transfers

Identify transfers to non-EU/EEA third parties.

The first step is a data discovery exercise to **identify internal data flows** (i.e. data mapping) and **data exchanges with suppliers/vendors outside of the European Economic Area** (e.g. international data flows). Think about external exchanges (with third parties – and their subcontractors) and internal (intra-group) exchanges.

The Records of Processing Activities, contracts or vendor logs, as well as gathering information directly from the relevant teams, can be used to accomplish this.

Country Assessments

Analyze the local legislation of the recipient country.

For data exchanges outside of the EU/EEA, a **country assessment**, in the context of the specific transfer, needs to be performed and organizations need to consider, among others:

- the specific legislation and practices relevant for the transfer;
- the security and surveillance laws of the recipient country; and
- the difficulty of enforcing data subject rights.

Transfer Impact Assessments

Analyze the risks and prioritize.

Following step 2, a **risk assessment** needs to be performed and organizations need to consider, among others:

- the conclusion of the country assessment;
- the volume and types of data transferred;
- whether it is a continuous or a one-off transfer; and
- what safeguards are in place.

Prioritize following a risk-based classification to determine cases needing immediate attention for review and remediation activities.

Supplementary Measures

Once the risks have been identified and prioritized, we design **tailor-made remediation activities**, using the best specific solution for each case. Different types of measures will be identified and implemented:

- Legal (contractual) measures;
- Organizational measures; and
- Technical measures.

Governance & Monitoring

Regulatory changes or changes in the nature of the transfers need to be monitored. We offer a **governance model** to help organizations keep their transfers and related assessments up-to-date and accurate.

How KPMG can assist:

Privacy risk advisory

Privacy is not a stand-alone exercise. KPMG can help your Privacy team to work across the enterprise in order to successfully manage complex interdependencies with other programs and connect to strategic priorities for your business.

Privacy legal

KPMG Legal Services has a team of privacy lawyers who can work shoulder to shoulder with our advisory team delivering an integrated team, which is capable of providing the support you need to meet your requirements.

Privacy technology services

KPMG has over 5,000 Technology specialists globally, including deep integration experts to help embed Privacy Technology into your systems of record. We work together with OneTrust, a leading privacy platform, and global alliance partners to embed KPMG advice and expertise into leading digital platforms.

Contact us

Want to see how we can make a difference?



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