



Legitimising data transfers
under GDPR
after Schrems II

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## The journey to Schrems II





'the personal data of EU citizens sent to the US under the Safe Harbor may be accessed and further processed by US authorities in a way incompatible with the grounds on which the data was originally collected'

European Commission, November 2013





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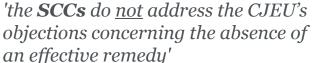
Data Protection Commissioner



















## Understanding the CJEU's decision and jurisprudence









### Undertaking a case by case Transfers Impact Assessment





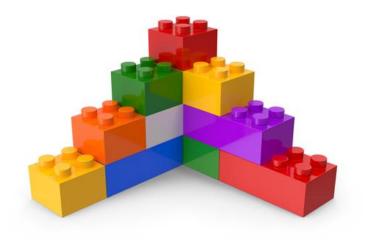


Nature of the international data transfers

Effect of government access to data

Legal and practical data protection measures

## Applying additional safeguards



#### Contractual measures

Appendix to IGA/DPA/SCC

### Organisational measures

- Data disclosure policy
- Transparency report

#### Technical measures

- Encryption
- Pseudonymisation
- Access controls

## Legitimising data transfers by contract post Schrems II



Identify international data transfers



Put in place suitable contract:

- IGA
- DPA
- New SCC

## Add additional safeguards.

#### APPENDIX

### ADDITIONAL SAFEGUARDS TO STANDARD CONTRACTUAL CLAUSES

- The data importer will assess whether the laws applicable to it provide adequate The data imposer was assess whether the larva approaches to a provider interest protection under European Union ("EU") data protection law. If and to the extent that it protection under European umon ( Eur ) case protection later, if also as the extent units in determines that any such laws are likely to have a substantial adverse effect on the level uterorimes that any short have also many to have a substantial extreme enters on the level of data protection offered by the Standard Contractual Clauses and required under of data protection of the standard Contractual Clauses and required under the contractual Clauses and contractual Cl or data protection owners by the consideral contractions unations and required unities. European data protection law, it undertakes to comply with the safeguards set out in
- The data importer undertakes to adopt supplementary measures to protect the personal fine case empores unuersaces to adopt suppremensary measures to protect the personnel data received under the Standard Contractual Clauses from the data exporter ("SCC oas received droot are standard Consectual Consectual transacts around an used exposed 1 over Personal Data") in accordance with the requirements of EU data protection law, including reasonal usal j in accordance wan the requirements or EU data protection law, including by implementing appropriate technical and organizational safeguards, such as encryption by inspersioning appropriate recommon and organizations sanignators, auon as encryption or similar schrologies, access controls or other compensating controls, to protect personal data against any interference that goes beyond what is necessary in a personal casa against any inserience avait gove projonal wrise to inser-democratic society to safeguard national security, defence and public security.
- In the event that the data importer receives a legally binding request for access to the in the events while the value impurities indicates a legistry unionly request for access or the SCC Personal Data by a public authority, it will promptly notify the data exporter of such Sour resonances or a punit assistance in majoranthy in the printipuly integrate used exponen in source request to enable the data exporter to intervene and seek relief from such disclosure. requests to ensure the outer exponen to menture and sees reas norm such assurance, unless the data importer is otherwise prohibited from providing such notice, such as a curies the data importer is otherwise prohibited from providing such notice, such as a unies ne data imponer is omenwise pronoted from providing such notice, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement
- It will use its reasonable best efforts to obtain the right to waive this prohibition in It was use to reprove the province of the region of the re be able to demonstrate that it did so.
- In the event that, despite having used its reasonable best efforts, the data importer is not permitted to notify the data exporter, it will make available on an imponer is not permitted to notify the data exponent, in the make available or an annual basis general information on the requests it received to the data exporter and/or the competent supervisory authority of the data exporter.
- Oppose any such request for access and contest its legal validity to the extent
- In the event of any request for access to the SCC Personal Data by a public authority, the
- comply with the Data Disclosure Policy specified in Annex XXX:
- not make any disclosures of the SCC Personal Data to any public authority that not make any oraconates or one ovur resource uses or any pound automaty that are determined to be massive, dispreportionate and indiscriminate in a manner are utermined to be measure, disproportionate and industriminate in that it would go beyond what is necessary in a democratic society; and
- upon request from the data exporter, provide general information on the requests upon request trum the data exponer, provide general information on the requests from public authorities it received in the preceding 12 month period relating to

International data transfers are a human necessity Data globalisation after Schrems II

Data
localisation is a
threat and
regulatory
scrutiny is real

Overcoming restrictions requires strategic approach to global data protection

Consistency of approach is key and EU standards are becoming global

# Any questions?



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