Legitimising international data transfers under GDPR after Schrems II

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- Restrictions on international data transfers
- Aimed at providing high level of data protection
- Limited mechanisms to legitimise data transfers
- A new approach as a result of *Schrems II*

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

An Coimisinéir Cosanta Sonraí — **Data Protection Commissioner**

U.S.•EU **SAFEHARBOR** U.S. DEPARTMENT OF COMMERCE

'*the **SCCs** do <u>not</u> address the CJEU's objections concerning the absence of an effective remedy*'

Privacy Shield Framework

Understanding the CJEU's decision and jurisprudence

Case by case assessment

Additional safeguards

Undertaking a case by case Transfers Impact Assessment
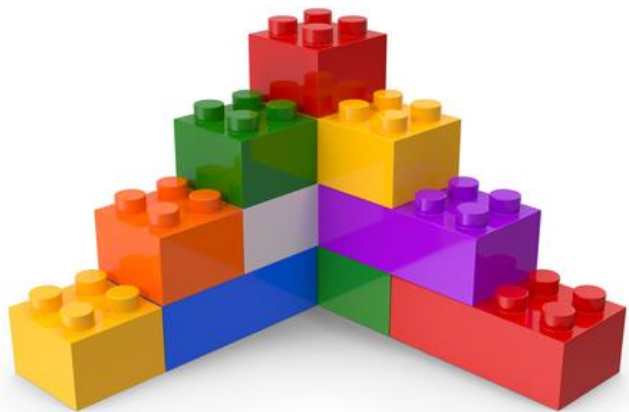

Nature of the international data transfers

Effect of government access to data
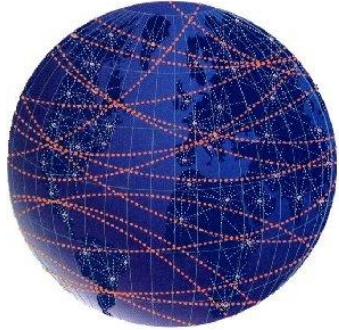
Legal and practical data protection measures

Applying additional safeguards

- **Contractual measures**
  - Appendix to IGA/DPA/SCC
- **Organisational measures**
  - Data disclosure policy
  - Transparency report
- **Technical measures**
  - Encryption
  - Pseudonymisation
  - Access controls

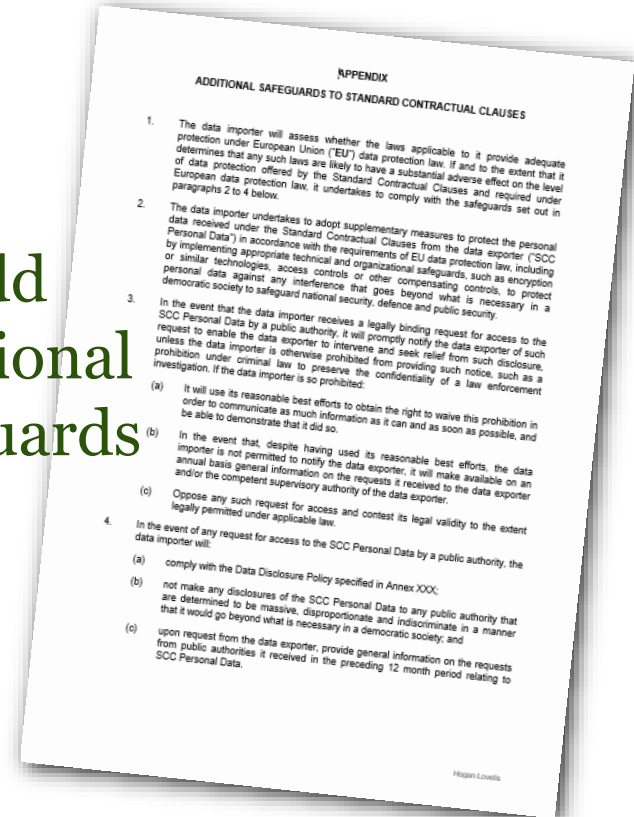# Legitimising data transfers by contract post *Schrems II*

Identify international data transfers

Put in place suitable contract:

- IGA
- DPA
- New SCC

Add additional safeguards

International data transfers are a human necessity

Data localisation is a threat and regulatory scrutiny is real

Data globalisation after Schrems II

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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