

International Data Transfer Procedure

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Title	International Data Transfer Procedure			
Description	To ensure the integrity and security of the data rights of the natural living person when any transfer of personal data which is undergoing processing or is intended for processing after transfer to a third country or to an international organisation.			
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Purpose

This procedure is designed to ensure the integrity and security of the data rights of the natural living person when any transfer of personal data which is undergoing processing or is intended for processing after transfer to a third country or to an international organisation shall take place only if, subject to the other provisions of the GDPR are complied with by the controller and processor, including for onward transfers of personal data from the third country or an international organisation to another third country or to another international organisation.

Prerequisites

Staff have received adequate training to process the transfer of data to third countries.

The organisation has access to the necessary resources.

The request contains information to perform validation.

The request contains actionable information.

The request pertains to ongoing processing.

All logs and checks are available to document the request.

Conditions

There is a need for the data to be transferred to a third country or a third country has made a request for data.

Outcomes

Data processed in a third country in a manner compliant with GDPR and the company's other obligations.

Definitions

Third countries – Countries that are not part of the EU. This includes international organisations.

The Commission - The European Commission is the EU's politically independent executive arm. It is alone responsible for drawing up proposals for new European legislation, and it implements the decisions of the European Parliament and the Council of the EU.

Process

Determining the principles for transfer to third countries sub-process

1. Check for an adequacy decision for the country on http://ec.europa.eu/justice/data-protection/international-transfers/adequacy/index_en.htm
2. Check for appropriate data protection safe guards in the form of:
 - a. A legally binding and enforceable instrument between public authorities or bodies.
 - b. Standard data protection clauses adopted by the Commission.
 - c. Standard data protection clauses adopted by a supervisory authority and approved by the Commission.
 - d. An approved code of conduct together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards.
 - e. An approved certification mechanism together with binding and enforceable commitments of the controller or processor in the third country to apply the appropriate safeguards.
 - f. An existing set of approved binding corporate rules between the company and the third party in the third country.
3. If steps 1 and 2 show that there is insufficient protections in place then binding corporate rules should be created and put in place. The rules must:
 - a. Be legally binding and enforced at all levels and between all parties.
 - b. Expressly confer enforceable rights on the data subjects.
 - c. Specify the structure and contact details of all members of the BCR.
 - d. Specify the categories of personal data, the type of processing, the types of data and countries involved.
 - e. Specify the legally binding nature, both internally and externally.
 - f. Specify the application of the data protection principles.
 - g. Specify the rights of the data subjects and how to exercise those rights
 - h. State the liability for breaches of these rules by the controller or processor.
 - i. Information about these rules is provided to data subjects
 - j. State the tasks of the data protection officers
 - k. Specify how to lodge a complaint
 - l. Define the mechanisms for ensuring the verification of compliance with these rules (e.g. audits)
 - m. Define the mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority.
 - n. Define the cooperation mechanism with the supervisory authority to ensure compliance by any member of the group
 - o. Define the mechanisms for reporting to the competent supervisory authority any legal requirements to which a member of the group is subject to in a third country which are likely to have a substantial adverse effect on the guarantees provided by these rules.
 - p. Specify the appropriate data protection training to personnel having permanent or regular access to personal data.
 - q. Approved by a competent supervisory authority

4. If steps 1 and 2 show that there is insufficient protections in place and it is not possible to implement binding corporate rules then the transfer can only take place if one of the following conditions are met:
 - a. The data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards.
 - b. The transfer is necessary for the performance of a contract between the data subject and the controller or the implementation of pre-contractual measures taken at the data subject's request.
 - c. The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between the controller and another natural or legal person.
 - d. The transfer is necessary for important reasons of public interest.
 - e. The transfer is necessary for the establishment, exercise or defence of legal claims.
 - f. The transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent.
 - g. The transfer is made from a register which according to Union or Member State law is intended to provide information to the public and which is open to consultation either by the public in general or by any person who can demonstrate a legitimate interest, but only to the extent that the conditions laid down by Union or Member State law for consultation are fulfilled in the particular case.

Managing processing for third countries sub-process

1. Processing in third countries should be protected by the Managing Outsourced Processing procedure.

Management and Review

This policy should be reviewed as scheduled once annually unless performance indicators, changes to legislation or the organisation necessitate it.

Last Review Date: 16/05/2018

Next Review Date: 16/05/2019