

Cyber-Security, Data Protection and Privacy

New mechanisms for transferring personal data outside of the United Kingdom

On March 21st, 2022, new mechanisms for transferring personal data from the UK to other countries entered into force.

Similarly to the GDPR, the UK GDPR requires implementing “appropriate safeguards” for the transfer of personal data outside of the UK, if the country to which such data is transferred is not covered by the UK “adequacy regulations”.¹ One of the most common safeguards is a contract incorporating standard data protection clauses recognized or issued in accordance with the UK data protection regime, known as “standard contractual clauses” or SCCs.

Until now, SCCs that were adopted by the European Commission in the years 2001 and 2010 (the “**Old EU SCCs**”) have been used for transfers of data from the UK. The Old EU SCCs were recently replaced by the European Commission with [new EU SCCs](#) (the “**New EU SCCs**”), thus creating ambiguity with respect to the international data transfer mechanism that would apply under the UK GDPR.

Against that background, new data transfer mechanisms have recently been introduced by the UK Information Commissioner’s Office (ICO). Those include an [international data transfer agreement](#) (“**IDTA**”), an international data transfer [addendum](#) to the New EU SCCs (the “**Addendum**”), and a document setting out transitional provisions. The aforementioned documents are in force as of **March 21st, 2022**, allowing data exporters and importers to rely on either the IDTA or the Addendum, at their choice, for transferring personal data outside of the UK.

Key points regarding the new mechanisms

The Addendum is a short document that facilitates data transfers outside of the UK based on the New EU SCCs, with a few minor modifications that are necessary to adjust the New EU SCCs to the UK GDPR. The Addendum is easy to use and the parties are only required to fill out their details and check the relevant boxes that apply to the processing. Accordingly, we assume that companies that already use the New EU SCCs for transferring personal data outside of the EU, will prefer using the Addendum for transferring personal data outside of the UK.

The IDTA is a “standalone” document intended to serve as the UK equivalent to the New EU SCCs, and contains comprehensive provisions with respect to data transfers outside of the UK. It applies only to extra-territorial transfers outside of the UK – thus requiring additional engagement in the New EU SCCs with respect to extra-territorial data transfers from the EU. The IDTA is divided into four parts – the first part contains tables to be filled out by the parties, mostly by checking the relevant boxes that apply to the engagement with respect to the details of the transfer and the transferred data; under the second part the parties can impose extra technical, organizational measures for the protection of data; the third part allows the parties to include relevant commercial clauses; and the fourth and last part includes mandatory clauses that will apply to the engagement.

How these changes may affect you

Starting **September 21, 2022**, organizations wishing to rely on standard contractual clauses for their UK data transfers will need to include either the IDTA or the Addendum in new contractual engagements.

Organizations that entered into the Old EU SCCs prior to **September 21, 2022**, will have until **March 21, 2024** to replace them with the IDTA or the Addendum.

Next steps

Organizations should map their transfers of personal data from the EU and the UK and make sure that they apply appropriate transfer mechanisms to each such transfer.

In addition to entering into the relevant standard contractual clauses, organizations must also carry out and document “transfer impact assessments”, and implement supplementary measures, to ensure that the actual protection provided by the relevant standard contractual clauses is sufficiently similar to that provided under the GDPR and/or UK GDPR.

Please feel free to contact us with any questions that you have on this matter.



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¹ Countries currently subject to [UK “adequacy regulations”](#) include, among others, European Economic Area countries and Israel.