

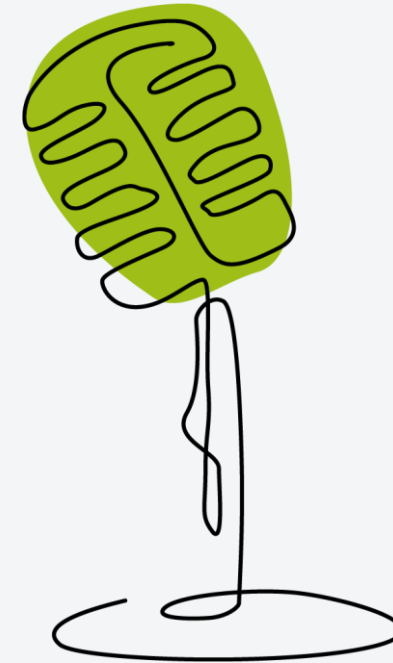


Welcome to the webinar

Demystifying International Data Transfers

DPN in partnership with

onetrust



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In partnership with OneTrust

onetrust

As society redefines risk and opportunity, OneTrust empowers tomorrow's leaders to succeed through trust and impact with the Trust Intelligence Platform.

The market-defining Trust Intelligence Platform from OneTrust connects privacy, GRC, ethics, and ESG teams, data, and processes, so all companies can collaborate seamlessly and put trust at the center of their operations and culture by unlocking their value and potential to thrive by doing what's good for people and the planet.

www.onetrust.com

Our panel



Simon Blanchard
Partner
Data Protection
Network Associates



Robert Bond
Senior Counsel
Privacy Partnership



Marco Barone
Senior Counsel, Data
Privacy, Center of
Excellence
OneTrust



Julie Varcoe-Cocks
Data Protection Officer
Serco



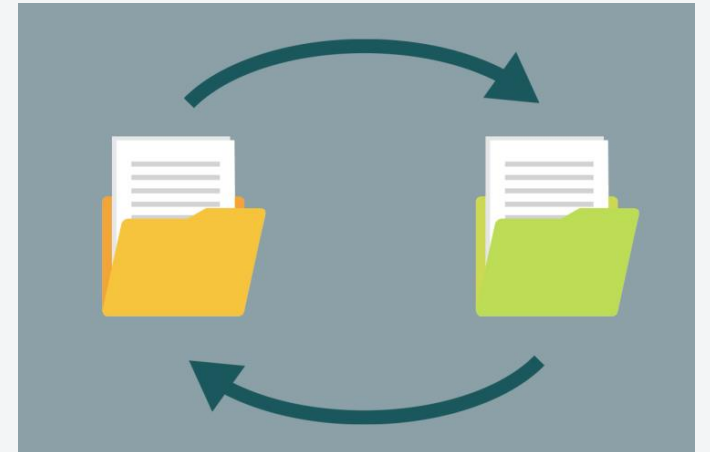
Debbie Venn
Partner
DMH Stallard LLP

International Data Transfers

International data transfers are restricted under UK/EU GDPR

Specific safeguards are required for 'restricted transfers' under UK / EU GDPRs:

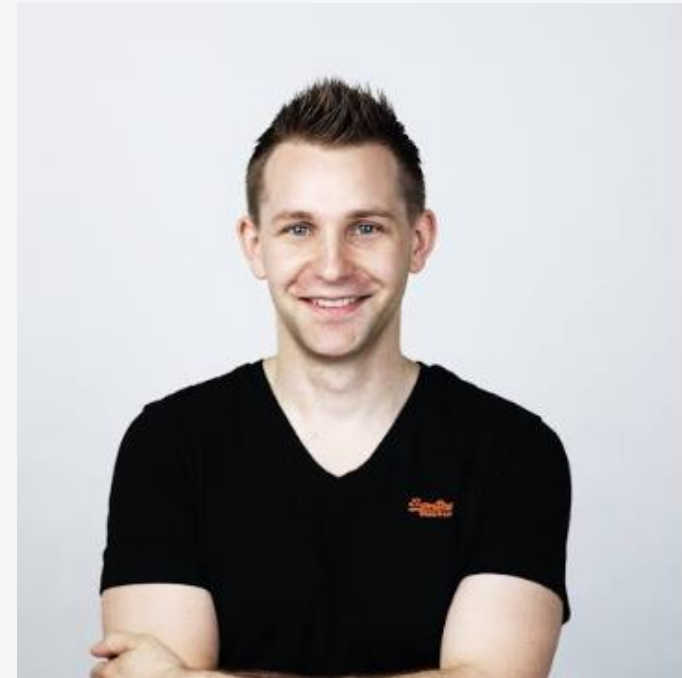
- ✓ Sending personal data from the UK / EU to another country
- ✓ Making personal data accessible to a receiver outside the UK
- ✓ Intra-group transfers
- ✗ Sending or giving access to someone employed by your company (legal entity)
- ✗ Routing via other countries, where there is no intention data will be accessed or manipulated



How did transfers to US get so complicated?

- 🕒 **2015** ‘Schrems I’ – fallout from the Snowden revelations re US intelligence agencies accessing communications data led to the demise of ‘Safe Harbor’
- 🕒 **2016** EU-US Privacy Shield came into effect
- 🕒 **2020** ‘Schrems II’ – Privacy Shield was ruled invalid and Standard Contractual Clauses (SCCs) found to be flawed

A key issue is US intelligence agencies access to and ability to intercept personal data

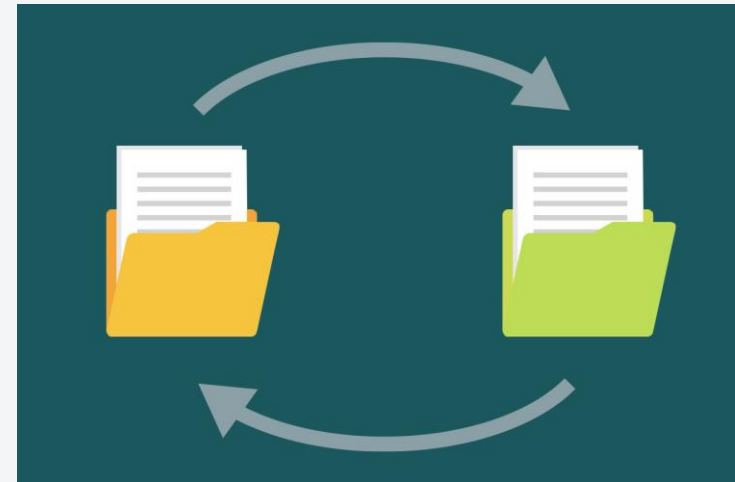


Austrian privacy activist Max Schrems

Schrems II decision

Case C-311/18 – Data Protection Commissioner v Facebook Ireland Limited and Max Schrems

- ④ SCCs found valid but exporter and importer must assess the level of protection in country of importer
- ④ CJEU examined 2016 EU-US Privacy Shield and found it gave inadequate protection, due to US domestic law and interception of communications data for national security
- ④ Binding Corporate Rules (BCR) also impacted



Legal framework for EU data exports



Main rule: automatic transfers to third countries are not allowed. Only permitted under:

1. Adequacy decision by EU Commission

EU-U.S. Data Privacy Framework

2. Transfer tools under Art. 46 of EU GDPR

Binding Corporate Rules - BCRs

Standard Contractual Clauses - SCCs

Code of conduct

Certification mechanism

3. Derogations under Art. 49 GDPR: strict necessity test!

Countries with an EC Adequacy Decision



- ✓ Andorra
- ✓ Argentina
- ✓ Canada
- ✓ Faroe Islands
- ✓ Guernsey
- ✓ Israel
- ✓ Isle of Man
- ✓ Japan
- ✓ Jersey
- ✓ New Zealand
- ✓ Republic of Korea
- ✓ Switzerland
- ✓ United Kingdom (UK GDPR and LED)
- ✓ Uruguay

And now the United States, for commercial organisations participating in the new EU-U.S. Data Privacy Framework

Legal framework for UK data exports



Main rule: automatic transfers to third countries are not allowed. Only permitted if

1. Adequacy decision by UK / EU Commission

UK-U.S. 'Data Bridge'?

2. Transfer tools under Art. 46 of UK GDPR

Binding Corporate Rules - BCRs

International Data Transfer Agreement (IDTA)

EU SCCs with UK Addendum

Code of conduct

Certification mechanism

3. Derogations under Art. 49 GDPR: strict necessity test!

Post Schrems II

A risk assessment is a requirement

If relying on EU SCCs, UK IDTA or BCRs:

🕒 EU Transfer Impact Assessment - TIA

or

🕒 UK Transfer Risk Assessment - TRA

