

# Cyber-Security, Data Protection and Privacy

## New Standard Contractual Clauses for data transfers subject to the GDPR become mandatory



As discussed in our [previous update](#) on this matter, the European Commission recently introduced new Standard Contractual Clauses for transfers of personal data which are subject to the General Data Protection Regulation (“GDPR”) to countries outside to the EU (“New SCCs”).

As of **September 27, 2021**, companies were required to use the New SCCs in any new contract that involves applicable data transfers (such as, contracts with service providers, intra-company agreements, etc.), and as of **December 27, 2022**, companies must ensure that all existing contracts are updated to include the New SCCs.

### What should you do to comply?

- Identify the engagements that require the transfer of personal data outside of the EU.
- Identify the country to which the personal data will be transferred and the legal basis for such transfer.
- If the transfer is based on the Standard Contractual Clauses adopted by the European Commission in its decisions from the years 2001 and 2010 (the “Previous SCCs”), you should replace the Previous SCCs by the New SCCs. Even if the transfer is based on an alternative legal basis, you should make sure that onward transfers (from the receiving country to another country) are governed by the New SCCs.
- Conduct (and maintain) a Transfer Impact Assessment (“TIA”) for data transfers based on the New SCCs, which should address, *inter alia*, the circumstances of each transfer (including its purpose, the sector in which the importer operates, the categories of personal data transferred, encryption of data, etc.), relevant laws and practices of the country of destination and the possibility that public authorities would access the transferred data.
- Periodically update the TIA with the addition of new data importers and/or in the event of a change in the circumstances of the transfer.
- Implement contractual, technical and organizational safeguards for increasing protection of the transferred data, in accordance with the results of the TIA.

Please note that similar requirements also apply (under the UK GDPR) to transfers of personal data outside of the United Kingdom, as further discussed in our [update](#) on that matter.

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



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