

Glossary to FAQs in relation to Schrems II, new SCCs and HSE compliance requirements

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Adequacy Decision	an adequacy decision is a formal decision made by the EU Commission, which recognises that another country, territory, sector or international organisation provides an equivalent level of protection for personal data as the EU does. (Article 45 (1), GDPR).
Anonymised Personal Data	Personal Data can only be considered to be truly “anonymised” from a data protection law perspective, if Data Subjects are no longer identifiable, having regard to any methods reasonably likely to be used to identify them, directly or indirectly. If it is possible to identify Data Subjects/patients (including by reference to other information - such as a de-encryption key) then the data is not considered “anonymised”, but rather “pseudonymised”. As per DPC and Article 29 Working Party (now EDPB) Guidance in this area, anonymisation irreversibly prevents the identification of the individual Data Subject to whom it relates and even the capability to ‘re-identify’ the Data Subject is sufficient to render this personal data.
Appropriate Safeguards	means the measures set out in Article 46 of the GDPR in respect of international data transfers.
Appropriate Technical and Organisational Measures	the appropriate technical and organisational measures referred to in Data Protection Legislation (including, as appropriate, the measures referred to in Article 32(1) of the GDPR).
Controller	a natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law. (Article 4(7) GDPR).
Data Protection Legislation	means the Data Protection Acts 1988 to 2018, the GDPR and, any other applicable law or regulation relating to the Processing of Personal Data and to privacy including Directive 2002/58/EC and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011, as such legislation shall be supplemented, amended, revised or replaced from time to time.
DPC	means the supervisory authority in Ireland for the purposes of Article 51 of the GDPR whose principal administrative offices are at 21 Fitzwilliam Square South, Dublin 2, D02 RD28, Ireland, or any replacement supervisory authority under Data Protection Legislation, appointed from time to time in Ireland.
Data Exporter	means a controller (or, where permitted, a processor) established in the EU that transfers personal data to a data importer.

Data Importer	means a controller or processor located in a third country that receives personal data from a data exporter.
Data Processing Agreement	means an agreement for the processing of personal data between a controller and a processor for the purposes of Article 28 of the GDPR.
Data Sharing Agreement	means an agreement for the sharing of Personal Data between two or more parties.
a Data Subject	as defined in the GDPR (see definition of Personal Data below).
Derogations	means the specific derogations permitting the transfer of Personal Data outside the EEA in certain circumstances, as specified in Article 49 of the GDPR.
European Data Protection Board (EDPB)	means the European Data Protection Board (EDPB) is an independent European body, which contributes to the consistent application of data protection rules throughout the European Union, and promotes cooperation between the EU's data protection authorities.
EDPB Recommendations	Recommendations 01/2020 on measures that supplement transfer tools to ensure compliance with the EU level of protection of personal data. Adopted on 18 June 2021. https://edpb.europa.eu/system/files/2021-06/edpb_recommendations_202001vo.2.0_supplementarymeasurestransferstools_en.pdf
European Economic Area (EEA)	A free-trade zone created in 1994, composed of the states of the European Union together with Iceland, Norway, and Liechtenstein
European Essential Guarantees (EEG)	Recommendations 02/2020 on the European Essential Guarantees for surveillance measures adopted on 10 November 2020.
GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the Processing of Personal Data and on the free movement of such data, and repealing the Directive 95/46/EC, and any amendments made thereto.
Joint Controller	means where two or more controllers jointly determine the purposes and means of processing, they are joint controllers (Article 26, GDPR).
Personal Data	any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person; (Article 4(1) GDPR).
Personal Data Breach	a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed. (Article 4(8) GDPR).

Privacy Shield	a framework for regulating transatlantic exchanges of personal data for commercial purposes between the European Union and the United States, which was abolished by Schrems II.
Processing	any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. (Article 4(2) GDPR).
Processor	a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller; (Article 4(8) GDPR).
Pseudonymised Personal Data	where personal data is pseudonymised, it remains personal data and all of the requirements of Data Protection Legislation (e.g. as to transparency for Data Subjects, lawful basis for processing, data minimisation etc) apply. Pseudonymisation is one of the recommended supplementary measures (where these are required) for international data transfers under EDPB Guidance in this area and subject to certain specified conditions.
Restricted Transfer	any transfer of Personal Data to countries outside of the European Economic Area which are not subject to an Adequacy Decision by the European Commission, where such transfer would be prohibited by Data Protection Legislation.
Schrems II	the decision of the Court of Justice of the European Union (CJEU) judgment of 16 July 2020, Data Protection Commissioner v Facebook Ireland Ltd, Maximillian Schrems, (hereinafter C-311/18 (Schrems II)).
Special Category Data	<p>Certain types of sensitive personal data are subject to additional protection under the GDPR. These are listed under Article 9 of the GDPR as “special categories” of personal data. The special categories are:</p> <ol style="list-style-type: none"> 1. Personal data revealing racial or ethnic origin. 2. Political opinions. 3. Religious or philosophical beliefs. 4. Trade union membership. 5. Genetic data and biometric data processed for the purpose of uniquely identifying a natural person. 6. Data concerning health. 7. Data concerning a natural person’s sex life or sexual orientation. <p>Processing of these special categories is prohibited, except in limited circumstances set out in Article 9 of the GDPR.</p>
Standard Contractual Clauses (SCCs)	the contractual clauses dealing with the transfer of Personal Data outside the European Economic Area, which have been approved by (i) the European Commission under Data Protection Legislation, or (ii) by the DPC or an equivalent competent authority under Data Protection Legislation.
Supplementary Measures	those supplementary measures to be put in place in line with the EDPB Recommendations where any TIA reveals one or more gaps in essential equivalence with Data Protection Legislation.

Transfer Impact Assessment (TIA)	a bespoke questionnaire designed to meet the EDPB Guidelines. The purpose of the TIA is for the data exporter to carry out and document an impact assessment to ensure that (i) the appropriate safeguards/SCCs are actually effective in practice; and (ii) enforceable Data Subject rights and effective legal remedies are available to Data Subjects in the third country.
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