GDPR: Checking International Data Transfers

Start

No need to comply with Chapter V of GDPR

No "transfer" pursuant to Chapter V GDPR

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Transfer permitted (Art. 45 GDPR)

Exporter subject to GDPR?

Yes

No

Exported data pseudonymized or anonymized?

Yes

No

Importer in the EEA?

Yes

No

Import in a whitelisted country?

Yes

No

Importer a controller or processor?

Yes

No

Importer a separate party?

Yes

No

Does Art. 49 GDPR apply?

Yes

No

Safeguards per Art. 46 or 47 GDPR?

Yes

No

Lawful access subject to four guarantees?

Yes

No

Reason to expect such a lawful access?

Yes

No

Check pursuant to the importer’s local law

Transfer permitted (Art. 49 GDPR)

Transfer not permitted

Transfer permitted (Art. 46/47 GDPR)

Transfer not permitted

Processing permitted (Art. 32 GDPR)

For informational purposes only – no legal advice

Questions: dataprivacy@vischer.com


TIA = Transfer Impact Assessment

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Companies subject to the GDPR*

* Due to the application of Art. 3(2) GDPR

EEA + whitelisted countries (e.g., CH) - non-whitelisted countries (e.g., US)

- **Transfer for which EU SCC have to be entered into (Module 1-4)**
- **Transfer for which EU SCC are used, but such use is unofficial ("Recital 7")**
- **Onward transfer for which EU SCC or a back-to-back contract can be used**
- **Transfer with no transfer restrictions under Chapter V of the GDPR for companies**
- **TIA by n**: Indicates that a Transfer Impact Assessment needs to be made and the primarily responsible party (n)

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