**The Clock is Ticking: Are Your Contract Terms Out-of-Date for Transfers of Personal Data Subject to the GDPR?**

Does the European Union (“EU”)’s General Data Protection Regulation (**“**GDPR”) apply to your contracts’ transfers of Personal Data from the European Economic Area (“EEA”) to a country (such as the United States) that the EU deems to lack “adequate” safeguards?

* If so, do you rely on contract terms to permit such cross-border transfers?
* If yes, it’s time to check your contracts – do they have the [current SCCs for international transfers](https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc/standard-contractual-clauses-international-transfers_en) ((Commission Implementing Decision (EU) 2021/914, aka “new” SCCs”)?
	+ The grace period to transition from earlier SCC versions (where entered into by September 27, 2021) ends **December 27, 2022**.



* Here’s a link identifying which countries the EEA currently deems “adequate.” The US is not among them: <https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions_en>
* ***If*** you proceed with such transfers, do so with eyes open. While far beyond the scope of this brief blog post, know there are:
	+ Operational choices to be made/negotiated within the SCCs (including selection of appropriate module(s), handling of subprocessors, governing law and jurisdictions); Annexes to be populated (in detail); obligations (notably including conducting and documenting a transfer impact assessment).
	+ **And,** ongoing legal challenges (e.g., *Schrems II* and its progeny), with no guarantee such cross-border transfers will be found to comply with the GDPR even when using “new” SCCs, incorporating “supplementary measures,” or if/when the proposed Trans-Atlantic Data Privacy Framework comes to be.
	+ See, e.g.: the European Commission’s Q&A about implementing the new SCCs: <https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc_en>; and articles by Mr. Schrems’ advocacy non-profit: <https://noyb.eu/en/austrian-dsb-eu-us-data-transfers-google-analytics-illegal>; <https://noyb.eu/en/open-letter-future-eu-us-data-transfers>
* **What about the UK?** Are the clauses the same, or the deadlines the same, for Persona Data transfers subject to UK Data Protection Laws? No. Thank Brexit. See: <https://www.techcontracts.com/2022/03/29/contract-terms-current-uk-idta/.>

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