

CHECKLIST | International Data Transfers

Presented by Crendon Insurance Brokers Ltd

The General Data Protection Regulation (GDPR) imposes restrictions on the transfer of personal data outside the European Union to other countries or international organisations. These restrictions are in place in order to ensure that individuals' personal data is protected and secure under the GDPR regardless of where their data is shared.

Transfers may be made when the EU Commission has decided that a third country, a territory or one or more specific sectors in the third country, or an international organisation ensures an adequate level of protection.

In the absence of such a decision, you may complete a transfer of personal data outside the European Union if the organisation receiving the personal data has provided at least one of the adequate safeguards listed in Table 1.

To ensure that your organisation is compliant with the GDPR in the international transfer of personal data, complete the following checklists.

#1: HAS THE ORGANISATION RECEIVING THE PERSONAL DATA PROVIDED ONE OF THE FOLLOWING ADEQUATE SAFEGUARDS?	YES	NO	ADDITIONAL NOTES
A legally binding agreement between public authorities or bodies	<input type="checkbox"/>	<input type="checkbox"/>	
Binding corporate rules (agreements governing transfers made between organisations within a corporate group)	<input type="checkbox"/>	<input type="checkbox"/>	
Standard data protection clauses in the form of template transfer clauses adopted by the EU Commission	<input type="checkbox"/>	<input type="checkbox"/>	
Standard data protection clauses in the form of template transfer clauses adopted by a supervisory authority and approved by the EU Commission	<input type="checkbox"/>	<input type="checkbox"/>	
Compliance with an approved code of conduct approved by a supervisory authority	<input type="checkbox"/>	<input type="checkbox"/>	
Certification under an approved certification mechanism as provided for in the GDPR	<input type="checkbox"/>	<input type="checkbox"/>	
Contractual clauses agreed and authorised by the competent supervisory authority	<input type="checkbox"/>	<input type="checkbox"/>	
Provisions inserted into administrative arrangements between public authorities or bodies authorised by the competent supervisory authority	<input type="checkbox"/>	<input type="checkbox"/>	

In the absence of an EU Commission decision or the appropriate safeguards listed in Table 1, a transfer, or set of transfers, may be made when the transfer meets at least one of the conditions laid out in Table 2.

#2: DOES THE PERSONAL DATA TRANSFER MEET ONE OR MORE OF THE FOLLOWING QUALIFICATIONS?	YES	NO	ADDITIONAL NOTES
Made with the individual's informed consent	<input type="checkbox"/>	<input type="checkbox"/>	
Necessary for the performance of a contract between the individual and the organisation or for pre-contractual steps taken at the individual's request	<input type="checkbox"/>	<input type="checkbox"/>	
Necessary for the performance of a contract made in the interests of the individual between the controller and another person	<input type="checkbox"/>	<input type="checkbox"/>	
Necessary for important reasons of public interest	<input type="checkbox"/>	<input type="checkbox"/>	
Necessary for the establishment, exercise or defence of legal claims	<input type="checkbox"/>	<input type="checkbox"/>	
Necessary to protect the vital interests of the data subject or other persons, where the data subject is physically or legally incapable of giving consent	<input type="checkbox"/>	<input type="checkbox"/>	
Made from a register which under UK or EU law is intended to provide information to the public (and which is open to consultation by either the public in general or those able to show a legitimate interest in inspecting the register)	<input type="checkbox"/>	<input type="checkbox"/>	

Even when there is no EU Commission decision authorising transfers to the country in question, if it is not possible to demonstrate that the individual's rights are protected by adequate safeguards (such as in Table 1) and none of the exemptions apply (such as in Table 2), the GDPR provides that personal data may still be transferred outside the EU. Such transfers are permitted only when the transfer meets all the conditions laid out in Table 3 below.

#3: FOR TRANSFERS WITH NO EU COMMISSION DECISION AUTHORISING THE TRANSFER, THEY MUST MEET ALL THE FOLLOWING CRITERIA	YES	NO	ADDITIONAL NOTES
The data transfer is not being made by a public authority in the exercise of its public powers	<input type="checkbox"/>	<input type="checkbox"/>	
The data transfer is not repetitive (similar transfers are not made on a regular basis)	<input type="checkbox"/>	<input type="checkbox"/>	
The data transfer involves data related to only a limited number of individuals	<input type="checkbox"/>	<input type="checkbox"/>	
The data transfer is necessary for the purposes of the compelling legitimate interests of the organisation (provided such interests are not overridden by the interests of the individual)	<input type="checkbox"/>	<input type="checkbox"/>	
The data transfer is made subject to suitable safeguards put in place by the organisation (in the light of an assessment of all the circumstances surrounding the transfer) to protect the personal data	<input type="checkbox"/>	<input type="checkbox"/>	

In these cases, your organisation is required to inform the relevant supervisory authority of the transfer and provide additional information to the individuals.