



GDPR IS COMING

Is Your Company Ready?

April 18, 2018

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TOPICS

- Overview of GDPR Requirements
- Cross Border Data Transfers
- Recent Trends



OVERVIEW OF GDPR REQUIREMENTS



WHAT IS THE GDPR?

- Single, uniform data protection regulation
 - Countries can pass implementing legislation
- All European Economic Area (EEA) Countries
- Supervisory Authorities (1 Stop Shop)
- **May 25, 2018:** Comes Into Force



PERSONAL DATA

- “Any information relating to an identified or identifiable natural person.”
- Much broader than the U.S. PII
- Includes contact information
- ECJ: Includes Dynamic IP Addresses

WHAT DOES IT REPLACE?



- EU Directive 95/46/EC
 - Required all EEA member states to provide certain protections with respect to “personal data.”
 - Each EEA member state enacted law according to the directive.
- Lack of uniformity
- Updates to address changing landscape

KEY QUESTIONS

Does GDPR Apply to Me?



What Are the Requirements?



What Are the Risks?

DOES IT APPLY TO ME?



- Entities doing business in the EEA.
- Processing outside the EEA in connection with:
 - The offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in the Union; or
 - The monitoring of their behavior as far as their behavior takes place within the European Union.

REGULATIONS ON DATA USAGE

- Purpose and Use Limitations
- Data Retention Limitations
- Automatic Processing
- Consent
 - Any freely given, specific, informed and unambiguous indication of his or her wishes by which the data subject, either by a statement or by a clear affirmative action, signifies agreement to personal data relating to him or her being processed.

INDIVIDUAL RIGHTS

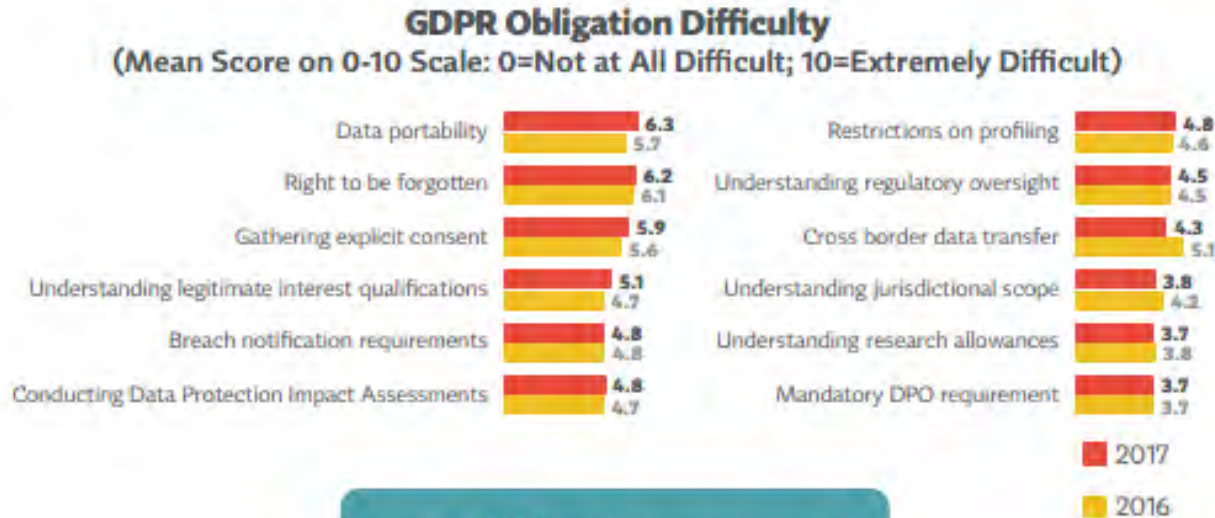
- Accountability
- Access
- Rectification
- Objection
- Erasure
- Portability



ORGANIZATIONAL CHANGES

- Data Protection Officer (DPO)
- Privacy Notices and Statements
- Privacy by Design
- Data Privacy Impact Assessment
- 72 Hour Data Breach Notification
- Third Party Management
- Awareness Training

THIS IS HARD WORK



Over **95%** of firms say they fall under the GDPR scope

KEY TAKEAWAY!

Document



Document



Document



RISKS



- “Will there be a grace period? No. You will not hear talk of grace periods from people at the ICO. That's not part of our regulatory strategy . . . What you will see is a common-sense, pragmatic approach to regulatory principals.”
 - Steve Wood (UK ICO)
- The **GREATER of €20M or 4% of worldwide revenue**
- Vendor management and liability!

ENFORCEMENT PRIORITIES



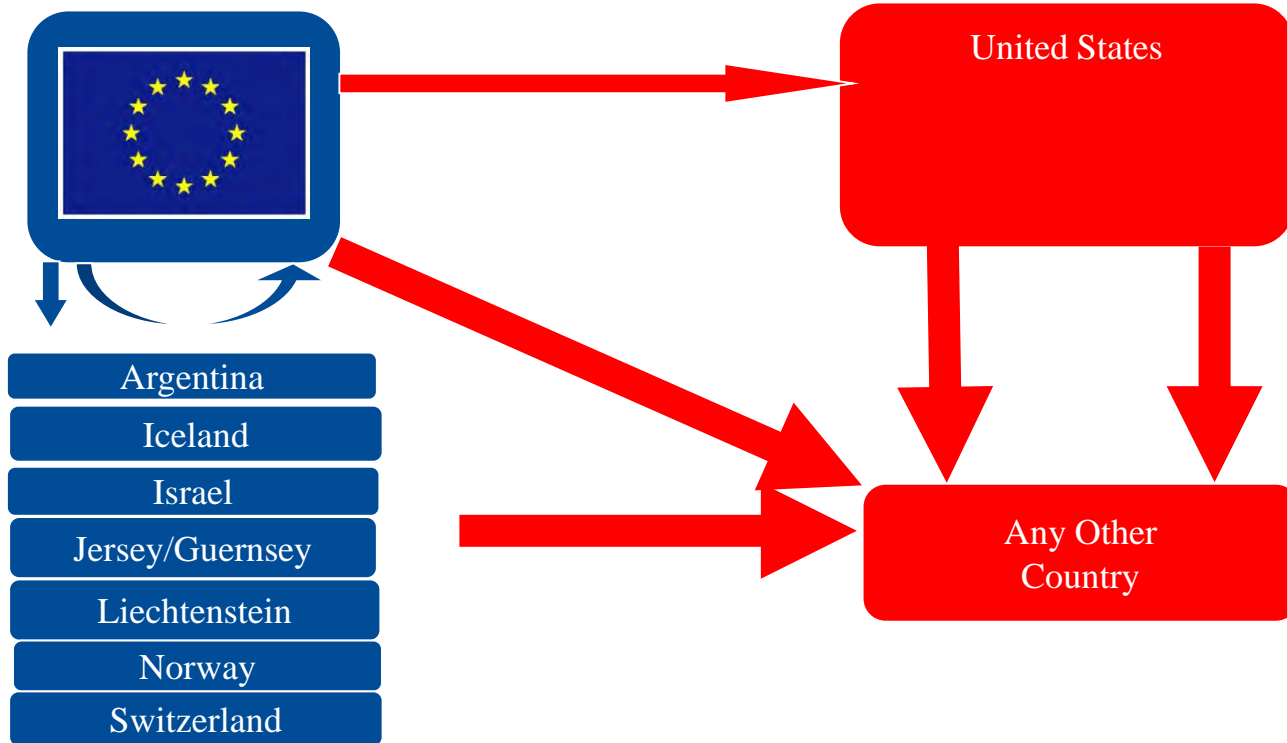
CROSS BORDER DATA TRANSFERS



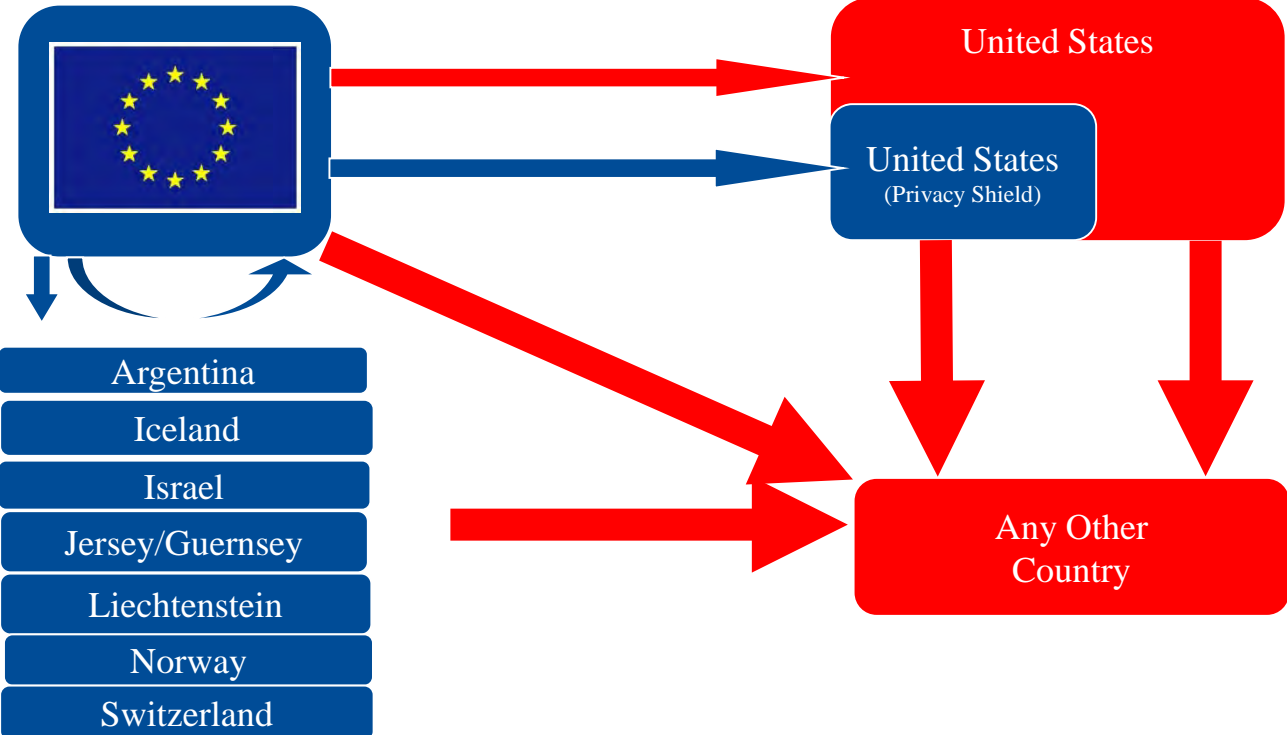
CROSS BORDER DATA TRANSFERS

- Rights follow the data wherever it goes.
- Permitted Transfers
 - Transfer to **another EEA country**.
 - Transfer **to a country that the EC has deemed to have “adequate protections”** under its law.
 - If not:
 - Transfer under **a destination country’s government-sponsored safe harbor (like Privacy Shield)**.
 - Transfer **under Standard Contractual Clauses** (private agreements that provide protection contractually).
 - **Binding corporate rules**.
 - **Consent**

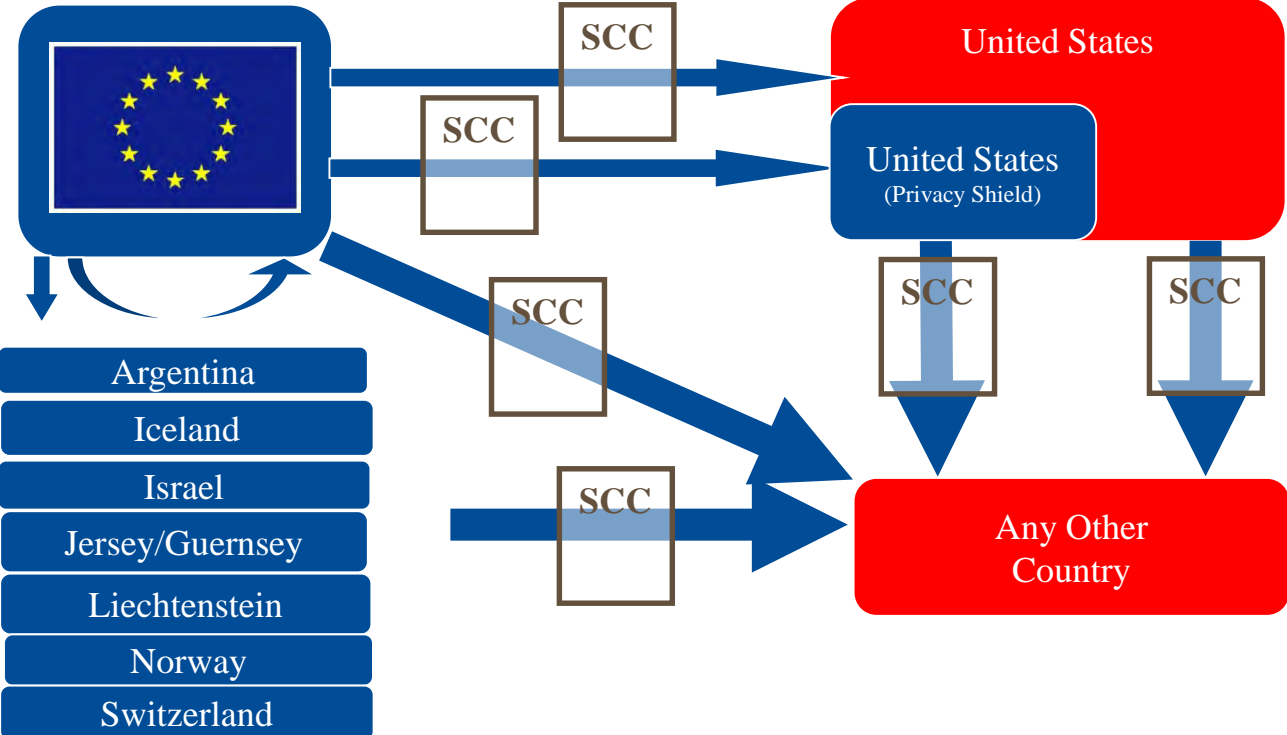
PROTECTIONS FOLLOW THE DATA



PROTECTIONS FOLLOW THE DATA



PROTECTIONS FOLLOW THE DATA



RECENT TRENDS



RECENT ISSUES

- Debates on appointment of DPO
- Legality of Privacy Shield and SCC's
 - Schrems 2.0
 - Annual Privacy Shield Certification
- What is Personal Data?
 - Dynamic IP Addresses
- ePrivacy Regulation
 - Electronic communications
 - Cookie Policies



QUESTIONS?



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