

No deal BREXIT?

ACT NOW TO PROTECT VITAL DATA FLOWS

After years of political toing and froing a no deal Brexit remains a distinct possibility. The result? While data flows from the UK are likely to continue almost as before, **data flows into the UK may well be disrupted.**

If you don't have proper systems in place to deal with data flows into the UK from the EEA (and other key countries) then **you could lose access to key data.** This loss of data could mean lost time, lost customers and unnecessary compliance headaches. What's more, unavailability of data could also amount to a data breach under data protection legislation.

How Shoosmiths can help:

DATA TRANSFER SOLUTIONS

Shoosmiths' Privacy and Data team has a wealth of experience advising on strategic data protection issues. We can help you unlock your data and keep it flowing post-Brexit so that, whatever happens, your business is on a robust footing. In particular, we can help you:

- set up and manage **binding corporate rules (BCRs)**, a powerful tool which allow groups of companies to transfer data both within and outside of the EEA (including the UK post-Brexit)
- incorporate **standard contractual clauses (model clauses)** in key contracts
- deal with **other Brexit-related data protection matters**

What can you do now to prepare?

- Work out your data flows
- Protect and maintain your internal and external data transfers (see the table below)
- If you don't use Binding Corporate Rules, evaluate whether this powerful legal mechanism could work for you
- Keeping up to date on legal developments can be challenging. Consider whether you can centralise your data protection function, including by using an experienced, outsourced DPO as a service (please contact us for details)

Be Brexit-ready with Shoosmiths

NO DEAL BREXIT?

Act now to protect and maintain vital data flows

Shoosmiths' Privacy and Data team can help you determine what data transfer solution works best for your business during this critical period, helping to minimise the legal and commercial risk to your operations.

Understanding the liabilities of controllers and processors is often complex; more and more businesses are doing due diligence on each other to understand their risk exposure. At Shoosmiths, we can help you navigate through these challenges to find the solution that works right for you.

Our can-do ethos isn't just about advising you on the law and dealing with short-term issues, we can also help you strategise how you use and protect your data in the longer term. At Shoosmiths, we speak business sense and offer innovative ideas that can make a real commercial difference.

ISSUES	ACTIONS
Transfer of data UK > EEA	SOME IMPACT MAY OCCUR: It is likely that the UK will deem the EU/EEA 'adequate' for data transfers although this is being kept under review by the UK government.
Transfer of data EEA > UK	ACT NOW: How can we help you? We'll determine what legal and commercial mechanisms you currently have in place. Our goal will then be to work closely with you, with a minimum of fuss, to determine how best to protect and maintain your data flows, both before and after Brexit. In some cases re-consenting may be necessary.
Other data transfers	ACT NOW: How can we help you? A no deal Brexit might also affect the flow of data from certain countries outside of the EU/EEA, which have been deemed 'adequate' by the EU. US companies using the Privacy Shield will also need to update their framework documents. We can help you work out a way forward that works for your business.
Binding Corporate Rules	ACT NOW: How can we help you? If you have BCRs in place and the ICO is your lead authority, we can help you transfer this to an appropriate EU/EEA authority. We can also update your BCRs to reflect the change in the law to the GDPR (if you have not already done this).

With legal mechanisms such as standard contractual clauses — and perhaps even the Privacy Shield — under threat in the latest 'Schrems II' case, finding the right way forward isn't easy. For many businesses Binding Corporate Rules are an attractive solution to legitimising data transfers between groups of companies globally. Other businesses may prefer to rely on the narrow list of derogations in the GDPR. Whatever the size of your business and whatever your goals, the team can help you prepare for all eventualities.



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