

EU-US Privacy Shield invalidated

– BSI's roadmap for future data transfers

1

Review

current personal data transfers to third parties and identify those that rely on Privacy Shield or Standard Contractual Clauses (SCCs).

2

Categorize

each data transfer using clearly defined criteria.

Examples of criteria:

- The third party's jurisdiction
- Existence of any sub-processors and their jurisdiction(s)
- The scope of the data processing activity
- The sensitivity of the personal data involved
- The volume of data or size of data flow; and
- The criticality of the processing activity to the business

3

Determine

the impact the Ruling has on each data transfer and identify organizations that fall under the scope of FISA 702.

4

Identify

solutions for your business to ensure personal data transfers remain lawful.

Solutions might include:

- Replacing Privacy Shield with SCCs containing supplementary measures
- Re-evaluating existing SCCs - do they need to be updated with supplementary measures
- Considering if alternative derogations such as explicit consent (per Art 49 of the GDPR) could be used
- Making changes to business processes or outsourced activities
- Undertaking a Data Protection Impact Assessment for each transfer
- Suspension of data transfers
- Notifying the Supervisory Authority

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