

# Equivalency Checker

by RiskBusiness



From September 27, 2021, any firm wishing to transfer the personally identifiable data of an EU citizen to any jurisdiction which has not adopted GDPR must undertake an assessment of the data privacy safeguards around such data transfer prior to making the transfer.

IN JULY 2020, the Court of Justice of the European Union (CJEU) decided on a legal suite originally brought against Facebook to the Irish Data Protection Commissioner by an Austrian privacy advocate named Max Schrems, through which the EU-US Data Privacy Shield Program, which allowed companies to transfer data between the US and EU countries was invalidated (Schrems II). The ruling requires EU companies, from September 27, 2021, to conduct individual assessments of each data transfer to non-EU countries in order to comply with the General Data Protection Regulation (GDPR). Assessments should take into consideration the recommendations adopted by the European Data Protection Board (EDPB) in November 2020.

Schrems II essentially splits the potential destination for EU citizen personally identifiable data into three groups: EU member states who have adopted GDPR, countries which the EU have ratified as having adequate data privacy programmes broadly equivalent to GDPR, and all other countries. Where a firm wishes to transfer EU citizen personally identifiable data to another jurisdiction, the firm needs to determine into which group that jurisdiction falls, then for group three, undertake a detailed assessment of the safeguards which will be in place to protect that data. A core requirement of the EDPB recommendations is that firms maintain evidence that such assessments have been done prior to transfer.

The Equivalency Checker by RiskBusiness is a tool to support compliance with Schrems II and is available both as an integrated component of the Graci Risk module's Data Privacy and Security functionality and as a stand-alone tool. Although, given the September 27, 2021 deadline for compliance with Schrems II,

initially focussed on GDPR compliance, the Equivalency Checker can be applied to any privacy jurisdiction in a similar manner.

The Equivalency Checker by RiskBusiness is delivered with those jurisdictions in groups 1 and 2 above already identified, but permits the using firm to augment the equivalent and adequate jurisdictions as they may require themselves. With jurisdictions in group 3, the Equivalency Checker employs a questionnaire-based short-form assessment to determine the initial level of safeguards in place, supported by a detailed assessment mechanism which addressed all the EDPB recommendations. As the user completes the assessment, any additional requirements necessary to meet the EDPM recommendations are noted and the user is provided with a "to do" list at the end of the assessment. A workflow driven remedial action mechanism can then be used to assist the firm address the additional requirements, resulting in that jurisdiction moving from "red" to "amber" once sufficient safeguards have been implemented.

The Equivalency Checker maintains a detailed audit trail of who checked which jurisdiction when, what the outcome of the check was and whether any further assessment or remedial activity was undertaken, thereby providing the necessary evidence in the event of a regulatory inquiry. A world map visualisation is provided which identifies countries in groups 1 and 2, as well as the outcome of the most recent assessment for countries in group 3 and any country which has never been assessed for adequacy.

To discuss your specific requirements or for more information on Equivalency Checker by RiskBusiness, please visit [www.RiskBusiness.com](http://www.RiskBusiness.com) or contact us at [info@RiskBusiness.com](mailto:info@RiskBusiness.com)