



Building a better working world

EU General Data Protection Regulation (GDPR)

EY Legal | Regulatory | Compliance
Financial Services

Background

In December 2015, following three years of drafting and negotiations, the European Parliament and Council of the European Union reached an informal agreement on the final draft of the EU General Data Protection Regulation (GDPR). The aim of the General Data Protection Regulation is to reinforce data protection rights of individuals, facilitate the free flow of personal data in the digital single market and reduce administrative burden.

The GDPR shall replace the 1995 General Data Protection Directive and apply directly in each of the 28 EU member states.

The final text has been formally adopted by the European Parliament and Council in April 2016. The new Regulation will take effect in 2018 after a 2-year transition period.

Impact on Swiss companies



- ▶ Swiss companies will be subject to the GDPR as far as they process personal data of EU data subjects
 - ▶ for their goods or service offerings in the EU
 - ▶ for the monitoring of the behaviour of EU data subjects taking place within the EU
- ▶ The applicability of the GDPR is irrespective of the Swiss company having an establishment within the EU
- ▶ Sanctions may be enforceable under certain circumstances
- ▶ Risk of increased scrutiny by supervisory authorities (e.g. FINMA)
- ▶ Reputational risk in case of non-compliance

Journey to GDPR compliance and competitive advantage

2016

Timeline

2018

Business Case

GAP Analysis

Align business

Design future state

Implement

Monitor

Impacts & Challenges

- ▶ A mandatory Data Protection Officer will be required for companies that, on a large scale and as part of their core activities, regularly and systematically monitor data subjects or process personal data
- ▶ Increased transparency to individuals about processing activities. Unambiguous and affirmative action by data subjects when relying on consent
- ▶ The “right to be forgotten” for individuals who no longer want their data processed, if there is no legitimate grounds for the data controller to retain the information
- ▶ A right to data portability to enable individuals to transfer their data between service providers
- ▶ Privacy by design as a default in setup and management of systems and organisational processes
- ▶ Privacy Impact Assessments prior to any processing which may result in a high risk for the rights and freedoms of individuals
- ▶ Accountability in the form of demonstrable compliance with the Regulation
- ▶ Data Processors processing on behalf of data controllers must also fully comply with the requirements of the Regulation

Sanctions & Risks

- ▶ Administrative fines of up to 4% of global turnover for companies that breach the requirements of the Regulation
- ▶ Possibility to file class action lawsuits against data controllers/processors for breaches of the Regulation
- ▶ Reversal of burden of proof in lawsuits against data controllers/processors
- ▶ Right for compensation by individuals for damages resulting from violations of the Regulation by a controller or processor
- ▶ Mandatory breach notification to the local privacy regulatory authority

How EY can help

- ▶ EY has a team of over 200 Certified Information Privacy Professionals (CIPPs) and Privacy Lawyers who help organisations to better understand which risks exist to data privacy and compliance with the GDPR.
- ▶ We draw on our global privacy team to bring insights on legislation and regulation across the globe.
- ▶ For over a decade, EY has assisted international organisations in understanding privacy and data protection risk, compliance and regulations and helping them to effectively manage the use of personal information within their organisation.
- ▶ We can help you to execute GDPR impact assessments, gap analyses and assist with the implementation of the necessary measures in order to ensure timely and consistent GDPR compliance across your organisation.

About the global EY organization

The global EY organization is a leader in assurance, tax, transaction and advisory services. We leverage our experience, knowledge and services to help build trust and confidence in the capital markets and in economies all over the world. We are ideally equipped for this task - with well-trained employees, strong teams, excellent services and outstanding client relations. Our global purpose is to drive progress and make a difference by building a better working world - for our people, for our clients and for our communities.

The global EY organization refers to all member firms of Ernst & Young Global Limited (EYG). Each EYG member firm is a separate legal entity and has no liability for another such entity's acts or omissions. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information, please visit www.ey.com.

EY's organization is represented in Switzerland by Ernst & Young Ltd, Basel, with ten offices across Switzerland, and in Liechtenstein by Ernst & Young AG, Vaduz. In this publication, “EY” and “we” refer to Ernst & Young Ltd, Basel, a member firm of Ernst & Young Global Limited.

© 2016

Ernst & Young Ltd
All Rights Reserved.

ED None

This publication contains information in summary form and is therefore intended for general guidance only. Although prepared with utmost care this publication is not intended to be a substitute for detailed research or professional advice. Therefore, by reading this publication, you agree that no liability for correctness, completeness and/or currentness will be assumed. It is solely the responsibility of the readers to decide whether and in what form the information made available is relevant for their purposes. Neither Ernst & Young Ltd nor any other member of the global EY organization accepts any responsibility. On any specific matter, reference should be made to the appropriate advisor.

www.ey.com/ch

Philippe Zimmermann

Partner
Legal, Regulatory & Compliance

Phone: +41 58 286 32 19
Email: philippe.zimmermann@ch.ey.com

Konrad Meier

Manager
Legal, Regulatory & Compliance

Phone: +41 58 286 43 27
Email: konrad.meier@ch.ey.com