

Brexit, adequacy and international transfers: - the next chapter

Wednesday 25 May 2022

Agenda

- Introduction
- Background
 - › Value of privacy
 - › Summary refresher
- State of play
 - › EEA/UK
 - › China
 - › India
- Panel discussion
- How Securys can help
- Audience Q&A



Our panel



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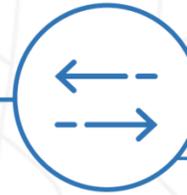
Thanas Loli
Panel member
Chief Privacy Officer,
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THE VALUE OF TRUST

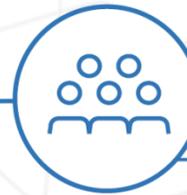
WE THINK



PRIVACY IS ABOUT **TRUST**



TRUST RUNS **BOTH WAYS**



ORGANISATIONS HAVE **MANY STAKEHOLDERS**



BUILDING TRUST DRIVES **MEASUREABLE RETURNS**

THEREFORE



PRIVACY SHOULDN'T BE A **DISTRESS PURCHASE**



IT'S NOT JUST ABOUT **AVOIDING FINES**

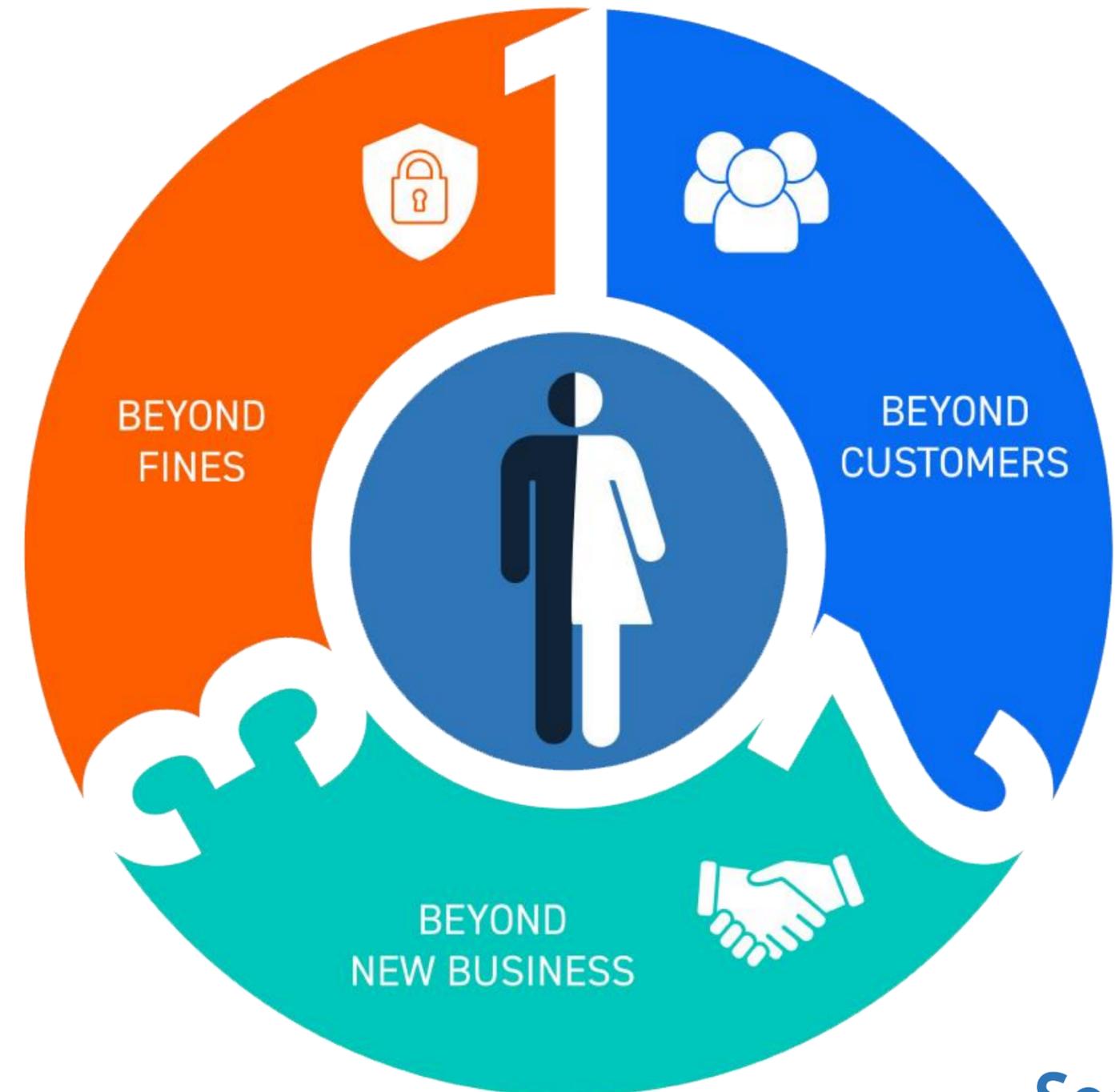


IT'S A ROUTE TO **SUCCESS**

Privacy is about people

- Stakeholder communities
 - Consumers and customers
 - Employees
 - Suppliers
 - Shareholders & investors
 - Collaborators
 - Families & dependants
 - The public

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Background

- Transfers from EEA to US challenging since July 2020 abrogation of PrivacyShield
- UK Data Reform Bill and Bill of Rights present risks to UK adequacy
- China PIPL brings significant data export controls
- Other countries – e.g. India – also potentially introducing export controls

- Tension between EDPB guidance and corporate reality
- Substantial increase in privacy workload with SCCs and TIAs
- Real risk of “Balkanisation” of data and services, undermining R6, Convention 108

EEA/UK state of play

EEA

- US (and other) transfers in trouble
 - › German court decisions rule out US transfers
 - › EDPB rules out some US transfers
 - › CNIL decision against Google Analytics
 - › Berlin DPA most recent to issue transfer guidance: “Bei vielen Cloud-Diensten keine ergänzenden Maßnahmen möglich”
- Promises regarding PrivacyShield2, but FBI vs Faganza threatens progress
- Adequacy sunset clause exists “*for the specific purpose of guarding against future divergence by the UK*”

UK

- Introducing Data Reform Bill
 - › Unilateral adequacy decisions
 - › Significant variance in ePrivacy
 - › Limitation of LIA and DPIA
 - › Relaxation of DPO requirement
 - › Less limitation of purpose
 - › Focus on “data as currency”
- Bill of Rights
- Possible withdrawal from NI agreement

Threat to UK adequacy?

- International transfers must meet at least one of the following conditions:
 - › Passing a security assessment organized by the regulator (not yet available);
 - › Undergoing personal information protection certification (not yet available)
 - › Concluding an agreement with a foreign receiving party, agreeing on both sides' rights and obligations, and supervising their personal information handling activities' satisfaction of the personal information protection standards provided in this Law (model clauses not yet available);
 - › Other conditions provided in laws or administrative regulations or by the regulator
- Data subjects must be notified in detail
- Separate consent to international transfers must be obtained
- Critical information infrastructure operators and personal information handlers above a particular scale shall store personal information collected within China.
- CAC security assessment required for
 - › Critical information infrastructure operators needing to transfer information internationally
 - › Personal information handlers exceeding a given volume of data subjects (not yet defined) needing to transfer information internationally
- Foreign organisations can be warned or blacklisted by the regulator, prohibiting or limiting provision of information to them

India draft Personal Data Protection Bill

- Sensitive personal data may be transferred, but a copy must be retained in India
- Sensitive data:
 - › financial data;
 - › health data, genetic data
 - › official identifier
 - › sex life; sexual orientation, transgender status; intersex status
 - › biometric data;
 - › caste or tribe;
 - › religious or political belief or affiliation
 - › any other data categorised as sensitive personal data under section 15
- Explicit consent to transfer sensitive data is required and
 - › Appropriate contractual clauses approved by the regulator
 - › Adequacy decision
 - › Regulator has allowed transfer of any sensitive personal data or class of sensitive personal data necessary for any specific purpose
- Separate provisions for critical personal data
 - › Exemptions for health data in emergencies

Panel Discussion

How Securys can help you support your effort

Advisory



Privacy and data strategy



Policy and procedure frameworks



Privacy by design

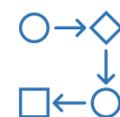


Process review and design

Operational



Privacy office operations



Data flow mapping and risk-scoring



Transparency and data subject rights



Consent mechanisms and management

Transfer Management



Transfer Impact Assessments



Vendor assessment and contract review



SCCs and IDTAs



Safeguards and security

Global reach, local knowledge

Securys

Q&A

More questions? Need help?
Get in touch by email or on our website

Contact details / next steps

- Webinar recording
- Future articles on topics discussed
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