EU General Data Protection Regulation in the digital age: Are you ready?
What do you need to know about the new EU General Data Protection Regulation?

Data protection has entered a period of unprecedented change.

This has been driven by:

► An increasing number of high profile data breaches reported in the media that has led consumers and regulators to be concerned about how personal data is managed
► The demise of Safe Harbor
► The new EU General Data Protection Regulation (GDPR) - a landmark moment in data protection

On May 4, 2016, after four years of tough negotiations, the GDPR has now been published in the Official Journal. The regulation is a game changer for organisations. The final draft introduces more stringent and prescriptive data protection compliance challenges, backed by fines of up to 4% of global annual revenue. The Regulation will replace the Directive 95/46/EC, which has been the basis of European data protection law since it was introduced in 1995. The GDPR will enter into force in EU Member States on 25 May 2018.

The Regulation will have a significant impact on businesses in all industry sectors, bringing with it both positive and negative changes for business in terms of cost and effort. Organisations are likely to welcome the harmonisation of laws across the 28 member states which will make the complex data protection landscape easier to navigate for multinational organisations. The introduction of new rights for individuals, such as the Right to be Forgotten and the Right to Portability, as well as the introduction of mandatory breach notification, are likely to increase the regulatory burden for organisations. Businesses need to review their current data protection compliance programmes to determine next steps and decide on the level of investment they need to make over the next two years to address the changes.

Organisations need to act now to ensure that they are ready to comply with the new Regulation when it comes into force in May 2018.
<table>
<thead>
<tr>
<th>Key changes proposed by the EU GDPR</th>
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<tr>
<td><strong>Fines of up to 4% of annual worldwide turnover</strong></td>
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<td>► 4% of total annual worldwide turnover or €20,000,000</td>
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<tr>
<td><strong>Expanded scope</strong></td>
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<td><strong>Data Protection Officers (DPOs)</strong></td>
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<td><strong>Accountability</strong></td>
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<td>► Establishing a culture of monitoring, reviewing and assessing data processing procedures</td>
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<td>► Minimising data processing and retention of data</td>
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<td>► Building in safeguards to data processing activities</td>
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<td>► Documenting data processing policies, procedures and operations that must be made available to the data protection supervisory authority on request</td>
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<tr>
<td><strong>Privacy Impact Assessments</strong></td>
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<td><strong>Consent</strong></td>
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<td>► Customers must be informed of their right to withdraw their consent</td>
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<td>► Consent must be ‘explicit’ in the case of sensitive personal data or transborder dataflow</td>
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<td><strong>Mandatory breach notification</strong></td>
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<td>► If there is a high risk to individuals, those individuals must be informed as well</td>
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<td><strong>New rights</strong></td>
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<td>► The right to data portability – where individuals have provided personal data to a service provider, they can require the provider to ‘port’ the data to another provider, provided this is technically feasible</td>
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<td><strong>Privacy by Design</strong></td>
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<td>► Privacy settings are set at a high level by default</td>
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<td><strong>Obligations on processors</strong></td>
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<td><strong>Joint controllers</strong></td>
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Are organisations ready for the EU General Data Protection Regulations?

Organisations will have **two years** to prepare for the GDPR in the transition period between national laws under the old directive and the new regulation.

Now is the time to take action.

**Ask yourself these key questions:**

<table>
<thead>
<tr>
<th>Category</th>
<th>Question</th>
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</thead>
<tbody>
<tr>
<td>Expanded scope</td>
<td>Are you a data processor or a data controller processing personal data inside the EU or processing the personal data of EU citizens?</td>
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<tr>
<td>Data Protection Officers</td>
<td>Do you conduct large scale systematic monitoring (including employee data) or process large amounts of sensitive personal data?</td>
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<tr>
<td>Accountability</td>
<td>Do you have a data protection programme and are you able to provide evidence of how you comply with the requirements of the EU GDPR?</td>
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<tr>
<td>Mandatory Breach Notification</td>
<td>Would you be able to notify a data protection supervisory authority of a data breach within 72 hours?</td>
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<tr>
<td>Privacy by Design</td>
<td>Do you design data protection and privacy requirements into the development of your business processes and new systems?</td>
</tr>
<tr>
<td>New rights</td>
<td>Do you know how you will comply with the new rights: the ‘right to be forgotten’, the ‘right to data portability’ and the ‘right to object to profiling’?</td>
</tr>
<tr>
<td>Consent and Notice</td>
<td>Do your data protection terms comply with the new requirements on consent (unambiguous) and notice (legitimate interest)?</td>
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Findings from the joint IAPP-EY Annual Privacy Governance Report 2015 and the EY Global Information Security Survey 2015 both indicated that organisations still need to increase their investment in data protection.

- Both reports identified that data protection is not yet a high priority
- 63% of respondents from the IAPP-EY Annual Privacy Governance report highlighted that their privacy maturity was only at early or middle stages of maturity

Organisations will need to increase their focus on data protection compliance given the stringent requirements of the GDPR and the potential fines which can be up to 4% of an organisations global annual turnover.

The new EU GDPR is driving organisations to invest in privacy programmes:

- 67% of organisations interviewed for the IAPP-EY Annual Privacy Governance Report 2015 said that regulatory and legal compliance was one of their top reasons for investing in privacy
- 31% of organisations are planning to increase the number of employees dedicated to their privacy programmes and increase privacy budgets in the coming year

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**Where is privacy maturity process in your company?**

- Early stage: 37%
- Middle stage: 19%
- Mature stage: 44%

Mean number of years for the duration of a privacy programme = 7

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**Privacy program priorities (%) ranking each in top two**

- Regulatory and legal compliance: 67%
- Safeguarding data against attacks and threats: 44%
- Increasing consumer trust: 32%
- Marketplace reputation and brand: 28%
- Ethical decision-making concerning use of data: 18%
- Ensuring business partner compliance: 17%
- Maintaining or enhancing the value of information: 10%
- Increase employee trust: 9%

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**In the coming year, number of employees dedicated to privacy is expected to:**

- Increase: 67%
- Decrease: 6%
- Stay the same: 3%
- No way to tell: 3%

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**In the next 12 months, expect privacy budget will:**

- Increase: 31%
- Decrease: 13%
- Stay the same: 6%
- No way to tell: 44%

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Source: The IAPP-EY Annual Privacy Governance Report 2015
How can you prepare for the EU General Data Protection Regulation?

To prepare for the new EU GDPR, organisations will need to have a clear understanding of their current compliance position.

An important first step will be for organisations to have clarity of their personal data processing, including:

- **What** personal data they process
- **Where** it is across their organisation
- **Where it is transferred** from and to (including to third parties and cross-border)
- **How it is secured** throughout its lifecycle

Following that organisations shall analyse the relevance of the new requirements under the GDPR for the different risk areas. With an understanding of their compliance gaps, organisations will be in a position to assess their personal data risks and develop prioritised remediation plans in order to adjust their data protection management to the new landscape under the GDPR.

The data protection landscape under the GDPR
## EY GDPR solutions

### GDPR Speed Assessment

**How do we do it?**
1:1 meeting using our speed assessment tool to walk through your current compliance with the new GDPR and identify significant gaps and remediation required.

**What do you get?**
A targeted and quick assessment of your compliance with the GDPR, providing a dashboard showing your readiness to comply with each of the key GDPR requirements.

### GDPR ‘360 Degree’ assessment

**How do we do it?**
Detailed questionnaires, interviews and workshops to understand your GDPR compliance position.

**What do you get?**
A detailed assessment showing your maturity against the GDPR requirements, your key gaps and risks, and a remediation roadmap.

### Privacy Impact Assessments (PIA)

**How do we do it?**
Design of a tailored PIA template. Interviews with system/project owners and review of designs and documentation to assess the risks of harm to individuals through the misuse of their personal information.

**What do you get?**
A detailed assessment of your systems or projects identifying key privacy risks and remediation required to produce compliant methods for handling personal information.

### International data transfer strategy

**How do we do it?**
Design of the appropriate data transfer tool based in the analysis of the relevant data flows.

**What do you get?**
Customized and flexible framework which enables to continuously update triggered by new applications or new entities adhering to the system.

### GDPR Compliance Toolkit

**How do we do it?**
A programme of interlinked activities to develop your privacy framework and improve your maturity and compliance with the GDPR.

**What do you get?**
Development and implementation of a robust data protection framework, remediating your GDPR compliance gaps.

### Legal advice and support

**How do we do it?**
Global network of lawyers with cross border expertise, on hand to provide tailored legal advice and solutions.

**What do you get?**
Legal advice tailored to the needs of your organisation. If requested also EY Law acting as data protection officer.
<table>
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<tr>
<th>Solution</th>
<th>Overview</th>
<th>Service provided</th>
<th>Timescales</th>
</tr>
</thead>
<tbody>
<tr>
<td>GDPR Speed Assessment</td>
<td>High level assessment of data protection maturity</td>
<td>▶ Targeted assessment gauging readiness for the new requirements of the GDPR</td>
<td>1 day</td>
</tr>
<tr>
<td>GDPR '360 Degree' Assessment</td>
<td>Detailed assessment of data protection maturity</td>
<td>▶ Risk assessment and maturity evaluation based on industry framework and EU General Data Protection Regulation ▶ Recommendations and roadmap for remediation ▶ Product and process-specific risks</td>
<td>2-4 weeks depending on the size and complexity of the organisation</td>
</tr>
<tr>
<td>Privacy Impact Assessment</td>
<td>Customised Privacy Impact Assessment</td>
<td>▶ Assessment of your systems or projects identifying key data protection risks</td>
<td>1-2 weeks depending on the size and complexity of the process or system</td>
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<tr>
<td>International data transfer strategy</td>
<td>Standard Contractual Clauses</td>
<td>▶ Identification of data flows ▶ Design of the appropriate data transfer tool, including the development and implementation of: ▶ Standard contractual clauses (for data controllers or data processors) ▶ BCRs ▶ Policy and procedures (such as audit program, internal compliance management...) ▶ Privacy governance and organization design ▶ Codes of conducts ▶ EU-US Privacy Shield</td>
<td>1-24 months depending on the size of the entity and the tools to be implemented</td>
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<td>Risk assessments</td>
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| GDPR Compliance Toolkit | Mapping of applicable legal requirements                                  | ► Design and delivery of data protection improvement programmes, including the development and implementation of:  
  ▶ Data protection frameworks  
  ▶ Privacy governance and organisation design  
  ▶ Policy and procedures  
  ▶ Training and awareness  
  ▶ Incident management  
  ▶ Third Party management  
  ▶ Risk management  
  ▶ Procedures and controls  
  ▶ Information security controls  
  ▶ Binding Corporate Rules program compliance  
  ▶ Ongoing compliance and monitoring | 3-24 months depending on maturity and size of the organisation |
|                         | Compliance and legal monitoring solutions                                 |                                                                                                            |                                                |
|                         | Documentation of data processing operations                                |                                                                                                            |                                                |
|                         | Drafting and implementation of procedures and policies                     |                                                                                                            |                                                |
| DPO Legal Support       | Legal analysis and drafting of legal documents                             | ► Legal analysis of compliance with data protection legislation  
  ► Assessment of any non-compliance and suggestions of remedial action  
  ► Drafting for data controller and data processor agreements  
  ► Training of DPO  
  ► EY Law as DPO | Assessed on a case by case basis – depending upon scope                   |
|                         | EY acting as external DPO                                                  |                                                                                                            |                                                |
Example outputs

We can work with organisations to enhance their understanding of their compliance position and maturity level. Below are some examples of the types of work products we have previously produced on data protection engagements:

Organisations face many challenges preparing for the EU GDPR over the next couple of years. It is important that they understand their current state and the steps necessary to move towards compliance with the EU GDPR. If you would like to discuss any of the issues raised in this brochure then please get in touch with the contacts overleaf.
Before printing please ensure that the template is PDF’d with specific setup which includes crop marks, bleeds and page layouts. The total number of pages needs to be divisible by four. Total pages must not exceed 48.

**EU General Data Protection Regulation:**
Get ready, the clock is ticking.

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