



# SCHREMS II: WHY DATA MAPPING IS CRUCIAL FOR YOUR BUSINESS

**THANKS TO THE CJEU'S SCHREMS II RULING, THE IMPORTANCE OF DATA MAPPING HAS BEEN EMPHASIZED.**

Does your company keep track of all its data flows? Many companies consider data mapping as a daunting task since a clear overview usually cannot be obtained within a day. However, knowing where your data is stored and being transferred to is an important step towards more efficiency and compliance. Data mapping contributes to having an up-to-date record of processing activities and privacy notice. Moreover, considering the Schrems II decision, companies transferring personal data to US parties cannot lean back anymore. It is time to start mapping.

## THE IMPACT OF SCHREMS II

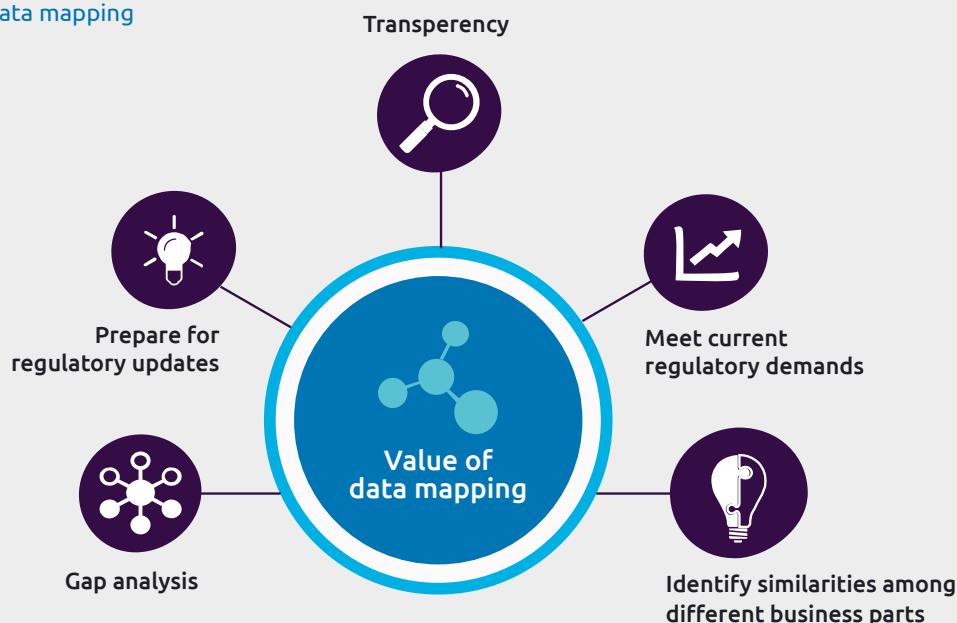
Last Summer, the Court of Justice of the European Union (CJEU) invalidated the EU-U.S. Privacy Shield.<sup>1</sup> In short, this means that European companies can't rely anymore on the Privacy Shield as a sufficient safeguard to transfer personal data to parties in the United States. The main reason? U.S. law allows intelligence agencies to collect and use the personal data, transferred under the Privacy Shield framework, in a manner that is inconsistent with rights guaranteed

under the General Data Protection Regulation (GDPR).

The EU Commissioner announced that negotiations with the U.S. Government have been intensified regarding an enhanced EU-U.S. Privacy Shield.<sup>2</sup> Till the negotiations will be finalized, companies will need to look for alternatives to guarantee sufficient safeguards for cross-border data transfers to the US.

Therefore, the European Data Protection Board (EDPB) introduced a six-step approach towards GDPR compliance. You can read more about this in our [blog](#). The first step that companies should consider, according to the EDPB, is mapping personal data transfers. In this blog, we will zoom in on this particular step.

Figure 1: The value of data mapping



See figure 1 for an overview of the importance of data mapping. Achieving an extensive and comprehensible mapping of your data is usually not seen as an easy task for companies. For instance, in practice we observe that many financial institutions have overflowing hard drives with leftovers from outdated data flow charts. While at some point in time those data flows represented the true flow of data for a company, they fell short of achieving their key purpose: creating transparency.<sup>3</sup>

Transparency is an important concept in your data mapping. Not simply because you want to know where all your data is being transferred to, but moreover to be able to meet the criteria set by regulations in an efficient and more

reliable way. Having a centralized data mapping for your company helps in identifying similarities among different parts of the business. It is not uncommon to have similar data flows to external sources coming from different company parts or projects. In being able to identify such cases, it will prove easier to conform to regulations and becomes less costly to adhere to changes in the future.

Another advantage to having a complete data mapping is the ease with which mismatches between business processes and regulatory demands can be identified. By making use of an up to date and organized data mapping, a gap analysis to solve your contracts with third parties becomes an easier task.

Even though there are solutions for the Schrems II ruling, such as the upgraded Standard Contractual Clauses (SCC)<sup>4</sup>, the landscape of these types of contracts is still changing on a regular basis with new rulings and updated regulatory demands. The fact that there is no long-term certainty from a regulatory side, makes for an even stronger case to start looking into your data mapping. Non-compliance can lead to a lack of accountability of your company. Since in your data mapping you can find transparency, completeness, and certainty to help your company in reaching the required compliance and preparing for the dynamic future that is to come.

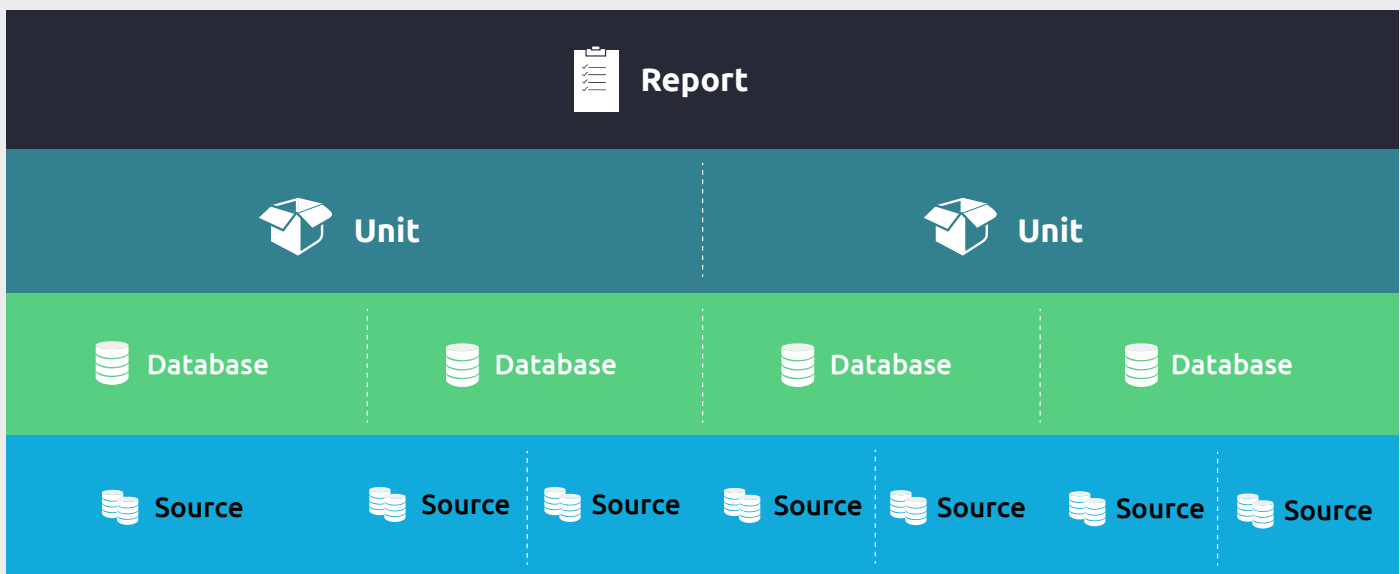
<sup>1</sup> Case C-311/18, Data Protection Commissioner v. Facebook Ireland Ltd, Maximilian Schrems, ECLI:EU:C:2020:559 (July 16, 2020); Privacy Shield Overview, PRIVACYSHIELD.GOV, <https://www.privacyshield.gov/Program-Overview>.

<sup>2</sup> [https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT\\_21\\_1443](https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_21_1443).

<sup>3</sup> <https://www.capgemini.com/consulting-de/wp-content/uploads/sites/32/2018/05/data-management-flywheel-capgemini-consulting.pdf>.

<sup>4</sup> [https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc/standard-contractual-clauses-international-transfers\\_en](https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/standard-contractual-clauses-scc/standard-contractual-clauses-international-transfers_en).

Figure 2: Reporting flows example



## The right approach

Where some companies are proficient in their data management, others may not be so at all. That is why the first step is finding out whether the required knowledge is present within your company or requires external expertise. Once you are confident that the right people have gathered around the table, a next step is to derive the starting point.

What is often considered a very useful area to start in is the reporting flows. Figure 2 shows an example of this. Usually in your reporting, already a ton of data can be found that comes from all corners of the company. Beyond that it can guide you in creating a visual, not just on the location of the data and the flows, but also the accessibility of employees and externals to that data. This is the type of information that is needed when talking about topics like Schrems II. A great example of this is when you start your data mapping from the processes that deliver reporting for personal data, such as those of Know Your Customer (KYC).

Tracking the flows of your data from reports allows you to create a data mapping that includes both the sources and consumers of incoming and outgoing data flows. Having a clear mapping of all data consumers of your data, allows for a proper comparison of existing contracts for your data flows that require attention. This does not only benefit the Schrems II process, but also covers requirements from other regulations such as the Basel Committee on Banking Supervision's standard number 239 (BCBS 239) focused on banks.<sup>5</sup>

Within Capgemini we are more than qualified to guide you through the general works and advantages of

creating and having such a data mapping.<sup>6</sup>

Certainly, considering the Schrems II ruling, such comparisons are now a top priority for companies transferring data to the US.

At this point in time, what we know is that still a lot is unclear on the Schrems II topic. Even beyond that when we consider the Standard Contractual Clauses (SCC's), companies merely hit more uncertainty. Even though the Schrems II ruling is already from last Summer, the EDPB has, up until now, only given abstract guidelines on the next steps. Even the potential replacement of the EU-U.S. Privacy Shield with the upgraded version of the SCC, is sustainably questionable, leaving a cloudy view of the future. Therefore, it is even more important to consider creating, updating, or simply improving your data mapping. As in an area that has so many uncertainties, it is key to prepare in the best way possible for as many scenarios as possible.

### Learn more

Do you want to learn more about how we can help you regarding data mapping and on how your company should deal with the Schrems II ruling? Visit our website [here](#) for more information and feel free to reach out to Casper Stam and Albert Holl.

<sup>5</sup> <https://www.bis.org/publ/bcbs239.pdf>.

<sup>6</sup> For more information, also have a look at: <https://www.capgemini.com/service/invent/inventivefrc/frc-data-platform/>.

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