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DATA PROTECTION

# Silicon Valley challenges and strategies

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# Compliance with the EU General Data Protection Regulation (2016/2018)

GDPR applies to

**organizations that have an “establishment” in the EU**, irrespective of whether the data processing takes place in the EU or not.

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**organizations located outside the EU if they offer goods or services to, or monitor the behavior of, data subjects located in the EU**, irrespective of their nationality and the company’s location.



# Transfer of Personal Data outside of the European Economic Area

Generally prohibited unless:

## “adequate” data protection is ensured

(European Commission Adequacy Decision): Switzerland, Israel, Japan, Canada (private sector), Argentina, New Zealand ...

## to United States only via

- EU-US Privacy Shield
- European Commission approved Standard Contractual Clauses
- Binding Corporate Rules





"consent"

wait-and-see

tense vendor negotiations

mature companies  
replace small  
providers

need for  
quality seal

complicated  
data transfers

# The Advantage of GDPR Compliance on a Global Level



GDPR-Compliant  
Company

**Legally  
Required**  
Privacy Rights  
(costly, complicated)

EU User



GDPR ✓

US User



GDPR ✗

RoW User



GDPR ✗

**Actual**  
Privacy Rights  
Provided  
(advantageous)

EU User



GDPR ✓

US User



GDPR ✓

RoW User



GDPR ✓



View from **Salesforce HQ**, legal department  
San Francisco, USA

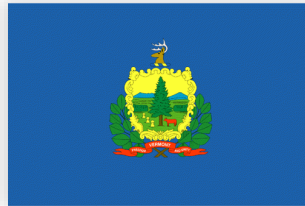
# New and Upcoming Privacy Laws Globally (selection)



**European Union GDPR**  
May 2018



**Colorado Data Privacy Act**  
September 2018



**Vermont Act 171**  
January 2019



**California Consumer Privacy Act**  
January 2020



**Brazil LGPD**  
February 2020



# Preparing for the California Consumer Privacy Act (2020)

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CCPA will generally apply if **doing business in California** and **collecting the personal information of a California resident**.

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# Preparing for the California Consumer Privacy Act (2020)

CCPA applies to “businesses” that meet one or more of the following thresholds:



has annual gross revenues in excess of \$25,000,000



annually buys, receives, sells or shares personal information for commercial purposes of 50,000 or more consumers, households or devices



derives 50% or more of *annual* revenues from selling consumers’ personal information

# Under the California Consumer Privacy Act

**a consumer  
has the right to**

request disclosure of personal information collected,  
sold or disclosed for a business purpose

request deletion of personal information

**opt out of the sale of personal information**

access and data portability

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**a business  
is obliged to**

notify a consumer of her rights

**not discriminate against a consumer  
for exercising a right**

# Other laws still being negotiated (selection)



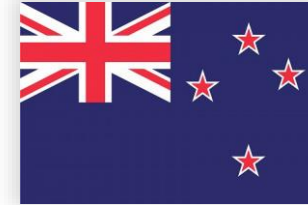
**European Union  
ePrivacy**



**India Personal  
Data Protection  
Bill**



**Chile Privacy  
Bill Initiative**



**New Zealand  
Privacy Bill**



**U.S. Federal Law  
Negotiations**





**What's your experience implementing privacy regulation in your business?**

A person's hands are shown holding a smartphone. The image is overlaid with various digital graphics, including a grid of dots and lines, a tree diagram of cubes, and several text boxes. The background is a blurred image of a person in a white shirt.

## DATA PROTECTION

Want to learn more about how to protect your users' data?  
Get in touch with me at [julia.reinhardt@fuchslaw.net](mailto:julia.reinhardt@fuchslaw.net)

## INNOVATION

Interested in connecting with Silicon Valley in a way tailored to  
your needs? Contact me at [julia.reinhardt@germaninnovators.com](mailto:julia.reinhardt@germaninnovators.com)