



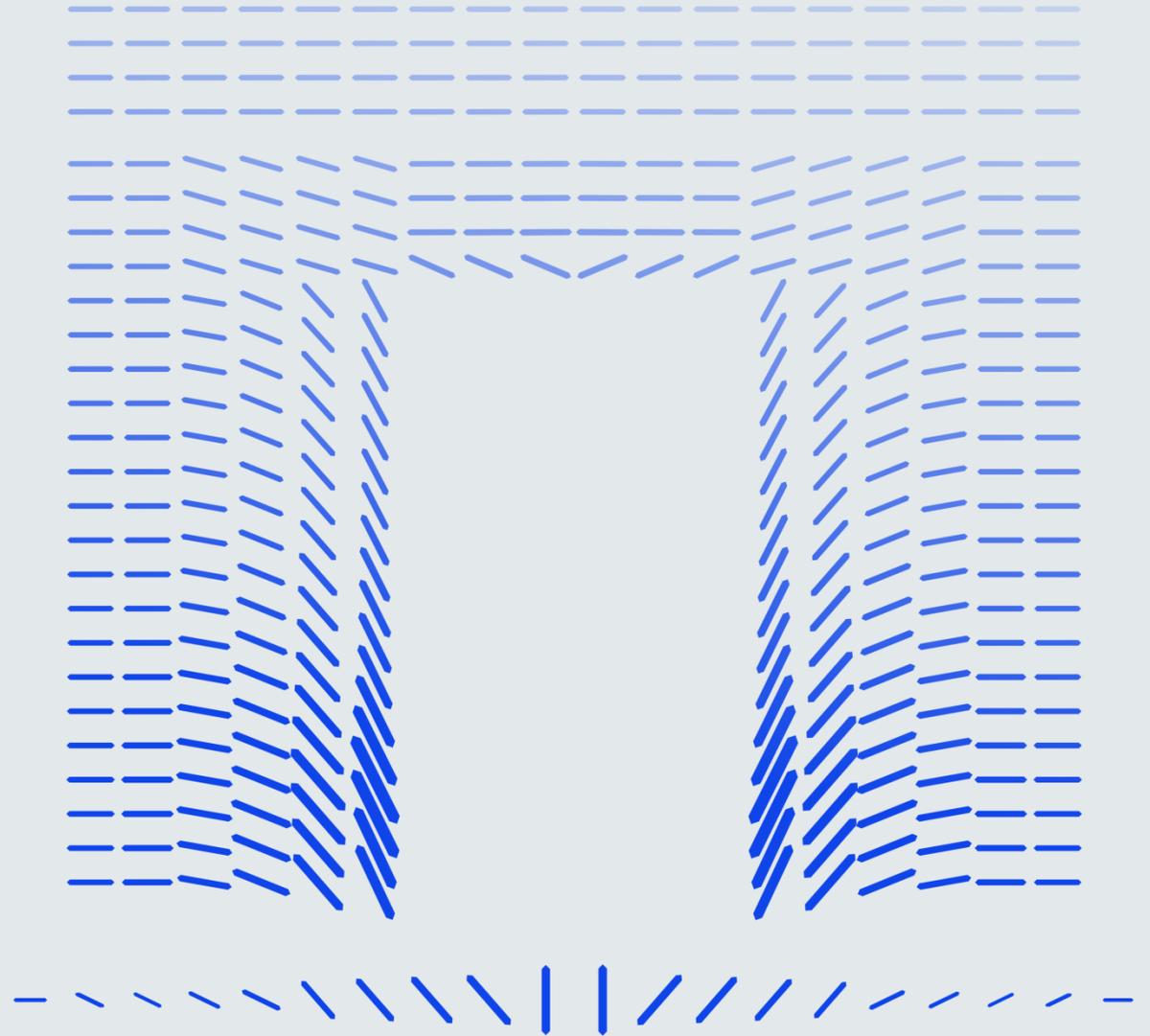
Dubai International
Financial Centre

Office of the Commissioner of Data Protection - UPDATE

Presented by
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01

Side by Side

DIFC DP Law 2007

DP Law 2020

Key updates

Data Protection in the DIFC – Side by Side

2007	2020	KEY UPDATES
Accountability	Accountability - Reinforced	Introduction of DPO and other controls such as prior consultation and processor provisions
Data Subjects Rights	Data Subjects Rights	Same rights, but aligned to absorb impact of emerging technology
Security breach reporting	Security breach reporting - Enhanced	The processor must now play a larger role in accountability overall and for breach reporting, and the data subject him or herself must be informed in certain cases
International Transfers	International Transfers - Realigned	Enhanced to align with current international adequacy standards, processors more accountable, additional mechanisms (i.e., BCRs) recognized
Data Protection Principles	Data Protection Principles	Same principles, but promotes concepts of structure, governance and risk-based approach to compliance (i.e., via PIAs, Codes, etc)
Notifications	Notifications	Still required, however process for filing will be akin to setting up a compliance program tracked against the DP Law



02

Export and Sharing

Articles 26 to 28 in focus

Obligations

Guidance

Articles 26 to 28

Article 26 – Transfers out of the DIFC: adequate level of protection

- Equivalent, same controls and safeguards...
- How is this determined? More on this later

Article 27 - Transfers out of the DIFC *in the absence of an adequate level of protection*

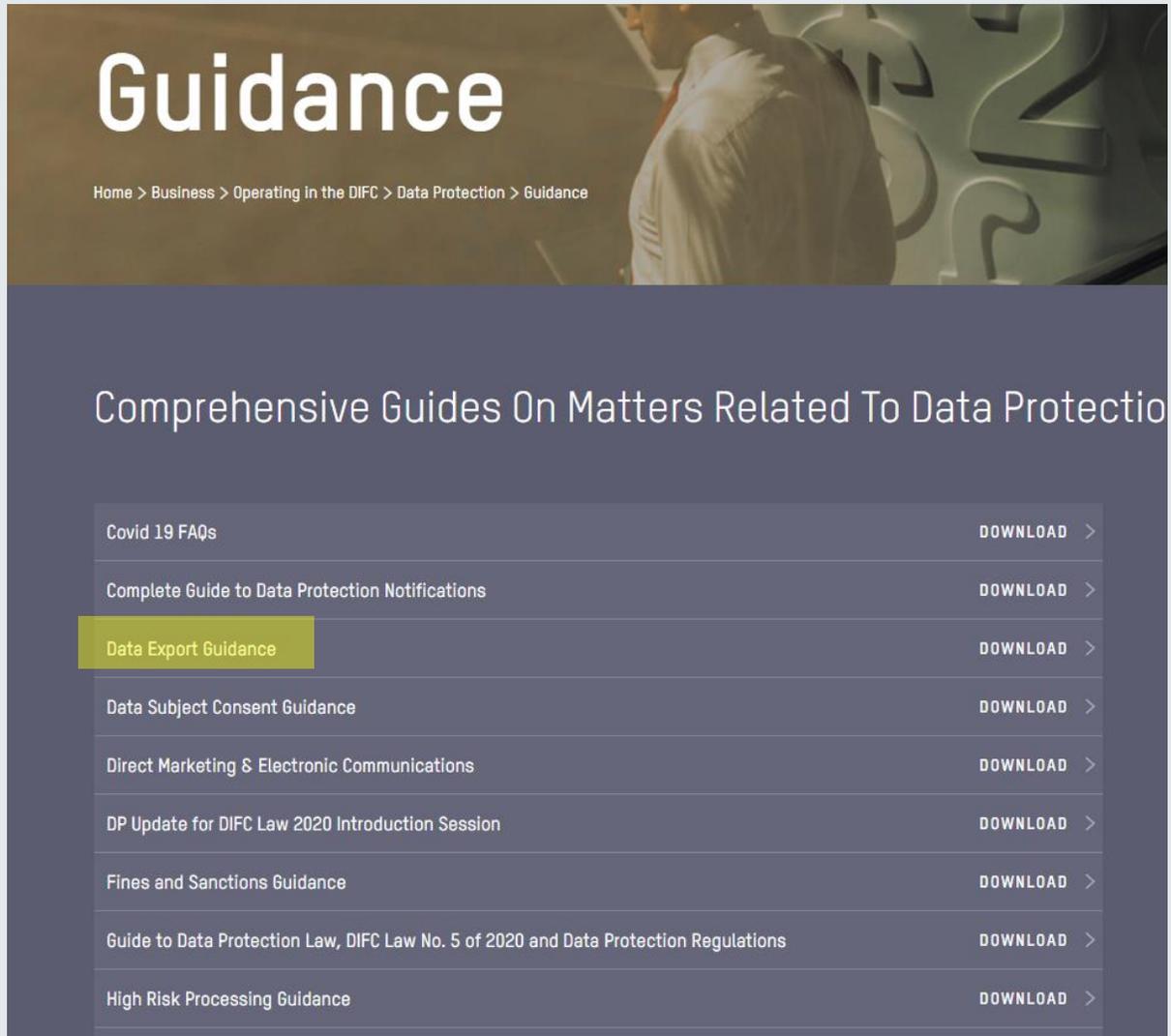
- Essentially where there is no DP Law or “equivalent” DP Law in the destination place for processing, similar conditions to those in DIFC must be created by contract, policy, rule of law or other applicable condition

Article 28 – Data Sharing

Clyde & Co –
Transfers out of DIFC

The Commissioner’s Office has [posted guidance](#) and assessment tools on several key topic areas of the DIFC DP Law 2020

[DIFC DP Website](#)



The screenshot shows the 'Guidance' section of the DIFC DP website. At the top, the word 'Guidance' is displayed in large white font against a background image of a person in a white shirt. Below this, a breadcrumb trail reads: 'Home > Business > Operating in the DIFC > Data Protection > Guidance'. The main heading is 'Comprehensive Guides On Matters Related To Data Protection'. A list of guides is provided, each with a 'DOWNLOAD >' link. The 'Data Export Guidance' item is highlighted with a yellow background.

Covid 19 FAQs	DOWNLOAD >
Complete Guide to Data Protection Notifications	DOWNLOAD >
Data Export Guidance	DOWNLOAD >
Data Subject Consent Guidance	DOWNLOAD >
Direct Marketing & Electronic Communications	DOWNLOAD >
DP Update for DIFC Law 2020 Introduction Session	DOWNLOAD >
Fines and Sanctions Guidance	DOWNLOAD >
Guide to Data Protection Law, DIFC Law No. 5 of 2020 and Data Protection Regulations	DOWNLOAD >
High Risk Processing Guidance	DOWNLOAD >

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[DIFC DP Website](#)

Data Protection Assessment Tools

The Commissioner does not make any warranty or assume any legal liability for the accuracy or completeness of the information herein as it may apply to the particular circumstances of an individual or a DIFC entity. The information, which may be amended from time to time, does not constitute legal or any other type of advice and it is provided for information purposes only.

DP Assessment Tool – Applicability

CONDUCT ASSESSMENT

DP Assessment Tool – Data Protection Officers

CONDUCT ASSESSMENT

DP Assessment Tool - Data Export and Sharing

CONDUCT ASSESSMENT



03

Adequacy & Schrems II

What does adequacy mean?

Schrems II decision

Next Steps

Adequacy

- (2) For the purposes of Article 26(1), the Commissioner may determine from time to time that a Third Country, a territory or one (1) or more specified sectors within a Third Country, or an International Organisation ensures an adequate level of data protection, taking into account factors including:
- (a) the rule of law, the general respect for individual's rights and the ability of individuals to enforce their rights via administrative or judicial redress;
 - (b) the access of a public authority to Personal Data;
 - (c) the existence of effective data protection law, including rules on the onward transfer of Personal Data to a Third Country or International Organisation;
 - (d) the existence and functioning of one (1) or more independent, competent data protection or similar supervisory authorities with adequate enforcement powers; and
 - (e) international commitments and conventions binding on such Third Country or International Organisation and its membership of any multilateral or regional organisations.

DIFC recognizes nearly all jurisdictions that the European Commission recognizes + ADGM; scope for further adequacy decisions.

UK and Brexit – Commissioner's Office communicated in March 2019 that DIFC will continue to recognize the UK post Brexit and is working with the DCMS to obtain recognition from the UK as well.

This would be the first time in the GCC that a jurisdiction is recognized.

Schrems II

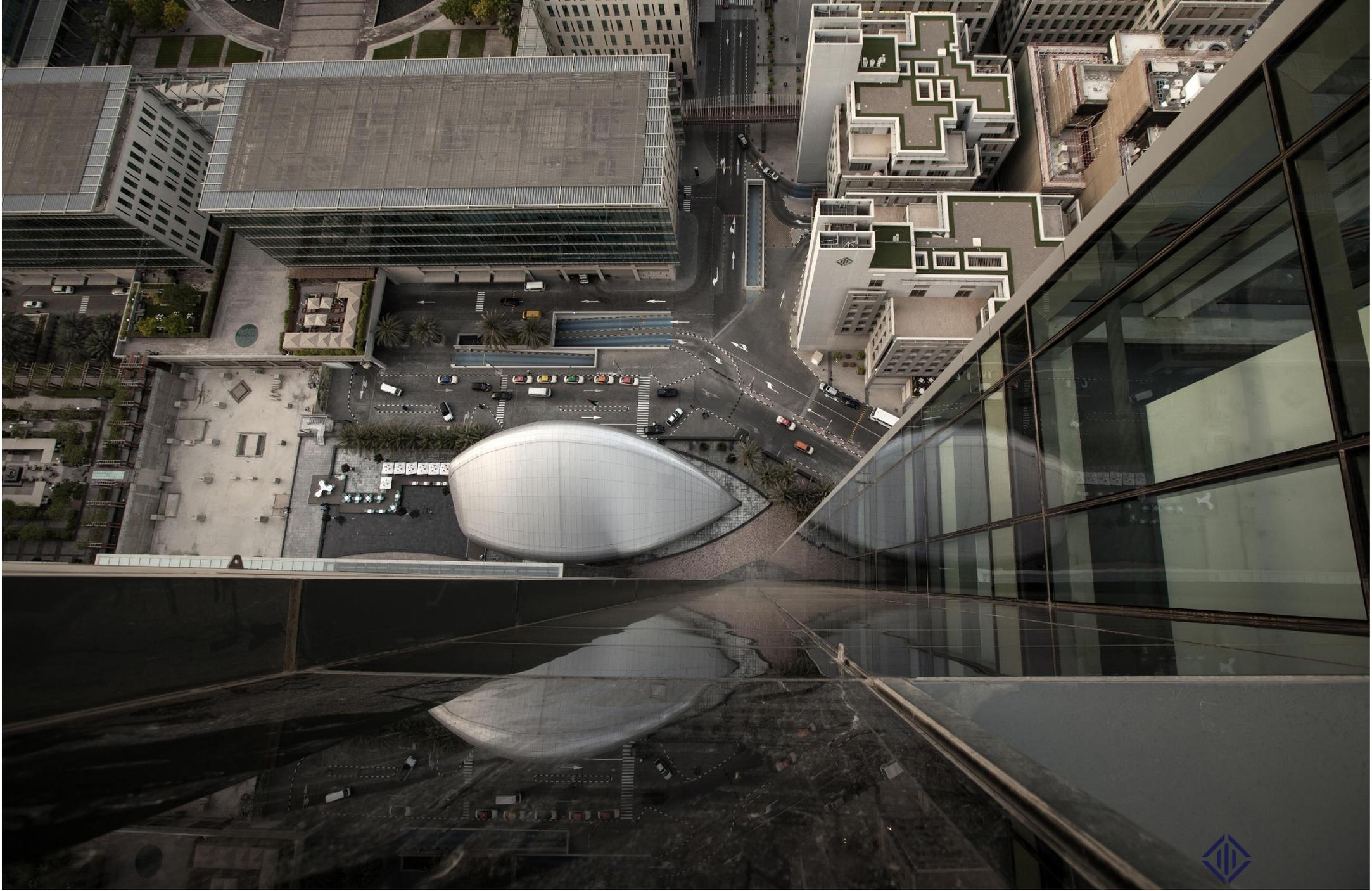
Issue: International transfer mechanisms such as Privacy Shield and standard contractual clauses did not provide sufficient protections for rights of EU data subjects.

First Schrems decision in 2015 invalidated Safe Harbour. It was replaced by Privacy Shield in 2016.

This follow up case reached its conclusion in the Court of Justice of the European Union on July 16, 2020

Key Takeaways:

- When using standard contractual clauses, further investigation into the security and safeguards of the destination jurisdiction will be required.
- Privacy Shield can no longer be used.



With the recent digital onboarding enhancements in the portal, you'll notice a difference to the DP section.

Until the law becomes effective on July 1, 2020, everything will remain as is and the current law will apply

Since July 1, 2020, the DP section of the portal covers off your business's compliance with essentially each part of the DP Law 2020

The idea is to ensure that at a bare minimum, through your notification registration with the Commissioner's office, you will have the skeleton basis of a DP compliance program

This will be enhanced as well as we receive feedback about the operation of DP Law 2020

As always, questions for the Commissioner's Office are welcome

If you would like to take advantage of the consultation period or want to engage in a voluntary supervisory visit, please let us know

Review your business's DP status currently and prepare to update as needed both within your organization and on the portal to align with the DP Law 2020



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Thank You

For more information regarding this
presentation, kindly contact:

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