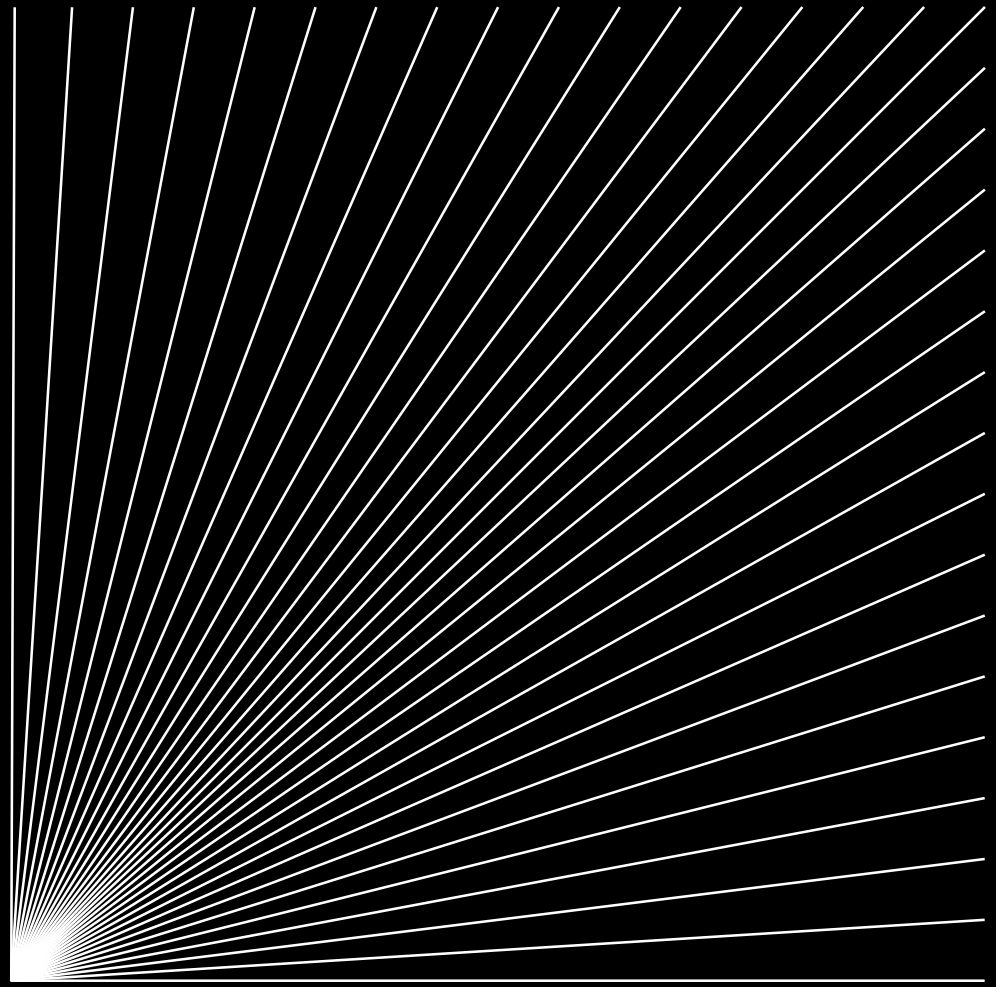
DIFC Data Protection Talks

Talk #1: DIFC DP Website, Tools, Best Practices and Guidance

Date: 29 March 2022

The future is here.



Discussion

What are current best practices and where did they come from?

What tools are available to assist us in getting and staying compliant?

What are your burning questions?

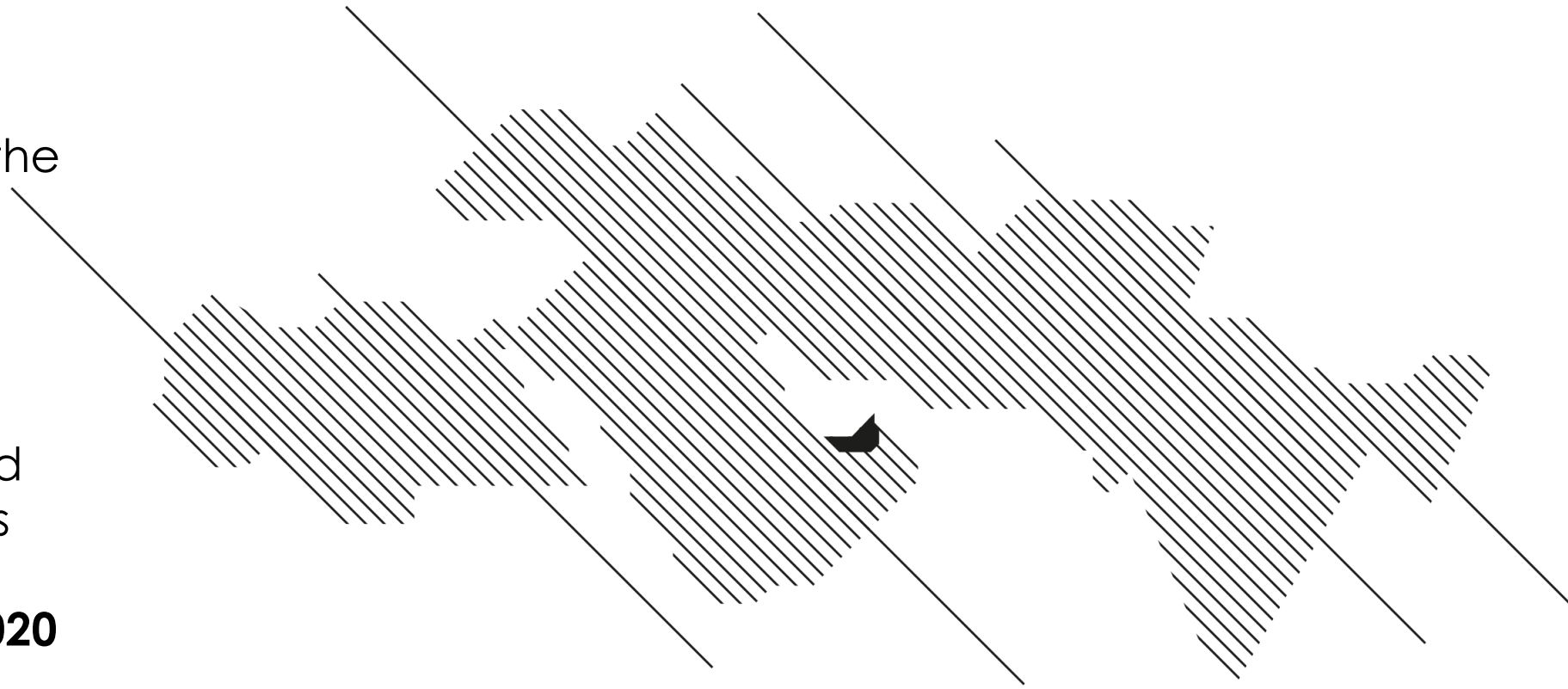
What is an adequacy assessment and how will it help my business be more competitive?

Best Practices

Where did they come from, what can we expect going forward?

The EU led the way with the 1995 Directive and the **GDPR** in 2016

Since then, over **145 countries have enacted data protection laws**, and 20+ laws in draft. UAE has several relevant laws, including DIFC **DP Law 2020** and **UAE DP Laws 44/45**



1980
OECD Guidelines, global principles supporting fundamental human right to privacy and a private life

2004
The first DIFC DP Law, and the first in the GCC region, is enacted, and administered by the DFSA

20+
The number of data protection laws in draft

6
The UAE DP Law 45 will become enforceable 6 months after the Executive Regulations

108
Convention 108, the first legally binding DP instrument, is adopted by Council of Europe on Jan 28, 1981

Layout of DIFC DP Law 2020

What tools are available to support getting / staying compliant?

Always check the DIFC DP Website for latest templates, forms, guidance & assessment tools

Sections of the Revised DIFC DP Website

FAQs / Guidance	Information in concise, clear FAQs, assessment tools and detailed analysis of best practice issues
Personal Data Breach Reporting	Helpful forms and tools to understand whether to report a privacy breach
Notifications	Explanation of Fees, Voluntary notification form
Accountability & Rights	Templates for setting up a fully functioning compliance program
Data Export and Sharing	Handbook, SCCs, Ethical Data Management Index, and Adequate Countries list

What are YOUR burning questions?

I am interested in how DP law is different comparatively (to other countries) and how that affects privacy policies.	Very much the same across the board. DIFC have put together an index that will be published shortly.
What recommendations do you have for global companies that face DP issues across multiple jurisdictions?	Apply the strictest standard, often will be the GDPR / UK GDPR, and implement across the board.
What are the operational and compliance implications of new DP laws? And how does that compare to GDPR?	See above
If a DS has requested to delete his data, which also includes emails, but IT has some constraints - next steps?	Please see Articles 29 and 30 – particluarly Article 29(1)(h)(ix) and also please reivew DIFC guidance on this topic.
Is a DIFC foundation with the object of benefiting a person by name / category or a PC required to have a DPO?	Depends – High Risk Processing? Please review DIFC guidance on this topic for more details.
Is there plan to roll out certified courses in DIFC DP Law where firms could periodically enroll relevant staff?	There are third party vendors that provide courses, but none provided by the Academy at this time.
Any guidelines or decision on how the transfer of data to US should be addressed now and in future?	Please see our Data Export and Sharing Handbook and updates to our website for further assistance. For now, DIFC SCCs (or any similar SCCs) are the only option.
How do you see the DIFC DP laws interacting with the requirements under the revised Federal Penal Code and Cybercrimes Laws?	UAE and emirate level criminal laws apply in DIFC. There are carve outs in the DP Law, as in most DP Laws, about sharing personal data for public interests, and Article 28 provides additional safeguards.
Is there a time frame for updating SCC's from the previous published DIFC SCC to the new SCCS? Can firms rely on GDPR SCCs?	Ideally they should be updated by the end of this year. Please see our Data Export and Sharing Handbook and updates to our website for further assistance.

What are YOUR burning questions? (/2)

How do we manage expectations of vendors based outside of DIFC and are generally hesitant to sign on DP clauses?	Explain to them that this is not just a DIFC requirement, but likely will impact them through the new UAE Law or many other similar GCC or EU / UK requirements. It's simply not up for debate.
Do we have to appoint a Data Processor and notify DIFC through the portal?	Appointing Processors is a business decision but most will use one. If you process personal data, yes, you must notify. Please see the Notifications page and guidance on the DIFC DP Website.
What is a Filling System? whether DP Law will not apply if there is no Filing System?	Schedule 1, Article 3 Definitions: any structured set of Personal Data that is accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographic basis.
Please share best practices for daily operations in the office that people may sometimes take for granted.	LOCK YOUR LAPTOP / WORKSTATION!!!
Will the UAE onshore jurisdiction become an addition to the approved jurisdiction list to transfer personal data to?	Maybe…… our hope is that it will, sooner than later, but the reamininng regulations and set up of the regulator's office needs to be completed.
Do we have guidance issued for Marketing product from DIFC & UAE ?	https://www.difc.ae/business/operating/data-protection/guidance/#s18
What are the implications on DIFC companies regarding new Federal Law no.45	There are many resources available on this, from various local and international firms. Our view is that it's a very positive move, similar to DIFC DP Law, and should therefore have minimal compliance impact.
How we can measure the ROI of training and awareness on Privacy and Data Protection in an organisation?	You can – there are resources online about the benefits of compliance. Looks at the success of your IT / processing vendors. WINNING!

What kinds of questions should we consider for transfers outside the DIFC?

What are “onward transfers”?

Where does my company collect Personal Data?

How many Processors are we sharing data with and what DP laws are in place where they operate?

What are the Schrems decisions, the EU-US Trans-Atlantic Privacy Framework and how do they impact our company’s data transfers?

What government authorities may access Personal Data my company processes?

UK Adequacy Assessment

Of **utmost importance** to the DIFC adequacy assessment is:

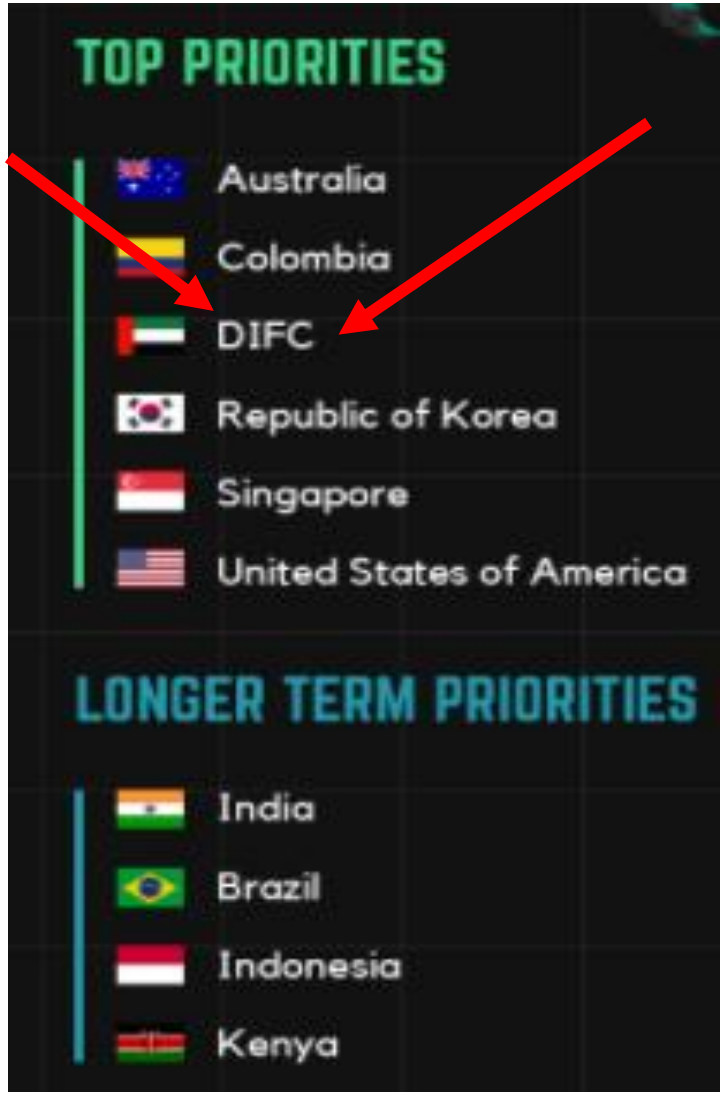
1. driving the concept of **accountability and risk-based thinking** throughout every step of the in-depth adequacy assessment;

2. building **lasting frameworks** for secure, ethical data-sharing;

3. creating opportunities to **deepen core understanding** of how important data protection compliance is; and

4. **enhancing trade through a long-standing relationship** DIFC has always maintained with the UK, mirroring the common law approach as its whole legal foundation.

5. As of 26 August, 2021, DIFC are the only "jurisdiction" being assessed, or to have ever been assessed (rather than a country) and the **only one in the Middle East**.



Contact

For further information
please contact:

DIFC DP Commissioner's Office
commissioner@dp.difc.ae

+971 4 362 2222

Gate Building
Level 14
DIFC, Dubai, UAE
PO Box 74777