



ETHICAL DATA MANAGEMENT RISK INDEX

**DATA IMPORT RISK RATING ASSESSMENT FOR
DP LAW COMPLIANCE**

Commissioner of Data Protection

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1. Introduction

Sharing personal data across borders is an on-going area of risk in and of itself, given the various regulatory hurdles presented from jurisdictions where most global business is conducted. Most personal data that is collected or transferred is often shared with a) importing jurisdictions that don't have data protection laws, or b) importing jurisdictions where the data protection law has not yet been recognized as equivalent to the exporting one – even if it is equivalent.

In most data protection laws around the world, mechanisms exist to address how to safely share personal data across borders, with additional controls and obligations that essentially bring the exporting jurisdiction law to the importing one. However, that is often not enough. In addition to data protection laws, as a starting point, exporters must address considerations such as:

- environmental factors;
- supervision and enforcement efforts of local regulators;
- access to authorities and courts;
- government and law enforcement access to personal data;
- general accountability and transparency; and
- propensity for compliance with laws generally / corruption factors

The twist is this: None of this is new. There are many publicly available research papers, tools and compendiums about these risk indicators – focused on the importing country's laws and regulators, all of which are quite useful.

What *is* new is that the Ethical Data Management Risk Index (EDMRI) provides an exporting organization with a way of knowing quickly, efficiently, and with regulatory certainty, what may be expected of a company or other importing organization in any given jurisdiction. The EDMRI is akin to a regulatory compliance and risk assessment not only of the importing jurisdiction, but of *the compliance propensity of importers in that jurisdiction*, as a starting point, which in fairness, all exporters should be looking at. From this EDMRI, an exporter is given guidance on thematic issues that may be valuable to them, as well as an overall rating with recommendations for mitigating such risks.

The [EDMRI+](#), which is supplemental to the EDMRI, complements the overall index to this end. Not mandatory to complete at this time, but useful in that the EDMRI+ is a set of questions that can be used as a:

- basis for a more detailed Transfer Impact Assessment (TIA);
- way to determine whether additional contractual obligations should be factored into a services agreement or transaction;
- general compliance management tool within an organization, as a part of a technical or organizational policy or procedure, to add to a compliance program arsenal of safeguards; or

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- a general sense check on whether an organization’s collection, processing, and transfers approach is “ethical”. Knowing the risks, based on the EDMRI, and documenting the importing entity’s specific, practical application of these risk criteria using the EDMRI+ questions, would you, as the DPO or contract manager or legal advisor, or *should* you share personal data with that importer? If not, what *should* you do to level set and reduce the likelihood and impact of the transfer risk and subsequent processing by the importer? What instructions would or *should* you give them?

Each country’s risk index is hyperlinked to the research narrative, detailing the compliance indicators and responses as assessed by an independent third party. Please review the index narratives, so you can see both the thematic breakdown of risk factors and the detailed factors that makes up the overall scoring. What is also interesting to note is that many of the countries on the index below have data protection laws, some of which are deemed “adequate”, yet when it comes to risk of non-compliance by the importing organizations in that jurisdiction, it can still be quite high. This is what exporters need to ascertain and mitigate before transfers, direct or onward, occur.

Please review the EDMRI FAQs, available [here](#), for more details.

The EDMRI and EDMRI+ assessment results are for guidance purposes only and does not constitute legal advice. If you have any questions, comments, or corrections, please let the DIFC Commissioner’s Office know by emailing us as commissioner@dp.difc.ae

2. Development and Scope

The EDMRI research was completed primarily by an independent law firm¹ that then scored the information in the country index narratives. It was then reviewed against the methodology and a final index rating given. There are other countries’ ethical data management environments being evaluated at this time as well, to build a bigger, more accurate index.

Please note, the index rating is not DIFC’s assessment of the country or any political / economic analysis but instead is an assessment of the risk of a Data Importer in the particular jurisdiction lawfully or unlawfully processing Personal Data. The order is indicative, to a degree, of “ranking” but bear in mind that in some cases individual jurisdiction scores were the same, so blocks withing risk levels may be “tied” for rating weight.

Finally, it is not necessary to complete the actual EDMRI questions. In fact please do not. It will impact the raw data collected via this tool. However, if you would like to see the tool used to compile the information, please have a look [here](#). As always, your feedback is welcome.

¹ [CMS Dubai](#) and contributors from other independent firms have provided the initial research for the EDMRI. The Commissioner’s Office thanks them for their support.

3. EDMRI

LOW: No concerns about importing entity complying with existing laws, including DP laws, and assuring data subjects' rights.	LOW / MEDIUM: Almost no concerns about importing entity complying with existing laws, including DP laws, and assuring data subjects' rights.	MEDIUM: Concerns about importing entity complying with existing laws, including DP laws, and assuring data subjects' rights, but likely to be mitigated if enhanced due diligence is undertaken.	MEDIUM / HIGH: Increased concerns about importing entity complying with existing laws, including DP laws, and assuring data subjects' rights, and unlikely to be mitigated unless enhanced due diligence is undertaken.	HIGH: Significant degree of concerns about importing entity complying with existing laws, including DP laws, and assuring data subjects' rights, and unlikely to be mitigated.
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Data Importer Location(s)	Grey = Adequacy Decision & DP Law	Risk Index
	Blue = DPL Only	
Spain		Low
Portugal		Low
South Korea		Low
United Kingdom		Low
Jersey		Low
Bermuda		Low
Slovakia		Low / Medium
France		Low / Medium
Germany		Low / Medium
Czech Republic		Low / Medium
Hungary		Low / Medium
Israel		Low / Medium
Colombia		Low / Medium
Ireland		Low / Medium
Austria		Low / Medium
Singapore		Low / Medium
Australia		Low / Medium
Japan		Low / Medium
Belgium		Low / Medium

Data Importer Location(s)	Grey = Adequacy Decision & DP Law	Risk Index
	Blue = DPL Only	
South Africa		Low / Medium
Canada		Low / Medium
New Zealand		Low / Medium
Italy		Low / Medium
Bulgaria		Low / Medium
Mexico		Low / Medium
Malaysia		Low / Medium
Iceland		Low / Medium
Philippines		Low / Medium
Brazil		Medium
Morocco		Medium
Romania		Medium
Nigeria		Medium
Kenya		Medium
China		Medium
Slovenia		Medium
Switzerland		Medium
Turkey		Medium
Hong Kong		Medium

Data Importer Location(s)	Grey = Adequacy Decision & DP Law	Risk Index
	Blue = DPL Only	
Russia		Medium
Indonesia	No law	Medium
UAE		Medium
Ukraine		Medium
USA (with Individual States)	In draft	Medium
Saudi Arabia		High / Medium
Bosnia		High / Medium
Egypt		High / Medium
Qatar		High / Medium
Vietnam	In draft	High
Venezuela	No law	High
Tanzania	In draft	High
Pakistan	No law	High
Ethiopia		High
India	In draft	High
Bangladesh	No law	High
Afghanistan	No law	High

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