



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, given the various hurdles including trust between regulatory models and regimes. Most personal data that is collected or transferred is often shared with a) importing jurisdictions that don't have data protection laws or they were only recently enacted, 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.

However, 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. Exporters must also address considerations such as:

- environmental factors;
- supervision and enforcement efforts of local regulators;
- access to supervisory authorities and courts;
- access by government authorities and law enforcement, and associated safeguards, particularly in jurisdictions where the rule of law is applied inconsistently or is indeed non-existent;
- general accountability and transparency; and
- propensity for compliance with laws generally / corruption factors

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

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 should be expected of a data importer 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, a data 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
- 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. Color coding for the Overall Assessment is now split between Laws / Regulations and Culture / Corruption / Gov’t Access. Also, most Assessment responses are color coded, but LOW (green) is a lighter shade for readability due to font coloring. Previous versions are available in Annex 1.

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 independent law firms¹ that then scored the information in the country index narratives. It was then reviewed against the methodology. There are other countries’ ethical data management environments being evaluated at this time as well. Your feedback is welcome, please provide it using this [survey](#).

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 in versions 1 to 3 is indicative, to a degree, of “ranking”. Please bear in mind that in some cases individual jurisdiction scores were the same, so blocks within risk levels may be “tied” for rating weight. Version 4 (Dec 2023) is in alpha order.

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

3. EDMRI - as at April 2023

| | | | | |
|---|---|---|--|---|
| 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. |
|---|---|---|--|---|

| Data Importer Location(s) | Grey = Adequacy Blue = DPL Only | Risk Index |
|--------------------------------|------------------------------------|--------------|
| Spain | | Low |
| Portugal | | Low |
| South Korea | | Low |
| United Kingdom | | Low |
| Jersey | | Low |
| Bermuda | | Low |
| California | | Low |
| Slovakia | | Low / Medium |
| France | | Low / Medium |
| Czech Republic | | Low / Medium |
| Israel | | Low / Medium |
| Colombia | DIFC | Low / Medium |
| Ireland | | Low / Medium |
| Austria | | Low / Medium |
| Singapore | DIFC | Low / Medium |
| Australia | | Low / Medium |
| Japan | | Low / Medium |
| Belgium | | Low / Medium |
| South Africa | | Low / Medium |
| Canada | | Low / Medium |

| Data Importer Location(s) | Grey = Adequacy Blue = DPL Only | Risk Index |
|-----------------------------|------------------------------------|--------------|
| 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 |
| Russia | | Medium |
| Indonesia | | Medium |
| Cyprus | | Medium |

| Data Importer Location(s) | Grey = Adequacy Blue = DPL Only | Risk Index |
|--|------------------------------------|---------------|
| UAE | | Medium |
| Ukraine | | Medium |
| Germany | | Medium |
| USA (with Individual States) | In draft | Medium |
| Hungary | | Medium / High |
| Saudi Arabia | | Medium / High |
| Bosnia | | Medium / High |
| Egypt | | Medium / High |
| Qatar | | Medium / High |
| Kazakhstan | | Medium / High |
| Tanzania | | Medium / High |
| Vietnam | In draft | High |
| Gambia | No law | High |
| Venezuela | No law | High |
| Pakistan | No law | High |
| Ethiopia | | High |
| India | In draft | High |
| Bangladesh | No law | High |
| Afghanistan | No law | High |

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4. EDMRI - December 2023 Additions and Updates

| | | | | |
|---|---|---|--|---|
| 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. |
|---|---|---|--|---|

| Data Importer Location(s) | Grey = Adequacy Blue = DPL Only | Risk Index |
|---------------------------|------------------------------------|---|
| ADGM | DIFC | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> |
| | | Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| ARGENTINA | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> |
| | | Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| BAHRAIN | | Medium: <i>Laws and Regulations, Regulator and Enforcement, and Accountability</i> |
| | | Medium / High: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| CHILE | | Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> |
| | | Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |

| Data Importer Location(s) | Grey = Adequacy Blue = DPL Only | Risk Index |
|-----------------------------|------------------------------------|--|
| COLORADO | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> |
| | | Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| CONNECTICUT | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> |
| | | Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| CROATIA | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> |
| | | Low / Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| ESTONIA | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> |
| | | Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| GIBALATAR | | Low: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> |
| | | Low / Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |

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| Data Importer Location(s) | Grey = Adequacy Blue = DPL Only | Risk Index |
|---------------------------|------------------------------------|---|
| MALTA | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> Medium / High: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| OMAN | | Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| PERU | | Medium: <i>Laws and Regulations, Regulator and Enforcement, and Accountability</i> Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| POLAND | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> Low / Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| RWANDA | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> Medium / High: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| THAILAND | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| UGANDA | | Low / Medium: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> Medium / High: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |
| UTAH | | Medium / High: <i>Laws and Regulations, Regulators and Enforcement, and Accountability</i> Medium: <i>Culture / Corruption, Public Authorities' Access, and Individual Rights / Redress Rating</i> |

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Annex 1 - Previous Versions

[Version 3 - April 2023](#)

[Version 2 – October 2022](#)

[Version 1 – August 2022](#)

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