



Data Transfer Assessment

The purpose of this document is to provide Proofpoint's data exporter customers with necessary information to assess whether there is risk to the customer's data subjects of mass surveillance under the United States laws known as FISA Section 702 and EO 12.333.

In connection with the invalidation of the EU-U.S. Privacy Shield on 16 July 2020 by the Court of Justice of the European Union, the Court emphasized the responsibility of data exporters and data importers to assess whether legislation in a non-EU country enables the data importer to comply with the Standard Contractual Clauses and to provide necessary supplementary measures where needed. The Court did not identify what specific measures would be deemed satisfactory, but the European Data Protection Board issued an [FAQ on 23 July 2020](#) and in essence stated that it is working on guidance for data exporters and data importers about acceptable supplementary measures.

Proofpoint complies with our legal obligations in all jurisdictions where we do business. Proofpoint occasionally receives requests from law enforcement, which are sometimes subject to non-disclosure orders, among other things. Proofpoint receives these types of law enforcement requests infrequently because we generally are not the host of the relevant email content. Law enforcement often concludes that the information they are most interested in is retained by the third-party email hosting provider, not Proofpoint.

On September 28, 2020 the United States' Department of Commerce issued a [whitepaper](#) clarifying the limited data types of interest to US intelligence agencies and the privacy safeguards in place, including oversight by the FISA court, to protect the rights of individuals.

Taking into account: (1) the business nature (rather than consumer) of personal data processed by Proofpoint's services; (2) the low likelihood that mass surveillance orders would be issued under such laws as the United States' Foreign Intelligence Surveillance Act, the United Kingdom's Investigative Powers Act, and similar laws in jurisdictions such as Canada, France, and Germany; and (3) the relatively low impact to EU citizens' privacy rights; it is Proofpoint's position that transfers of personal data by data exporters to Proofpoint (as the data importer) do not undermine the protections afforded data subjects by the Standard Contractual Clauses, the General Data Protection Regulation, and the service agreement between Proofpoint and its customers.