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One Month to Go: Are you GDPR Ready?

What is the EU General Data Protection Regulation (the “GDPR”)?

- New European Union privacy law
- Effective May 25, 2018
- Privacy as a fundamental right
- It has an “extraterritorial” scope (i.e., it can apply to US-based companies)
- Risk of serious consequences for non-compliance
 - Fines of up to the greater of 4% of annual global turnover or €20 million

What is Personal Data?

- Personal Data – any data that directly *or indirectly* identifies a person

Examples	
Name	Phone Number
Email address	Physical address
DOB	Posts on social media
Photos	Computer IP address
Video surveillance	Location information

- Special Categories: race, ethnicity, political opinions, religious beliefs, genetic, biometric or health data, sex life, etc.

How Could the GDPR Apply to US Companies? (Article 3 Analysis)

- 1. Establishment Test:** If a US company processes personal data in the context of an EU establishment
 - *Ex: US company processes payroll for an EU affiliate*
- 2. Good/Services Test:** If a US company processes data in relation to offering goods or services to individuals in the EU
 - *Ex: US company ships its products to France*
- 3. Monitoring Test:** If a US company processes personal data in relation to monitoring the behavior of EU individuals
 - *Ex: US company tracks EU individuals online*

What are the Key Requirements of the GDPR?

- **Guiding Principles**

- *Transparency*
- *Security*
- *Collect and use data for a specific purpose*

- **Lawful Basis for Processing**

- *Cannot just collect or use data without justification*
- *Consent, performance of a contract, legitimate interest, compliance with a legal obligation*

- **Data Subject Rights**

- *Individuals have the right of access, correction, erasure, etc.*

What are the Key Requirements of the GDPR?

- **Contract Requirements**

- *Contracts with vendors must have specific provisions/protections*

- **Cross-Border Transfers**

- *If personal data is transferred outside of the EEA, there must be a legal mechanism in place*

- **Accountability**

- *Demonstrate compliance*
- *May be required to appoint Data Protection Officer*
- *May need a Local Representative*

Panel Q&A



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