EDPS strategy for EUIs to comply with the “Schrems II ruling”

Supervision and Enforcement Unit
European Data Protection Supervisor
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• The standard of « **essential equivalence of protection** » is **extended to transfers** carried out on the basis of **appropriate safeguards**
On the validity of the use of SCCs:

• The validity of SCCs (Decision 2010/87) depends on whether such a standard clauses decision incorporates **effective mechanisms** that make it possible, **in practice**, to ensure essential equivalence of protection, if need be with **supplementary measures**
SA's role

• Unless there is a valid adequacy decision, **SAs are required to suspend or prohibit a transfer** of personal data to a third country, **where** they take the view, **in the light of all the circumstances** of that transfer, that **the clauses are not or cannot be complied with** in that country and that the protection
Privacy Shield is invalid:

- **surveillance programmes** based on Section 702 FISA and EO 12333 read in conjunction with PPD-28 **do not comply with the principle of proportionality**;

- the **lack of effective remedies** in the US essentially equivalent to those required by Article 47 of the Charter;
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Objectives:

• ensure that both ongoing and future transfers comply with the «standard of « essential equivalence of protection »

• via short term and medium term actions for both EUIs and the EDPS
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Priority criteria

- Transfers *towards private entities*
- Transfers *towards the US*
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Action plan

• Mapping and *reporting* on certain categories of transfers

• *Caution for future services* and new processing operations
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Action plan – short term

• Mapping and *reporting* on certain categories of transfers

• *Caution for future services* and new processing operations
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Action plan – medium term

• Transfer impact assessments (*TIAs*)
Thank you for your attention!

For more information:

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