International Data Transfers FAQ

Commonly asked questions and answers regarding ServiceNow’s approach to international transfers of personal data.
What are ‘international transfers’ of EU/EEA personal data?

The General Data Protection Regulation ("GDPR") requires that when personal data is transferred outside the European Union ("EU") or European Economic Area ("EEA"), they must be granted an essentially equivalent level of protection in the country they are transferred to. Such ‘international transfers’ are protected by a number of legal mechanisms.

How does ServiceNow protect customer data transferred outside of the EU/EEA?

ServiceNow relies on EU Commission adequacy decisions and standard contractual clauses issued in June 2021 ("SCCs") to enable transfers of customer personal data to its sub-processor affiliates ("Affiliates"). Moreover, ServiceNow has put in place a variety of legal, technical and operational safeguards, and carried out a comprehensive transfer impact assessment ("TIA") (details of which are available in ServiceNow CORE) in line with the requirements of EU law and the EDPB Recommendations.

Is ServiceNow using the 2021 EU Standard Contractual Clauses?

Yes. ServiceNow relies on the new SCCs issued by the European Commission in June 2021 which provide more flexibility and cover a broader range of scenarios that are better suited to the type of services that ServiceNow provides. ServiceNow has already incorporated these new SCCs (and will continue to do so) into relevant intra-group, customer, vendor, and partner contracts involving transfers of data out of the EU/EEA.

Who are ServiceNow’s Sub-Processors?

ServiceNow currently may carry out international transfers to its Affiliates (pursuant to our standard Data Processing Addendum - DPA) for the purposes of providing follow-the-sun 24/7 support and also for performing administrative and security actions in respect of the delivery of our services and the operation of underlying infrastructure. The list of sub-processors currently engaged by ServiceNow is available here.

Are ServiceNow’s Sub-Processors bound by the EU Standard Contractual Clauses?

Yes. ServiceNow has an Intra-Group Data Processing and Transfer Agreement ("IDPTA") in place, to which all relevant non-EU affiliates are a party. The IDPTA incorporates the protections of Module 3 (processor-to-processor) of the SCCs, the UK International Data Transfer Addendum and Swiss-specific data transfer provisions. ServiceNow also enters into SCCs directly with customers, vendors and partners, where required.

Is ServiceNow using the UK International Data Transfer Addendum to the EU SCCs?

Yes. Where relevant, ServiceNow has already incorporated the UK International Data Transfer Addendum (and will continue to do so) into intra-group, customer, vendor, and partner contracts which involve transfers of data out of the UK.
Is ServiceNow taking into account specific international data transfer requirements in Switzerland?

Yes. Where relevant, ServiceNow has already incorporated Swiss-specific transfer provisions (and will continue to do so) into intra-group, customer, vendor, and partner contracts which involve transfers of data out of Switzerland.

What data transfers are covered by ServiceNow’s IDPTA?

ServiceNow’s general commercial offering involves follow-the-sun support for which Affiliates may need to be involved. Where Affiliates are engaged international data transfers will be triggered. Such transfers, where carried out by the relevant ServiceNow processor entity in the EU/EEA, UK and/or Switzerland (as data exporter), are covered under the IDPTA which incorporates Module 3 (processor-to-processor) of the SCCs, the UK International Data Transfer Addendum and Swiss-specific language, as applicable.

What is ServiceNow’s position on the EDPB Recommendations on supplementary measures?

Our TIA considers all aspects of the EDPB Recommendations, based on the circumstances of the international transfers carried out by ServiceNow. Detailed information on this is set out in our Whitepapers on Additional Safeguards and Transfer Impact Assessment (available on ServiceNow CORE).

Can ServiceNow complete and/or assist with a customer’s TIA?

ServiceNow cannot complete a TIA for customers, as customers are in control of the data which they submit to the ServiceNow services. What ServiceNow can do is assist Customers in carrying out their own TIA by providing any necessary factual information about the structure of our services and the locations from which we access Customer data for support purposes etc., the technical / organizational / security safeguards we can offer, and a summary of our general processor-side TIA which we carried out. ServiceNow’s processor-side TIA is general in nature because ServiceNow is data agnostic regarding that data which any particular Customer submits to the services. All of the factual information which ServiceNow can provide on this topic, including specific details on the safeguards we make available, and a summary of our processor-side TIA, are available to Customers on ServiceNow CORE.

Does ServiceNow have Binding Corporate Rules in place?

ServiceNow is progressing through the final stage of its application for Binding Corporate Rules (a mechanism for transferring data internationally within the ServiceNow group) with the relevant EU Supervisory Authorities, and is currently working towards the successful conclusion of that process.
Has the invalidation of Privacy Shield affected ServiceNow?

No. In July 2020, the Court of Justice of the European Union held that the Privacy Shield, a mechanism used to enable EU/EEA data transfers to the United States, could no longer be relied upon for data transfers out of the EEA. However, the Court also confirmed that alternative transfer mechanisms, such as the SCCs used by ServiceNow, continue to be valid. While ServiceNow is Privacy Shield certified, it does not currently rely on the Privacy Shield Framework for the transfer of personal data from the EU/EEA to the US.

Will ServiceNow be certified under the new EU-U.S. Data Privacy Framework?

Yes. Even though the Schrems II judgment invalidated Privacy Shield as a mechanism to transfer personal data from the EEA to the US, ServiceNow continued to maintain its Privacy Shield Certification to demonstrate its continued commitment to meeting the relevant privacy principles and requirements in the US. ServiceNow welcomes the new EU-U.S. Data Privacy Framework (DPF) and will comply with DPF Principles by making the necessary updates to its privacy policies within the permitted timeframe following recent guidance and instructions from the U.S. Department of Commerce, in furtherance of ServiceNow’s ability to rely on this alternative transfer mechanism for EU/EEA personal data transfers to the US.

What about transfers of UK and/or Swiss data to the US, following the announcement of the new EU-U.S. Data Privacy Framework?

ServiceNow is closely monitoring ongoing guidance and instructions provided by the U.S. Department of Commerce in this regard, with the aim of certifying under both the UK Extension to the EU-U.S. Data Privacy Framework and the Swiss-U.S. Data Privacy Framework.

Per current guidance, certified US companies may receive: (1) UK personal data on the basis of the UK Extension to the EU-U.S. Data Privacy Framework once the UK’s own adequacy regulations implementing the data bridge for the UK Extension to the EU-U.S. DPF enter into force; and (2) Swiss personal data on the basis of the Swiss-U.S. Data Privacy Framework once the Swiss Federal Administration’s officially recognizes the adequacy of the Swiss-U.S. Data Privacy Framework.

Will certification under the new EU-U.S. Data Privacy Framework, UK Extension, and Swiss-U.S. Data Privacy Framework require updating existing contracts?

No. These new frameworks do not impact the way in which ServiceNow does business nor its general approach to international data transfers as explained throughout this FAQ. Our standard agreements incorporate flexible, built-in, data transfer provisions which already contemplate and enable reliance on adequacy decisions for transferring data internationally.

How does ServiceNow handle requests from public authorities for access to customer data?

Following our standard process, and as explained in our Government Requests Whitepaper (available on ServiceNow CORE), ServiceNow will never provide customer data in response to
public authority requests, unless we reasonably believe we are legally required to do so. Due to the nature of our B2B services, it is actually unlikely that we would receive such requests. Our services differ fundamentally to many other commercial cloud services due to our architecture and taking into account that customers can choose to implement a range of encryption as well as other security and technical measures. Should such an unusual scenario ever materialize, our approach is always that we would first redirect such requests to the customer and notify the customer, where legally permitted to do so.

**Has Brexit adversely impacted ServiceNow’s international data transfers?**

No. UK customers can choose to be hosted in our UK data centre pair. The UK has now been granted an adequacy decision, so any transfers of EEA customer data into the UK are permitted by this. Transfers of data out of the UK to our Affiliates are also considered under our TIA and can be validly made on the basis of the the UK International Data Transfer Addendum, which has been incorporated where required into relevant ServiceNow contracts.

**Does ServiceNow offer an option for Customers who prefer to have their instance data limited to a particular region?**

Yes. ServiceNow hosts customers’ data in co-location data centre pairs around the world and customers have the option to specify in which region they wish their data to be hosted, including the option of a dedicated EU data centre pair.

Additionally, ServiceNow offers its EU-centric service delivery model, the ServiceNow Protected Platform for the European Union (“SPP EU”). This option allows customers to request to have their personal data processed by ServiceNow within the EU, including as part of receiving Customer support, subject to limited exceptions which are critical or within the customer’s control.

**Where can I find more information?**

The following resources can be used to find more information:

- ServiceNow Assurance Pack
- Cloud Security, Trust and Compliance Center
- ServiceNow Trust and Compliance
- ServiceNow Legal Schedules
- Product Documentation
- ServiceNow CORE
- ServiceNow Services Privacy Statement
- 2021 EU Standard Contractual Clauses
- EDPB Recommendations 01/2020 on measures that supplement transfer tools to ensure compliance with the EU level of protection of personal data
- Adequacy decision for the EU-US Data Privacy Framework
- Questions & Answers: EU-US Data Privacy Framework
- FAQs – EU-U.S. Data Privacy Framework Updates