

White paper

Rackspace Technology understanding GDPR

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Overview

The General Data Protection Regulation (GDPR) was released on April 14, 2016 and replaced the EU Data Protection Directive, also known as Directive 95/46/EC. The GDPR was then implemented on May 25, 2018. The GDPR consists of 99 articles designed to harmonize the data privacy laws of the various member states and strengthen individual citizen's rights over when and how others use their personal data.

The GDPR applies to all organizations doing business with individuals in the EU, whether these organizations are based in the EU or not. It also addresses the export of "personal data" outside the EU.

The regulation outlines specific rights for "data subjects" as well as responsibilities for both organizations that collect personal data of data subjects, known as "data controllers" and organizations that process personal data of data subjects, known as "data processors". The seven key principles in the GDPR include: (1) lawfulness, fairness, and transparency; (2) purpose limitation; (3) data minimization; (4) accuracy; (5) storage limitation; (6) security, integrity and confidentiality; and (7) accountability.

We have included several answers to questions that we hear time and time again from our customers. We also want to provide you with an update on what steps Rackspace Technology has taken and what services we offer to our customers to help them meet their compliance obligations.

Disclaimer

This document is for informational purposes only. As with most regulations and laws, interpretations of how to apply these laws may vary in practice. Our position may change over time. The information in this whitepaper does not create or modify existing contractual arrangements and may not be construed as legal advice. You must conduct your own independent assessment of how applicable data protection laws affect your business or data.

Rackspace Technology is a Processor or Sub-Processor of Customer Data

Under the GDPR, a "controller" determines why and how personal data is processed. A "processor" processes personal data on behalf of the controller. Rackspace Technology has limited knowledge of the data that customers process via the hosting infrastructure ("Customer Data"). In addition, we only process Customer Data in accordance with our customer's instructions. Therefore, Rackspace Technology is a processor or sub-processor of Customer Data. Rackspace Technology continues to take appropriate steps to ensure that we do our part, as a processor or sub-processor, to comply with the relevant provisions in the GDPR.

GDPR Does Not Prevent Customers From Hosting Personal Data Outside of EEA

Provided certain legal mechanisms are in place, EU customers can host personal data outside of the EU. Personal data may be transferred outside of the EU and the EEA when an adequate level of protection for that data is guaranteed.

The EU Commission has already designated the following countries as having an adequate level of protection: EU member states, member countries of the EEA, Andorra, Argentina, Canada (commercial organizations), Faroe Islands, Guernsey, Israel, Isle of Man, Japan, Jersey, New Zealand, Switzerland and Uruguay. Adequacy talks are ongoing with South Korea and the UK (for the time period after December 31, 2020).

The GDPR allows transfers of data to countries even if they have not been deemed "adequate" by the Commission if the transfer is covered by the appropriate safeguards outlined in the GDPR. These safeguards include:



1. A legally binding and enforceable instrument between public authorities or bodies;
2. Binding corporate rules (BCRs);
3. Standard data protection clauses adopted by the Commission (SCCs);
4. Standard data protection clauses adopted by a supervisory authority and approved by the Commission;
5. An approved code of conduct together with binding and enforceable commitments of the receiver outside the EEA;
6. Certification under an approved certification mechanism together with binding and enforceable commitments of the receiver outside the EEA;
7. Bespoke contractual clauses authorized by relevant supervisory authority; or
8. Administrative arrangements between public authorities or bodies which include enforceable and effective rights for the individuals whose personal data is transferred and which have been authorized by a supervisory authority.

To help achieve this level of protection, Rackspace Technology has taken the proactive step of including a Data Processing Addendum that incorporates the applicable Standard Contractual Clauses (SCCs) into our Master Services Agreement.

Customers Have the Ability to Choose Where Data is Stored

Customers have the right to choose a data center and can choose from the various Rackspace Technology data center locations across the globe. Customer Data that sits within a customer's configuration on one of these data centers is subject to the applicable law of the country in which the data center is established.

Customers can store their data in one or multiple regions and can also replicate and back up their data to other regions different from their primary deployment site at Rackspace Technology or a third-party cloud that is supported by us.

We and our subcontractors may provide our services and support from any state, province, country or other jurisdiction, which may be different than the one where our customers deploy the services. Unless otherwise instructed by our customers, we will not relocate a customer's hosted system to a Rackspace Technology or third-party data center in another region.

Transfers of personal data originating from other locations globally to Rackspace Technology affiliates are subject to the terms of the Intra-Company Data Processing Agreement which requires all transfers of personal data to be made in compliance with applicable Rackspace Technology security and data privacy policies and standards.

Customers May Still Choose Our U.K. Data Centers After Brexit

We do not expect any impact on our ability to continue providing services to our customers as a result of the U.K.'s decision to leave the EU. Rackspace Technology does, and will at all times, continue to comply with applicable laws in the provision of its services to all of its customers. The U.K. legislation on data protection is derived from the EU Directive on data protection. The new Data Protection Act 2018, which is effective from May 25, 2018, replaces the Data Protection Act 1998 and incorporates GDPR into UK law. The purpose of the new Act is to ensure that the U.K. and EU data protection regimes are aligned after the U.K. leaves the EU.

Our Response to the CJEU's Invalidation of Privacy Shield Framework

Although the CJEU invalidated Privacy Shield, organizations that certified to the Privacy Shield framework have already demonstrated a serious commitment to protect personal information in accordance with a set of privacy principles that offer meaningful privacy protections and recourse for EU individuals. The Federal Trade Commission has further stated that it will continue to enforce the Privacy Shield principles despite the CJEU's decision.

In addition, the US and EU have initiated discussions on a possible new data transfer agreement and the US Department of Commerce has stated that the US remains committed to working with the EU to ensure continuity in transatlantic data flows and privacy protections.

Rackspace Technology created a new Data Processing Addendum for our customers that removes the previous references to the Privacy Shield and includes the Standard Contractual Clauses. Customers with custom, negotiated agreements may work with their Customer Service Manager to update the language in their agreements as well.

No Mass and Indiscriminate Processing by Authorities

Furthermore, Rackspace Technology has put in place appropriate steps to ensure that Customer Data stored in a Rackspace Technology data center located in the US is not subject to mass and indiscriminate processing by authorities. Rackspace Technology does not turn over Customer Data that is stored on a customer's server or other storage device in a US data center without a properly issued, lawful request from a

US court with appropriate jurisdiction over Rackspace Technology and the data sought. Rackspace Technology requires that requests from law enforcement for one jurisdiction seeking data or access to data that sits in a different country must follow the foreign jurisdiction's Mutual Legal Assistance Treaty (MLAT) process. The MLAT is an agreement between two or more countries for the purpose of exchanging information in an effort to enforce public or criminal laws.

Compliance is a Shared Responsibility

It is important for our customers to understand and distinguish between security measures that we implement and operate on the Rackspace Technology supported infrastructure and security measures that our customers need to implement and operate to protect their own data and to comply with specific privacy and security laws and regulations applicable to them.

Additionally, Rackspace Technology services are provided in a manner that gives our customers flexibility over how they configure, secure and deploy their hosted solution based on their unique requirements. We have various security solutions, features and services available to allow our customers to configure and deploy solutions that can address their security and compliance challenges.

We provide our services at the direction of our customers, but we have no knowledge of the data (including any personal data) that our customers store or otherwise process when using our services. Customers retain full ownership and custody of their data and are in control of the entire lifecycle of their hosted data and how such data is classified, accessed, exchanged or otherwise processed when using our services.

With this in mind, our customers remain responsible for any personal information that customers collect and process. Customers must take all reasonable steps to protect the hosted data and to comply with laws and regulations as they may apply to the hosted data and the customer, which includes the requirement that our customers must secure and encrypt, in transit and at rest, data stored on or transmitted using Rackspace Technology services. We also require customers to take suitable steps to otherwise prevent Rackspace Technology's ability to access certain data where our access to the premises, systems, or networks owned or operated by the customer may result in its exposure.

We Offer Services to Help You Meet Compliance Requirements

First, review the GDPR to determine whether it applies to your organization. If GDPR applies, make sure that you implement appropriate technical and organizational measures to ensure and demonstrate that any data processing is performed in compliance with GDPR.

Please feel free to reach out to a representative at Rackspace Technology so that we can help tailor a solution to fit your business needs. While we cannot ensure that your company is GDPR-compliant, we do offer many products and services that can help you meet some of the GDPR requirements. You should always work with a legally qualified professional to discuss GDPR, how it applies specifically to your organization and how best to ensure compliance.

About Rackspace Technology

Rackspace Technology is the multicloud solutions expert. We combine our expertise with the world's leading technologies — across applications, data and security — to deliver end-to-end solutions. We have a proven record of advising customers based on their business challenges, designing solutions that scale, building and managing those solutions, and optimizing returns into the future.

As a global, multicloud technology services pioneer, we deliver innovative capabilities of the cloud to help customers build new revenue streams, increase efficiency and create incredible experiences. Named a best place to work, year after year according to Fortune, Forbes, and Glassdoor, we attract and develop world-class talent to deliver the best expertise to our customers. Everything we do is wrapped in our obsession with our customers' success — our Fanatical Experience™ — so they can work faster, smarter and stay ahead of what's next.

Learn more at www.rackspace.com or call 1-800-961-2888.

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