

General Data Protection Regulation Effective May 25, 2018

On May 25, 2018, the European Union's ("EU") General Data Protection Regulation ("GDPR") went into effect, putting regulatory teeth into how EU member states handle the protection of personal data. In fact, the GDPR makes the protection of the processing of personal data a fundamental right.

The GDPR applies to all businesses that control the processing of personal data and/or process personal data of EU citizens. The GDPR affects US businesses by extending protection to EU citizens no matter where their data travels. This means that any company, anywhere, that has a database that includes EU citizens is bound by the GDPR.

Aside from the increased territorial scope, the GDPR's other main changes include increased penalties, strengthened conditions for consent, and additional privacy rights for EU citizens. In order to ensure compliance with the GDPR, US companies should revisit and revise their privacy policies and practices. Under the GDPR, privacy policies must contain detailed disclosures and be understandable and accessible.

The key disclosure requirements to bring privacy policies into compliance with the GDPR include, without limitation:

- Information about the collection and use of personal data;
- Information about processing of personal data, including the legal basis for processing the data;
- Information regarding the data subject's individual rights; and
- Contact information for the data controller and/or processor.

Additionally, privacy policies should be displayed prominently and use plain and clear language, free from legal jargon.

If your business controls or processes the personal data of EU citizens, contact Madigan, Dahl & Harlan for a consultation and evaluation of your privacy policies and practices, to ensure compliance with the GDPR.