

DECISION APPROVING PROCESSOR BINDING CORPORATE RULES OF Accenture Global Holdings Limited

The Data Protection Commission,

Pursuant to the request by Accenture Global Holdings Limited (AGHL) on behalf of the group Accenture, received on 20 March 2019, for approval of their binding corporate rules for processor;

Having regard to Articles 47, 57 and 64 of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR);

Having regard to the CJEU decision Data Protection Commissioner v Facebook Ireland Ltd and Maximillian Schrems, C-311/18 of 16 July 2020;

Having regard to EDPB Recommendations 01/2020 on measures that supplement transfer tools to ensure compliance with the EU level of protection of personal data of 18 June 2021;

Makes the following observations:

1. Article 47(1) of the EU General Data Protection Regulation 2016/679 (GDPR) provides that the Data Protection Commission (DPC) shall approve Binding Corporate Rules (BCRs) provided that they meet the requirements set out under this Article.
2. The implementation and adoption of BCRs by a group of undertakings is intended to provide guarantees to controllers and processors established in the EU as to the protection of personal data that apply uniformly in all third countries and, consequently, independently of the level of protection guaranteed in each third country.
3. Before carrying out any transfer of personal data on the basis of the BCRs to one of the members of the group, it is the responsibility of any data exporter in a Member State, if needed with the help of the data importer, to assess whether the level of protection required by EU law is respected in the third country of destination in the case of the specific data transfer, including onward transfer situations. This assessment has to be conducted in order to determine whether any legislation or practices of the third country applicable to the to-be-transferred data may impinge on the data importer's and/or the data exporter's ability to comply with their commitments taken in the BCRs, taking into account the circumstances surrounding the transfer.

埃森哲全球控股有限公司关于批准决策流程处理方约束公司规则的决议

数据保护委员会，

应埃森哲集团（Accenture）旗下子公司埃森哲全球控股有限公司（AGHL）于2019年3月20日提交的申请，就其作为数据处理方的约束性公司规则进行审批；

根据2016年4月27日欧洲议会与理事会颁布的第2016/679号条例（欧盟）第47、57和64条，该条例涉及自然人在个人数据处理方面的保护及此类数据的自由流动，并废止第95/46/EC号指令（通用数据保护条例或 GDPR）；

根据2020年7月16日欧盟数据保护委员会对Facebook Ireland Ltd和Maximilian Schrems案（C-311/18）作出的 CJEU 决定；

根据欧盟委员会2021年6月18日发布的第01/2020号建议，该建议旨在通过补充性措施完善数据传输工具，以确保符合欧盟个人数据保护标准；

提出以下意见：

1. 欧盟通用数据保护条例2016/679（GDPR）第47条第1款规定，数据保护委员会（DPC）应批准符合本条款要求的约束性公司规则（BCRs）。
2. 由一组企业实施和采用的BCR旨在为欧盟的控制者和处理者提供个人数据保护的保证，这些保证在所有第三国统一适用，因此，独立于每个第三国所保证的保护水平。
3. 在根据业务连续性协议（BCR）向集团成员转移个人数据前，数据输出方（必要时可联合数据输入方）需履行一项重要职责：评估目标第三国对特定数据传输（含后续转移情形）是否符合欧盟法律规定的保护标准。此项评估旨在确认该国相关法律法规或操作规范，是否会因转移数据而影响数据输入方和输出方履行BCR中承诺的义务，评估时需综合考量数据转移的具体情况。

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In case of such possible impingement, the data exporter in a Member State, if needed with the help of the data importer, should assess whether it can provide supplementary measures in order to exclude such impingement and therefore to nevertheless ensure, for the envisaged transfer at hand, an essentially equivalent level of protection as provided in the EU. Deploying such supplementary measures is the responsibility of the data exporter and remains its responsibility even after approval of the BCRs by the competent supervisory authority (SA) and, as such, they are not assessed by the competent SA as part of the approval process of the BCRs.

4. In any case, where the data exporter in a Member State is not able to implement supplementary measures necessary to ensure an essentially equivalent level of protection as provided in the EU, personal data cannot be lawfully transferred to a third country under these BCRs. In the same vein, where the data exporter is made aware of any changes in the relevant third country legislation that undermine the level of data protection required by EU law, the data exporter is required to suspend or end the transfer of personal data at stake to the concerned third countries.
5. In accordance with the cooperation procedure as set out in the Working Document WP263 rev.01¹, the Processor BCRs application of Accenture was reviewed by the DPC, as the competent SA for the BCRs (BCR Lead) and by two SAs acting as co-reviewers. The application was also reviewed by the concerned SAs to which the BCRs were communicated as part of the cooperation procedure.
6. The review concluded that the Processor BCR of Accenture comply with the requirements set out by Article 47(1) of the GDPR as well as the Working Document WP257 rev.01² and in particular that the aforementioned BCRs:
 - i) Are legally binding and contain a clear duty for each participating member of the group including their employees to respect the BCRs by entering in an Intra-Group Agreement (Accenture Privacy Agreement) and Accenture Processor Binding Corporate Rules (BCRs) page 6 ‘How we make our Processor BCR Binding’;
 - ii) Expressly confer enforceable third-party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCRs section 5 and 6;
 - iii) Fulfil the requirements laid down in Article 47(2) of the GDPR:
 - a) The structure and contact details of the group of undertakings and each of its members are described in the application form WP265 that was provided as part of the file review and BCR page 5 ‘Accenture entities and affiliates and Accenture Entity List;

¹ Endorsed by the EDPB on 25 May 2018.

² Endorsed by the EDPB on 25 May 2018.

若发生此类潜在数据泄露风险，成员国的数据出口方（必要时可联合数据进口方）应评估自身是否具备采取补充措施的能力，以有效防范此类风险，从而确保当前拟议数据传输仍能获得与欧盟标准实质相当的保护水平。实施此类补充措施是数据出口方的法定责任，即便在主管监管机构（SA）批准业务连续性计划（BCR）后，该责任仍属出口方，因此主管监管机构不会将此类措施纳入BCR审批流程的评估范围。

4. 无论如何，若成员国的数据出口方无法采取必要补充措施以确保达到欧盟规定的同等保护标准，则根据这些跨境数据控制规则（BCRs），个人数据不得合法转移至第三国。同理，当数据出口方获悉相关第三国立法变更可能削弱欧盟法律要求的数据保护标准时，必须立即暂停或终止向该第三国转移相关个人数据。
5. 根据工作文件WP263修订版01¹规定的合作流程，DPC作为BCRs的主管SA（BCR Lead）以及两名担任联合评审员的SA，对Accenture提交的BCRs申请进行了审查。此外，作为合作流程的一部分，相关SA还对BCRs进行了复审。
6. 审查结论认为，Accenture的处理者BCR符合GDPR第47(1)条以及工作文件WP257修订版01所规定的要求²，特别是上述BCR：
 - i) 具有法律约束力，明确规定各参与成员（含其员工）须通过签署《集团内部协议》（埃森哲隐私协议）及埃森哲处理方约束性公司规则（BCRs）第6页《我们如何使处理方BCR具有约束力》来遵守BCRs；
 - ii) 根据《通用数据保护条例》第5和第6条，明确赋予数据主体在个人数据处理过程中可强制执行第三方受益人权利；
 - iii) 满足GDPR第47条第2款规定的要求：
 - a) 该企业集团及其各成员的组织架构与联系方式详见申请表WP265（该表格作为文件审查材料提供）及BCR第5页《埃森哲实体与关联公司及埃森哲实体名录》。

¹ 2018年5月25日由EDPB批准。

² 2018年5月25日由EDPB批准。

- b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question are specified in the BCRs pages 5 and 6 ‘Applicability and Scope and Annex 2;
- c) the legally binding nature, both internally and externally, of the Processor BCRs is recognized in Accenture Privacy Agreement and the BCRs page 6 ‘How we make our Processor BCR Binding ;
- d) the application of the general data protection principles, in particular purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data, measures to ensure data security, and the requirements in respect of onward transfers to bodies not bound by the BCRs are detailed in articles in the BCR sections 1, 2, 3 and 4, 7 and 8;
- e) the rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling in accordance with Article 22 of the GDPR, the right to lodge a complaint with the competent SA and before the competent courts of the Member States in accordance with Article 79 of the GDPR, and to obtain redress and, where appropriate, compensation for a breach of the BCRs which are set forth in the BCRs sections 5 and 6;
- f) the acceptance by the controller or processor established on the territory of a Member State of its liability for any breaches of the BCRs by any member concerned not established in the Union as well as the exemption from that liability, in whole or in part, only if the concerned party proves that that member is not responsible for the event giving rise to the damage are specified in the BCRs page 7 ‘Client Service Agreements’ and section 5;
- g) how the information on the BCRs, in particular on the provisions referred to in points (d), (e) and (f) of Article 47(2) of the GDPR are provided to the data subjects in addition to Articles 13 and 14 of the GDPR, is specified in the BCR section 5 and page 7 ‘Client Service Agreement’;

- b) 数据传输或传输集合，包括个人数据类别、处理类型及其目的、受影响的数据主体类型以及相关第三国或多个国家的识别信息，详见《通用数据保护条例》第5、6页“适用范围”及附件2。
- c) 埃森哲隐私协议及BCR第6页《我们如何使我们的处理者 BCR 具有约束力》中明确指出，处理者BCR在内部和外部均具有法律约束力。
- d) 《通用数据保护条例》（BCR）第1、2、3、4、7、8条详细规定了通用数据保护原则的实施要求，包括但不限于：数据处理目的限制、数据最小化原则、有限存储期限、数据质量控制、设计与默认保护机制、合法处理依据、特殊类个人数据处理、数据安全措施，以及向不受《通用数据保护条例》约束的机构进行数据传输时的相关要求。
- e) 数据主体在数据处理方面的权利及其行使方式，包括：根据《通用数据保护条例》（GDPR）第22条，不被仅基于自动化处理（含画像）的决定所约束的权利；依据 GDPR 第79条，向主管数据控制者及成员国主管法院提出申诉的权利；以及在违反《通用数据保护条例》第5和第6条所载数据控制者权利时，获得救济并酌情获得赔偿的权利。
- f) 成员国境内设立的控制人或处理者，须就任何非欧盟成员国的关联成员违反BCR条款的行为承担相应责任，但若相关方能证明该成员对损害事件不负责任，则可获得全部或部分免责。上述条款详见BCR条款页面。
7 《客户服务协议》及第5条；
- g) 除《通用数据保护条例》（GDPR）第13条和第14条外，关于《通用数据保护条例》（GDPR）第47条第2款(d)、(e)和(f)项所指条款的BCR信息如何向数据主体提供的信息，已在 BCR 第5节及第7页的《客户协议》中明确规定。

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- h) the tasks of any data protection officer designated in accordance with Article 37 of the GDPR or any other person or entity in charge of monitoring the compliance with the binding corporate rules within the group of undertakings, or group of enterprises engaged in a joint economic activity, as well as monitoring training and complaint-handling are detailed in the BCR section 12 and Annex 1;
 - i) the complaint procedures are specified in the BCR section 6;
 - j) the mechanisms put in place within the group of undertakings for ensuring the monitoring of compliance with the BCRs are detailed in the BCR section 12 and Annex 1. Such mechanisms include data protection audits and methods for ensuring corrective actions to protect the rights of the data subject. The results of such monitoring are communicated to the person or the entity referred to in point (h) above and to the board of the controlling undertaking of the group of undertakings (in this situation to Accenture headquarters, as well as to the data privacy organization) and are available upon request to the competent SA;
 - k) the mechanisms for reporting and recording changes to the rules and reporting those changes to the SAs are specified in the BCR sections 8, 9 and 12 and Annex 1;
 - l) the cooperation mechanism put in place with the SA to ensure compliance by any member of the group of undertakings is specified in the BCR sections 8, 9 and 10. The obligation to make available to the SA the results of the monitoring of the measures referred to in point (j) above is specified in the BCR section 12 and Annex 1;
 - m) the mechanisms for reporting to the competent SA any legal requirements to which a member of the group of undertakings is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules are described in the BCR section 12 and Annex 1;
 - n) finally, provide for an appropriate data protection training to personnel having permanent or regular access to personal data in the BCR section 12 and Annex 1.
7. The EDPB provided its opinion 3/2024 in accordance with Article 64(1)(f) of the GDPR. The DPC took utmost account of this opinion.

- h) 根据《欧盟通用数据保护条例》（GDPR）第37条指定的数据保护官，或负责监督企业集团内部约束性公司规则合规性、联合经济活动企业集团内合规性，以及监督培训和投诉处理的任何其他人员或实体，其职责详见 BCR 第12条及附件1；
 - i) 投诉程序详见 BCR 第6节；
 - j) 企业集团为确保遵守《通用数据保护条例》（GDPR）而建立的监督机制，已在 BCR 第12节及附件1中详细说明。这些机制包括数据保护审计，以及确保采取纠正措施以保护数据主体权利的方法。此类监督结果将向第...点所述的个人或实体进行通报。
(h) 上述文件应提交给该企业集团控股公司的董事会（即埃森哲总部及数据隐私保护机构），并可根据要求提供给相关监管机构。
 - k) 关于规则变更的报告与记录机制，以及向SA报告这些变更的具体要求，详见 BCR 第8、9、12条及附件1。
 - l) 为确保各企业集团成员遵守规定，与监管机构（SA）建立的合作机制已在 BCR 第8、9、10条中明确。根据 BCR 第12条及附件1规定，企业集团须向监管机构提交第(j)项所述措施的监测结果。
 - m) 根据 BCR 第12条及附件1规定，若企业集团成员在第三国可能因法律要求而面临重大不利影响，需向主管监管机构报告这些可能损害公司约束性规则所保障权益的法律要求。
 - n) 最后，应为根据 BCR 第12条及附件1规定拥有永久或常规访问权限的人员提供适当的数据保护培训。
7. EDPB 根据《欧洲人权公约》（GDPR）第64条第1款(f)项，于2024年3月出具了意见书。欧洲人权法院（DPC）充分考虑了该意见。

DECIDES AS FOLLOWING:

1. The DPC approves the Processor BCRs of Accenture Global Holdings Limited as providing appropriate safeguards for the transfer of personal data in accordance with Article 46(1) and (2) (b) and Article 47(1) and (2) GDPR. For the avoidance of doubt, the DPC recalls that the approval of BCRs does not entail the approval of specific transfers of personal data to be carried out on the basis of the BCRs. Accordingly, the approval of BCRs may not be construed as the approval of transfers to third countries included in the BCRs for which, an essentially equivalent level of protection to that guaranteed within the EU cannot be ensured.
2. The approved BCRs will not require any specific authorization from the concerned SAs.
3. In accordance with Article 58(2)(j) GDPR, each concerned SA maintains the power to order the suspension of data flows to a recipient in a third country or to an international organisation whenever the appropriate safeguards envisaged by the Processor BCRs of Accenture Global Holdings Limited are not respected.

Signed:



Helen Dixon

Commissioner for Data Protection

Dated: 16 February 2024

现决定如下：

1. DPC 批准埃森哲全球控股有限公司的处理者业务连续性声明（BCR），认为其提供的个人数据传输保障措施符合《通用数据保护条例》第46条第1款、第2款(b)项及第47条第1款、第2款 GDPR 项的规定。为消除歧义，DPC 特别强调：BCR的批准并不意味着对基于BCR实施的具体个人数据传输行为的批准。因此，BCR的批准不得被解释为对BCR所列第三国传输行为的批准，若这些传输行为无法确保达到欧盟境内所保障的同等保护水平。
2. 经批准的BCR无需相关SA的任何特定授权。
3. 根据 GDPR 第58(2)(j)条，只要Accenture Global Holdings Limited的处理者BCR所规定的适当保障措施未被遵守，每个相关SA都有权命令暂停向第三国的接收方或国际组织的数据流。

签名：



海伦·迪克森

数据保护专员

日期：2024年2月16日

ANNEX TO THE DECISION

The Processor BCRs of Accenture that are hereby approved cover the following:

a. Scope.

Only members of Accenture acting as Processors, that are legally bound by the BCRs pages 5 and 6 'Applicability and Scope and Annex 2.

b. EEA countries from which transfers are to be made: In the BCR page 4 'Accenture entities and affiliates' and Accenture Processor BCR Entity List.

c. Third countries to which transfers are to be made: In the BCR page 4 'Accenture entities and affiliates' and Accenture Processor BCR Entity List.

d. Purposes of the transfer: The purposes are detailed in the BCRs pages 5 and 6 'Applicability and Scope and Annex 2.

e. Categories of data subjects concerned by the transfer: Those categories are specified in the BCRs pages 5 and 6 'Applicability and Scope and Annex 2.

f. Categories of personal data transferred: Those categories are specified in the BCRs pages 5 and 6 'Applicability and Scope and Annex 2.

决定的附件

经批准的埃森哲处理器BCR涵盖以下内容：

a. 范围。

仅限作为处理方的埃森哲成员，且须受BCR页面的法律约束5和6“适用范围和附录2”。

b. 转移将要进行的来自EEA的国家：在BCR第4页“Accenture实体和附属机构”和Accenture Processor BCR 实体列表中。

c. 转移至的第三国：在BCR第4页“Accenture实体和附属机构”和Accenture Processor BCR 实体列表中。

d. 转让目的：相关目的详见BCR第5和6页“适用性和范围”以及附件2。

e. 受数据转移影响的数据主体类别：这些类别在《通用数据保护条例》第5和6页“适用范围”以及附件2中进行了规定。

f. 转移的个人数据类别：这些类别在BCR页面中规定5和6“适用范围和附录2”。

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