GDA SUBMISSION ON THE ICO CONSULTATION ON INTERNATIONAL DATA TRANSFERS

Response to the ICO's Call for Views

7 August 2025

The Global Data Alliance[1] (GDA) is a cross-industry coalition of companies that are committed to high standards of data responsibility and that rely on the ability to transfer data around the world to innovate and create jobs. The GDA supports policies that help instill trust in the digital economy while safeguarding the ability to transfer data across borders and refraining from imposing data localization requirements that restrict trade. The GDA's members are headquartered across the globe, including the United Kingdom, and are active in advanced manufacturing, aerospace, automotive, consumer goods, electronics, energy, financial services, health, supply chain, and telecommunications sectors, among others.

The UK recognizes that businesses rely on seamless cross-border data flows, which positively impact the UK economy and contribute to digital trade between the UK and third countries. The GDA applauds ICO's intention to make international data transfers easier, quicker, and less complicated. Forward-thinking digital policy must enable the free and responsible flow of data, which empowers job creation, economic competitiveness, and innovation across all sectors.

Cross-border data transfers generate substantial economic value and underpin virtually every sector of the modern digital economy. As of 2022, approximately 60 percent of global GDP was expected to be digitized, with economic growth across industries – especially in sectors like agriculture, manufacturing, and logistics – driven by data-enabled technologies. Even by 2020, international data flows were already contributing trillions of dollars to global GDP, reinforcing their central role in facilitating productivity, innovation, and economic resilience.

[1] For more information on the Global Data Alliance, please see: https://www.globaldataalliance.org/. Business Software Alliance administers the Global Data Alliance; *EU Register of Interest Representatives*: *75039383277-48*

Beyond their macroeconomic importance, cross-border data flows are also essential to public interest objectives such as cybersecurity, competitiveness, and accessibility of various services. Data transfers empower small and medium-sized enterprises to participate in global markets, access the most advanced digital tools, and scale services internationally. They also underpin real-time fraud detection, cyber threat mitigation, and global research collaboration – making them indispensable not just to commerce, but to security, health, and sustainable development.

The GDA welcomes this opportunity to provide input to the UK Information Commissioner's Office (ICO) on the international transfers guidance. In this submission we provide our answers to the questions that ICO raised in its call for views.

1. Which aspects of the current ICO guidance are most helpful to your organisation?

The international data transfers toolbox, provided under the UK GDPR, offers a range of mechanisms that organisations can use to comply with legal principles and requirements when transferring personal data outside the UK. Given the diversity of organisational types and business models, it is important that businesses retain the ability to use the full spectrum of UK GDPR-compliant transfer mechanisms, including Data Bridges, Certifications, Codes of Conduct, Binding Corporate Rules, and Transfer Risk Assessments. These mechanisms – each tailored to different operational realities and needs – are vital to supporting global data flows and are underpinned by strong safeguards.

The GDA welcomes the ICO's continued commitment to developing practical, business-oriented guidance for organisations engaged in international data transfers. We encourage the ICO to maintain its leadership in advancing a modern, flexible, and pragmatic approach. By providing legal certainty, risk-based flexibility, and user-friendly implementation tools, the UK's international transfer framework supports both robust data protection and digital competitiveness.

In particular, we commend ICO's work on the following initiatives.

A. Transfer Risk Assessment (TRA) Tool and Guidance

The ICO's TRA is an important contribution to usability and legal clarity. The modular, step-by-step format and plain-language drafting make the process of assessing third-country transfer risks more accessible, particularly for organisations without large legal teams.

We particularly welcome the ICO's emphasis on proportionality and risk-based reasoning, which enables a practical, context-driven approach rather than a rigid or overly formalistic standard. This flexibility is especially valuable for organisations operating across multiple jurisdictions with diverse legal and risk profiles.

B. Clarification on Restricted Transfers

The ICO's guidance on what constitutes a "restricted transfer" under the UK GDPR provides important clarity. For global businesses managing complex cross-border data flows, clear thresholds for when additional obligations apply are essential for compliance. The ICO's work in this area has helped reduce uncertainty and streamline internal data protection assessments. Further enhancements, particularly through additional examples and practical guidance, would be welcomed to continue supporting efficient and compliant data transfers.

C. International Data Transfer Agreements (IDTAs)

The GDA welcomes the IDTAs as a flexible, standalone mechanism for safeguarding international data transfers. We welcome the clarity and accessibility of the IDTA-related materials. The web-formatted content and well-structured templates make it easier for legal and compliance teams to navigate and complete the documentation efficiently. These features reflect an understanding of how businesses interact with guidance in practice and underscore the ICO's commitment to usability.

Last but not least, the UK Addendum to the EU's SCCs is a useful tool for organisations; it is welcomed both as a model for easing multinational data transfers and as a support for the broader standardisation of SCCs.

D. Data Bridges

The GDA supports the UK government's work on establishing data bridges as a streamlined and trusted mechanism for facilitating international data transfers. Data bridges have the potential to significantly reduce compliance burdens, enhance legal certainty, and foster cross-border digital trade.

2. Are there aspects of the current ICO guidance that your organisation finds difficult to understand or apply?

While the current guidance is valuable, we have identified several areas where additional clarification or refinement would enhance legal certainty:

A. Practical Application of the Transfer Risk Assessments (TRAs)

The TRA guidance, while helpful, would benefit from more concrete **examples of how organisations can assess effective legal protection in recipient countries**, especially in jurisdictions that do not have an adequacy finding but nonetheless maintain effective safeguards. In addition, it would be helpful to **clarify proportionality assessments**.

Furthermore, organisations would benefit from **additional guidance on appropriate technical and organisational measures** that can be adopted to mitigate risk. This could include examples or a baseline set of recommended security controls that processors or recipients can implement – such as encryption standards, access controls, audit mechanisms, or data localisation techniques. Clarifying these expectations would help promote a consistent and risk-based approach across different transfer scenarios.

B. Worked Example of the International Data Transfer Agreement (IDTA) and Common Transfer Scenarios

While the IDTA template is a valuable tool, organisations may at times encounter challenges in interpreting how to practically complete some parts of the template. To address this, we recommend that the ICO **publish a worked example of the IDTA – a completed, illustrative version demonstrating how the template could be applied in common international data transfer scenarios**. Such an example could include realistic (but anonymised or hypothetical) data processing activities, corresponding risk assessments, and appropriate technical and organisational measures.

In addition, the ICO could further demonstrate best practice by publishing its own completed version of the IDTA (where applicable) for its international data transfers – mirroring the European Commission's approach disclosing documentation of its own processing activities. This would enhance transparency, build trust, and offer a practical model for organisations aiming to comply with the UK GDPR.

Providing some worked examples would usefully complement the IDTA template and FAQs and improve the accessibility and uptake of the IDTAs.

Furthermore, we would encourage the ICO to include **worked examples and practical case studies throughout its guidance**. Businesses would appreciate illustrations of common data transfer scenarios such as software hosting, HR services, and other widely used service arrangements. These examples would be particularly valuable for organisations that rely on third-party service providers and may not have the resources to conduct detailed assessments independently. Particularly in scenarios, involving joint UK and EU data processing activities, organisations frequently find themselves reverting to the European Data Protection Board's guidance to address gaps. Additional clarification and more advanced examples from the ICO would help organisations navigate these situations more confidently and consistently.

C. Map UK's IDTAs to Comparable Rules in Other Jurisdictions, Especially the EU

One of the key challenges for global businesses is **navigating and reconciling differing data transfer requirements across jurisdictions**. To support more effective compliance, the ICO should provide clear mapping or comparison between the UK's IDTAs and similar instruments used in other regions – most notably, the EU's Standard Contractual Clauses (SCCs).

Illustrative examples highlighting how specific provisions in the IDTA align with or diverge from those in the SCCs would offer practical value. This guidance would clarify which obligations are substantively equivalent, where legal or operational adjustments may be necessary, and how businesses can structure contracts to meet multiple legal regimes efficiently.

Overall, **greater alignment and interoperability** between the UK's and other countries' data transfer frameworks – particularly the EU's – would reduce legal complexity and promote more consistent and predictable cross-border data flows.

D. Uptake of Binding Corporate Rules (BCRs)

While BCRs are recognised as a robust and trusted mechanism for enabling international data transfers within corporate groups, they are often perceived by businesses as prohibitively time-consuming and

resource-intensive to obtain. The UK, following its departure from the EU, is uniquely positioned to streamline and accelerate its BCRs approval process. However, the prevailing assumption remains that BCRs are inherently slow and bureaucratic to obtain in the UK.

We propose to **increase transparency around actual BCRs approval timelines.** Publishing anonymised, retrospective statistics on approval durations would provide useful benchmarks and support better-informed decision-making by businesses considering BCRs. These figures could be published annually on the ICO website and would align with existing obligations under the UK Freedom of Information Act.

Additionally, the current format of the BCR guidance – divided into multiple subpages requiring continuous clicking (e.g., "< Back" / "Next >") – is not always easy to use, especially when reviewing the guidance in its entirety, conducting internal training, or preparing application materials. To support greater accessibility and usability, we recommend that ICO **offer both – full-page and modular formats for its BCRs guidance**. A full-page, scrollable version would enable users to easily search the entire content using browser, while the current modular/step-through format would continue to be useful for step-by-step walkthroughs.

E. Guidance on the Use of Codes of Conduct and Certifications as Transfer Tools

The current ICO guidance on international data transfers does not include detailed references to the Codes of Conduct or Certification mechanisms. However, these tools are recognised within the UK GDPR framework as valid mechanisms for facilitating lawful international data transfers, provided they include appropriate binding commitments and safeguards. To promote a broader range of practical compliance options – and to align the ICO's guidance with the full spectrum of Article 46 mechanisms – we recommend that the ICO **expand the international transfers section to include specific guidance on how Codes of Conduct and Certifications can be developed and used** as transfer tools.

3. What tools or guidance products would make international transfers easier, quicker, or less complicated for your organisation?

A. More Data Bridges

Given their potential to significantly reduce compliance burdens, enhance legal certainty, and foster cross-border digital trade, the GDA encourages the UK to **further expand the number and scope of its data bridges**. Priority should be given to jurisdictions that are strategically important to the global digital economy and are key destinations for UK-origin personal data. This includes not only economies with developed data protection frameworks, but also trusted international organisations whose regimes are substantively equivalent to UK standards.

Importantly, given the economic significance of the UK–US partnership, GDA members see strong value in ensuring that the UK–US data bridge remains a reliable and enduring mechanism for transatlantic data flows.

B. Guidance on Codes of Conduct and Certifications

The international data transfers toolbox, provided under the UK GDPR, offers a range of mechanisms that organisations can use to comply with legal principles and requirements when transferring personal data

outside the UK. It is important that businesses retain the ability to use the full spectrum of UK GDPR-compliant transfer mechanisms, each tailored to different operational realities and needs. We therefore urge the ICO to provide specific **guidance on how Codes of Conduct or Certification mechanisms can be developed and applied**.

C. Guidance on "not materially lower" standard

It would be helpful for the ICO to clarify how recent changes introduced under the UK Data Use and Access Act – particularly the adoption of the **"not materially lower" standard** – may affect adequacy assessments and the use of other transfer tools such as IDTAs. Such guidance would provide greater legal certainty for organisations relying on these mechanisms for international data transfers.

D. Guidance on the Use of Legitimate Interest as a Ground for International Data Transfers under the New Data Use and Access Act

The newly adopted UK Data Use and Access Act (DUA Act) introduces welcomed clarity by recognising additional examples of legitimate interest as ground for processing, including intra-group data transfers, network and information system security, and direct marketing. These examples are particularly relevant in cross-border operational contexts, where data may need to be transferred internationally for legitimate and low-risk business purposes.

To support consistent interpretation and confident implementation, the GDA recommends that the ICO develop dedicated **guidance on how legitimate interest can serve as a lawful basis for international data transfers under the UK GDPR, as amended by the DUA Act**. In particular, such guidance should:

- Clarify the interaction between legitimate interest and international transfer requirements, especially in cases where data is moved intra-group for human resources, client support, or compliance functions;
- Outline how organisations can assess and demonstrate necessity, proportionality, and safeguards when invoking legitimate interest for international transfers related to network and information system security or cybersecurity monitoring;
- Provide illustrative examples aligned with DUA-recognised activities (e.g., transmitting employee data to overseas affiliates, or transferring IP addresses to detect malicious activity), including how these can be lawfully executed under Article 46 or appropriate safeguard regimes;
- Address risk-balancing considerations, including information on appropriate security measures, and legitimate interest assessments in the international context, particularly for small-to-medium-sized enterprises seeking practical compliance options;
- Clarify when additional measures – such as contractual safeguards or transfer risk assessments – may still be needed, and when legitimate interest alone suffices under the DUA's updated framework.

The evolving understanding of legitimate interest – as highlighted in BSA position **on AI training and responsible data use** – demonstrates that, when accompanied by appropriate accountability and transparency measures, it can serve as a robust legal basis that supports innovation and operational efficiency without undermining privacy. **Recognising and codifying the use of legitimate interest for**

international data transfers would provide valuable clarity for organisations, particularly those not covered by data bridges and instead relying on alternative transfer mechanisms. This would enable organisations to conduct global operations in a privacy-compliant and proportionate manner, especially for low-risk and routine cross-border activities.

E. Global Cross-Border Privacy Rules

As outlined in the UK International Data Transfer Expert Council's report – where the GDA had the opportunity to contribute its expertise – addressing key barriers to international data transfers requires **leveraging structured frameworks like the Global CBPR system**, with the aim of establishing them as widely accepted foundations for a truly multilateral data transfers solution. The CBPR system offers a structured, interoperable, and certifiable approach to facilitating cross-border data flows while ensuring strong privacy protections and accountability.

Although the UK currently holds associate member status in the Global CBPR Forum, full membership would allow UK-based organisations to certify under the CBPR and Privacy Recognition for Processors (PRP) frameworks and legitimize their cross-border data transfers. This would provide a recognised, practical mechanism for supporting lawful and secure international data transfers.

In parallel, the ICO can continue to play a leadership role within the broader CBPR Forum, **helping regulators and companies alike better understand and realize the benefits of accountable cross-border data flows**, including through regulatory dialogue and mutual learning.

F. Guidance on Interoperability with Other Regimes

We encourage the ICO to publish **comparative analyses or interoperability guidance between UK and various international data protection frameworks** – most notably the EU GDPR, but also other frameworks, such as the CBPRs and APEC Privacy Recognition for Processors. The GDA emphasizes that global interoperability is essential to ensure legal certainty and reduce fragmentation, which is critical for global markets and global companies.

G. Continues Allocation of Resources

The GDA urges the UK Government and the ICO to **ensure ongoing resource allocation** for the development of practical, scalable international transfer tools that promote legal certainty and reduce compliance burdens for businesses.

For further information, please contact Irma Gudžiūnaitė,

Director, Policy – EMEA, at irmag@bsa.org.