

Appropriate Safeguards and Exceptions

General Data Protection Regulations (GDPR)

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- Appropriate Safeguards
 - Standard Contractual Clauses (SCCs)
 - Binding Corporate Rules (BCCs)
- Exceptions
 - Derogations

Standard Contractual Clauses (SCCs)

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Appropriate Safeguards

- Essentially model contractual clauses that are approved in advance by the European Commission and must be agreed by all parties - they can not be modified but can be supplemented to some extent.
 - No longer standard and may be challenged and be required to provide evidence.
- Standard Contractual Clauses covers data flow transfer between controller to controller, controller to processor, processor to sub-processor and processor to controller.
- Processor to sub-processor, for example: SAAS within the realm of the GDPR to IAAS outsider the realm of the GDPR.

Standard Contractual Clauses (SCCs)

Appropriate Safeguards

- SCCs from some perspectives scale well and viable for small organisation with less complex data flows that involve the European data protection legislation.
- Complex data flows that involve multiple elements, such as a large corporation or enterprise may favour Binding Corporate Rules (BCRs) as an alternative to meet compliance with legislation.

Binding Corporate Rules (BCRs)

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Appropriate Safeguards


- Strict collection of policies, procedures, guidelines, practices as well as many other elements that ensure effective data protection under European law for Enterprises to conduct transfers between corporate elements.

Binding Corporate Rules (BCRs)

Appropriate Safeguards


- Gold standard for international data transfer as they can be regulated and are approved by regulator and can be demonstrated as compliance 'at-large'.
 - BCR are approved by the European Data Protection Board (EDPB) and must be approved prior to use.
 - BCR candidate submit application to identified relevant national data protection authority.
 - Application process involves various actors and stages, consequently it is expensive and time consuming, minimum taking around 9 to 12 months but probably much longer for most, say 18 to 24 months.

edpb.europa.eu

 An official website of the European Union

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European Data Protection Board

EN 



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Approved Binding Corporate Rules

This register provides a list of BCR approved under GDPR.
A list of pre-GDPR BCR approved before 25 May 2018 is accessible [here](#).

<div>BDO</div> <div> 2021</div> <div></div>	<div>BE SA</div> <div>Type of BCR: Controller</div>	<div>Categories of data subjects</div> <div> Employees and business contacts</div>	<div> Download</div>
<div>BDO</div> <div> 2021</div> <div></div>	<div>BE SA</div> <div>Type of BCR: Processor</div>	<div>Categories of data subjects</div>	<div> Download</div>

Filters

Type of BCR

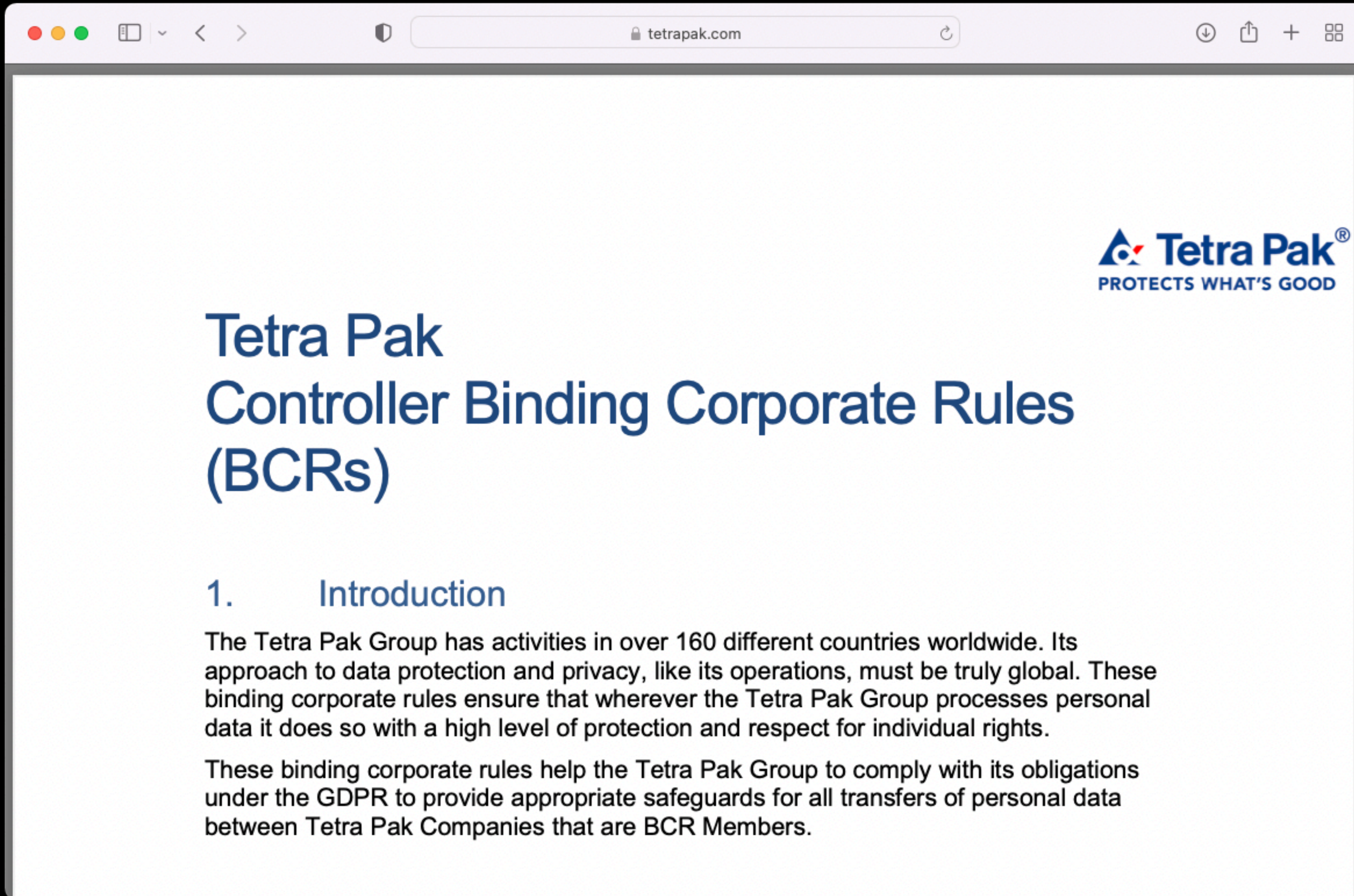
☐ Controller (20)

☐ Processor (8)

Competent supervisory authority (BCR Lead)

- All - ▾

Categories of data subjects



Derogations

Derogations

Exceptions

- A derogation can be considered an exemption or permitted deviation from the rules.
- Derogations are possible through-out the GDPR, notable are the derogations for member states when it comes to national security and public health.
- Derogations should be exceptional or rather as a general rule they should not be repetitive.
 - Do not build a business/system on the foundation of derogations to data protection law.

Derogations

Exceptions

- What are some examples of derogations?
 - Restricted transfer necessary in the public interest.
 - Contract between parties and a restricted transfer may occur to fulfil the contract.
 - One-off restricted transfer for which you have compelling and legitimate interests.
 - Restricted transfer necessary to protect vital interests of individual and then must be incapable of giving consent (e.g. threat to life).

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