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Monday, 18 June 2018

7:30 – 8:30 Sign-In

8:30 – 8:45 Welcome & Overview

([Behn](#), [Moncure](#), [Weinlein](#), [Wilan](#))

8:45 – 10:00 [Session 1] The Full Implementation of the EU General Data Protection Regulation (GDPR): Implementation Challenges and New Guidance

([Gerlach](#), [Goetz](#), [Massey](#), [Peruzzotti](#), [Wilan](#)\*)

With the advent of the GDPR, legal practitioners and companies across the globe are facing new data protection compliance challenges. A distinguished panel of practitioners will lead a dialogue on the key provisions and legal developments impacting cross-border data transfers that practitioners and companies are focused on. Key areas of dialogue will include the impact of the GDPR on cross-border data transfers, important regulatory guidance documents and best practices across industries, as well as implementation and compliance challenges businesses now face due to the extraterritorial reach of the GDPR. The panel will also lead a dialogue on possible enforcement priorities and how companies who remain behind in their privacy program development should consider prioritizing their efforts to meet their obligations.

**Required Materials**

- 1.1 The Sedona Conference *International Principles on Discovery, Disclosure & Data Protection in Civil Litigation* (Transitional Edition) (Jan. 2017)
- 1.2 Handout - The Sedona Conference *International Principles on Discovery, Disclosure & Data Protection in Civil Litigation* (Transitional Edition) (Jan. 2017)
- 1.3 Article 29 Working Party Guidelines on transparency under Regulation 2016/679 (WP260 rev.01)
- 1.4 Article 29 Working Party Guidelines on Article 49 of Regulation 2016/679 (WP262)

**Recommended Materials**

- 1.5 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation (GDPR))
- 1.6 Article 29 Working Party Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is “likely to result in a high risk” for the purposes of Regulation 2016/679 (WP248 rev.01)
- 1.7 Comments of The Sedona Conference Working Group 6 on Article 29 Working Party Guidelines on Article 49 of Regulation 2016/679 (WP262) (23 March 2018)

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Monday, 18 June 2018 (Cont.)

10:00 – 10:15 Morning Break

10:15 – 11:45 [Session 2] Data Protection Authority (DPA) Roundtable

([Behn\\*](#), [Péterfalvi](#), [Sauer](#), [Schmidl](#), [Yeong](#))

Global data protection authorities will lead a dialogue on their respective enforcement priorities and advisory roles under the GDPR and other global data protection regimes. The panel will discuss how the regulatory enforcement and consultation structure has changed and how these changes will impact companies. The panel will explore not only the new legal regime, but the practical impact of these structural changes to both EU and non-EU based companies. The dialogue will focus in particular on data-transfer requirements and recent regulatory developments.

**Recommended Materials**

- 2.1 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation (GDPR))

11:45 – 1:00 [Session 3] Cross-Border Data Transfers Case Law Update

([Backhouse](#), [Baylson, J.](#), [Behn](#), [Shonka](#), [Wilan](#), [Withers\\*](#))

In cases involving well-known global Internet-based businesses—Google, Microsoft, and Facebook, among others—courts around the world have been handing down decisions on cross-border data transfers, either by ordering transfers, prohibiting transfers, adjudicating the claims of data subjects, or issuing advisory opinions on the adequacy of transfer frameworks. This panel will review recent decisions from United States courts applying comity analysis in civil discovery and constitutional analysis in high-profile criminal cases, review recent decisions from European courts on the efficacy of the EU-U.S. Privacy Shield and other cross-border data transfer mechanisms, and explore the implications that both the GDPR and recently-amended U.S. Federal Rules of Civil Procedure will have on the classic *Aerospatiale* analysis.

**Required Materials**

- 3.1 Denise E. Backhouse, *Practical Steps to Mitigate Conflicting U.S. Discovery and International Data Protection Laws* (June 2018)
- 3.2 Article 29 Working Party Guidelines on Article 49 of Regulation 2016/679 (WP262)
- 3.3 Comments of The Sedona Conference Working Group 6 on Article 29 Working Party Guidelines on Article 49 of Regulation 2016/679 (WP262) (23 March 2018)

**Recommended Materials**

- 3.4 Cross-Border Data Transfers Case Law Update - Additional Suggested Reading
- 3.5 Cross-Border Data Transfers Case Law Update - Bibliography

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Monday, 18 June 2018 (Cont.)

1:00 – 2:00 Lunch (provided)

2:00 – 3:30 [Session 4] Senior Privacy Officer Roundtable  
(*Brill, Moncure\**, *Wandall*)

Senior privacy officers from global corporations will lead a dialogue on key issues related to cross-border data transfers that companies should be focused on in order to facilitate compliance and minimize legal exposure. They will discuss how their privacy compliance programs are organized and changes to these programs in light of the new GDPR requirements, both in terms of internal corporate compliance as well as external customer-facing programs. They will share how they expect interactions with regulators are likely to change in a post-GDPR world and what may stay largely unchanged. They will also offer perspective on how they are addressing changes in data protection laws outside of the EU and how they handle the challenge of competing legal regimes and requirements.

**Required Materials**

- 4.1 The Sedona Conference *International Principles on Discovery, Disclosure & Data Protection in Civil Litigation* (Transitional Edition) (Jan. 2017)
- 4.2 The Sedona Conference *International Principles for Addressing Data Protection in Cross-Border Government & Internal Investigations: Principles, Commentary & Best Practices* (May 2018)
- 4.3 Handout - The Sedona Conference *International Principles for Addressing Data Protection in Cross-Border Government & Internal Investigations: Principles, Commentary & Best Practices* (May 2018)

**Recommended Materials**

- 4.4 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation (GDPR))
- 4.5 Article 29 Working Party Guidelines on Data Protection Impact Assessment (DPIA) and determining whether processing is “likely to result in a high risk” for the purposes of Regulation 2016/679 (WP248 rev.01)

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Monday, 18 June 2018 (Cont.)

3:30 — 3:45 **Afternoon Break**

3:45 — 5:15 **[Session 5] Practical In-House Approaches to Internal Investigations & Cross-Border Regulatory Investigations**

([Crowley](#), [English](#), [Goetz](#), [Hoffman\\*](#), [Kubicz Hall](#), [Shonka](#))

Internal investigations and cross-border regulatory investigations can present unique challenges to companies seeking to comply with an array of global privacy laws, blocking statutes and data localization laws. The increased potential penalties under the GDPR and increasing regulatory complexity outside the EU adds to the risk. Regulators are increasingly familiar with these challenges, but nonetheless require companies to meet their obligations to conduct fulsome investigations and produce relevant materials. A panel including in-house counsel from global corporations will lead a dialogue on practical approaches to effectively conduct internal investigations and comply with government inquiries, while nevertheless remaining in compliance with data protection laws.

**Required Materials**

- 5.1 The Sedona Conference *International Principles for Addressing Data Protection in Cross-Border Government & Internal Investigations: Principles, Commentary & Best Practices* (May 2018)

**Recommended Materials**

- 5.2 David C. Shonka, *Producing Information from the EU to U.S. Government Agencies*, Bloomberg BNA Digital Discovery & e-Evidence (2017)
- 5.3 U.S. Department of Justice Guidance on the U.S. Foreign Corrupt Practices Act (FCPA)

5:15 — 7:15 **Reception (guests invited)**

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Tuesday, 19 June 2018

8:15 — 9:15 Sign-In

9:15 — 10:15 [Session 6] Emerging Technologies and Cross-Border Data Transfers: Implications for Data Protection

*(Brill, Gerlach, Hoffman, Massey, Wilan\*, Wilkinson)*

Recent dramatic advances in digital technologies are blamed for many of the problems that data protection laws attempt to address, but there are also new technologies that may help to identify, prevent, or mitigate the effects of world-wide, industrial-scale personal data collection and processing. Artificial Intelligence (AI), for instance, holds tremendous promise for increased productivity and lower costs, but relies on large collections of data and presents the threats of profiling or the processing and use of data in unauthorized ways. Blockchain technology promises security, integrity, and a certain amount of anonymity in digital transactions, but relies on recording information about each transaction, distributing that information broadly, and making it accessible virtually forever. This panel will lead a dialogue on how technology may be applied to address the unintended consequences of cross-border data transfers, and how specific new technologies – cloud apps and storage, wearable tech, the Internet of Things (IoT), and more – may be treated in the GDPR regulatory environment.

**Required Materials**

- 6.1 Article 29 Working Party Opinion 8/2014 on the Recent Developments on the Internet of Things (WP 223)
- 6.2 Article 29 Working Party Guidelines on Automated individual decision-making and Profiling for the purposes of Regulation 2016/679 (WP251rev.01)

**Recommended Materials**

- 6.3 Article 29 Working Party Statement on Statement of the WP29 on the impact of the development of big data on the protection of individuals with regard to the processing of their personal data in the EU (WP 221)
- 6.4 Article 29 Working Party Opinion 05/2012 on Cloud Computing (WP 196)

## Tuesday, 19 June 2018 (Cont.)

**10:15 — 10:30 Morning Break****10:30 — 11:45 [Session 7] Developments in Cross-Border Data Transfers and Data Protection in South America and the Middle East***([Backhouse\\*](#), [Moncure](#), [Peruzzotti](#), [Wilkinson](#))*

The pace of change in data protection laws in South America has increased recently. In particular, Argentina, Brazil and Chile continue to develop their data protection regimes, and implementation of the Colombian database law has proven challenging. While changes in the Middle East have been slower, Dubai has recently amended its data protection law and related regulations. A panel of practitioners – with significant experience advising companies on meeting the unique challenges of complying with data protection laws in South America and the Middle East – will lead a dialogue on key legal developments and offer practical advice on complying with obligations in these jurisdictions.

**Required Materials**

- 7.1 Dino Wilkinson, Nicholas Braganza, Jerami D. Kemnitz, Denise E. Backhouse, Stacey Blaustein, and Emily R. Fedeles, *Key Issues and Practices in Relation to Cross-Border Discovery and Data Protection: United Arab Emirates* (May 2018)
- 7.2 Mariano Peruzzotti, *Overview of personal data protection in South America* (May 2018)

**Recommended Materials**

- 7.3 Stacey Blaustein, Dino Wilkinson, Jerami D. Kemnitz, Denise E. Backhouse, and Emily R. Fedeles, *Bibliography of Sources on Data Privacy in the Middle East* (1 May 2018)
- 7.4 Dino Wilkinson, *The impact of GDPR on businesses in the Middle East* (Jan. 2018)

**Tuesday, 19 June 2018 (Cont.)**

**11:45 — 1:00 [Session 8] Developments in Cross-Border Data Transfers and Data Protection in the APAC Region**

*(Crowley, English, Moncure\*, Sauer, Wandall, Yeong)*

As we look forward to 2019 and the return of the International Programme to the APAC region, the panel will lead a dialogue on key developments in the APAC region regarding data protection and the associated impact on cross-border data transfers to/from the APAC region. Panelists will discuss recent developments surrounding the CPBR system and possible benefits to and risks from participation. Other topics of dialogue will include recent changes to the Japanese data protection law, the impact of the China Cybersecurity law, and other key developments in Singapore, South Korea and Australia.

**Recommended Materials:**

- 8.1 David Moncure, *The Conflict Between United States Discovery Rules and the Laws of China: The Risks Have Become Realities*, The Sedona Conference Journal (Fall 2015)
- 8.2 APEC Privacy Framework
- 8.3 APEC Cross-Border Privacy Rules System: Policies, Rules and Guidelines
- 8.4 APEC Cross-Border Privacy Rules System Program Requirements
- 8.5 Article 29 Working Party and APEC Referential

**1:00 — 2:00 Lunch (provided)**