

GENERAL DATA PROTECTION REGULATIONS & IMPACT ON YOUR BUSINESS

MAY 2018

Our newsletter covers – GDPR & its impact on Companies operating outside EU including from India.

At present, companies' world over are in the process of assessing the impact of EU General Data Protection Regulations ("GDPR") will have on their businesses. High administrative fines in case of non-compliances with GDPR provisions are a driving force behind these concerns as they can lead to loss of business for various countries such as India. GDPR will be applicable from May 25th, 2018. GDPR is an omnibus regulation by which the EU intends to strengthen and unify data protection thereby enabling EU citizens to have more control of their personal data.

Data Minimisation

Personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which those data is processed.

Accuracy

Personal data must be accurate and, where necessary, kept up to date; every reasonable step must be taken to ensure that personal data that are inaccurate, having regard to the purposes for which they are processed, are erased or rectified without delay.

Storage Limitation

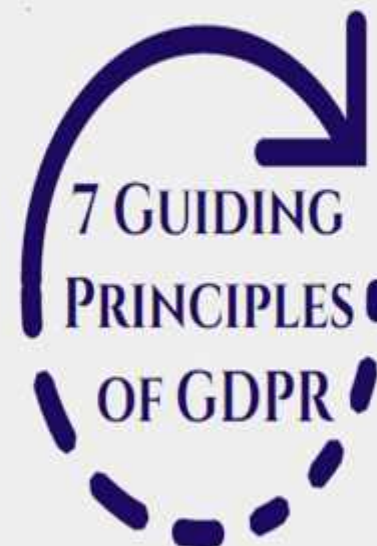
Personal data must be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data are processed; it may be stored for longer periods solely for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes.

Purpose Limitation

Personal data may only be collected for the specified, explicit and legitimate purposes and must not be further processed in a manner that is incompatible with those purposes.

Lawful, Fair & Transparent

It must be clearly explained to the data subject that data is being captured & what that data is; why that data is being captured, and by whom, and what will happen to that data. It must also be clear what rights the data subject has regarding their own data.



Integrity and Confidentiality

Personal data must be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measure.

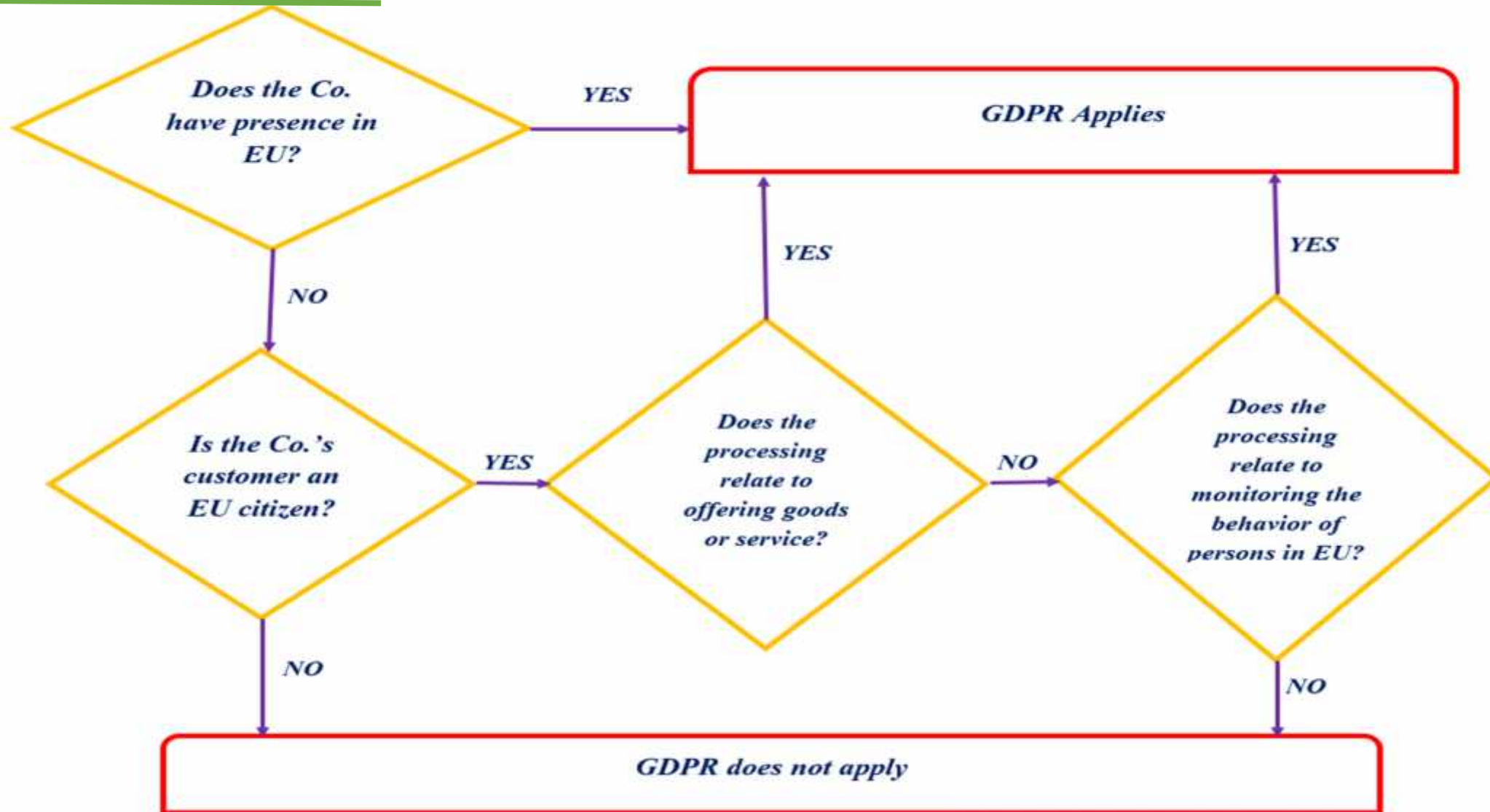
Accountability

The controller shall be responsible for, and be able to demonstrate compliance with, the GDPR principles.

W.E.F 25/05/2018

GDPR Applicability

GDPR applies globally and companies outside EU will have to comply with the GDPR if they process personal data of EU data subjects (even there is no payment).



Non-EU based organizations: For offering of goods & services (but not monitoring), it must be apparent that the organization “envisages” that activities will be directed to EU data subjects.

The EU GDPR will increase privacy for individuals and give regulatory authorities greater powers to take action against businesses that breach the new laws.
Here's what it means for your business:

Tough penalties:
fines of up to

4% of annual global revenue
or
€20 million,
whichever is **greater**.



The regulation also applies to **non-EU companies** that process personal data of individuals in the EU.



GDPR Highlights

The **definition of personal data** is now broader and includes identifiers such as



genetic



mental



cultural



economic



social identity.

Obtaining consent for processing personal data must be clear, and must seek an affirmative response.

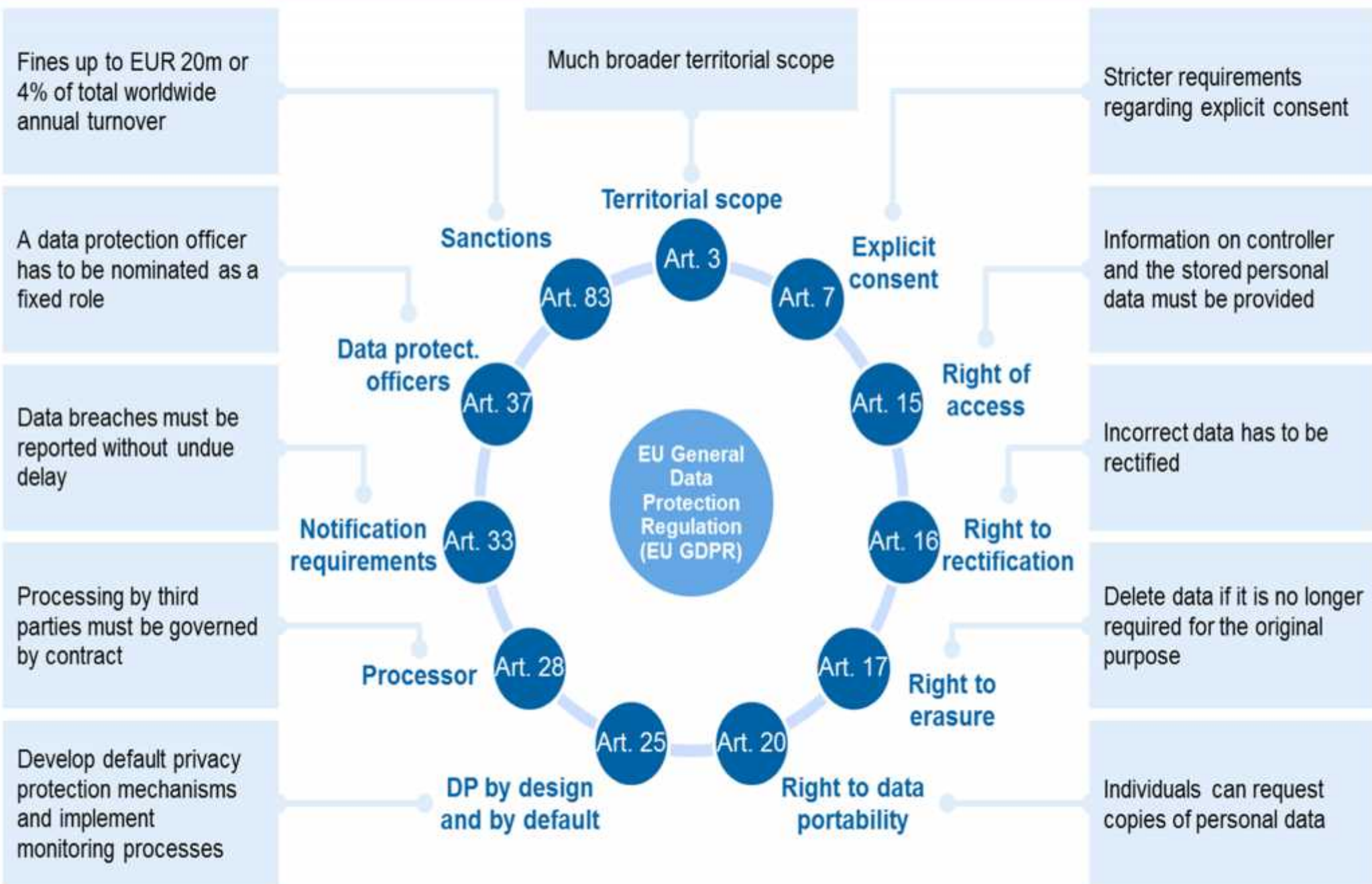


Data subjects have the **right to be forgotten** and erased from records.



Parental consent is required for the processing of **personal data of children** under age 16.

Users may request a copy of personal data in a **portable format**.

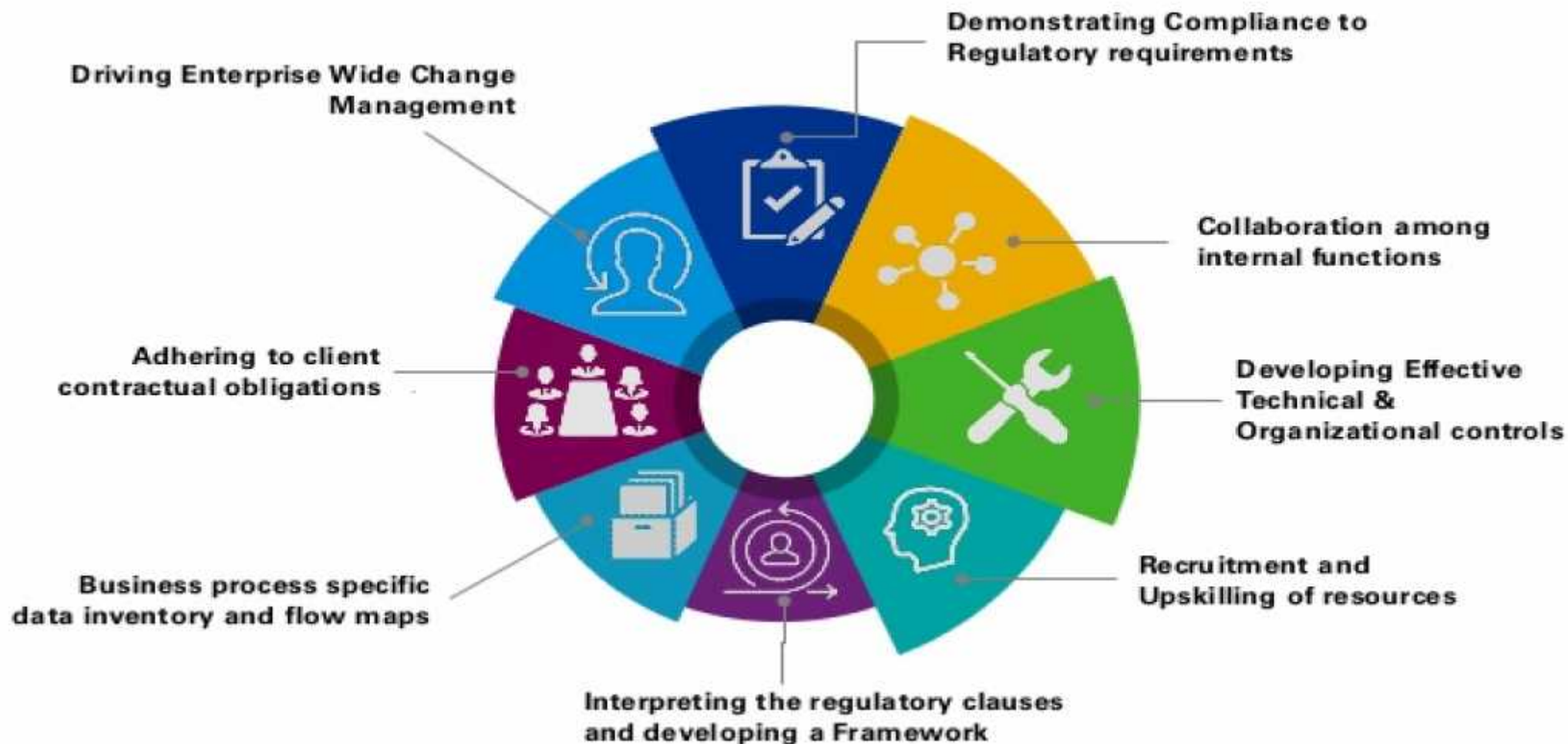


General Misconceptions about GDPR:

- + We are a company established in India hence GDPR does not apply to us;*
- + My data is stored with a third party service provider so it's only their responsibility to remain compliant with GDPR;*
- + Our CISO/CIO/CRO can also play the role of DPO;*
- + Controllers and processors will have to answer to only a single data protection authority;*
- + GDPR is the Information Security team's problem;*
- + My associates have only view access to the personal information of Eu citizens;*
- + We are too small an organization so GDPR will not affect us;*
- + We are only data processors so we don't have to worry about GDPR*



Problems...



Overview of key GDPR requirements

GOVERNANCE REQUIREMENTS

Mandatory DPO

A chief data protection officer must be appointed

Ongoing compliance

GDPR compliance must be supported by ongoing processes such as privacy impact assessments

Breach reporting

Breaches must be reported to the relevant authority within defined timeframes

Consistent purpose

Purpose given when collecting PII must be in line with its subsequent use

Unambiguous consent

Use of PII will be based on obtaining and evidencing unambiguous consent from the data subject

KEY GDPR REQUIREMENTS

TECHNICAL REQUIREMENTS

Data must be portable

Data subjects have the right to request transfer of their PII to other firms

Data must be permanently erased

Data subjects have the right to request permanent erasure of PII

Data must be secured

PII is to be stored securely

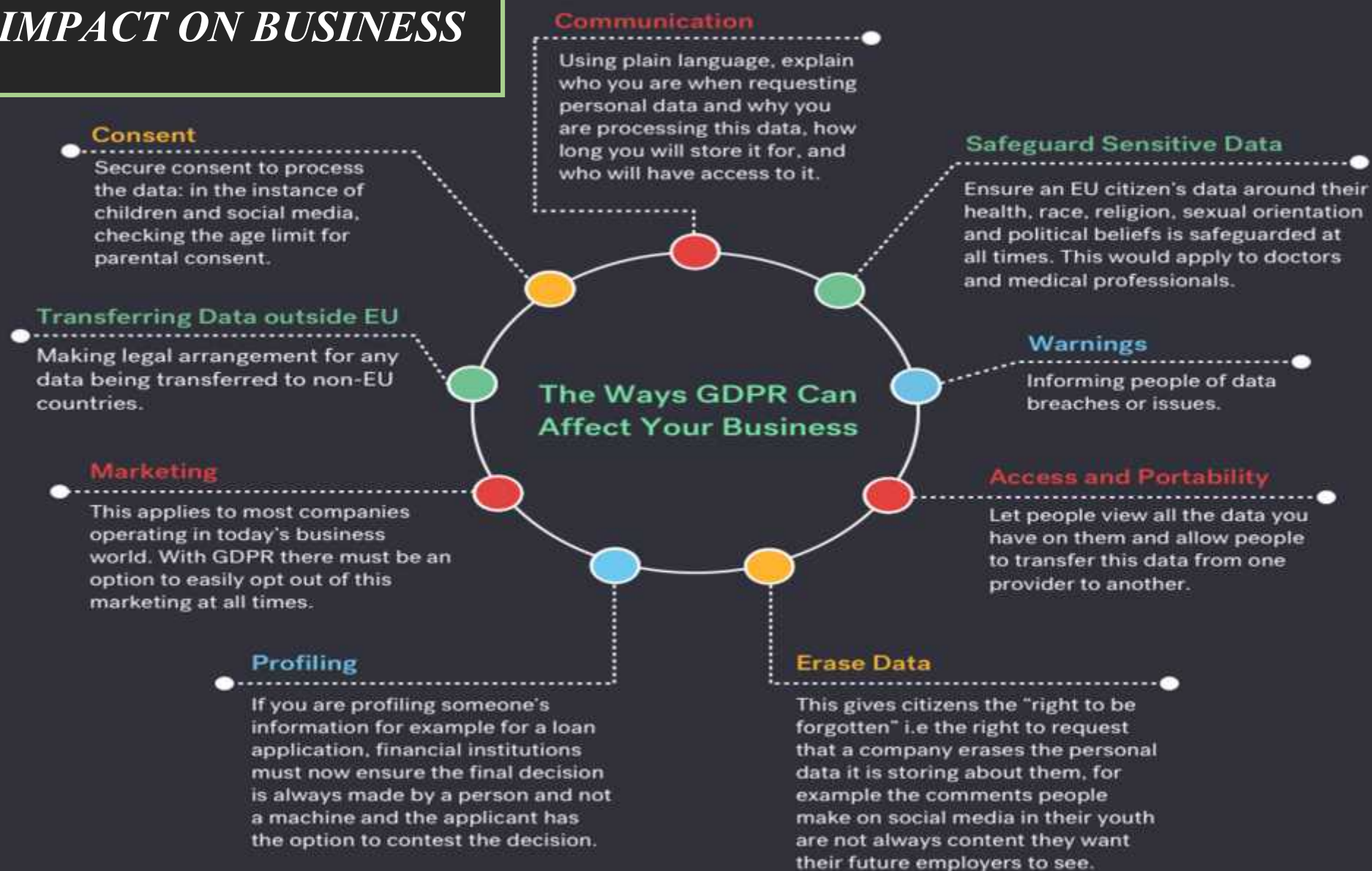
Data lineage must be retained

The source of PII must be retained throughout its processing

Data must be accurate

The accuracy of PII must be actively managed to a high standard

IMPACT ON BUSINESS



Know Your (Customers') Rights: 8 Ways GDPR Expands EU Citizens' Privacy Rights



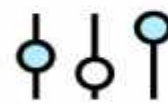
The Right to Be Informed

Individuals have a right to know who is processing their personal data



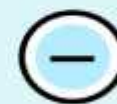
The Right to Access

Individuals have the right to access any personal data that has been collected about them



The Right to Rectifications

Individuals have the right to require organizations to correct inaccurate personal data



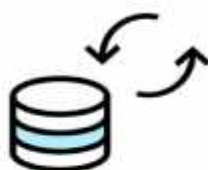
The Right to Be Forgotten

Individuals have the right to have their personal data deleted and to prevent further collection



The Right to Restrict Processing

Individuals have the right to require organizations to restrict the processing of specific categories of personal data



The Right to Data Portability

Individuals have the right to require organizations to transfer personal data to a recipient of their choice



The Right to Object

Individuals have the right to consent, or withdraw consent, to the processing of their personal data



Rights in Relation to Automated Decision Making and Profiling

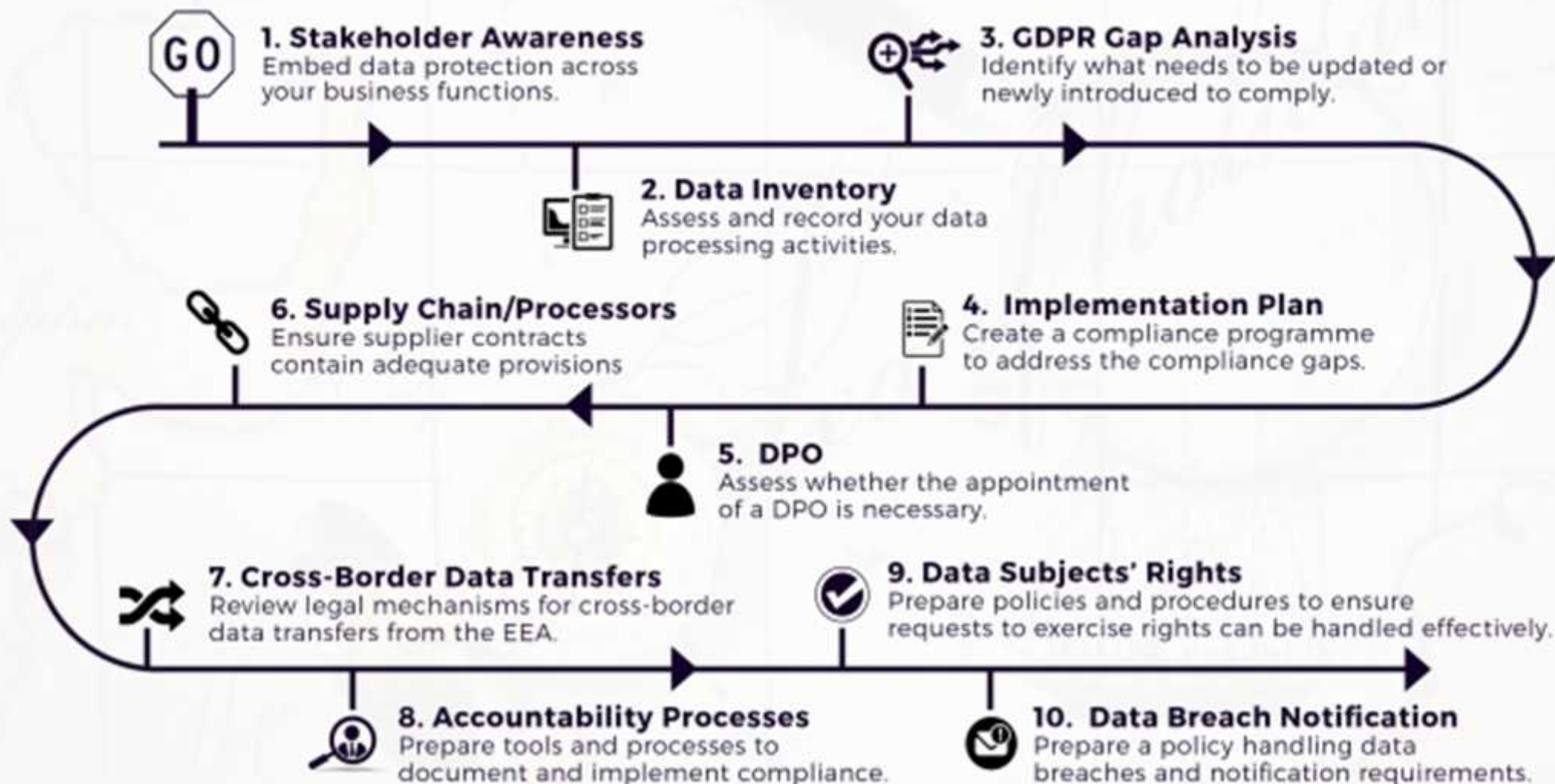
Individuals have the right to opt out of the use of their personal data by automated systems, such as artificial intelligence

**ECA
ROLE**

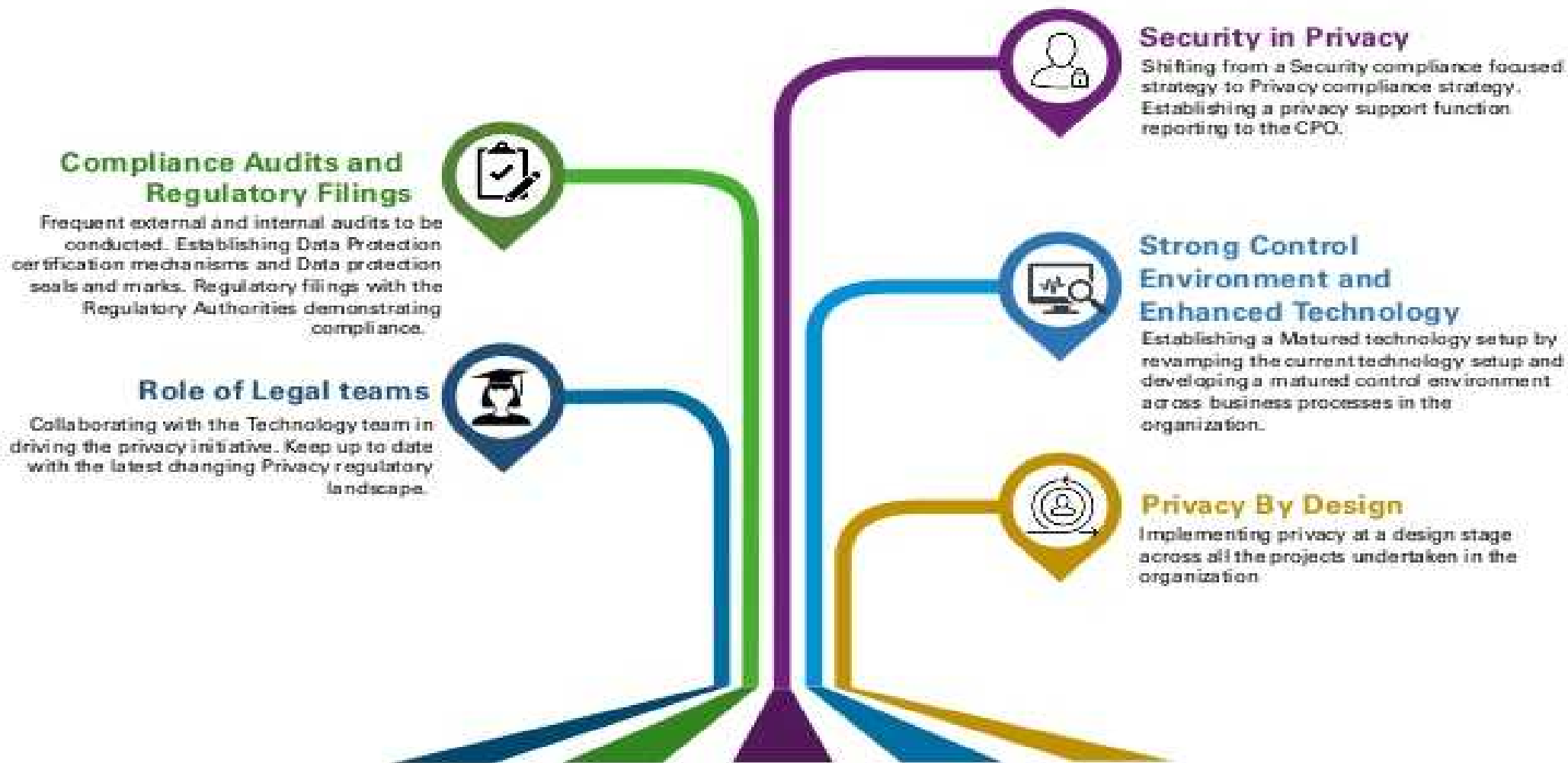


GDPR: THE PATH TO COMPLIANCE

HELP YOUR ORGANISATION STAY COMPLIANT WITH THIS 10 STEP GUIDE



Roadmap after May 2018



Connect with Us:

**EquiCorp Associates,
Advocates & Solicitors**

**1st Floor, NBBC, Inox
Towers, Tower-B, Plot No.17,**

**Sector-16 A, Film City, Noida-
201301, Delhi-NCR, India**

+918448824659 /

01204797509

W: www.equicorplegal.com

Email:

admin@equicorplegal.com

Expertise:

- Corporate &
Commercial**
- Banking & Finance**
- Employment &
Labour Laws**
- Intellectual Property
& Information
Technology**
- Litigation &
Arbitration**
- PE, Funds & M&A**
- Startup**
- Regulatory Policy &
Compliance**
- Tax & Consulting**



***To know further details and other legal
aspects of GDPR and its impact on your
business or get your company GDPR
Compliant or any clarification, please
contact us at
admin@equicorplegal.com/ +91
8448824659***

Disclaimer: This publication by Equi Corp Associates, Advocates & Solicitors is to keep our clients and friends informed of new and important legal issues. It is intended to be informational only and does not constitute legal advice. Specialist advice should be sought regarding specific circumstances. © 2018 Equi Corp Associates, Advocates & Solicitors, Noida, Delhi-NCR. All rights reserved. No part of this article may be reproduced or transmitted in any form or by any means without written permission from the copyright holder.

For further information on this topic please connect with us at admin@equicorplegal.com / +91 8448824659