

Data Transfer Assessment

The purpose of this document is to provide Grafana Labs' European data exporter customers with necessary information to assess whether there is risk to the customer's data subjects of mass surveillance under the United States laws known as FISA Section 702 and EO 12.333.

In connection with the invalidation of the EU-U.S. Privacy Shield on 16 July 2020 by the Court of Justice of the European Union, the Court emphasized the responsibility of data exporters and data importers to assess whether legislation in a non-EU country enables the data importer to comply with the Standard Contractual Clauses and to provide necessary supplementary measures where needed. On September 28, 2020 the United States' Department of Commerce issued a whitepaper clarifying the limited data types of interest to US intelligence agencies and the privacy safeguards in place, including oversight by the FISA court, to protect the rights of individuals.

While the term "electronic communications service providers" has been interpreted broadly by U.S. courts and the U.S. Department of Commerce to include a company that happens to offer company email, the U.S. Department of Commerce stated in its whitepaper, *"Companies whose EU operations involve ordinary commercial products or services, and whose EU-U.S. transfers of personal data involve ordinary commercial information like employee, customer, or sales records, would have no basis to believe U.S. intelligence agencies would seek to collect that data."* We thus believe U.S. intelligence agencies would not seek to collect the ordinary commercial information Grafana Labs processes in the course of providing its services.

Taking into account: (1) the business (rather than consumer) nature of data processed by Grafana Labs' services; (2) the low likelihood that mass surveillance orders would be issued under such laws as the United States' Foreign Intelligence Surveillance Act, the United Kingdom's Investigative Powers Act, and similar laws in jurisdictions such as Canada, France, and Germany; (3) the generally benign nature of the data that Grafana Labs processes on behalf of its customers; and (4) the relatively low potential for impact to EU individuals' privacy rights; it is Grafana Labs' position that transfers of personal data by data exporters to Grafana Labs (as the data importer) do not undermine the protections afforded data subjects by the Standard Contractual Clauses, the General Data Protection Regulation, and the service agreement between Grafana Labs and its customers.

Grafana Labs complies with our legal obligations in all jurisdictions where we do business. As of the date of this statement, Grafana Labs has not received any U.S. government request to access its customers' personal data.