

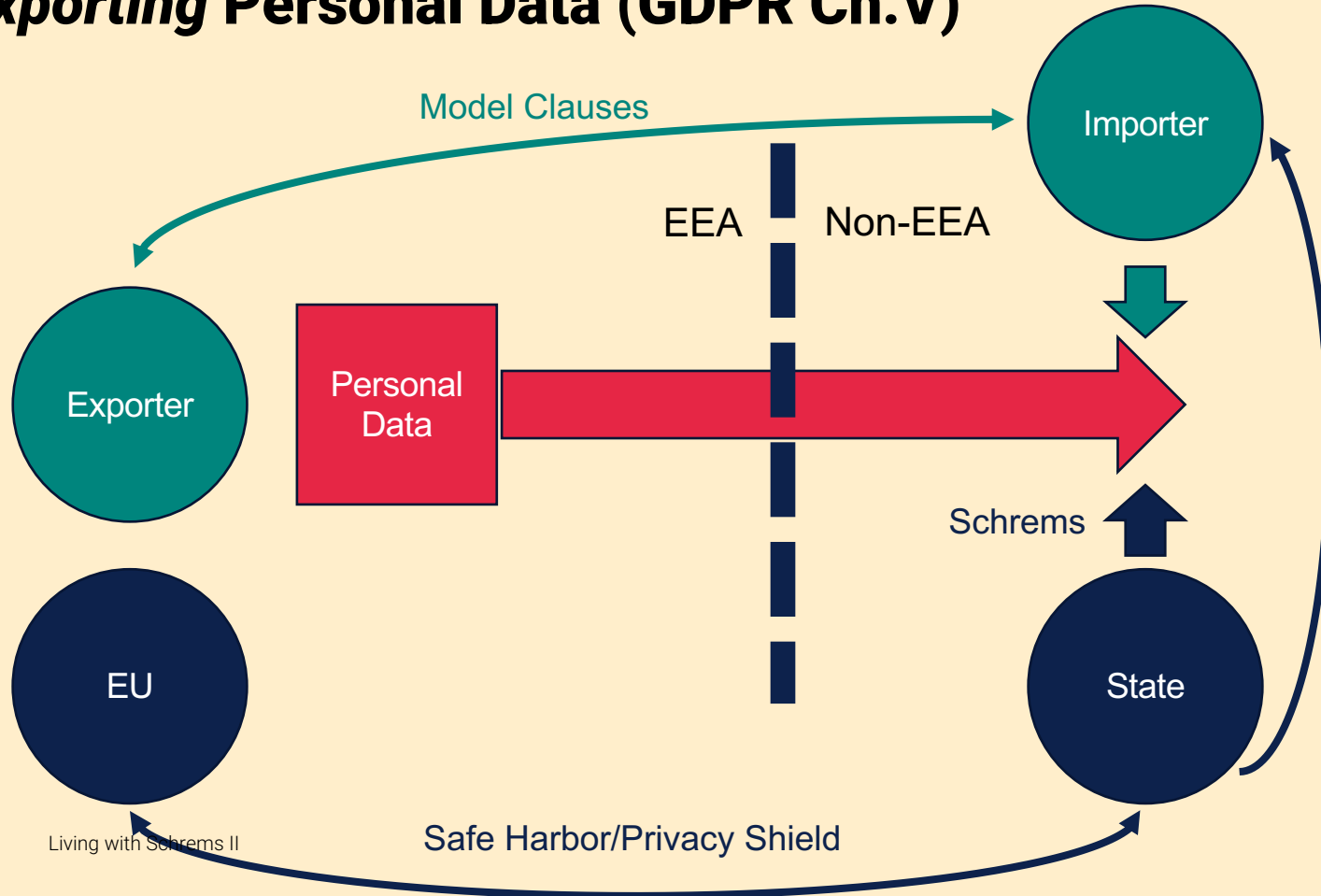


Living with Schrems II

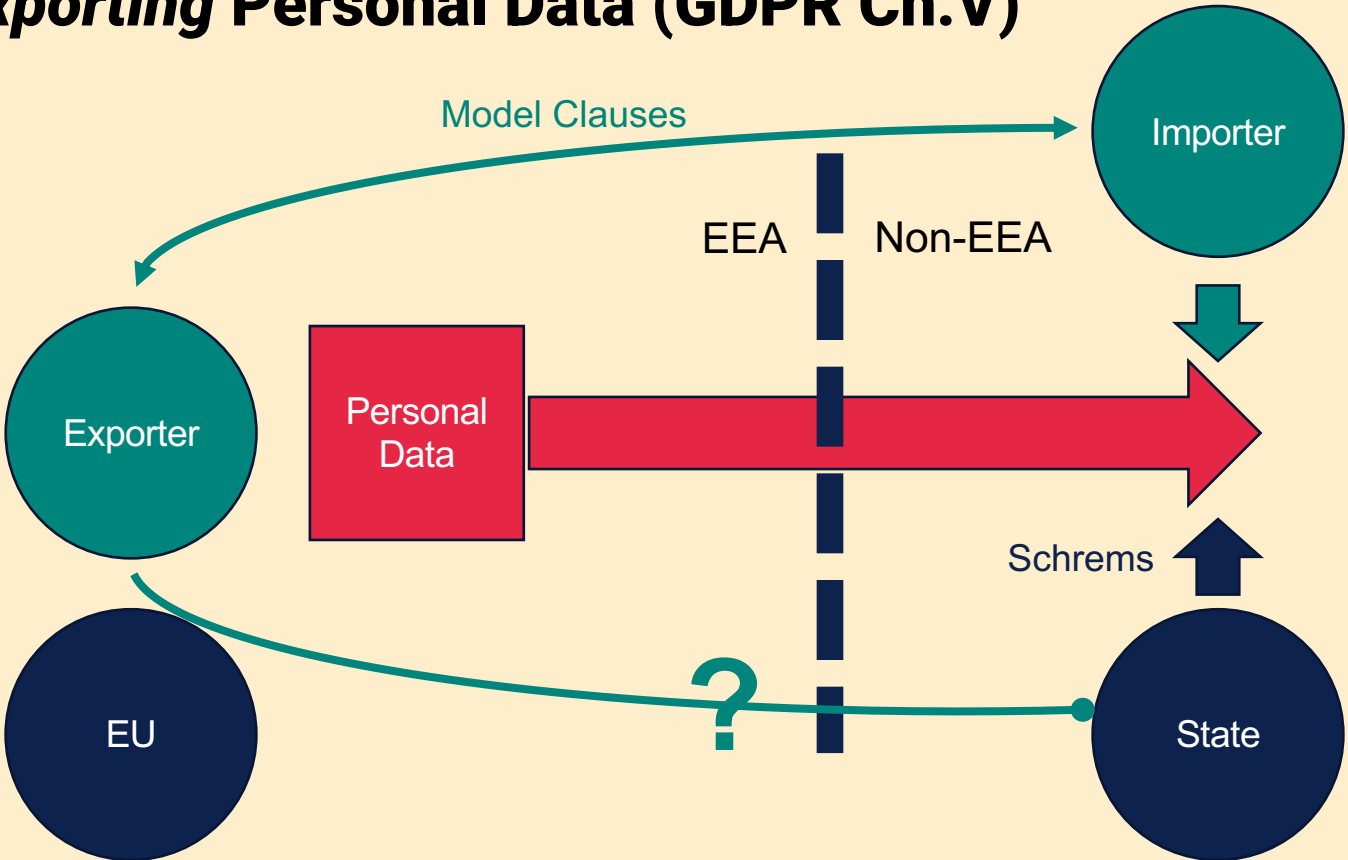
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Exporting Personal Data (GDPR Ch.V)



Exporting Personal Data (GDPR Ch.V)



Exporter now supposed to check state threat

Against what benchmark?

- International transfers within EEA?
 - No, law declares all EEA states present equivalent threat
- Risk of this data, to this state, for this processing?
 - What the European Court actually said
- Risk from specific US interception and access powers?
 - What the EDPS initial response said
- Access to any plaintext data in US?
 - What the EDPB **draft** said (10/11/20: may change...)
- Access by any US-controlled company?
 - What some State Regulators are apparently saying



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So, what to do?

- If you can, do what your national regulator says...
 - If that's "no US-hosting" (avoiding Ch.V entirely), can probably comply
- If you can't, or if regulator has not spoken, only option is, as usual, to balance risks...

Risk (regulatory+reputational) if we do	v	Risk (operational+regulatory) if we don't

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 - For example:

Risk (regulatory+reputational) if we do	v	Risk (operational+regulatory) if we don't
24x7 (global) support	V	EU office hours only
Security of cloud data centre	V	Protection & maintenance of in-house server
Performance/cost of global provider	V	Slower/costlier national provider
Official, risk-managed service to staff/students	V	Requirement gap filled by shadow IT

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