

## Summary of Amendments to the DSB Access & Usage Agreement & Policies for 2021

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### Introduction

The purpose of this document is to highlight and provide narrative on the changes to the DSB Access and Usage Agreement and Policies (together ‘the Agreement’) and the DSB Privacy Policy in relation to the data protection implications of Brexit and the GDPR.

If the UK is not granted an “adequacy decision” by the European Commission by the 31 December 2020, in accordance with clause 1.2(c) of the Agreement, the outlined changes will become effective 1 January 2021.

These changes have been made against the version of the Agreement which comes into effect 1 January 2021 which can be found [here](#)<sup>1</sup>.

All of the referenced documentation is available on the [DSB website](#)<sup>2</sup>, with specific links in each section of this document.

### Brexit and the GDPR

The UK left the European Union on 31 January 2020 and is in an 11 month transition period until the 31 December 2020. The DSB is keeping abreast of the publicly available information on Brexit and considering the possible implications. Aside from the data protection issues mentioned below, the DSB does not currently consider there to be foreseeable matters which require the DSB to take action in relation to the core OTC ISIN service (creation and search activities). Brexit-related service disruption planning remains, at this time, a subset of the DSBs’ existing contingency plans (including any diligence on our reliance on suppliers and subcontractors). Details regarding DSB ToTV and UK ToTV service transition can be found on the [DSB website](#)<sup>3</sup>.

From a data protection perspective, DSB is undertaking the necessary precautions to safeguard the exchange of personal data from the European Economic Area (EEA) to UK in the event that the UK is not granted an “adequacy decision” by the European Commission, by the end of 2020. The effect of an adequacy decision would mean that personal data can flow from the EEA to the UK without any

<sup>1</sup> <https://www.anna-dsb.com/download/dsb-2021-ua-policies-final/>

<sup>2</sup> <https://www.anna-dsb.com/dsb-policies/>

<sup>3</sup> <https://www.anna-dsb.com/brexit-replace/>

further safeguards being required. There is currently uncertainty as to whether or when the European Commission will grant the UK an adequacy decision.

The DSB is therefore taking steps to ensure that the Agreement incorporates appropriate safeguards to enable the continued flow of personal data from the EEA to the UK. In the absence of an adequacy decision, the DSB is publishing a revised DSB Access and Usage Agreement, in accordance with clause 1.2(c), incorporating the European Commission Controller to Controller Standard Contractual Clauses (Commission Decision of 27 December 2004 amending Decision 2001/497/EC as regards the introduction of an alternative set of standard contractual clauses for the transfer of Personal Data to third countries (2004/915/EC) (SCCs).

The DSB may also consider additional, supplementary measures that may be required in order to ensure the parties' compliance with *Case C-311/18 Data Protection Commissioner v Facebook Ireland and Maximillian Schrems*, and issue subsequent updates to address this.

Due to the common nature of the Agreement, the DSB is unable to negotiate or execute bilateral terms on this matter. If the UK is not granted an "adequacy decision" by the European Commission by 31 December 2020, changes to the Agreement will become effective 1 January 2021, and your continued use of the services will constitute your acceptance of the changes.

In addition to the foregoing, the DSB is also publishing a revised DSB Privacy Policy to take into account updates required as a result of Brexit; and which clarify the legal bases of processing applied to our uses of personal data. Additional minor updates have also been made to clarify certain areas of the DSB Privacy Policy. Your continued use of the services will constitute your acknowledgement of the changes.

## 1. DSB Access and Usage Agreement v6.1 2021

The redline<sup>4</sup> and clean<sup>5</sup> version of this document can be found on the [DSB website](#)<sup>6</sup>.

New 13.5 – language added to state that to the extent the UK is considered a "Third Country" for the purposes of the GDPR (i.e. where, following the expiry of the Brexit transition period on 31 December 2020, the European Commission has not granted the UK an adequacy decision) and the User and/or its Affiliates are located in the EEA, the User (for itself and its Affiliates) are deemed to have entered into the SCCs as data exporters, and the DSB is deemed to have entered into the SCCs as data importer.

Appendix A – new definitions added for "GDPR"; "Standard Contractual Clauses"; and "Third Country", which are referred to in the new clause 13.5

New Appendix C – the SCCs have been incorporated as a new Appendix C, pursuant to new clause 13.5. Annex B of the SCCs (Description of the transfer) has been completed by reference to the services provided.

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<sup>4</sup> [https://www.anna-dsb.com/download/dsb-access-and-usage-agreement\\_v6-1\\_2021\\_final\\_redline/](https://www.anna-dsb.com/download/dsb-access-and-usage-agreement_v6-1_2021_final_redline/)

<sup>5</sup> [https://www.anna-dsb.com/download/dsb-access-and-usage-agreement\\_v6-1\\_2021\\_final\\_clean/](https://www.anna-dsb.com/download/dsb-access-and-usage-agreement_v6-1_2021_final_clean/)

<sup>6</sup> <https://www.anna-dsb.com/dsb-policies/>

## 2. DSB Privacy Policy v3

The redline<sup>7</sup> and clean<sup>8</sup> version of this document can be found on the [DSB website](#)<sup>9</sup>.

In general, references to the EU/EEA have been updated to also refer to the UK throughout.

Introduction – the second sentence stating that the privacy policy only applies where the DSB acts as data controller has been removed, as the DSB will always act as an independent data controller.

Previous section 8 (“Use of User Personal Data”) has been deleted as a result of the removal of this sentence.

Introduction – clarification made the privacy policy is to be acknowledged as opposed to accepted.

Objectives – contents list headings have been aligned with the headings used in the body of the privacy policy. The numbering throughout the privacy policy has also been changed, so that “Information We May Collect About You” is now (1), and the other sections have been renumbered accordingly. Some of the section headings have been amended to better reflect what the section covers.

(2) How We use Your Information and Legal Bases, (3) Disclosures to Third Parties – “Use justification” is now referred to as “Legal bases”. The Legal Bases applied to each processing activity have been clarified, including the inclusion of GDPR Article 9 Legal Bases for processing special categories of personal information where applicable. An additional processing activity of monitoring has also been added.

(4) Legal Bases – a table of the description of the legal bases used for special categories of personal information has been added, and “Legal claims” has been moved to this table.

(6) Your Rights – contact details of the ICO have been added.

(7) Contacting us – details of the DSB’s EU Representative (as required under the GDPR) have been added.

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<sup>7</sup> [https://www.anna-dsb.com/download/dsb-privacy-policy-v3\\_final\\_redline/](https://www.anna-dsb.com/download/dsb-privacy-policy-v3_final_redline/)

<sup>8</sup> <https://www.anna-dsb.com/download/dsb-privacy-policy/>

<sup>9</sup> <https://www.anna-dsb.com/dsb-policies/>