



Convenience Translation

**Decision approving Binding Corporate Rules of the Internet Initiative  
Japan Group (BCR-C)**

5. August 2021

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WHEREAS:

1. Having regard to Article 47(1) of the Regulation (EU) 2016/679 (General Data Protection Regulation – GDPR), the Landesbeauftragte für Datenschutz und Informationsfreiheit Nordrhein-Westfalen (North Rhine-Westphalia Commissioner for Data Protection and Freedom of Information, NRW SA) shall approve Binding Corporate Rules (BCRs) provided that they meet the requirements set out under this Article.
2. In accordance with the cooperation procedure as set out in the Working Document WP263.rev.01, the Controller BCRs application of the Internet Initiative Japan Group (IIJ) first submitted on 5 October 2020 were reviewed by the NRW SA, as the competent Authority for the BCRs (BCR Lead) pursuant to Article 55(1) GDPR, Section 40(1) German Federal Data Protection Act in conjunction with Section 26(1) Data Protection Act North Rhine-Westphalia and by one further Supervisory Authority acting as co-reviewer. The application was also circulated to every EEA SA for further review and comments as part of the cooperation procedure.
3. The review concluded that the Controller BCRs of IIJ comply with the requirements set out by Article 47(1) GDPR as well as the Working Document WP256.rev.01 and in particular that the aforementioned BCRs:
  - i) Are legally binding and contain a clear duty for each participating member of the Group including their employees to respect the BCRs
    - (a) by way of the Intra-Group Agreement (IGA) of which all participating group entities have to become signatories (see Annex 1 of the BCRs for a list of the participating entities and Section 3 IGA for the obligation to comply with the BCRs); and
    - (b) by having employees pledge in writing (Seiyakusho) that they will comply with various regulations and orders regarding work duties, such as the Work Regulations (shugyou-kisoku), the Service Regulations (Hukumu-kiritsu-tou Kinmunikansuru-shokisoku), and any other law and ordinance (see Attachments 3 to 6 and Section 1.2.3 of the BCRs); and
  - ii) Expressly confer enforceable third party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCRs (see Section 5.1 IGA and Section 6.1 of the BCRs);

Aktenzeichen L9.2.1-4110/17

bei Antwort bitte angeben

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iii) Fulfil the requirements laid down in Article 47(2) GDPR

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- (a) the structure and contact details of the participating group entities
  - See Annex 1 of the BCRs and Attachment 1
- (b) the data transfers or set of transfers, including the categories of personal data, the type of processing and its purposes, the type of data subjects affected and the identification of the third country or countries in question
  - See Section 3 of the BCRs
- (c) their legally binding nature, both internally and externally
  - See Sections 1.2.2 and 1.2.3 of the BCRs
- (d) the application of the general data protection principles, in particular purpose limitation, data minimisation, limited storage periods, data quality, data protection by design and by default, legal basis for processing, processing of special categories of personal data, measures to ensure data security, and the requirements in respect of onward transfers to bodies not bound by the binding corporate rules
  - See Sections 2 and 3 of the BCRs
- (e) the rights of data subjects in regard to processing and the means to exercise those rights, including the right not to be subject to decisions based solely on automated processing, including profiling in accordance with Article 22 GDPR, the right to lodge a complaint with the competent supervisory authority and before the competent courts of the Member States in accordance with Article 79 GDPR, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules
  - See Sections 6.1 and 6.3 of the BCRs
- (f) the acceptance by the controller established on the territory of a Member State of liability for any breaches of the binding corporate rules by any member concerned not established in the EU
  - See Sections 6.2, 6.3 and 6.5 of the BCRs
- (g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) is provided to the data subjects in addition to Articles 13 and 14 GDPR
  - See Sections 2.3 and 4.8 of the BCRs



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- (h) the tasks of any data protection officer designated in accordance with Article 37 GDPR or any other person or entity in charge of the monitoring compliance with the binding corporate rules within the company group, as well as monitoring training and complaint-handling
  - See Section 13 of the BCRs and Annex 6
- (i) the complaint procedures
  - See Section 5 of the BCRs and Annex 5
- (j) the mechanisms within the company group for ensuring the verification of compliance with the binding corporate rules. Such mechanisms shall include data protection audits and methods for ensuring corrective actions to protect the rights of the data subject. Results of such verification should be communicated to the person or entity referred to in point (h) and to the board of the controlling company within the group, and should be available upon request to the competent supervisory authority
  - See Section 12 of the BCRs and Annex 9
- (k) the mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority
  - See Section 16.1 of the BCRs
- (l) the cooperation mechanism with the supervisory authority to ensure compliance by any member of the company group, in particular by making available to the supervisory authority the results of verifications of the measures referred to in point (j)
  - See Sections 8.2 and 12 of the BCRs
- (m) the mechanisms for reporting to the competent supervisory authority any legal requirements to which a member of the company group is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules
  - See Section 2 of the BCRs
- (n) the appropriate data protection training to personnel having permanent or regular access to personal data
  - See Section 11 of the BCRs and Annex 8.

4. The EDPB provided its opinion 26/2021 in accordance with Article 64(1)(f) GDPR. The NRW SA took utmost account of this opinion.



DECIDES AS FOLLOWING:

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- 5. The Controller BCRs of IJ in their most recently revised version dated 26 May 2021 are hereby approved.**

NOTICE:

6. However, before making use of the BCRs it is the responsibility of the data exporter in a Member State, if needed with the help of the data importer, to assess whether the level of protection required by EU law is respected in the third country of destination, including onward transfer situations. This assessment has to be conducted in order to determine if the guarantees provided by BCRs can be complied with in practice, in light of the circumstances of the possible impingement created by the third country legislation with the fundamental rights and the circumstances surrounding the transfer. If this is not the case, the data exporter in a Member State, if needed with the help of the data importer, should assess whether it can provide supplementary measures to ensure an essentially equivalent level of protection as provided in the EU.
7. Where the data exporter in a Member State is not able to take supplementary measures necessary to ensure an essentially equivalent level of protection as provided in the EU, personal data cannot be lawfully transferred to a third country under this BCRs. Therefore the data exporter is required to suspend or end the transfer of personal data.
8. The approved BCRs will not require any specific authorization from the concerned supervisory authorities.
9. In accordance with Article 58(2)(j) GDPR, each concerned Supervisory Authority maintains the power to order the suspension of data flows to a recipient in a third country or to an international organization whenever the appropriate safeguards envisaged by Controller BCRs of IJ are not respected.



## ANNEX TO THE DRAFT DECISION

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The Controller BCRs of IJJ that are hereby approved cover at the time of the adoption of this decision<sup>1</sup> the following:

a. Scope

Only members of the IJJ group acting as Controller, that are legally bound by the BCRs as per the IGA (see Section 3 IGA, Section 1.2.2 of the BCRs and Annex 1).

b. EEA countries from which transfers are to be made:

- Germany

c. Third countries to which transfers are to be made (see WP264 Section 2):

- Japan, United Kingdom, China, Indonesia, Singapore, Thailand, Vietnam, United States of America

d. Purposes of the transfer: See WP264 Section 2 and Section 3 of the BCRs

e. Categories of data subjects concerned by the transfer: Employees, suppliers, service providers and customers, including their contact persons. See WP264 Section 2 and Section 3 of the BCRs

f. Categories of personal data transferred: See WP264 Section 2 and Section 3 of the BCRs

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<sup>1</sup> Article 47(2)(k) GDPR remains unaffected.



## APPLICATION DOCUMENTS

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The attached application documents form part of this decision of approval:

1. IJ BCR-C – Application Form WP264
2. IJ BCR-C
3. IJ BCRs WP256 rev.01
4. IJ BCR Revised Draft – Attachment 1 – IJ Group Companies
5. IJ BCR Revised Draft – Attachment 2-3 – IJ Intragroup Agreement
6. IJ BCR Revised Draft – Attachment 4 – Employees\_Pledge (Seiyakusyo)
7. IJ BCR Revised Draft – Attachment 5 – Pledge for confidentiality
8. IJ BCR Revised Draft – Attachment 6 – Work regulation
9. IJ BCR Revised Draft – Attachment 7.1 - Privacy Policy
10. IJ BCR Revised Draft – Attachment 7.2 – IJ Group Global Privacy Policy
11. IJ BCR Revised Draft – Attachment 7.3 – IJ Group Global Privacy Rules
12. IJ BCR Revised Draft – Attachment 8 – Memorandum on Processing Personal data
13. IJ BCR Revised Draft – Attachment 9 – Report 2020 English
14. IJ BCR Revised Draft – Attachment 10 – Annual Data Security Education & Training
15. IJ BCR Revised Draft – Attachment 11 – Training Material
16. IJ BCR Revised Draft – Attachment 12 – Group Internal Information Security
17. IJ BCR Revised Draft – Attachment 13 – IJ Data Processing Addendum
18. IJ BCR Revised Draft – Attachment 14 – Basic Audit Plan
19. IJ BCR-C Final Draft – Annex 1 – Definitions of IJ Business Entities
20. IJ BCR-C Final Draft – Annex 2 – Scope of Personal Data
21. IJ BCR-C Final Draft – Annex 3 – Procedures Regarding Risk Analyses
22. IJ BCR-C Final Draft – Annex 4 – Rules Regarding the Data Subject Personal Data Rights
23. IJ BCR-C Final Draft – Annex 5 – Procedures Regarding Complaints and Consultations
24. IJ BCR-C Final Draft – Annex 6 – Rules Regarding the Personal Data Protection Organization
25. IJ BCR-C Final Draft – Annex 7 – RACI
26. IJ BCR-C Final Draft – Annex 8 – Rules regarding the Training on Personal Data Protection
27. IJ BCR-C Final Draft – Annex 9 – Rules regarding Audits