



**Decision of the General Secretariat n°
03/2019 of 4 December 2019**

**Subject: Approval decision of the ExxonMobil Corporation Binding Corporate Rules by
the General Secretariat of the Belgian Data Protection Authority (DOS-2017-01-302)**

Having regard to Article 47(1) of the EU General Data Protection Regulation 2016/679 (GDPR), the General Secretariat of the Belgian Data Protection Authority ("General Secretariat") shall approve the Binding Corporate Rules ("BCRs") submitted by ExxonMobil Corporation ("ExxonMobil") provided that they meet the requirements set out under this Article.

Having regard to Article 20, §1^{er} 8° of the « Loi du 3 décembre 2017 portant création de l'Autorité de protection des données ».

In accordance with Article 64(1)(f) GDPR, the General Secretariat took utmost account of the Opinion 16/2019 on the draft decision of the Belgian Supervisory Authority regarding the Binding Corporate Rules of ExxonMobil adopted on 12 November 2019 by the European Data Protection Board ("EDPB").

The General Secretariat affirms the important role of BCRs to frame international transfers and its commitment to support the companies in setting-up their BCRs

In accordance with the cooperation procedure as set out in the Working Document WP263.rev.01, the controller-BCRs application of ExxonMobil were reviewed by the General Secretariat of the Belgian DPA, as the competent Authority for the BCRs and two co-reviewing supervisory authorities.

The General Secretariat acknowledged reception of the ExxonMobil BCRs on August 19th, 2019. Only the BCRs will be made public, all other documents referred to in this Decision are internal documents

The review concluded that the controller-BCRs of ExxonMobil comply with the requirements set out by Article 47(1) of the GDPR as well as the Working Document WP256.rev.01 and in particular that the BCRs:

- 1) Are legally binding and contain a clear duty for each participating member of the Group including their employees to respect the BCRs by:
 - contractually binding ExxonMobil affiliates vis-à-vis each other to comply with the BCRs through an "Intra-Group Agreement":
 - o BCRs, Section 1.2; 1.5;
 - o BCRs Application Form WP2642bis, Section 2;
 - o Interaffiliate Agreement _IGA_ for Code of Conduct, clauses 2, 5.3(ii.), 9.1.
 - including a duty to respect the BCRs in employee's employment contracts:
 - o BCRs Application Form WP2642bis, Section.2.4

- 2) Expressly confer enforceable third party beneficiary rights to data subjects with regard to the processing of their personal data as part of the BCRs:
 - BCRs, Section 15.4; 15.5

- 3) Fulfil the requirements laid down in Article 47(2):
 - (a) the structure and contact details of the group of undertakings, or group of enterprises engaged in a joint economic activity and of each of its members:
 - BCRs Internal Documentation - BCRs Affiliate list for submission 2019

 - (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:
 - BCRs, Section 2.1; 2.2; 2.4;
 - BCRs Application Form WP2642bis, Section 2.7;
 - BCRs Internal Documentation - Overview of EM Data Privacy Assessment Process, Appendix 1 and 2

 - (c) legally binding nature, both internally and externally:
 - BCRs, Section 1.2; 1.5;
 - BCRs Application Form WP2642bis, Section 2;
 - Interaffiliate Agreement _IGA_ for Code of Conduct, clauses 2, 5.3(ii.), 9.1

(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:

- BCRs, Section 3 ; 4 ; 5 ; 6 ; 7 ; 8 ; 9 ; 10 ; 11 ; 15.2;
- BCRs Application Form WP2642bis, Section 9, 10

(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, 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, and to obtain redress and, where appropriate, compensation for a breach of the binding corporate rules:

- BCRs, Section 9 ; 9.1 ; 9.2 ; 15.2 ; 15.4 ; 15.5 ; 15.7

(f) the acceptance by the controller or processor 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 Union; the controller or the processor shall be exempt from that liability, in whole or in part, only if it proves that that member is not responsible for the event giving rise to the damage:

- BCRs, Section 1.4 ; 15.4 ; 15.5 ; 15.6;
- BCRs Application Form WP2642bis, Section 2.4

(g) how the information on the binding corporate rules, in particular on the provisions referred to in points (d), (e) and (f) of this paragraph is provided to the data subjects in addition to Articles 13 and 14:

- BCRs, Section 9.3 ; 15.2 ; 16.3 ; 18

(h) the tasks of any data protection officer designated in accordance with Article 37 or any other person or entity in charge of the monitoring compliance with the binding corporate rules within the group of undertakings, or group of enterprises engaged in a joint economic activity, as well as monitoring training and complaint-handling:

- BCRs, Section 1.3 ; 13.2;
- BCRs Internal Documentation - DP Org and Governance;
- BCRs Internal Documentation - SAR Process overview

(i) the complaint procedures:

- BCRs, Section 9.3 ; 15.2 ; 15.7;
- BCRs Internal Documentation - Overview of Complaints Process

(j) the mechanisms within the group of undertakings, or group of enterprises engaged in a joint economic activity 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 undertaking of a group of undertakings, or of the group of enterprises engaged in a joint economic activity, and should be available upon request to the competent supervisory authority:

- BCRs, Section 13 ; 15.3;
- BCRs Internal Documentation - Audit Program

(k) the mechanisms for reporting and recording changes to the rules and reporting those changes to the supervisory authority:

- BCRs, Section 15.9 ; 16.1 ; 16.2;
- BCRs Application Form WP2642bis, Section 2.8;
- Interaffiliate Agreement _IGA_ for Code of Conduct, Section 3.4; 4.3;
- BCRs Internal Documentation - Annual Review Process

(l) the cooperation mechanism with the supervisory authority to ensure compliance by any member of the group of undertakings, or group of enterprises engaged in a joint economic activity, in particular by making available to the supervisory authority the results of verifications of the measures referred to in point (j):

- BCRs, Section 14 ; 15.3 ; 15.8 ;
- BCRs Application Form WP2642bis, Section 2.6

(m) the mechanisms for reporting to the competent supervisory authority any legal requirements to which a member of the group of undertakings, or group of enterprises engaged in a joint economic activity is subject in a third country which are likely to have a substantial adverse effect on the guarantees provided by the binding corporate rules:

- BCRs, Section 3.3 ; 15.8;
- Interaffiliate Agreement _IGA_ for Code of Conduct, Section 9.3.c(iv);
- BCR Internal Documentation - DP Org and Governance

(n) the appropriate data protection training to personnel having permanent or regular access to personal data:

- BCRs, Section 12;
- BCRs Internal Documentation - Training Program

DECIDES AS FOLLOWING:

1. Taking into account the commitment that the group members will undertake by signing ExxonMobil's Intra-Group Agreement on Binding Corporate Rules, the Belgian DPA decides that the controller-BCRs of ExxonMobil Corporation provide appropriate safeguards for the transfer of personal data in accordance with Article 46(1),(2)(f) and Article 47 (1), (2) GDPR and hereby approves the controller-BCRs of ExxonMobil Corporation.
2. The approved BCRs will not require any specific authorization from the concerned supervisory authorities.
3. In accordance with Article 57(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 the Controller BCRs of ExxonMobil Corporation are not respected.
4. This Decision will be published on the Belgian DPA's website

(sgd) David Stevens
Secretary-General

ANNEX TO THE DECISION

The Controller BCRs of ExxonMobil Corporation that are hereby approved cover the following:

- a. **Scope:** Only members of ExxonMobil Corporation acting as Controller, that are legally bound by the BCRs and ExxonMobil's Interaffiliate Agreement.
- b. **EEA countries from which transfers are to be made:** Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, France, Germany, Greece, Hungary, Ireland, Slovenia, Spain, Sweden, United Kingdom
- c. **Third countries to which transfers are to be made :**
 - BCRs, Section 2.1;
 - BCR Internal Documentation - BCR Affiliate list for submission 2019
- d. **Purposes of the transfer :**
 - BCRs, Section 2.4;
 - BCR Application Form WP2642bis, Section 2.7;
 - BCR Internal Documentation - Overview of EM Data Privacy Assessment Process, Appendix 1
- e. **Categories of data subjects concerned by the transfer :**
 - BCRs, Section 2.2 ; 2.4;
 - BCR Application Form WP2642bis, Section 2.7
- f. **Categories of personal data transferred :**
 - BCRs, Section 2.3 ; 2.4;
 - BCR Application Form WP2642bis, Section 2.7;
 - BCR Internal Documentation - Overview of EM Data Privacy Assessment Process, Appendix 2