

The EU-U.S. and Swiss-U.S. Privacy Shield Frameworks

What is the Privacy Shield?

The EU-U.S. and Swiss-U.S. Privacy Shield Frameworks were designed by the U.S. Department of Commerce, and the European Commission and Swiss Administration, respectively, to provide companies on both sides of the Atlantic with a mechanism to comply with data protection requirements when transferring personal data from the European Union and Switzerland to the United States in support of transatlantic commerce. On July 12, 2016, the European Commission deemed the Privacy Shield Framework adequate to enable transfers under EU law. On January 12, 2017, the Swiss Government announced the approval of the Swiss-U.S. Privacy Shield Framework as a valid legal mechanism to comply with Swiss requirements when transferring personal data from Switzerland to the United States.

The Privacy Shield program is administered by the International Trade Administration (ITA) within the U.S. Department of Commerce. To join the Privacy Shield Framework, a U.S.-based organization is required to self-certify to the Department of Commerce and publicly commit to comply with the Framework's requirements. While joining the Privacy Shield Framework is voluntary, once an eligible organization makes the public commitment to comply with the Framework's requirements, the commitment becomes enforceable under U.S. law. See www.privacyshield.gov/Program-Overview for further details and FAQs.



Which Organizations Participate in the Privacy Shield?

The Privacy Shield team at ITA maintains the authoritative list of Privacy Shield participants at www.privacyshield.gov/list. Prior to placing an organization on the Privacy Shield List, the Privacy Shield team reviews the organization's self-certification and relevant privacy policies, confirms that they contain all required elements, and verifies that the organization has registered with an independent dispute resolution provider. Each participant's public Privacy Shield record includes relevant contact information, a description of covered data, links to relevant non-HR privacy policies, the location of relevant HR privacy policies, a link to the selected independent recourse mechanism and additional information. Thousands of organizations are Privacy Shield participants. These organizations span industry sectors and sizes. While many large multinational entities have self-certified, over fifty percent of participants are small and medium-sized companies. Although participants must be based in the United States, U.S. subsidiaries of EU-headquartered companies can and have self-certified.

What Must Participating Organizations Commit to Do to Participate?

The Privacy Shield Principles lay out a set of requirements governing participating organizations' use and treatment of personal data received from the EU under the Privacy Shield Framework, as well as the free and accessible recourse mechanisms that participants must provide to individuals in the EU. The significant new requirements compared to Privacy Shield's predecessor are summarized here: www.privacyshield.gov/Key-New-Requirements. See www.privacyshield.gov/EU-US-Framework for the full text of the Privacy Shield Principles.

Who Enforces Organizations' Privacy Shield Commitments?

The U.S. Federal Trade Commission (FTC) and U.S. Department of Transportation have statutory authority to enforce organizations' commitments to the Privacy Shield Principles (see the FTC Privacy Shield website here: www.ftc.gov/tips-advice/business-center/privacy-and-security/privacy-shield). Their enforcement authority is augmented by the ongoing oversight of the U.S. Department of Commerce, described in greater detail at www.privacyshield.gov/ps-doc-ita-letter, and by the independent recourse mechanisms that investigate and resolve complaints.