



EU-US Personal Data Transfers: the new adequacy decision

On 10 July, the European Commission adopted an adequacy decision (the "[Decision](#)") allowing the transfer of personal data from the European Union (EU) to United States (US) organizations under the [EU-US Data Privacy Framework](#).

This third adequacy decision on transfers of personal data from the EU to the US, adopted by the European Commission, follows the Court of Justice of the European Union's decision that the two preceding decisions - the Safe Harbor Framework (Decision 2000/520/EC of 26 July 2000) and the Privacy Shield Framework (Implementing Decision (EU) 2016/1250 of 12 July 2016) - were insufficient to ensure an adequate level of protection of personal data in the US.

In this new Decision, the European Commission concludes that the US ensures an adequate level of protection of personal data transferred from the EU to the extent that US organizations are certified under the EU-US Data Privacy Framework - considered equivalent to that guaranteed by the [General Data Protection Regulation](#).

Therefore, organizations located in the EU that wish to transfer their personal data to the US should make sure that the organizations receiving the data, established in the US, are registered on the EU-US Data Privacy Framework list, which is organized by the US Department of Commerce (DoC) and is publicly available on its [website](#). For organizations not included in the list, additional data protection safeguards should apply to international data transfers, notably the use of Standard Contractual Clauses.

Organizations established in the US wishing to register for and become certified under the EU-US Data Privacy Framework will be required to commit to a set of privacy principles (obligations) - referred to as the "EU-US Data Privacy Framework Principles," which include the Supplemental Principles issued by the DoC, set out in Annex I to the Decision (jointly referred to as the "Principles"). The obligations arising from these Principles essentially correspond to the duties related to the processing of personal data set out in the [General Data Protection Regulation](#) (and regulate issues such as access, limitation of processing, information duties, transparency, data subject rights, sensitive data, etc.), and also set out rules for data security and sharing with third parties.

To be eligible for certification under the EU-US Data Privacy Framework, an organization

established in the US must publicly declare its commitment to the Principles, make its privacy policies publicly available and fully enforceable, and subject itself to the investigatory and enforcement powers of the Federal Trade Commission or the US Department of Transportation.

Certification also depends on the organization's placement on the EU-US Data Privacy Framework list, which must be requested from the DoC, and will be granted upon verification by it that the self-certification by applicants is complete.

This certification must be renewed annually upon renewal of the organizations' adherence and commitment to the Principles, as well as verification by the DoC of the completeness and compliance of the information requested.

The EU-US Data Privacy Framework will be subject to periodic reviews by the European Commission, jointly by European and US personal data protection authorities. The first review will take place one year after the entry into force of the Decision, i.e. on 10 July 2024.

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