



European  
Commission

February 2016

# EU-U.S. Privacy Shield

The EU-U.S. Privacy Shield imposes **stronger obligations on U.S. companies** to protect Europeans' personal data. It reflects the requirements of the European Court of Justice, which ruled the previous Safe Harbour framework invalid. The Privacy Shield requires the U.S. to **monitor and enforce more robustly**, and cooperate more with European Data Protection Authorities. It includes, for the first time, written commitments and assurance regarding **access to data by public authorities**.

## The new arrangement will include the following elements:

### Commercial sector

#### Strong obligations on companies and robust enforcement:

- > Greater transparency.
- > Oversight mechanisms to ensure companies abide by the rules.
- > Sanctions or exclusion of companies if they do not comply.
- > Tightened conditions for onward transfers.

### Redress

#### Several redress possibilities:

- > **Directly with the company:** Companies must reply to complaints from individuals within 45 days.
- > **Alternative Dispute Resolution:** free of charge.
- > **With the Data Protection Authority:** they will work with U.S. Department of Commerce and Federal Trade Commission to ensure unresolved complaints by EU citizens are investigated and swiftly resolved.
- > **Privacy Shield Panel:** As a last resort, there will be an arbitration mechanism to ensure an enforceable decision.

### U.S. Government access

#### Clear safeguards and transparency obligations:

- > For the first time, written assurance from the U.S. that any access of public authorities to personal data will be subject to clear limitations, safeguards, and oversight mechanisms.
- > U.S. authorities affirm absence of indiscriminate or mass surveillance.
- > Companies will be able to report approximate number of access requests.
- > New redress possibility through EU-U.S. Privacy Shield Ombudsperson mechanism, independent from the intelligence community, handling and solving complaints from individuals.

### Monitoring

#### Annual joint review mechanism:

- > Monitoring the functioning of the Privacy Shield and U.S. commitments, including as regards access to data for law enforcement and national security purposes.
- > Conducted by the European Commission and the U.S. Department of Commerce, associating national intelligence experts from the U.S. and European Data Protection Authorities.
- > Annual privacy summit with NGOs and stakeholders on developments in the area of U.S. privacy law and its impact on Europeans.
- > Public report by the European Commission to the European Parliament and the Council, based on the annual joint review and other relevant sources of information (e.g. transparency reports by companies).

## What will it mean in practice?

### For American companies

- > Self-certify annually that they meet the requirements.
- > Display privacy policy on their website.
- > Reply promptly to any complaints.
- > (If handling human resources data) Cooperate and comply with European Data Protection Authorities.

### For European individuals

- > More transparency about transfers of personal data to the U.S. and stronger protection of personal data.
- > Easier and cheaper redress possibilities in case of complaints —directly or with the help of their local Data Protection Authority.