

## **PRIVACY SHIELD EUROPEAN INDIVIDUALS**

### **The Privacy Shield**

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### **Q1. What is the Privacy Shield?**

The decision on the adequacy of the EU-U.S. Privacy Shield Framework (“Privacy Shield”) or (“Framework”) was adopted by the European Commission on July 26, 2016. It was designed by the European Commission and the U.S. Department of Commerce to replace the International Safe Harbor Privacy Principles which were declared invalid by the European Court of Justice in 6 October 2015.

The Privacy Shield is a transfer tool of personal data used between EU and US companies.

The Privacy Shield applies to any type of personal data transferred from the EU to the US including commercial, health or human resource related data, as long as the recipient US company has adhered to the Framework.

The adequacy decision and its annexes are available on the website of the European Commission ([http://ec.europa.eu/justice/data-protection/international-transfers/eu-us-privacy-shield/index\\_en.htm](http://ec.europa.eu/justice/data-protection/international-transfers/eu-us-privacy-shield/index_en.htm)).

### **Q2. Where can I find the list of companies participating in the Privacy Shield Principles?**

You can find the list of companies participating in the Privacy Shield on the website of the US Department of Commerce (<https://www.privacyshield.gov/welcome>).

### **Q3. What is the scope of the Privacy Shield?**

US companies can register with the Privacy Shield on a voluntary basis and renew their registration every year. They have to self-certify that they meet the data protection requirements established in the Privacy Shield framework.

In order to check whether the data relating to you are transferred to the US based on the Privacy Shield, you have to:

- (i) Check that the US company receiving your data is part of the list of companies published on the website of the US Department of Commerce (<https://www.privacyshield.gov/welcome>);
- (ii) Check the type of data processed by the company under the Privacy Shield Framework (<https://www.privacyshield.gov/list>) and;
- (iii) Check that the US company's Privacy Policy refers to the Privacy Shield and that it is aligned with the Privacy Shield Principles.

#### **Q4. What are my rights under the Privacy Shield?**

If a US based company, member of the Privacy Shield, processes your personal data, it has the obligation to provide you with, among other, the following information:

- the type of personal data it processes;
- the purposes of collection and use of the personal data;
- the identity of any third party to which your personal data is disclosed to and the reasons for such disclosure;
- your right to access your personal data;
- your right to opt-out from the company using your personal data in a different but not incompatible way to the one originally indicated or to disclose your data to another company
- if your personal data processed is sensitive<sup>1</sup>, for example data that reveal the state of your health, a right to opt-in to the use of this data for a different but not incompatible purpose or to its disclosure to another company;
- the available methods of contacting the company if you have a complaint or question about the use of your personal data;
- the independent dispute resolution body, either in the EU or in the US, where you can bring your case (for more information in this regard, see Q<sup>o</sup>6);
- notification of the organization's liability if it transfers your personal data without authorization;
- notification of the requirement to disclose your personal data in response to lawful requests by public authorities;
- establishment of reasonable and appropriate security measures for your personal data;
- a response to your complaint within 45 days;
- cost-free independent dispute resolution to address your data protection concerns;
- the government agency in the U.S. that is responsible to investigate and enforce the company's obligations under the framework;
- a link to its privacy policy if it has a public website or information on where you can access it in case it does not have a public website.

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<sup>1</sup> Sensitive data refers to any data personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life.

## **Q5. How do I lodge a complaint?**

When you have a question with regards to the processing of your data by a US based company, you should first contact the relevant company using the Privacy Shield List, for instance by clicking directly the “Questions or Complaints?” tab on <https://www.privacyshield.gov/list>.

If you want to lodge a complaint with regards to the transfer of your personal data to a US based company that is Privacy Shield certified or claims to be so, then you always have to directly contact relevant US company by clicking directly the “Questions or Complaints?” tab on <https://www.privacyshield.gov/list>.

The company has an obligation to respond to your complaint within 45 days.

## **Q6. What happens if the company has not addressed my complaint within the expected 45 day deadline?**

If the US company before which you have lodged your complaint, has not responded to your complaint within the 45 day deadline, then you can:

- (I) Use the independent recourse mechanism proposed to you by the concerned company.**

Accordingly, you can submit a complaint to the company’s independent recourse mechanism which can be found in the Privacy Policy published on the company’s website and which can also be found by clicking on the same “Questions or Complaints?” tab mentioned above.

Such independent resource mechanism is offered free of charge by the company and can take several forms such as:

- (i) EU DPA informal panel (obligatory in case that the company processes HR data).**

To contact the EU DPA informal panel can submit the common complaint form found here (insert link).

You can either contact the EU informal panel directly through the following email address (add email) or contact directly your national EU DPA which will itself then transfer the complaint to the EU DPA informal panel.

### What is the EU DPA informal panel?

The EU DPA informal panel is an alternative dispute resolution mechanism involving informal cooperation between EU data protection authorities.

The competency of the EU DPA informal panel covers requests relating to personal data transferred to the US for human resource purposes or in every other case if the US company has chosen the EU DPA informal panel as its preferred independent recourse mechanism.

The EU DPA informal panel will check your identity and will then examine your complaint. It will contact the concerned US company and ensure that the latter takes and follows its commitments with regards to your complaint. The EU DPA informal panel will keep you informed on the status and final decision of your case once a decision has been taken.

**(ii) Alternative Dispute Resolution provider based in the EU.**

You can find the Alternative Dispute Resolution provider chosen by the concerned company either on the “Questions or Complaints?” tab on <https://www.privacyshield.gov/list> or on the Privacy Policy page of the concerned company.

**(iii) Alternative Dispute Resolution provider based in the US.**

You can find the Alternative Dispute Resolution provider chosen by the concerned company either on the “Questions or Complaints?” tab on <https://www.privacyshield.gov/list> or on the Privacy Policy page of the concerned company.

**(II) Directly contact the competent US Enforcement Authority.**

You can directly submit your complaint to the *competent US Enforcement Authority*. Most commonly, the competent authority will either be the Federal Trade Commission (FTC) or the Department of Transportation (DOT). Each company must indicate in its Privacy Policy published on its website, the identity of the relevant U.S. enforcement authority.

To submit a complaint with the FTC please click here:

<https://ftccomplaintassistant.gov/#&panel1-1>

To submit a complaint with the DOT please click here:

<http://airconsumer.dot.gov/escomplaint/ConsumerForm.cfm>

If all of the abovementioned complaint handling mechanisms have failed to provide an answer to your complaint, you can as a last resort, invoke *binding arbitration*.

For more information on Binding Arbitration please visit the US Department of Commerce website: <https://www.privacyshield.gov/article?id=A-Scope>

**Q7. How can I lodge a complaint in relation to processing of requests relating to national security access to data transmitted from the EU to the US?**

Only in case of national security issues, you can submit a complaint to the DPA of your choice which will then transmit your request to the *EU centralized Complaint Handling Body*.

The Privacy Shield Ombudsperson is a new mechanism set up under the Privacy Shield to facilitate the processing of requests relating to national security access to data transmitted from the EU to the US pursuant to the Privacy Shield, Standard contractual clauses (SCCs), binding corporate rules (BCRs), “Derogations”, or “Possible Future

Derogations” through established avenues under applicable United States laws and policy, and the response to those requests.

The Privacy Shield Ombudsperson is a senior official within the U.S. Department of State who is independent from U.S. intelligence agencies. Assisted by a number of staff, the Ombudsperson is obliged to ensure that complaints are properly investigated and addressed in a timely manner, and that you receive confirmation that the relevant U.S. laws have been complied with or, if the laws have been violated, the situation has been remedied.

In carrying out its duties, and following up on the complaints received, the Ombudsperson has to work closely with and obtain all the information from other independent oversight and investigatory bodies necessary for its response when it concerns the compatibility of surveillance with U.S. law. These bodies are the ones responsible to oversee the various U.S. intelligence agencies.

Before being submitted to the Ombudsperson, your request will be checked to verify your identity, that you are acting only for yourself and not on behalf of a government or intergovernmental organization, that your request contains all the relevant information, that it relates to personal data transferred to the U.S., and that your request is not frivolous, vexatious or made in bad faith, i.e. reflects a genuine concern.

You do not need to demonstrate that your data have in fact been accessed by the United States intelligence services.

Complaints shall be addressed to the data protection authority of your choice which will then channel it, after a first assessment of its relevance, to the European Centralized Complaint Handling Body. This body, composed of European Data Protection authorities will ensure that the requests are complete and will transfer them to the Ombudsperson.

To submit a complaint with the Ombudsperson via the European Centralized Complaint Handling Body, you can contact the data protection authority of your choice and send the following complaint form: (add link when form is available).

You will find the contact details following this link: [http://ec.europa.eu/justice/data-protection/article-29/structure/data-protection-authorities/index\\_en.htm](http://ec.europa.eu/justice/data-protection/article-29/structure/data-protection-authorities/index_en.htm)

If you need further information on the available recourse mechanisms please contact us by email at (insert email). We will make sure to deal with your demand as soon as possible and help you choose the correct path.