

BRIEFING ROOM

# FACT SHEET: United States and European Commission Announce Trans-Atlantic Data Privacy Framework

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The United States and the European Commission have committed to a new Trans-Atlantic Data Privacy Framework, which will foster trans-Atlantic data flows and address the concerns raised by the Court of Justice of the European Union when it struck down in 2020 the Commission's adequacy decision underlying the EU-U.S. Privacy Shield framework.

This Framework will reestablish an important legal mechanism for transfers of EU personal data to the United States. The United States has committed to implement new safeguards to ensure that signals intelligence activities are necessary and proportionate in the pursuit of defined national security objectives, which will ensure the privacy of EU personal data and to create a new mechanism for EU individuals to seek redress if they believe they are unlawfully targeted by signals intelligence activities. This deal in principle reflects the strength of the enduring U.S.-EU relationship, as we continue to deepen our partnership based on our shared democratic values.

This Framework will provide vital benefits to citizens on both sides of the Atlantic. For EU individuals, the deal includes new, high-standard commitments regarding the protection of personal data. For citizens and companies on both sides of the Atlantic, the deal will enable the continued flow of data that underpins more than \$1 trillion in cross-border commerce every year, and will enable businesses of all sizes to compete in each other's markets. It is the culmination of more than a year of detailed negotiations between the EU and the U.S. following the 2020 decision by the Court of Justice of the European Union ruling that the prior EU-U.S. framework, known as Privacy Shield, did not satisfy EU legal requirements.

The new Trans-Atlantic Data Privacy Framework underscores our shared commitment to privacy, data protection, the rule of law, and our collective security as well as our mutual recognition of the importance of trans-Atlantic data flows to our respective citizens, economies, and societies. Data flows are critical to the trans-Atlantic economic relationship and for all companies large and small across all sectors of the economy. In fact, more data flows

between the United States and Europe than anywhere else in the world, enabling the \$7.1 trillion U.S.-EU economic relationship.

By ensuring a durable and reliable legal basis for data flows, the new Trans-Atlantic Data Privacy Framework will underpin an inclusive and competitive digital economy and lay the foundation for further economic cooperation. It addresses the Court of Justice of the European Union's *Schrems II* decision concerning U.S. law governing signals intelligence activities. Under the Trans-Atlantic Data Privacy Framework, the United States has made unprecedented commitments to:

- Strengthen the privacy and civil liberties safeguards governing U.S. signals intelligence activities;
- Establish a new redress mechanism with independent and binding authority; and
- Enhance its existing rigorous and layered oversight of signals intelligence activities.

For example, the new Framework ensures that:

- Signals intelligence collection may be undertaken only where necessary to advance legitimate national security objectives, and must not disproportionately impact the protection of individual privacy and civil liberties;
- EU individuals may seek redress from a new multi-layer redress mechanism that includes an independent Data Protection Review Court that would consist of individuals chosen from outside the U.S. Government who would have full authority to adjudicate claims and direct remedial measures as needed; and
- U.S. intelligence agencies will adopt procedures to ensure effective oversight of new privacy and civil liberties standards.

Participating companies and organizations that take advantage of the Framework to legally protect data flows will continue to be required to adhere to the Privacy Shield Principles, including the requirement to self-certify their adherence to the Principles through the U.S. Department of Commerce. EU individuals will continue to have access to multiple avenues of recourse to resolve complaints about participating organizations, including through alternative dispute resolution and binding arbitration.

These new policies will be implemented by the U.S. intelligence community in a way to effectively protect its citizens, and those of its allies and partners, consistent with the high-standard protections offered under this Framework.

The teams of the U.S. government and the European Commission will now continue their cooperation with a view to translate this arrangement into legal documents that will need to be adopted on both sides to put in place this new Trans-Atlantic Data Privacy Framework. For that purpose, these U.S. commitments will be included in an Executive Order that will form the basis of the Commission's assessment in its future adequacy decision.

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