



**IAPP GLOBAL
PRIVACY SUMMIT 2017**

GETTING PRIVACY SHIELD RIGHT

Speakers

- Caitlin Fennessy, Senior Policy Advisor, Data Flows and Privacy Team, U.S. Department of Commerce
- Hugh Stevenson, Deputy Director, Office of International Affairs, U.S. Federal Trade Commission
- Bruno Gencarelli, Head of Unit, International Data Flows and Protection, European Commission

THE PRIVACY SHIELD

The Privacy Shield Program

- Number & type of participants
- Department of Commerce administration, oversight, and outreach
- New developments & resources
- Industry compliance
- Looking forward

Federal Trade Commission (FTC) Enforcement

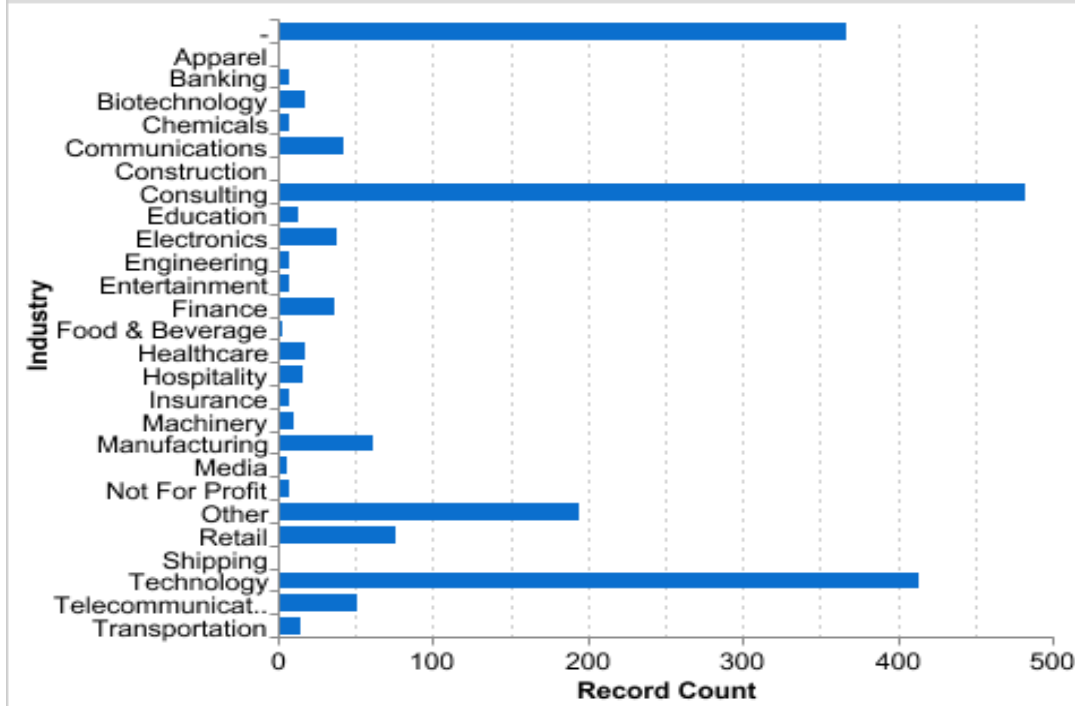
- FTC Privacy Shield enforcement
- FTC enforcement tools
- New FTC commitments

EU Perspective

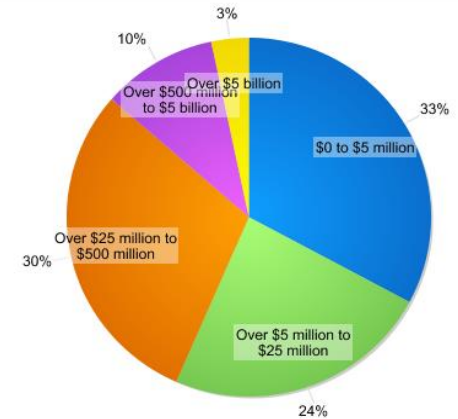
NUMBER AND TYPE OF PARTICIPANTS

- Approximately 2,000 organizations certified in first 9 months
- Companies of all sizes and sectors participating

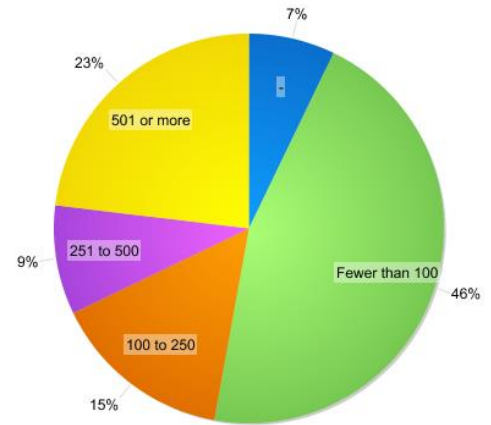
Participants by Industry



Participants by Annual Revenue

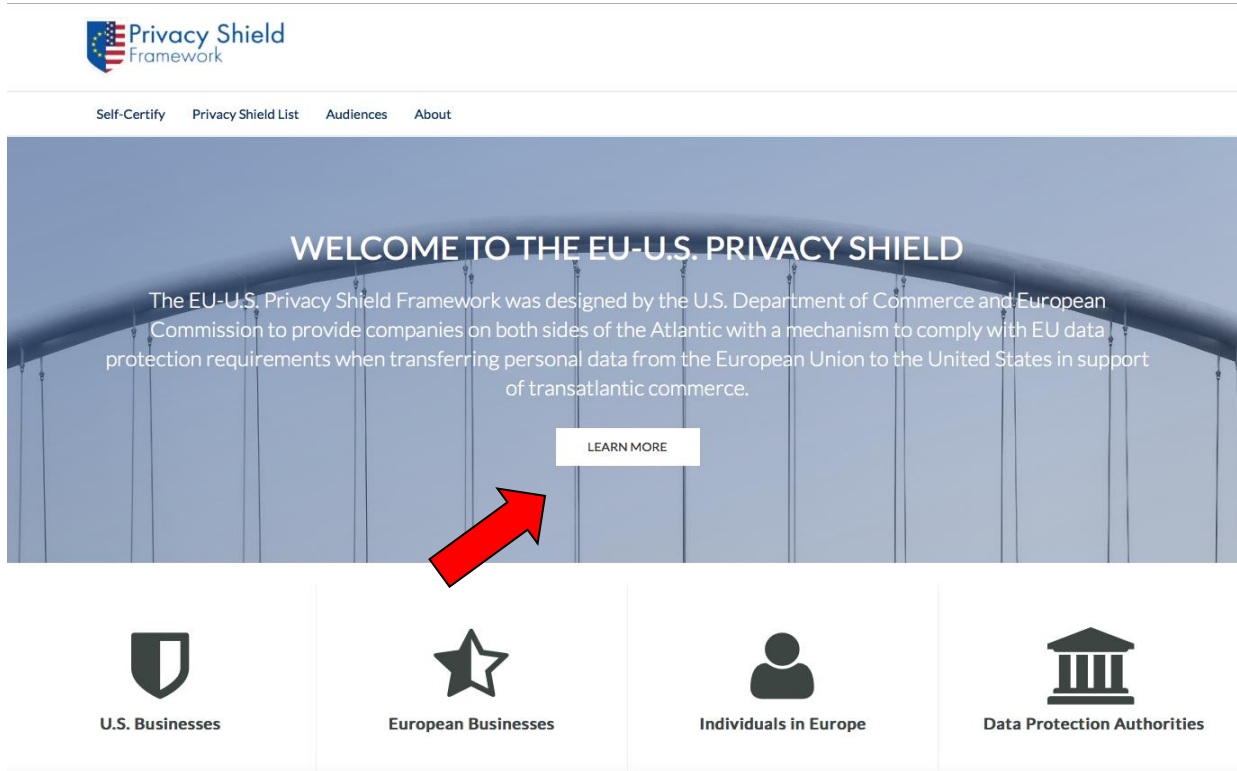


Participants by Number of Employees



ITA ADMINISTRATION, OVERSIGHT & OUTREACH

Website Resources



The screenshot shows the homepage of the Privacy Shield Framework website. At the top left is the Privacy Shield Framework logo, which includes a shield with the American and European Union flags. To the right of the logo are navigation links: "Self-Certify", "Privacy Shield List", "Audiences", and "About". The main content area features a large blue banner with the heading "WELCOME TO THE EU-U.S. PRIVACY SHIELD" and a paragraph explaining the framework's purpose. Below the banner is a "LEARN MORE" button, which is highlighted by a red arrow. At the bottom of the page, there are four icons representing different user groups: a shield for "U.S. Businesses", a star for "European Businesses", a person for "Individuals in Europe", and a classical building for "Data Protection Authorities".


Privacy Shield Framework


Self-Certify Privacy Shield List Audiences About


WELCOME TO THE EU-U.S. PRIVACY SHIELD


The EU-U.S. Privacy Shield Framework was designed by the U.S. Department of Commerce and European Commission to provide companies on both sides of the Atlantic with a mechanism to comply with EU data protection requirements when transferring personal data from the European Union to the United States in support of transatlantic commerce.

[LEARN MORE](#)

 U.S. Businesses

 European Businesses

 Individuals in Europe

 Data Protection Authorities

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ITA ADMINISTRATION, OVERSIGHT & OUTREACH

Website Resources

[Sign Up](#)[Log In](#)[Self-Certify](#)[Privacy Shield List](#)[Audiences](#)[About](#)[ACTIVE](#)[INACTIVE](#)[Advanced](#)

PLACECAST

San Francisco, California

Active

Framework

EU-U.S. Privacy Shield

Covered Data

Non-HR

[Questions or Complaints](#)

RocketBlocks

Oakland, California

Framework

EU-U.S. Privacy Shield

Covered Data

Non-HR

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ITA ADMINISTRATION, OVERSIGHT & OUTREACH

ITA Administration: What's new that matters to you?

- Verification of self-certification requirements
- Monitoring compliance
- Facilitating resolution of complaints referred by EU DPAs
- Increased outreach to companies
- Enhanced cooperation with EU DPAs

IMPLEMENTATION & NEW DEVELOPMENTS

Arbitral Panel

- ITA published request for arbitral administrator and fund manager
- ITA will work with European Commission to develop a list of 20 potential arbitrators and arbitral procedures

Ombudsperson Mechanism

- Operated by the State Department
- Handles requests related to national security access to data transmitted from the EU/Switzerland to the U.S.
- Information at: www.state.gov/e/privacyshield/ombud/

Swiss-U.S. Privacy Shield Framework

- ITA began accepting self-certifications April 12, 2017
- Swiss-specific FAQs at: www.privacyshield.gov/Swiss-US-Privacy-Shield-FAQs

INDUSTRY COMPLIANCE EFFORTS

What are companies focusing on to come into compliance?

New Privacy Protections

- Notice requirements: Privacy policy must inform individuals about all 13 elements for certification to be finalized
- Accountability for onward transfer: No prescribed language; require same level of protection via contract; model contracts suffice, but not necessary
- Purpose limitation and data retention: Have a plan!
- Withdrawal from Safe Harbor: Remove references to Safe Harbor from privacy policies to avoid potential false claim

Enhanced Complaint Resolution

- Response time to EU individuals: 45 days, requires accessible designated company contact
- Free dispute resolution: Register with IRMs and/or pay DPA fee prior to self-certification

Note: Companies should review the Framework in its entirety. These slides are only meant to highlight certain aspects.

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INDUSTRY COMPLIANCE EFFORTS

FAQs and Resources

- How to explain the possibility of binding arbitration
- How to address subsidiaries
- How to develop a compliant privacy policy
- How does the Swiss-U.S. Privacy Shield differ
- And more at: www.privacyshield.gov/Program-Overview

Compliance Questionnaires

- Four forthcoming questionnaires:
 1. Failure to recertify
 2. Withdrawal
 3. Annual questionnaire for organizations that retain data upon withdrawal
 4. Compliance review

LOOKING FORWARD

How was the Framework designed to remain durable?

- The GDPR
- European Court of Justice
- Annual Review

CALENDAR OF EVENTS

- May 8-9 *PLI Institute on Privacy and Data Security Law (San Francisco)*
- May 15-16 *Europe Data Protection Days: Privacy Shield keynote and data flows panel (Berlin)*
- May 30-31 *PLI Institute on Privacy and Data Security Law (New York)*
- Jun. 12-13 *PLI Institute on Privacy and Data Security Law (Chicago)*
- Sep. *Privacy Shield Annual Review*
- Sep. 25-29 *International Conference of Data Protection and Privacy Commissioners (Hong Kong)*



FTC PRIVACY SHIELD ENFORCEMENT

- FTC, an independent agency, plays a Privacy Shield enforcement role.
 - False membership
 - Substantive
 - Backstop / ADR.
- Part of the FTC's privacy and data security program.
- Related enforcement:
 - Nearly 40 Safe Harbor cases
 - APEC Cross Border Privacy Rules enforcement

FTC ENFORCEMENT TOOLS

- Discretionary, ex officio investigations.
- Priority consideration of referrals
 - European Data Protection Authorities (DPAs),
 - Dispute resolution providers
 - Department of Commerce
- Cooperation with the DPAs may include:
 - Investigative assistance
 - Information sharing
 - Other engagement (GPEN, MOUs, etc..)
- Remedies: Civil and administrative orders.



NEW FTC COMMITMENTS

- Structured referral process: forms and point of contact.
- Case-specific cooperation using SAFE WEB Act information sharing / investigative assistance.
- Annual Review and ongoing discussions with European counterparts.
- Use of other tools, such as GPEN Alert mechanism.



FTC RESOURCES

- FTC Privacy Shield page (Blogs, cases, will be posted here):
 - <https://www.ftc.gov/tips-advice/business-center/privacy-and-security/privacy-shield>
- Former Chair Ramirez Letter with FTC Commitments
 - <https://www.ftc.gov/public-statements/2016/07/letter-chairwoman-edith-ramirez-vera-jourova-commissioner-justice>

HOW DID THINGS GO? (WE REALLY WANT TO KNOW)

Did you enjoy this session? Is there any way we could make it better? Let us know by filling out a speaker evaluation.

- Start by opening the IAPP Events mobile app
- Select this session and tap “Click the following link for speaker evaluations”
- Once you’ve answered all three questions, tap “Done” and you’re all set
- Thank you!

