

Privacy Shield

Overview

EU-U.S. Privacy Shield Framework

Swiss-U.S. Privacy Shield Framework

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Legal Means for Transferring Data from Europe* to U.S.

*Switzerland modelled its Privacy Shield Framework after the EU-U.S. Privacy Shield Framework – same privacy principles apply

EU legislators put restrictions on transfers of personal data outside of the EU, specifying that such data could only be exported if “adequate protection” is provided.

The European Commission (EC) is responsible for assessing whether a country outside the EU has a legal framework that provides sufficient protection for it to issue an “adequacy finding” to that country.

The U.S. not found adequate by the EC – no national comprehensive data privacy law – patchwork of self regulation; state and federal laws. This means that U.S. companies can only receive personal data from the EU if they:

Join [EU-U.S. Privacy Shield](#) and/or Swiss-U.S. Privacy Shield, or

Provide appropriate safeguards (e.g. [contractual clauses](#), [binding corporate rules](#)).

Key Components to Join Shield Frameworks



Designate an accountable executive and train appropriate staff



Operationalize and verify compliance with core Privacy Principles:

Notice, Choice, Security; Onward Transfer
Data integrity and purpose limitation; Access;
and Recourse, enforcement and liability



Update your Privacy Shield Notice – ANA staff can review/not certify.



Update your third-party contracts to comply with onward transfer principle



Select a third party (ANA) to serve as your Dispute Resolution Provider



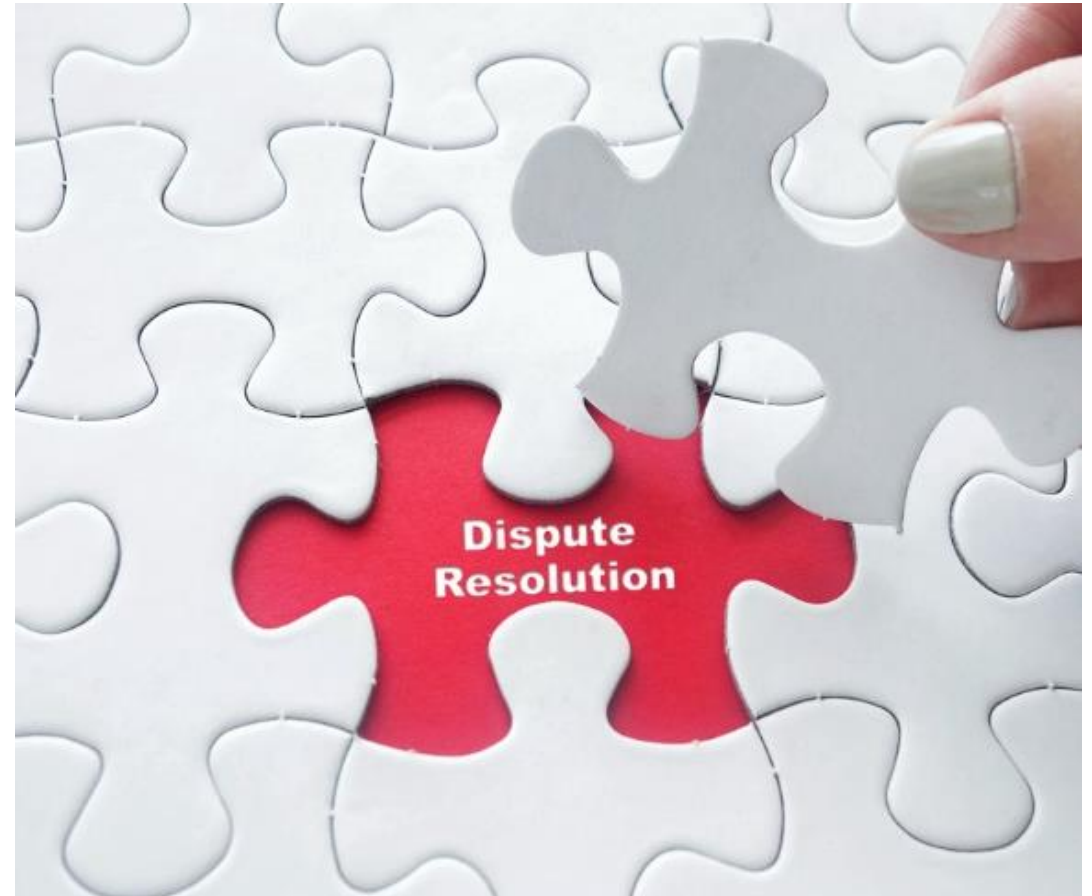
Self-certify with U.S. Department of Commerce, annually



Pay initial fee to Arbitration Fund.

Key Components of ANA Privacy Shield Program

- Serves as a 3rd party, independent dispute resolution provider for unresolved European/Swiss data privacy complaints.
- Covers offline and online data issues.
- Provides technical assistance; and compliance materials – including a staff review of the company’s Shield privacy policy statement.
- Be accessible so that there are no barriers to the filing of a complaint, free to consumers;
- Provide finality for the consumer by reaching an independent determination of the dispute in a fair and timely manner; and
- Provide enforceability of the final conclusions in the determination of the consumer’s dispute
- Provides an ANA Privacy Shield Mark.



Processing Complaints Under ANA Privacy Shield Program



Companies must sign contract to agree to abide by the decisions of the ANA Privacy Shield Program.



Handled at staff-to-staff level. Complaint forms and dedicated email address created:

privacyshield@thedma.org

<https://thedma.org/resources/consumer-resources/privacyshield-consumers/>



Escalation: referred to ANA Privacy Shield Committee. The Committee hears both sides of a dispute and provides final determination.



Committee can issue certain sanctions such as:

- correction/deletion of inaccurate information,
- correction of actions found not to be in compliance,
- publicity, and/or
- referral to FTC/DOC.

ANA Annual Dispute Resolution Fees: ANA & ASM Membership

ANA or ASM Gold or Platinum Members: For single or both frameworks/year	ANA or ASM Silver Members: for single or both frameworks/year
Complimentary: value-added member benefit	\$300

Additional Privacy Shield Fees

- **Contribution to Arbitral Fund (not annual)** – if inquiry is not resolved to complainant’s satisfaction by company or dispute resolution provider – can refer matter to binding arbitration.
- **U.S. Department of Commerce Annual Self Certification Fee**

Privacy Shield Arbitral Fund Fee Schedule
Approved by the U.S. Department of Commerce on September 5, 2017

Participating Organization Annual Revenue	Required Contribution
\$0 to \$5 million	\$250
Over \$5 million to \$25 Million	\$500
Over \$25 million to \$500 million	\$1,000
Over \$500 million to \$5 billion	\$5,000
Over \$5 billion	\$10,000

Commerce Annual Certification Fees:

Organization’s Annual Revenue:	Single Framework/Both Frameworks:
\$0 to \$5 million	\$250/\$375
Over \$5 million to \$25 million	\$650/\$975
Over \$25 million to \$500 million	\$1,000/\$1,500
Over \$500 million to \$5 billion	\$2,500/\$3,750
Over \$5 billion	\$3,250/\$4,875