



UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

MEMORANDUM FOR:

Howard Shelanski
OIRA Administrator
Office of Management and Budget

FROM:

Ted Dean 
Deputy Assistant Secretary
for Services
International Trade Administration
U.S. Department of Commerce

SUBJECT:

Request for OMB Emergency Review and Approval of an
Information Collection for Self-Certification to the EU-
U.S. Privacy Shield Framework

We are seeking an emergency Paperwork Reduction Act (PRA) clearance of a request to allow the Department of Commerce (DOC), as represented by the International Trade Administration (ITA), to collect information from organizations in the United States self-certifying to participate in the EU-U.S. Privacy Shield Framework (Privacy Shield). Given the requirement for organizations to submit information in order to participate in the Privacy Shield, the importance to transatlantic commerce of allowing organizations to join the Privacy Shield without further delay, and the uncertainty during the approval process regarding when the Privacy Shield would clear the final stage of the multi-stage European Union (EU) approval process, the DOC cannot reasonably comply at present with the normal clearance procedures.

BACKGROUND

The United States and the EU share the goal of enhancing privacy protection for their citizens, but take different approaches to protecting personal data. Given those differences, the DOC has developed the Privacy Shield in consultation with the European Commission, as well as with industry and other stakeholders, to provide organizations in the United States with a reliable mechanism for personal data transfers to the United States from the EU while ensuring the protection of the data as required by EU law.

The DOC had previously developed in consultation with European Commission the analogous U.S.-EU Safe Harbor Framework (Safe Harbor), which has been administered by the ITA since 2000 and had enabled transfers of personal data supporting billions of dollars in transatlantic trade. For over 15 years the Safe Harbor provided thousands of organizations in the United States and their partners on both sides of the Atlantic with a reliable mechanism for personal data transfers to the United States from the EU. In October 2015, the European Court of Justice (ECJ) invalidated the decision made by the European Commission in 2000, which had recognized the Safe Harbor as a valid legal mechanism for such transfers. The ECJ judgment has created considerable uncertainty with regard to transatlantic business arrangements and



imposed associated costs, as the remaining legal data transfer mechanisms are not only time-consuming and costly to implement, but also subject to similar legal challenges.

On July 12, U.S. Secretary of Commerce Penny Pritzker joined European Union Commissioner Věra Jourová to announce the approval of the Privacy Shield Framework. Secretary Pritzker also announced that the DOC will start accepting certifications on August 1st.

The DOC is issuing the Privacy Shield Principles under its statutory authority to foster, promote, and develop international commerce (15 U.S.C. § 1512). The ITA will administer and supervise the Privacy Shield, including by maintaining and making publicly available an authoritative list of U.S. organizations that have self-certified to the DOC. In order to rely on the Privacy Shield for transfers of personal data from the EU, an organization must self-certify its adherence to the Privacy Shield Principles to the DOC, be placed by the ITA on the Privacy Shield List, and remain on the Privacy Shield List.

To self-certify for the Privacy Shield, an organization must provide to the DOC a self-certification submission that contains the information specified in the Privacy Shield Principles. The Privacy Shield self-certification form, the proposed information collection, would be the means by which an organization would provide the relevant information to the ITA. The proposed Privacy Shield self-certification form is substantially similar to the approved Safe Harbor self-certification form.

Please direct any questions to Shannon Coe, Office of Digital Services Industries, at (202) 482-6013.