



February 16, 2016

## The EU-U.S. Privacy Shield: What's at Stake

*On October 6, 2015, the Court of Justice of the European Union (CJEU) effectively invalidated the Safe Harbor Framework, which for 15 years had enabled thousands of companies to provide data services for their customers and to conduct their own operations. Since that time, and building on progress made over the preceding two years, EU and U.S. negotiators worked to reach a resolution on a new data transfer mechanism. On February 2, 2016, they reached a deal called the EU-U.S. Privacy Shield. The agreement helps preserve the largest trading relationship in the world, which is valued at half a trillion dollars of commerce annually, represents half of all U.S. investments abroad, and directly employs 3.5 million Americans.*

*However, the agreement faces a stringent, months-long approval process involving reviews by stakeholders across the EU and its Member States. The aim of this document is to help stakeholders better understand the economic impacts and consequences of a world without a durable EU-U.S. data transfer mechanism, focusing on the impacts to global trade, Member State economies, and thousands of companies' operations.*

### Data Flows are Essential to the EU-U.S. Trade Relationship

- Cross-border data flows between the United States and Europe are the highest in the world, 50 percent higher than data flows between the United States and Asia, and almost double the data flows between the United States and Latin America, according to the [Brookings Institution](#).
- 51 percent of U.S. firms that relied on the Safe Harbor Framework did so in order to process data on European employees - for example, transferring the personnel files of overseas workers to the United States for human resource purposes - and most of these firms are in traditional industries.
- In 2012, the United States exported \$140.6 billion worth of digitally deliverable services to the EU and imported \$86.3 billion worth of such services.
- In 2011, the supply of digitally deliverable services through U.S. affiliates in Europe was worth \$312 billion, while Europe supplied \$215 billion worth of digitally deliverable services through U.S. affiliates.
- UNCTAD estimates that [about half of all services trade](#) is enabled by the ICT sector, including cross-border flow of data. Applied to the EU, this would mean about \$600 billion (€465 billion) could depend on the openness of the digital economy (nearly six times total EU automotive exports).

### Potential Macroeconomic Costs of Disruption

- If services trade and cross-border data flows are seriously disrupted – for example, if Europe's regulators and courts refuse to recognize binding corporate rules (BCRs), model contract clauses (MCCs), and the EU-U.S. Privacy Shield – the [negative impact](#) on EU GDP could reach -0.8 to -1.3 percent. This is roughly equivalent to three to four times the economic decline that Europe experienced during the 2012 euro crisis.



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- EU services exports to the United States would be expected to drop by -6.7 percent due to loss of competitiveness, while EU manufacturing exports to the United States could decrease by up to 11 percent, depending on the industry.
- The direct welfare effects in such a scenario for consumers would be equivalent to a loss of \$102-170 billion (€78-131 billion), which is up to \$338 (€260) per EU citizen, or \$1,353 (€1,041) for a household of four people.

### **Examples of impacts on companies [if no legal basis exists to transfer data from Europe]**

- EU-based online advertising firms that send data to U.S. partners to generate ads or to draft email marketing campaigns may no longer be able to do so.
- Business-to-business software providers may no longer be able to process the financial, tax, and contact data of partner European small and medium-sized enterprises (SMEs).
- U.S.-based banks may no longer be able to lend in Europe because they are unable to access the data needed to manage their risk profiles.
- Insurance companies may not be able to write new policies in European or U.S. markets without access to the data and the digital documents of their policyholders.
- U.S.-based industrial design firms may no longer be able to license their products to European manufacturers, because they will be unable to easily send schematics across borders.
- Online communities of European coders collaborating with others outside of the EU may no longer be able to write open-source software, where the code is hosted on U.S. servers.
- Business-to-consumer “distance-learning” companies based in the United States may no longer be able to authenticate the contact and payment information of Europeans who subscribe to online training courses.
- Business-to-consumer travel and tourism companies based in the United States may be unable to receive flight itineraries and hotel reservations of European customers booking through their EU subsidiaries.
- U.S.-based clinical software firms may no longer be able to integrate reports from hospitals, universities, physicians’ offices, and clinical research organizations on medical device trials being held in the EU.
- Identity document authenticators based in the United States may not be able to assist European immigration or law enforcement officers seeking to test passports they have scanned for additional accuracy.

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