

UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman  
Julie Brill

outside the EU, with exceptions, unless the European Commission (“EC”) has made a determination that the recipient jurisdiction’s laws ensure the protection of such personal data. This determination is referred to commonly as meeting the EU’s “adequacy” standard.

6. To satisfy the EU adequacy standard for certain commercial transfers, the U.S. Department of Commerce (“Commerce”) and the EC negotiated the EU Safe Harbor Framework, which went into effect in 2000. The U.S. Safe Harbor Framework allows U.S. companies to transfer personal data lawfully from the EU. To join the U.S. Safe Harbor Framework, a company must self-certify to Commerce that it complies with seven principles and related requirements that have been deemed to meet the adequacy standard.
7. The seven principles are: notice, choice, onward transfer, security, data integrity, access, and enforcement. Among other things, the enforcement principle requires companies to provide a readily available and affordable independent recourse mechanism to investigate and resolve an individual’s complaints and disputes.
8. Companies under the jurisdiction of the U.S. Federal Trade Commission (“FTC”), as well as the U.S. Department of Transportation, are eligible to join the EU Safe Harbor Framework. A company under the FTC’s jurisdiction that claims it self-certified to the Safe Harbor principles but failed to self-certify to Commerce, may be subject to an enforcement action based on the FTC’s deception authority under Sec 5 of the FTC Act.
9. Commerce maintains a public website, [www.export.gov/safeharbor](http://www.export.gov/safeharbor), where it posts the names of companies that have self-certified to the U.S. Safe Harbor Framework. The listing of companies indicates whether their self-certification is “current” or “not current” and a date when recertification is due. Companies are required to recertify every year in order to retain their status as “current” members of the U.S. Safe Harbor Framework.

#### Violation of Section 5 of the FTC Act

##### Misrepresentations Regarding Safe Harbor Participation

10. In August 2009, respondent submitted to Commerce a self-certification

