

Draft**Frequently Asked Questions (FAQs)****FAQ 6 - Self-Certification**

Q: How does an organization self-certify that it adheres to the safe harbor principles?

~~A: To self-certify~~ Safe harbor benefits are assured from the date on which an organization self-certifies to the Department of Commerce (or its designee) its adherence to the principles in accordance with the guidance set forth below.

To self-certify for the safe harbor, organizations can provide to the Department of Commerce (or its designee) a letter, signed by a corporate officer on behalf of the organization that is joining the safe harbor, that contains at least the following information:

1. name of organization, mailing address, email address, telephone and fax numbers;

2. description of the activities of the organization ~~covered by its safe harbor commitments~~ with respect to personal information received from the EU;

3. description of the organization's privacy policy for such personal information, including:

- a. where it is available for viewing by the public;**
- b. its effective date of implementation;**
- c. a contact person for the handling of complaints, access requests, and any other issues arising under the safe harbor;**
- d. ~~the specific statutory bodies~~ body that ~~have~~s jurisdiction to hear any claims against the organization regarding possible unfair or deceptive practices and violations of laws or regulations governing privacy;**
- e. name of any privacy programs in which the organization is a member;**
- f. method of verification (e.g., ~~in-house~~, third party)*; and**
- g. the independent recourse mechanism that is available to investigate unresolved complaints.**

~~Such self-certification letters should be provided not less than annually thereafter.~~ The Department of Commerce (or its designee) will maintain a list of all organizations that file such letters, thereby assuring the availability of safe harbor benefits and will update such list on the basis of annual letters and notifications received pursuant to FAQ 11. Such self certification letters should be provided not less than annually. Otherwise the organization will be removed from the list and safe harbor benefits will no longer be assured. Both the list and the self-certification letters submitted by the organizations will be made publicly available. All organizations that self certify for the safe harbor must also state in their relevant published privacy policy statements that they adhere to the safe harbor principles.

The undertaking to adhere to the safe harbor principles is not time-limited in respect of data received during the period in which the organization enjoys the benefits of the safe harbor. Its undertaking means that it will continue to apply the principles to such data for as long as the organization stores, uses or discloses them, even if it subsequently leaves the safe harbor for any reason.

An organization does not need to subject all personal information to the safe harbor principles, but it must subject to the safe harbor principles all personal data received from the EU after it joins the safe harbor.

Any misrepresentation ~~to the Department or~~ to the general public concerning an organization's adherence to the safe harbor principles may be actionable by the Federal Trade Commission or other relevant government body. Misrepresentations to the Department of Commerce (or its designee) may be actionable under the False Statements Act (18 USC §1001).

*See FAQ on verification