



LOEB & LOEB adds Knowledge.

Privacy Law

ALERT

APRIL 2014

U.S. and U.K. Sign Memorandum of Understanding for Collaboration on Data Privacy Enforcement

Citing the increasing frequency with which consumer information crosses international borders and the need for coordinated monitoring and enforcement strategies related to consumer privacy, the U.S. Federal Trade Commission entered into a [Memorandum of Understanding](#) (MOU) with its U.K. counterpart, the Information Commissioner's Office. The FTC serves as the primary U.S. agency for consumer privacy issues. The ICO is charged with enforcing the U.K.'s Data Protection Act as well as the European Commission's directives on privacy and electronic communications. Although the MOU doesn't create any legally binding rights or obligations, it establishes a formal framework for the two agencies to work together and protocols by which they can request and share information.

The MOU comes in the wake of the recent announcement by the FTC that 12 U.S. companies have settled allegations that they falsely claimed compliance with the [U.S.-EU Safe Harbor Framework](#), a voluntary compliance framework for U.S. companies to transfer personal data from the European Union to the United States that is consistent with the requirements of the European Union Data Protection Directive. To participate, companies must self-certify annually to the U.S. Department of Commerce that they comply with the seven privacy principles required to meet the EU's adequacy standard: notice, choice, onward transfer, security, data integrity, access, and enforcement.

The FTC complaints charged the companies with representing, through statements in their privacy policies or display of the Safe Harbor certification mark, that they held current Safe Harbor certifications, even though the companies had allowed their certifications to lapse. The settlements include numerous compliance obligations, including providing a written report to the FTC within 60 days

describing compliance with the settlement order and making available for a period of five years all documents relating to the settlement order such as advertisements, promotional materials, any representations about compliance with the Safe Harbor Framework, and any document, whether prepared by or on behalf of the company, that calls into question the company's compliance with the order. The companies are also prohibited from misrepresenting the extent to which they participate in any privacy or data security program sponsored by the government or any other self-regulatory or standard-setting organization.

For more information about cross-border data privacy compliance or other questions about Safe Harbor certification, please contact [Ieuan Jolly](#) at 212.407.4810 or ijolly@loeb.com.

This alert is a publication of Loeb & Loeb and is intended to provide information on recent legal developments. This alert does not create or continue an attorney client relationship nor should it be construed as legal advice or an opinion on specific situations.

Circular 230 Disclosure: To ensure compliance with Treasury Department rules governing tax practice, we inform you that any advice contained herein (including any attachments) (1) was not written and is not intended to be used, and cannot be used, for the purpose of avoiding any federal tax penalty that may be imposed on the taxpayer; and (2) may not be used in connection with promoting, marketing or recommending to another person any transaction or matter addressed herein.

© 2014 Loeb & Loeb LLP. All rights reserved.

This publication may constitute "Attorney Advertising" under the New York Rules of Professional Conduct and under the law of other jurisdictions.

Advanced Media and Technology Department

KENNETH A. ADLER	KADLER@LOEB.COM	212.407.4284
AMIR AZARAN	AAZARAN@LOEB.COM	312.464.3330
IVY KAGAN BIERMAN	IBIERMAN@LOEB.COM	310.282.2327
CHRISTIAN D. CARBONE	CCARBONE@LOEB.COM	212.407.4852
TAMARA CARMICHAEL	TCARMICHAEL@LOEB.COM	212.407.4225
MARC CHAMLIN	MCHAMLIN@LOEB.COM	212.407.4855
MARGARET CHARENDOFF	MCHARENDOFF@LOEB.COM	212.407.4069
CRAIG A. EMANUEL	CEMANUEL@LOEB.COM	310.282.2262
KENNETH R. FLORIN	KFLORIN@LOEB.COM	212.407.4966
DANIEL D. FROHLING	DFROHLING@LOEB.COM	312.464.3122
NOREEN P. GOSSSELIN	NGOSSELIN@LOEB.COM	312.464.3179
DAVID W. GRACE	DGRACE@LOEB.COM	310.282.2108
THOMAS A. GUIDA	TGUIDA@LOEB.COM	212.407.4011
NATHAN J. HOLE	NHOLE@LOEB.COM	312.464.3110
MELANIE J. HOWARD	MHOWARD@LOEB.COM	310.282.2143
THOMAS P. JIRGAL	TJIRGAL@LOEB.COM	312.464.3150
IEUAN JOLLY	IJOLLY@LOEB.COM	212.407.4810
ELIZABETH H. KIM	EKIM@LOEB.COM	212.407.4928
LIVIA M. KISER	LKISER@LOEB.COM	312.464.3170
JULIE E. LAND	JLAND@LOEB.COM	312.464.3161
JESSICA B. LEE	JBLEE@LOEB.COM	212.407.4073
SCOTT S. LIEBMAN	SLIEBMAN@LOEB.COM	212.407.4838
DAVID G. MALLEN	DMALLEN@LOEB.COM	212.407.4286
MICHAEL MALLOW	MMALLOW@LOEB.COM	310.282.2287

KATHERINE MASON	KMASON@LOEB.COM	212.407.4898
DOUGLAS N. MASTERS	DMASTERS@LOEB.COM	312.464.3144
NERISSA COYLE MCGINN	NMCGINN@LOEB.COM	312.464.3130
ANNE KENNEDY MCGUIRE	AMCGUIRE@LOEB.COM	212.407.4143
DANIEL G. MURPHY	DMURPHY@LOEB.COM	310.282.2215
BRIAN NIXON	BNIXON@LOEB.COM	202.618.5013
ANGELA PROVENCIO	APROVENCIO@LOEB.COM	312.464.3123
CHRISTINE M. REILLY	CREILLY@LOEB.COM	310.282.2361
KELI M. ROGERS-LOPEZ	KROGERS-LOPEZ@LOEB.COM	310.282.2306
SETH A. ROSE	SROSE@LOEB.COM	312.464.3177
ROBERT MICHAEL SANCHEZ	RSANCHEZ@LOEB.COM	212.407.4173
T.J. SAUNDERS	TSAUNDERS@LOEB.COM	312.464.3174
ALISON SCHWARTZ	ASCHWARTZ@LOEB.COM	312.464.3169
BARRY I. SLOTNICK	BSLOTNICK@LOEB.COM	212.407.4162
REGAN A. SMITH	RASMITH@LOEB.COM	312.464.3137
BRIAN R. SOCOLOW	BSOCOLOW@LOEB.COM	212.407.4872
WALTER STEIMEL, JR.	WSTEIMEL@LOEB.COM	202.618.5015
AKIBA STERN	ASTERN@LOEB.COM	212.407.4235
JAMES D. TAYLOR	JTAYLOR@LOEB.COM	212.407.4895
MICHAEL A. THURMAN	MTHURMAN@LOEB.COM	310.282.2122
JILL WESTMORELAND	JWESTMORELAND@LOEB.COM	212.407.4019
DEBRA A. WHITE	DWHITE@LOEB.COM	212.407.4216
MICHAEL P. ZWEIG	MZWEIG@LOEB.COM	212.407.4960