

<http://www.wsj.com/articles/u-s-eu-agree-final-adjustments-to-data-privacy-shield-1466764267>

By

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BRUSSELS—The U.S. and the European Union have agreed the final changes to a new trans-Atlantic data transfer framework, paving the way for the formal unveiling in early July of the scheme which should restore a straightforward way for companies to transfer data to American soil.

The commission, the bloc's executive arm, has been negotiating with the U.S. over the final technical details of the so-called Privacy Shield since the deal was announced in February. The framework replaces a prior agreement called Safe Harbor which had been in effect since 2000 but was struck down in October over concerns of mass surveillance in the U.S.

Washington and Brussels have been racing to implement recommendations by the bloc's national privacy authorities, after warnings they could challenge the scheme in court if their guidance wasn't heeded.

The commission on Friday said it had carried out the recommended changes and would send the draft for vote to the EU's member states and then subsequently the college of the 28 EU commissioners. The procedures are largely ceremonial and companies should be able to sign up to the new scheme shortly thereafter.

“We have agreed on the changes and will be able to adopt it in early July,” European Commission spokesman Christian Wigand said Friday.

The national data protection authorities in April said they wanted to see clearer terms of use for data processing and onward transfers of data to third parties. They also expressed concerns about loopholes for bulk collection of personal information by national security services, as well as the independence of the ombudsperson, who will be tasked with fielding and investigating complaints from Europeans about U.S. surveillance practices.

Under the completed deal, companies will have to delete personal data that no longer serves the purpose it was collected for and will oblige third party companies processing data from Privacy Shield firms to guarantee the same level of protection as the companies who have directly signed up to the framework, according to an EU official.

The U.S. also submitted an additional document explaining that the bulk collection of

data was only used in specific circumstances, including terrorism probes, and also clarified the safeguards in place for the use of that data, according to the official.

The Privacy Shield aims to create a relatively easy way for businesses to transfer personal information about Europeans—from social media profiles to human-resources files—to U.S.-based servers.

But even with the agreed changes, the new framework is likely to be tested in court, leading businesses to likely tread cautiously in the beginning.

“We see the Privacy Shield as a big step forward in terms returning more certainty back into the system...but it will take some time to return it to previous stability levels,” said Victoria Espinel, president of the Business Software Alliance, a D.C.-based trade group that includes Microsoft Corp. and other software companies.

She said it may take several years to determine that the agreement has fully “settled.”

Other methods for transferring data to the U.S. are also facing legal challenges.

In late May, the Irish Data Protection Commissioner’s office said it wanted the European Union Court of Justice to review backup contractual language that Facebook Inc. and thousands of other companies use to justify sending personal information about Europeans to the U.S.

Following last year’s court decision, many companies said they were now relying on contracts using those so-called standard contractual clauses to authorize their data transfers. Without those clauses, there are few other ways to justify keeping such data in the U.S. under EU law.