# From Privacy Shield to the Trans-Atlantic Data Privacy Framework

the Court of Justice of the European Union invalidated the EU-U.S. Privacy Shield as a means to transfer EU personal data across the Atlantic. On March 25, 2022, the EU and U.S. announced an agreement "in principle" on a new framework. But before companies can rely on it, the proposal must go through the EU adequacy process. Here's what that looks like.

The commission can adjust the draft decision in response to input from the EDPB, Parliament, the Council and other stakeholders and/or consider their feedback as part of subsequent reviews. Major revisions at this stage are unlikely given the length of technical and political negotiations to this point.

The 2016 implementing decision supporting Privacy Shield was adopted by 25 Member States with two abstentions.

This entire process has historically taken several months — five in the case of Privacy Shield in 2016 and four in the case of the U.K. adequacy.

#### **↓ EU APPROVAL PROCESS**



## EUROPEAN COMMISSION DRAFTS ADEQUACY DETERMINATION

The European Commission pens its draft adequacy determination and transmits it to the European Data Protection Board.



#### EDPB ISSUES A NON-BINDING OPINION

The EDPB issues an opinion, which is not binding on the commission.



#### EUROPEAN PARLIAMENT CAN ADOPT POSITION

The European Parliament, which has no formal role in the adoption process, can adopt a non-binding position in the form of a resolution at any point.



#### **MEMBER STATES MUST APPROVE**

The commission will request approval of a committee composed of Member States representatives.

The approval requires 55% of EU countries (15 out of 27) representing at least 65% of the total EU population; the blocking minority must include at least four council members representing more than 35% of the EU population.



## EUROPEAN COMMISSION ADOPTS ADEQUACY DETERMINATION

Once greenlit by the Member States, the College of Commissioners will formally adopt the commission decision. The decision will then be published in the EU Official Journal and take immediate effect.

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