

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 U.S.-EU Safe Harbor Framework, which went into effect in 2000. The U.S.-EU Safe Harbor Framework allows U.S. companies to transfer personal data lawfully from the EU. To join the U.S.-EU 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 EU’s 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 U.S.-EU Safe Harbor Framework. A company under the FTC’s jurisdiction that claims it has 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 Section 5 of the FTC Act.
9. Commerce maintains a public website, www.export.gov/safeharbor, where it posts the names of companies that have self-certified to the U.S.-EU 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 re-certify every year in order to retain their status as “current” members of the U.S.-EU 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 of compliance with the U.S.-EU Safe Harbor Framework, which is publicly available at the www.export.gov/safeharbor website.
11. In August 2012, respondent did not renew its self-certification to the U.S.-EU Safe Harbor Framework, and Commerce subsequently updated respondent’s status to “not current” on its public website.
12. From at least August 2012 until May 2015, respondent disseminated or caused to be disseminated privacy policies and statements on its website, www.aboutfcs.com/security-privacy, including but not limited to, the following statements:

Privacy & Safe Harbor

FORENSICS CONSULTING SOLUTIONS, LLC Safe Harbor Privacy Policy

Date: 8/24/2009 - Safe Harbor Privacy Statement

FORENSICS CONSULTING SOLUTIONS, LLC (FCS)) participates in the Safe Harbor program and adheres to the Safe Harbor Principles developed by the U.S. Department of Commerce and the European Union.

....
FCS educates its employees about compliance with the Safe Harbor Principles and has self-assessment procedures in place to ensure its compliance. FCS adheres to the U.S.-EU Safe Harbor Framework as set forth by the U.S. Department of Commerce.

....
Enforcement: FCS utilizes the self-assessment approach to assure its compliance with its privacy statement, and will annually self certify with the US Department of Commerce as being in full compliance. FCS will conduct compliance audits to verify adherence to this policy.

Count 1

13. Through the means described in Paragraph 12, respondent represented, expressly or by implication, that it was a current participant in the U.S.-EU Safe Harbor Framework.
14. In truth and in fact, beginning in 2012, respondent was not a current participant in the U.S.-EU Safe Harbor Framework. Therefore, the representation set forth in Paragraph 13 is false and misleading.
15. The acts and practices of respondent as alleged in this complaint constitute deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this __ day of ____ 2015, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL
ISSUED: