



VLP Partner Michael Whitener quoted in *IAPP* article, “How Sturdy is the Privacy Shield?”

IAPP- The Privacy Advisor, February 3, 2016

VLP Partner Michael Whitener was recently quoted in the *IAPP Privacy Advisor* article, “How Sturdy is the Privacy Shield?” The article examines the new EU-US Privacy Shield introduced post-Safe Harbor.

The article noted that since the Safe Harbor Framework was struck down in October 2015, companies at home and abroad have been waiting for clear guidance from U.S. and EU regulators on how to deal with personal data transfers from the EU to the U.S. Enter the EU-US Privacy Shield, a new framework for transatlantic data flows. The new Privacy Shield was announced this week and was released without any formal text, leaving the implications a bit vague.

The article also reported that the Privacy Shield has been proposed to comply with the requirements of the Court of European Justice and is expected to provide mechanisms for greater oversight and enforcement by European data protection authorities as well as the U.S. Department of Commerce and the Federal Trade Commission. The Privacy Shield also will impose stricter obligations on U.S. companies to protect EU citizens’ personal data.

Until the full proposed text of the Privacy Shield is drafted and vetted, many questions remain.

Michael Whitener wondered whether those interested in using the Privacy Shield as a transfer mechanism will be allowed to “self-certify” as was permitted under the previous Safe Harbor Framework, to the ire of the European Commission.

“The EU Commission’s announcement indicates that U.S. companies ‘will need to commit to robust obligations on how personal data is processed and individual rights are guaranteed.’ But isn’t that exactly what they committed to under the previous Safe Harbor principles?” Whitener asked.

To read the full *IAPP* article quoting Mr. Whitener, [Click Here](#).

[Michael Whitener](#) is a partner at VLP Law Group. His legal practice focuses on two areas: (1) technology transactions, including software licensing and alliances, cloud computing, web hosting and outsourcing agreements; and (2) corporate compliance, particularly regarding data privacy and anti-corruption laws.