



UNITED STATES DEPARTMENT OF COMMERCE
The Deputy Under Secretary for
International Trade
Washington, D.C. 20230

Mr. Hans-Peter Thür
Commissioner
Federal Data Protection and Information Commission
Feldeggweg 1, 3003 Bern
Confederation of Switzerland

DEC 1 2008

Dear Mr. Thür:

I have the honor to transmit to you the U.S.-Swiss Safe Harbor privacy principles and the frequently asked questions (FAQs) regarding their implementation, as well as the Safe Harbor enforcement overview and a memorandum on damages for breaches of privacy, legal authorizations, and mergers and takeovers in U.S. law, all issued by the U.S. Department of Commerce on December 1, 2008. I am also transmitting letters from the relevant government bodies in the United States empowered to investigate complaints of failure to adhere to the Safe Harbor principles.

The U.S.-Swiss Safe Harbor privacy principles reflect our shared objective of enhancing privacy protection for our citizens and reinforcing legal security for firms in both countries. They take into account the fact that the transfer of personal data from Switzerland to a third country may take place only if the third country in question ensures an adequate level of protection.

The Department is issuing the enclosed documents, in cooperation with Switzerland, under its authority to foster, promote, and develop international commerce. On the basis of this letter and these documents, Switzerland intends to recognize the adequacy of protection provided by the Safe Harbor privacy principles implemented in accordance with the FAQs as meeting the requirements of Article 6 of the Federal Act on Data Protection. Other provisions of this Act pertaining to the processing of data in Switzerland will not be affected.

Both the Safe Harbor privacy principles and the FAQs ("the Principles") are intended to serve as authoritative guidance to U.S. companies and other U.S. organizations receiving personal data from Switzerland and wishing to establish a predictable basis for the continuation of such transfers. The enforcement overview and other supporting documents are intended to explain how U.S. enforcement mechanisms, based either on law and regulation or self-regulation, satisfy the requirements of the Enforcement Principle and ensure that an organization's commitment to adhere to the Principles will be effectively enforced. The Safe Harbor documents need to be read against the U.S. legal system and its well known features, such as class actions and contingency fees.

U.S. companies and other U.S. organizations can be assured of the benefits of the Safe Harbor by self-certifying that they adhere to the Principles. The Department of Commerce intends to arrange for a list to be maintained of all organizations that self-certify their adherence to the Principles. Both the list and the notifications submitted by organizations containing information with regard to their implementation of the Principles are to be made publicly



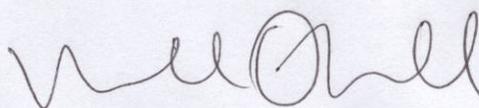
available, as are any proper and final adverse determinations made by a U.S. enforcement body and notified to the Department of Commerce (or its designee) that a Safe Harbor organization has persistently failed to comply with the Principles. Where, in complying with the Principles, an organization relies in whole or in part on self-regulation, its failure to comply with such self-regulation must also be actionable under Section 5 of the Federal Trade Commission Act prohibiting unfair and deceptive acts or another law or regulation prohibiting such acts as set out in the Principles.

The Principles apply only to companies or other organizations which fall within the competence of the Federal Trade Commission (FTC) or the Department of Transportation (DOT) and comply with the Principles implemented in accordance with the FAQs. Therefore, the Principles do not apply to financial institutions, including banks, savings and loans, and credit unions; telecommunications and interstate transportation common carriers; and packers and stockyard operators; as well as any other entities or activities that fall within the exceptions to the FTC's authority over unfair or deceptive acts or practices and are not subject to the authority of DOT (Annex III).

The framework established by the U.S.-Swiss Safe Harbor privacy principles implemented in accordance with the FAQs may need to be reviewed in light of experience and relevant developments. The Department of Commerce and the Swiss Federal Data Protection and Information Commissioner will consult regarding any proposed amendment to the Principles or other framework documents.

The framework established by the U.S.-Swiss Safe Harbor privacy principles is to become effective upon notification of completion of all internal legal procedures and to continue unless either Switzerland or the United States provides the other written notice of its intent to discontinue the framework. Such notice should be provided six months before the intended date of discontinuation.

Sincerely,



Michelle O'Neill

Annex I	U.S. - Swiss Safe Harbor Privacy Principles
Annex II	Frequently Asked Questions
Annex III	Safe Harbor Enforcement Overview
Annex IV	Damages for Breaches of Privacy, Legal Authorizations and Mergers and Takeovers in U.S. Law
Annex V	U.S. Government bodies empowered to investigate complaints