

News and Legislation Relating to Employment and Background Checks**Federal News and Legislation:**

- On February 24th, President Obama signed the Judicial Redress Act into law. The law allows European citizens to sue in U.S. courts if they believe their data was mishandled by the U.S. government, and was an important condition of the Privacy Shield data sharing agreement between the U.S. and the European Union. According to the President, the new law ensures that data of “not only American citizens, but also foreign citizens” is protected under U.S. privacy laws and regulations. Vera Jourova of the European Commission said, “I welcome the signature of the Judicial Redress Act by President Obama today. This new law is a historic achievement in our efforts to restore trust in transatlantic data flows.” (<https://iapp.org/news/a/obama-signs-judicial-redress-act-into-law/>)
- On February 29th, the European Commission released the full draft of the Privacy Shield data sharing agreement between the European Union (EU) and the United States. The agreement replaces the Safe Harbor data sharing pact that was stuck down by an October 2015 European Court of Justice ruling that found the U.S. did not adequately protect the data of European citizens. The new agreement creates a “last-resort arbitration panel” to address complaints from EU citizens that American companies mishandled their data. The agreement also establishes an ombudsman within the U.S. Department of State to address EU citizens’ complaints that U.S. intelligence agencies accessed their data without permission or just cause. However, privacy advocates have already expressed doubt that the agreement will provide adequate redress for EU citizens, namely because the arbitration panel can only offer “non-monetary” relief. Of the new agreement, European privacy advocate Max Schrems said, “They tried to put ten layers of lipstick on a pig, but I doubt the Court and the [data protection authority regulators] now suddenly want to cuddle with it.” Federal Trade Commission (FTC) Chairwoman Edith Ramirez issued a more positive statement on the agreement, saying, “The EU-U.S. Privacy Shield Framework supports the growing digital economy on both sides of the Atlantic, while ensuring the protection of consumers’ personal information. In providing an important legal mechanism for transatlantic data transfers,

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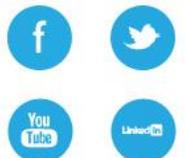
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it benefits both consumers and businesses in the global economy.” The draft agreement must now be reviewed by the EU data protection authorities.

http://europa.eu/rapid/press-release_IP-16-433_en.htm?locale=en

- On March 1st, *Reuters* reported that the U.S. Department of Defense (DOD) plans to hire private contractors to develop the information technology systems for the Office of Personnel Management’s (OPM) new background check division known as the National Background Investigations Bureau (NBIB). Earlier this year, it was announced that DOD will handle the information technology and security of OPM’s background check operations. The news comes in response to OPM’s massive data breach in the summer of 2015 that compromised the background check applications of 21.5 million current, former, and prospective federal government employees. DOD will begin meeting with prospective contractors to develop NBIB’s computer systems prior to September 30th, which marks the end of fiscal year 2016. Richard Hale, DOD’s Deputy Chief Information Officer for Cybersecurity, said that the agency hopes to develop the system as soon as possible, with certain elements in place by the beginning of fiscal year 2018. It is expected that companies like General Dynamics Corp., Raytheon Co., Lockheed Martin Corp., and Northrop Grumman Corp. will apply for the work, which is expected to cost nearly \$600 million. According to Hale, “We have quite a lot of faith in the cleared defense industry. We believe that we can develop this information technology with industry as safely as we could as if were to do the development entirely in house.” (<http://www.reuters.com/article/us-cyber-usa-background-checks-idUSKCN0W33RH>)
- On March 2nd, the Consumer Financial Protection Bureau (CFPB) ordered Dwolla, Inc. (Dwolla), an Iowa-based online payment platform, to pay a \$100,000 penalty for failing to deliver adequate data security. According to the CFPB’s complaint, the company falsely advertised that its data security surpassed industry standards. The CFPB also claims that the company falsely promised that it encrypted sensitive personal information. In a statement on the enforcement action, CFPB Director Richard Cordray said, “Consumers entrust digital payment companies with significant amounts of sensitive personal information. With data breaches becoming commonplace and more consumers using these online payment systems, the risk to consumers is growing.” The

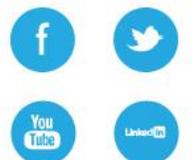
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CPFB has ordered the company to train its employees on data security, stop misrepresenting its security practices, and pay a \$100,000 civil penalty. This is the first time the CFPB has brought an enforcement action over data security.

<http://www.consumerfinance.gov/newsroom/cfpb-takes-action-against-dwolla-for-misrepresenting-data-security-practices/>

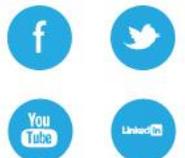
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