



## ICDR-AAA<sup>SM</sup> EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield IRM Program Report 2020-2021

The International Centre for Dispute Resolution® (ICDR®), is the international division of the American Arbitration Association® (AAA®) and provides Independent Recourse Mechanism (IRM) services pursuant to EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield Programs.

The ICDR-AAA's EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield Programs can be found on the ICDR's website at <http://go.adr.org/privacyshield.html>.

As of July 31, 2021, 410 U.S. organizations have designated the ICDR-AAA as their IRM for the EU-U.S. Privacy Shield Program, of which 271 have designated us for both the EU-U.S. and the Swiss-U.S. Privacy Shield Programs and 1 designating the Swiss-U.S. Privacy Shield program only. Our list of registered companies can be found on the same site.

During the period covered by this report, August 1, 2020 through July 31, 2021, we have not received any complaints from EU or Swiss nationals concerning the Privacy Shield programs. There have been numerous inquiries about the programs from U.S. organizations principally related to the program's invalidation and to a much lesser extent from EU nationals.

### About the ICDR-AAA EU-U.S. Privacy Shield and Swiss-U.S. Privacy Shield Program

Both the EU-U.S. and Swiss-U.S. Privacy Shield Frameworks make clear that participating companies must have in place appropriate independent recourse mechanisms to ensure compliance with the privacy principles of both programs. U.S. companies must identify their organization's Independent Recourse Mechanism. Under the Privacy Shield frameworks' Recourse, Enforcement and Liability Principle, self-certifying organizations must provide an independent recourse mechanism available to investigate unresolved complaints at no cost to the individual.

For information on how a company may designate the ICDR-AAA as its independent recourse mechanism and on the EU-U.S. and Swiss-U.S. Privacy Shield program please review the Program Information document located in the Additional Information Section at the following link for this program: <http://go.adr.org/privacyshield.html>. Companies selecting the ICDR-AAA as their independent recourse mechanism are required to use the following link for this program: <http://go.adr.org/privacyshield.html>. The ICDR-AAA in its IRM capacity provides the following international arbitration services to resolve any complaints pursuant to these two Privacy Shield programs at no cost to the EU and Swiss national.

1. Once having designated the ICDR-AAA for their independent recourse mechanism for the EU-U.S. and/or Swiss-U.S. Privacy Shield programs, the following ICDR-AAA dispute resolution procedures would apply. The independent recourse mechanism consisting of arbitration would be administered by the ICDR-AAA pursuant to its International Arbitration Rules as modified by the listed procedures. Affected individuals who do not receive timely acknowledgment of their complaints or whose complaints are not satisfactorily addressed by a participating U.S. company may file a dispute on-line as provided for on the program's website.



2. The dispute may be filed on-line utilizing the Privacy Shield Program Notice of Arbitration Form located on our website <http://go.adr.org/privacysshield.html>. There are no filing fees for an EU or Swiss Claimant. The filing party may also file a case by mail or email, please complete the appropriate Privacy Shield Program Notice of Arbitration Form and forward to the International Centre for Dispute Resolution:
  - International Centre for Dispute Resolution Case Filing Services  
1101 Laurel Oak Road, Suite 100  
Voorhees, NJ 08043  
United States  
Phone: +1.212.484.4181  
Email box: [casefiling@adr.org](mailto:casefiling@adr.org)
3. Upon receipt of the Demand for Arbitration, the ICDR will make an initial Determination, subject to the appointed arbitrator(s) final determination, regarding the eligibility of the complaint pursuant to the EU-U.S. or Swiss-U.S. Privacy Shield programs and if deemed eligible the ICDR-AAA shall prepare a dated letter of initiation that will be communicated to the parties with respect to the arbitration and shall acknowledge the commencement of the arbitration.
  - Eligibility complaint requirements shall include 1) complainant is an EU or Swiss individual (i.e., individual submitting on his/her own behalf or on behalf of a minor of whom the individual is the parent or guardian); (2) complaint concerns an organization enrolled in the ICDR-AAA IRM's Privacy Shield-related dispute resolution program; (3) complaint concerns an organization participating in DOC-administered Privacy Shield program; and (4) complaint alleges that an organization has violated the Privacy Shield Principles with respect to complainant's own personal data (i.e., individual's own personal data or personal data of the minor of whom the individual is the parent or guardian).
4. Within thirty (30) days after the commencement of the arbitration, a respondent shall submit a written statement of defense and/or counterclaim utilizing AAA WebFile® or by e-mail and attaching copies of the supporting documents the respondent wishes to enter into evidence. When no statement of defense is filed to a claim or counterclaim, such claim or counterclaim shall be deemed as denied by the opposing party. All communications will be by email unless otherwise agreed by the parties or as directed by the arbitrator.
5. Once the statement of defense and/or counterclaim is received or after thirty (30) days have passed without a statement of defense and/or counterclaim or statement of defense to counterclaim, the ICDR-AAA will proceed with administration by appointing a single arbitrator and notifying the parties of the arbitrator's name and any disclosures by email. The parties may object to the arbitrator's appointment within seventy-two (72) hours of the arbitrator's appointment. If no objection has been received by ICDR within seventy-two (72) hours, the arbitrator will be reaffirmed. In the event of an objection, ICDR will invite comments from the other party and then either reaffirm the arbitrator or appoint a new arbitrator.
6. The ICDR case manager, once the arbitrator is appointed, will schedule an administrative conference call with the parties and the arbitrator to discuss the process, scheduling of any additional submissions, the applicable rules, and clarifying all procedural issues. The arbitration shall be conducted on documents only and there shall not be any hearings in person unless otherwise agreed by the parties or as directed by the arbitrator.



7. The arbitrator shall make a determination based upon the documents submitted by the parties. In extraordinary circumstances, the arbitrator may request additional evidence from the parties.
8. The award of the arbitrator shall specify the remedies and sanctions as contemplated by the Privacy Shield Frameworks. The award shall state the reasons upon which the award is based.
9. While the process will be based on documents only without any hearings in person, the place of arbitration for purposes of the award shall be New York, New York. The language of the arbitration shall be determined by the arbitrator.
10. The award of the arbitrator shall be final and binding upon the Parties and shall constitute a duly executed award for purposes of enforcement.

## About the ICDR-AAA

The AAA is a not-for-profit public service organization with offices throughout the U.S. and abroad. Founded in 1926, the AAA has a long history and extensive experience in the field of ADR, providing services to individuals, government entities, corporations, unions and organizations that wish to resolve conflicts. In 1996, the AAA's international operations were consolidated into the ICDR. The ICDR is headquartered in New York City, and has offices elsewhere within the United States, as well as in Mexico and Singapore that are staffed with multilingual case administrators and attorneys with expertise in international alternative dispute resolution with a commitment to service and sensitivity to culture.

The ICDR provides a full range of conflict management services to businesses, government agencies, and other organizations around the world. These services are supported by a network of cooperative agreements with other arbitration institutions and key alliances located around the globe, which enable us to provide international administrative services and educational initiatives for parties to cases we administer from over 90 countries. The ICDR currently has cooperative agreements with 87 other arbitral institutions in 54 countries, 18 of which are located in EU member countries, and an additional agreement with an institution in Switzerland. As a result, the ICDR is able to draw upon the assistance of these other institutions to provide additional hearing facilities, arbitrators, and important updates on local arbitration frameworks from these countries. In 2019 alone, 882 international cases were filed with the AAA-ICDR. Further, the ICDR maintains a roster of over 750 experienced and expert arbitrators from around the world, and is able to access the thousands of arbitrators that are maintained on the AAA's domestic roster. The aforementioned network of national ADR alliances, coupled with the ICDR's experience, technology, flexibility and expertise make us uniquely capable to provide its IRM services for both the EU-U.S. and Swiss-U.S. Privacy Shield programs.