

# **EU/USA Agreement: processing and transfer of Financial Messaging Data for purposes of the Terrorist Finance Tracking Program**

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The Commission presented a report on the joint review of the implementation of the Agreement between the European Union and the United States of America on the processing and transfer of Financial Messaging Data from the European Union to the United States for the purposes of the Terrorist Finance Tracking Program (TFTP).

The Agreement, which entered into force on 1 August 2010, provides for regular joint reviews of the safeguards, controls, and reciprocity provisions to be conducted by review teams from the European Union and the United States.

This report concerns the fifth joint review of the Agreement since it entered into force and covers a period of 35 months between 1 January 2016 and 30 November 2018.

The fifth joint review was carried out in two main stages: on 15 January 2019 in The Hague at Europol's premises and on 31 January and 1 February 2019 in Washington at the Treasury.

## ***Main findings***

The report noted that:

- the Commission is satisfied that the Agreement and its safeguards and controls are properly implemented;
- Europol is accomplishing its verification tasks;
- the TFTP remains a key instrument to provide timely, accurate and reliable information about activities associated with suspected acts of terrorist planning and financing;
- during the current review period, the EU has continued to significantly benefit more from the TFTP. It has become an increasingly important tool with the increase in the number of terrorist attacks since 2015. In some cases, the information provided under the Agreement has been instrumental in bringing forward specific investigations relating to terrorist attacks on EU soil.

## ***Improvements***

In terms of potential for further improvement, the Commission suggests that the Treasury assesses the message types and geographic regions that are the most and least responsive to TFTP searches. This could result in a more narrowly tailored request to minimise the amount of data requested from the designated provider.

The Commission further suggests that the Treasury should improve its mechanisms to review the necessity of retaining so-called “extracted data” to ensure that this data is only retained for as long as necessary for the specific investigation or prosecution for which they are used.

In this context, the Commission also requests Member States to inform Europol as a Single Point of Contact (SPoC) for subsequent information of the Treasury when a case has been finally disposed of, which should in principle lead to the deletion of extracted data relating to that case. Particular attention should also be provided to extracted data that is viewed by the Treasury analysts but not, due to considerations of relevancy, disseminated further in the context of a specific investigation.

### ***Conclusion***

The Commission considered that the TFTP remains an important instrument to provide timely, accurate and reliable information about activities associated with suspected acts of terrorist planning and financing. It helps to identify and track terrorists and their support networks worldwide.

The Commission welcomes the continued transparency of the U.S. authorities in sharing information illustrating the value of the TFTP in international counter-terrorism efforts.

A regular review of the Agreement is essential to ensure its proper implementation, to build up a relationship of trust between the contracting parties and to provide reassurances to interested stakeholders on the usefulness of the TFTP instrument.

The Commission and the Treasury agreed to carry out the next joint review of the Agreement in the beginning of 2021.