

ARTICLE 29 DATA PROTECTION WORKING PARTY



Brussels, 29/03/2012
just.c.3(2012)406066

Ms. Francoise LE BAIL
Director General
Justice DG

Mr. Jonathan FAULL
Director General
Internal Market & Services DG

Rue de la Loi, 200
B-1049 Brussels

Dear Madam,
Dear Sir,

I refer to my letter of 13 December 2011 providing additional guidance on the application of Directive 95/46 in relation to the international transfer of personal data to the US Public Company Accounting Oversight Board (PCAOB)¹, the application of Directive 2006/43² and the Commission Decision 2010/485/EU of 1 September 2010³ (the Commission Decision).

The Working Party 29 was informed that the Commission (DG MARKT) informed Member States' ministries and their regulators about the letter and the recommendations made by the Working Party 29 in December. On behalf of the Working party, I wish to express my appreciation for the current spirit of good cooperation with the Commission.

¹ According to its website <http://pcaobus.org/Pages/default.aspx>, the PCAOB is a non-profit corporation established by Congress to oversee the audits of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, accurate and independent audit reports. The PCAOB also oversees the audits of broker-dealers, including compliance reports filed pursuant to federal securities laws, to promote investor protection.

² Directive of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/ 660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC, O.J., 9 June 2006, published on <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2006:157:0087:0087:EN:PDF>

³ Commission Decision of 1 September 2010 on the adequacy of the competent authorities of Australia and the United States pursuant to Directive 2006/43 of the European Parliament and of the Council, notified under document C(2010) 5676, OJ 11 September 2010, published on <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:240:0006:0009:EN:PDF>

This Working Party was set up under Article 29 of Directive 95/46/EC. It is an independent European advisory body on data protection and privacy. Its tasks are described in Article 30 of Directive 95/46/EC and Article 15 of Directive 2002/58/EC.

The secretariat is provided by Directorate C (Fundamental Rights and Union Citizenship) of the European Commission, Directorate General Justice, B-1049 Brussels, Belgium, Office No MO-59 02/013.

Website: http://ec.europa.eu/justice/policies/privacy/index_en.htm

While the awareness of the different member states for the PCAOB transfers could still be raised, the Working Party found that member states approached the theme of transfers to the PCAOB in a different way, and that little or nothing is known on the status in the majority of the member states.

It is therefore the wish of the Working party 29 to gather more precise facts on the current state of data transfers, agreements and statements of protocol concluded between the PCAOB and the corresponding authorities in the different member states, as well as the relevant content and added value of these agreements for data protection.

I therefore request your cooperation in the sending of the attached questionnaire to the relevant audit authorities of the member states.

Yours faithfully,

On behalf of the Article 29 Working Party,

The Chairman
Jacob KOHNSTAMM

Annex : PCAOB questionnaire