

**EDPB**  
**National DPAs (via EDPB Secretariat)**  
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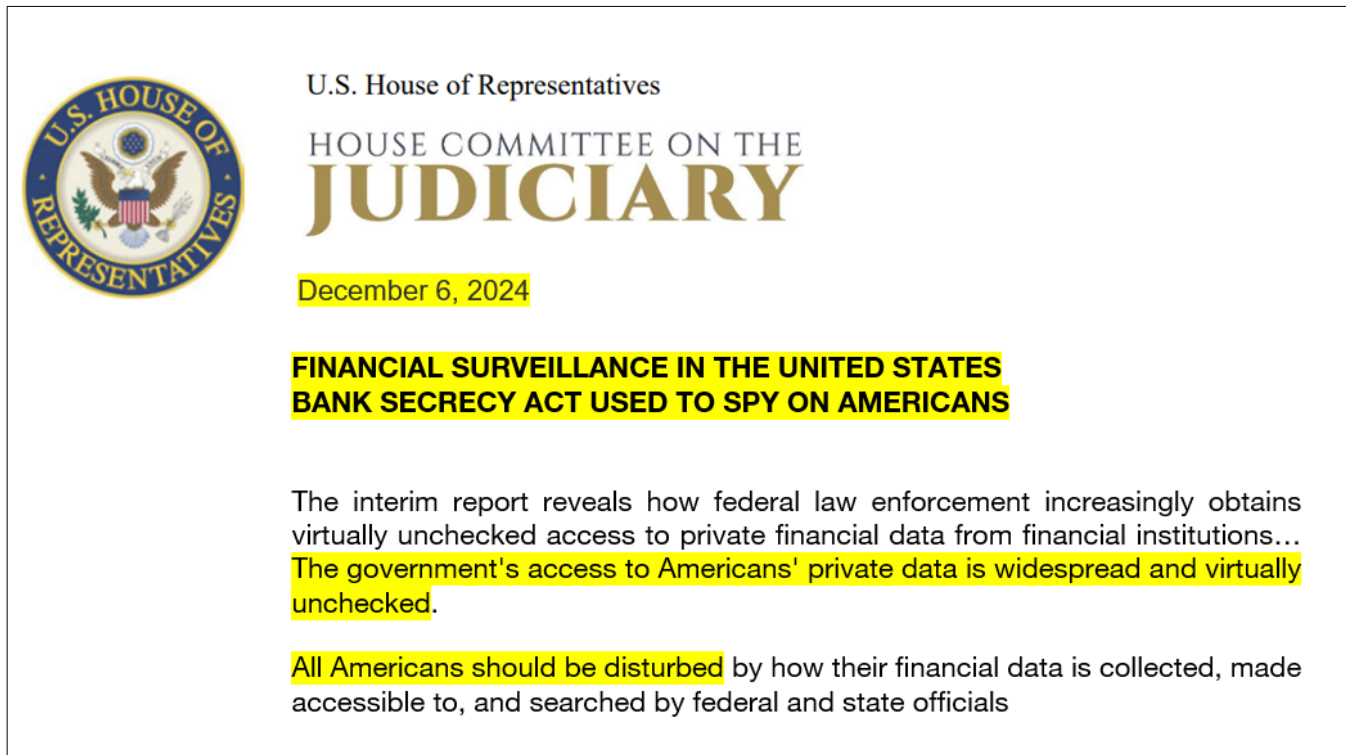
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## FATCA **US Congress report on Financial Surveillance** implications for Art. 46 GDPR

We write further to [our correspondence](#) on the disproportionate nature of FATCA, the lack of appropriate data protection safeguards for FATCA-related data transfers to the US and the serious data security risks acknowledged by various US government agencies, including the [GAO](#) and [TIGTA](#), as well as the [IRS](#).

As regards the lack of appropriate data protection safeguards (a key requirement for data transfers outside the EU under [Art. 46 GDP](#)) a report released by the [Judiciary Committee of the US Congress](#) on 6 December 2024 paints a bleak picture of financial data privacy in the US:



The [European Commission](#) (class of 2010) had already reached the conclusion that the US has lower data protection standards during its negotiations with the US on FATCA (as summarised [here](#)). The same conclusion is contained in a [letter of support](#) filed by a US data privacy expert (Prof. Michael Hatfield of the University of Washington). Beyond FATCA, the same conclusion was reached by the CJEU in the two [Schrems](#) decisions, which have direct application. You

Now, we have express and direct confirmation from the US. *What more do you want/need???*

It's time for the EDPB to intervene and put an end to the inconsistent application of the GDPR in this area, as is its duty under Art. 70. At the very least, the EDPB should update its [Statement 1/2019 on FATCA](#) to reflect the recent publication of the EDPB Guidelines on Art. 49 GDPR to confirm that any transfer of EU data to the US under FATCA should only take place in the presence of sufficient data protection safeguards.

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