

## **HOGAN ASSESSMENT SYSTEMS, INC.**

### **Statement Regarding Direct Application of 50 U.S.C. § 1881, EO 12.333 and Other Relevant Laws**

Given the judgment of the Court of Justice of the European Union in C-311/18, especially paragraphs 138 to 145, Clause II of the Annex of Decision 2004/915/EC, and/or Clause 5(b) of the Annex to Decision 2010/87, Hogan Assessment Systems, Inc. ("Hogan") clarifies the following:

#### **Direct Application of 50 U.S.C. § 1881a (FISA 702)**

Hogan is a personality assessment publisher and consulting firm that has created and developed certain products and services, including personality assessments and related reporting, consulting and research services.

- (1) Hogan does not fall under one of the following definitions in 50 U.S.C. 1881(b)(4), that could render Hogan directly subject to 50 U.S.C. § 1881a (FISA 702).
- (2) Specifically,
  - A. Hogan is not a telecommunications carrier, as that term is defined in section 153 of title 47 U.S.C.;
  - B. Hogan is not a provider of electronic communication service, as that term is defined in section 2510 of title 18 U.S.C.;
  - C. Hogan is not a provider of a remote computing service, as that term is defined in section 2711 of title 18 U.S.C.;
  - D. Hogan is not any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; and
  - E. Hogan is not an officer, employee, or agent of an entity described in (A), (B), (C), or (D).

#### **Processing under EO 12.333**

- (3) Hogan does not cooperate in any respect with US authorities conducting surveillance of communications under EO 12.333, should this be mandatory or voluntary.

#### **Other Relevant Laws**

- (4) Hogan is not subject to any other law that could be seen as undermining the protection of personal data under the GDPR (Article 44 GDPR).

**Measures against Mass and Indiscriminate Processing in Transit (FISA 702 and EO 12.333)**

- (5) As the Court of Justice has also highlighted the need to ensure that personal data is not subject to mass surveillance in transit, Hogan clarifies that it has implemented appropriate technical and organizational measures, including encryption (see Article 32 GDPR) for every step of the processing operations which ensure that mass and indiscriminate processing of personal data by or on behalf of authorities in transit (such as under the “Upstream” program in the US) is made impossible so that neither content nor metadata can be processed by sophisticated state actors with direct access to the internet backbone, switches, hubs, cables and the like.