



GUIDANCE NOTICE

REGISTRATION OF DATA CONTROLLERS AND DATA PROCESSORS OF MAJOR IMPORTANCE AND ALL MATTERS CONNECTED THEREWITH

NDPC/HQ/GN/VOL.03/B/24

(Pursuant to Sections 5d, 6(c), 44, 45 and 65 of the Nigeria Data Protection Act, 2003)

WHEREAS, personal data of citizens and persons (hereafter referred to as data subjects) in Nigeria are being processed by various organisations or persons for myriads of reasons within and outside Nigeria;

AND WHEREAS it is important for the privacy and security of data subjects to ensure that their personal data are processed only by genuine persons or organisations and **ONLY** for genuine reasons recognised by law;

CONSIDERING that the Nigeria Data Protection Act, 2023 (hereafter referred to as the Act) under section 5(d) empowers the Nigeria Data Protection Commission (hereafter referred to as the Commission) to designate data controllers and data processors of major importance who are to register with the Commission;

NOTING that section 65 of the Act defines a data controller and a data processor of major importance as an entity which *is domiciled, resident in, or operating in Nigeria and processes or intends to process personal data of more than such number of data subjects who are within Nigeria, as the Commission may prescribe, or such other class of data controller or data processor that is processing personal data of particular value or significance to the economy, society or security of Nigeria as the Commission may designate;*

FURTHER CONSIDERING the prior notice and sensitisation programmes in which the Commission specifically referred to data controllers and processors of major importance under section 5(d) of the Act as the only eligible organisations for registration;

THUS, in line with its mandate to, among others, designate data controllers and data processors with *“particular value or significance to the economy, society or security of Nigeria”* the Commission hereby issues this Guidance Notice on the Registration of Data Controllers and Processors of Major Importance:

1. Designation of Data Controllers and Data Processors of Major Importance

(1) A data controller or data processor shall be deemed to have *“particular value or significance to the economy, society or security of Nigeria”* and hence designated *to* be of major importance if it keeps or has access to a filing system (whether analogue or digital) for the processing of personal data; and:

- (a) Processes the personal data of more than Two-Hundred (200) data subjects in six (6) months; or
- (b) Carries out commercial Information Communication Technology (ICT) services on any digital device which has storage capacity for personal data and belongs to another individual; or
- (c) Processes personal data as an organisation or a service provider in anyone of the following sectors:

- i. Aviation;
- ii. Communication;
- iii. Education;
- iv. Electric Power; and
- v. Export and Import;
- vi. Financial;
- vii. Health;
- viii. Hospitality.
- ix. Insurance;
- x. Oil and Gas;
- xi. Tourism;
- xii. E-Commerce
- xiii. Public Service

(2) This designation does not include the processing of personal data that is specifically excluded by Section 3 of the NDP Act - such as data processing solely for personal or household purposes.

2. Classification of Data Controllers and Data Processors of Major Importance

(1) The Commission classifies data controllers and data processors into three (3) levels or categories of major data processing, namely:

- (a) Ultra-High (UHL).
- (b) Extra-High Level (EHL).
- (c) Ordinary-High Level (OHL).

(2) Ultra-High Level (UHL) shall be a category of data controllers and data processors of major importance that are, among other obligations, generally expected to **abide by global and highest attainable standards** of data protection - taking into account the following factors:

- (a) The sensitivity of personal data in their care;
- (b) Data-driven financial assets entrusted in their care by data subjects;
- (c) Reliance on third-party servers or cloud computing services for the purpose of substantial processing of personal data;
- (d) Substantial involvement in cross-border data flows;
- (e) Processing the personal data of over Five-Thousand (5,000) data subjects through the means of technology under its technical control or through a service contract;
- (f) The need for international standard certifications for people, processes and technologies involved in data confidentiality, integrity and availability; and

Provided always that any four (4) of the foregoing factors in this sub-paragraph 2(2) shall suffice for the purposes of categorisation.

(3) Extra-High Level (EHL) shall be a category of data controllers and data processors of major importance that are, among other obligations, generally expected to abide by **global best practices** of data protection taking into account:

- (a) The sensitivity of personal data in their care;
- (b) Data-driven financial assets entrusted in their care by data subjects;
- (c) Functions as an establishment of government;

- (d) Reliance on third-party servers or cloud computing services for the purpose of substantial processing of personal data;
- (e) Substantial involvement in cross-border data flows;
- (f) Processing the personal data of over One-Thousand (1,000) data subjects through the means of technology under their technical control or through a service contract;
- (g) The need for reputable and standardised certifications for people, process and technologies involved in data confidentiality, integrity and availability; and

Provided that any four (4) of the foregoing factors in this sub-paragraph 2(3) shall suffice for the purposes of categorisation.

- (4) Ordinary-High Level (MDP-OHL) shall be a category of data controllers and data processors of major importance that are, among other obligations, generally expected to abide **by global best practices** of data protection taking into account:

- (a) The sensitivity of data assets in their care;
- (b) Inherent vulnerability of data subjects they typically engage with;
- (c) High risk to the privacy of data subjects if such personal data are processed by the data controller or data processor in a systematic or automated manner;
- (d) Processing the personal data of over Two-Hundred (200) data subjects through the means of technology under their technical control or through a service contract;
- (e) The need for adequate technical and organisational measures for data protection;
- (f) The need for reputable and standardised certifications for people, processes and technologies involved in data confidentiality, integrity and availability; and

Provided that any four (4) of the foregoing factors in this sub-paragraph 2(4) shall suffice for the purposes of categorisation.

3. Specific Types of Data Controllers and Data Processors and their Fees

- (1) The Commission specifies the types of data controllers and data processors of major importance under the classes referred to in paragraph two (2) of this Guidance Notice as follows:

- (a) **Ultra-High Level (UHL)** – the amount payable is ₦250,000. These are:
 - i. Commercial banks operating at national or regional level;
 - ii. Telecommunication companies;
 - iii. Insurance companies;
 - iv. Multinational companies;
 - v. Electricity distribution companies;
 - vi. Oil and Gas companies;
 - vii. Public social media App developers and proprietors;
 - viii. Public e-mail App developers and proprietors;
 - ix. Communication devices manufacturers;
 - x. Payment gateway service providers; and
 - xi. Fintechs.

- (b) Apart from those mentioned in sub-paragraph 3(1)(a) above, organisations that process personal data of over Five-Thousand (5,000) data subjects in six (6) months are also in in the category of Ultra-High Level (UHL).

- (c) **Extra-High Level (EHL)** – the amount payable is ~~₦~~100,000. These are:
- i. Ministries, Departments and Agencies (MDAs) of government;
 - ii. Micro Finance Banks;
 - iii. Higher Institutions;
 - iv. Hospitals providing tertiary or secondary medical services; and
 - v. Mortgage Banks.

(d) Apart from those mentioned in sub-paragraph 3(1)(e) above, organisations that process personal data of over One-Thousand (1,000) data subjects but less than Five-Thousand (5,000) within six (6) months are also in the category of Major Data Processing-Extra High Level (MDP-EHL).

- (e) **Ordinary High Level (OHL)** – the amount payable is ~~₦~~10,000. These are:
- i. Primary and Secondary Schools;
 - ii. Corporate Training Service Providers;
 - iii. Primary Health Centres;
 - iv. Independent Medical Laboratories;
 - v. Hotels and Guest Houses with less than fifty (50) suites; and
 - vi. Processors who process sensitive personal of more than Two-Hundred (200) data subjects for commercial purposes.

(f) Apart from those mentioned in sub-paragraph 3(1)(g) above, organisations that process personal data of over Two-Hundred (200) data subjects but less than One-Thousand (1000) within six (6) months are also in the category of Major Data Processing-Ordinary High Level (MDP-OHL).

4. **Data Controllers that are Not of Major Importance**

- a) Traders or artisans who do not transmit personal data as a trade or business object to other data controllers or processors that may process the transmitted personal data for their business goals.
- b) Traders with less than fifteen (15) employees, or Artisans who do not keep any specific filing system of personal data relating to their customers except routine phone contacts files, receipts data, contact addresses and electronic mail addresses.
- c) A Community of Friends, Professionals or People of Common Interest who interact on Social Media Platforms.

5. **Statutory Obligations on Data Controllers and Data Processors of Major Importance**

Section 29(1)(a) of the Act provides that: *where a data controller engages the services of a data processor, or a data processor engages the services of another data processor, the data controller or data processor engaging another shall ensure that the engaged data processor complies with the principles and obligations set out in this Act as applicable to the data controller.* Accordingly, it is prudent and mandatory for a data controller to ensure that those they engage as processors comply with the obligations that are applicable to the data controller.

6. **Exemption of Establishments or Organisations that are Data Controllers and Data Processors of Major Importance**

In line with section 44(6) of the NDP Act, the Commission exempts the following categories of data controllers of major importance from registration:

- a) Community-Based Associations;
- b) Faith-Based Organisations;
- c) Foreign Embassies and High Commissions;
- d) Judicial establishments or bodies carrying out adjudicatory functions; and

e) Multigovernmental Organisations.

7. Data Processing Fees

- (1) Section 6(b) of the Act provides that *the Commission shall have powers to prescribe fees payable by data controllers and data processors in accordance with data processing activities.* Accordingly, a data controller of major importance in the category of MDP-UHL shall on pay Five-Thousand-naira (₦5, 000) as data processing activities fee for each processor it engages for data processing activities within a period of twelve (12) months.
- (2) Where a data controller transfers the data processing activity of its data processor to another data processor it shall not be required to pay data processing fee for the new processor within twelve (12) calendar months.
- (3) Where a data controller pays for the renewal of registration of its data processors that are in the category of OHL, the data controller shall not be required to pay data processing fee for the same data processor.

Dated this 19th day of December, 2024.



Babatunde Bamigboye, Esq. CDPRP

Head of Legal Enforcement and Regulations

