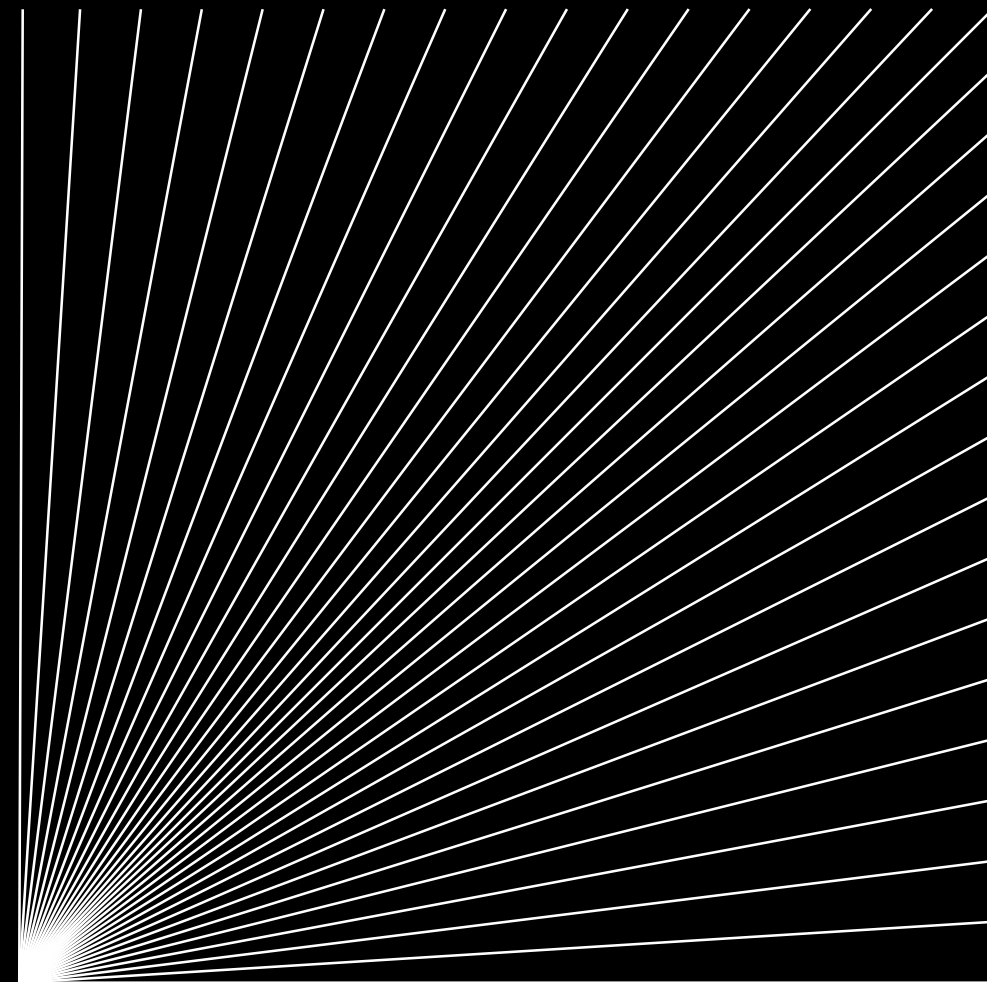


DIFC Data Protection Talks

Talk #3: Article 14 - Notifications

Date: 17 May 2022

The future is here.



What is notification to the Commissioner's Office & how do I do it?

Notification is a way of providing information not only to the Commissioner's Office of your company's processing operations, but also lets individuals know basics about your company.

The information from the information provided in the portal for notification is posted on the DIFC Public Register.

Any company that processes personal data must notify. This is a common element on most DP Laws around the world.

Article 14(7)

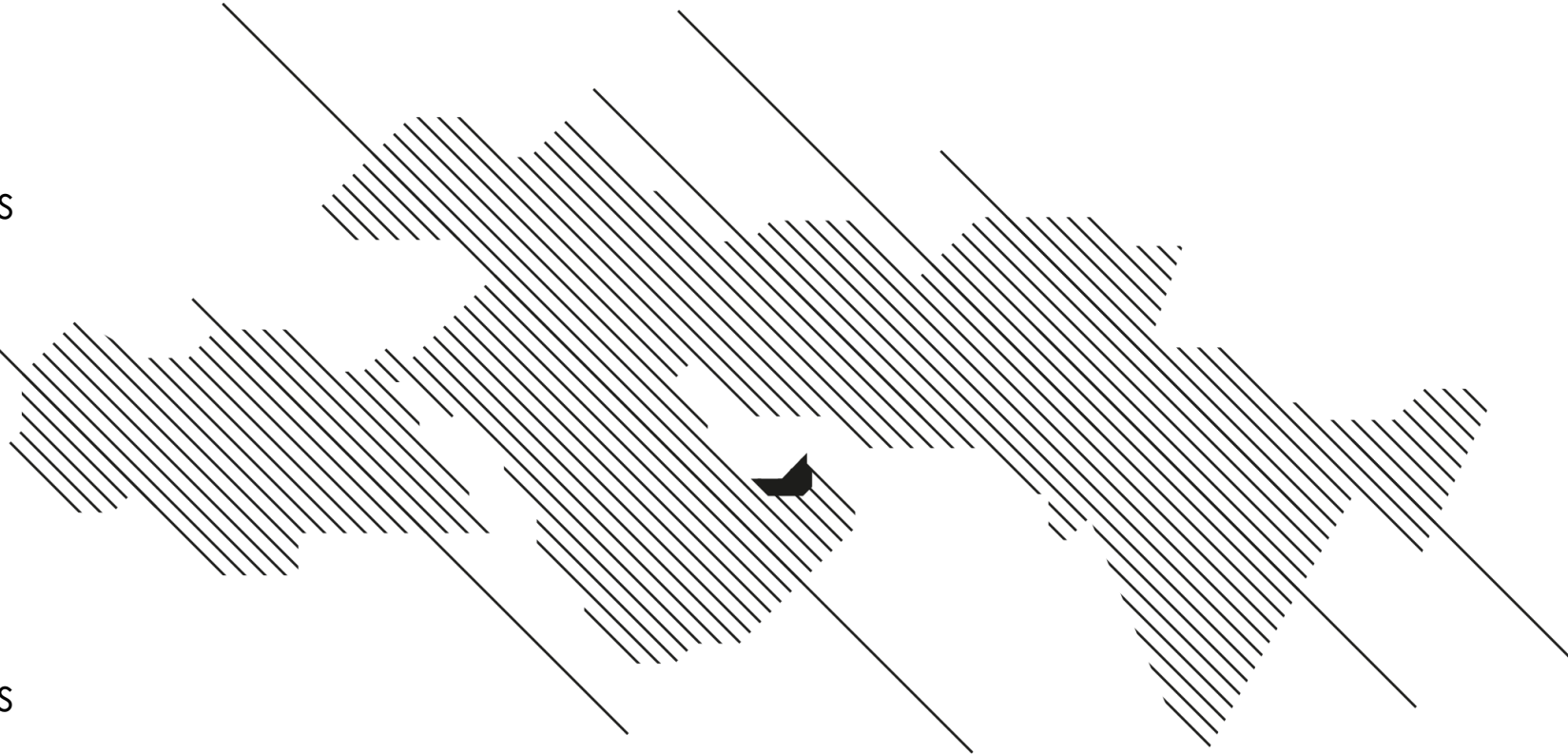
Notification is a key part of accountability of any organization.

DIFC DP Regulations

Regulation 3 sets out specific requirements, fees, and timeframe for filing notifications .

Guidance

Step by step process for notifications and related guidance is available [here](#)



What kinds of questions should we consider for notifications?



What activities does my business perform?



Where does my company collect Personal Data?



How many Processors are we sharing data with and what DP laws are in place where they operate?



Does any data leave the DIFC?

Have I evaluated the risk that processing creates regarding the personal data we store?

What are YOUR burning questions?

<p>Is there guidance on compliance with data protection laws and regulations? What are the latest updates?</p>	<p>Please look at the DIFC Guidance website. There is even a compliance checklist available.</p> <p>Always check the DIFC DP website and sub-menus such as the Guidance site above for updates. Linked In, Twitter and general email communications to portal users are all sources of updates as well.</p>
<p>How can I dispose of personal data I have collected?</p>	<p>Depends on the reason you need to “dispose” of it. If it’s a withdrawal of consent or request for cessation of processing under Article 22, consider putting the data “beyond further use” (A22(3)), or using a method that provides a certification of the cleansing of the machine, system, storage media, etc. Consider whether you need to hold on to certain data for future investigations, and always have a data retention and destruction policy in place. Guidance is available here.</p>
<p>Is a DPA mandatory when services are rendered by vendors that are registered inside or outside the DIFC?</p>	<p>Data Processing Agreements are best practice, not necessarily mandatory in every case and can be addressed in the body of a contract depending on the circumstances. Please review Articles 23 to 25 of the DP Law 2020. Where processing takes places and whether a DPA is needed should be reviewed in light of Articles 26 and 27 of the DP Law 2020, regarding export of personal data either within or outside of the DIFC.</p>
<p>Is there (or will there be) any recommendable format for Data Protection Agreement to be agreed bet DIFC registered entities?</p>	<p>The DIFC SCCs can be used as a DPA, and are written this way in the template provided by the Commissioner’s Office.</p>
<p>What agreements should we have in place between inter-group companies where data is shared (particularly if outside DIFC)?</p>	<p>Please have a look here.</p>
<p>When we collect KYC data, and share them with affiliated entities outside the UAE, what is needed to comply with the law?</p>	<p>All transfer requirements are set out in the Export and Sharing Handbook, and loads of other information is available on the Data Export and Sharing sub-menu of the DIFC DP website. Articles 26 and 27 address this – first and foremost, ensure that an appropriate mechanism is in place for the sharing, the most common being the DIFC SCCs. Please use this export and sharing assessment tool to help you determine what you need to do.</p>
<p>Why select jurisdiction(s) in the DIFC portal while renewing a business license when the reason for transfer meets the requirements?</p>	<p>Good question. The reasons for the transfer and the jurisdictions the data goes to are two separate things. While a reason for sending personal data outside the DIFC may be sufficient, there are still certain jurisdictions where, even with a DP Law in place, there may be increased risk of the data being handled properly (or not). Please see the EDMRI consultation out now (and extended for 2 weeks) for more understanding of this.</p>

What are YOUR burning questions? (/2)

How do you navigate differences between the mainland and free zone data protection regulations?	The mainland DP Law and the DIFC DP Law are rather similar. We will have to wait to see what the implementing regulations look like, but generally, if you comply with the DIFC DP Law, you could be close to overall compliance with the UAE DP Law. Definitely check on any specifics in the regulations when published and get legal advice if needed.
What are the best practices to be followed before sharing data asked or requested by Government agencies and law enforcement?	Have a look at Article 28 and the Data Export and Sharing Handbook. Generally, it is recommended to have a Government Data Sharing Policy in place, that is well trained on and understood in the business. Have an MOU template available as well, for the purposes of “written assurances”, or some other acceptable method of assuring yourselves that the business did all it can to mitigate the risk of such sharing. Follow OECD or other similar guidance as well (i.e., for ESR, CRS, etc).
What are the key elements that should be included when preparing a record of processing activities (ROPA)?	Please have a look at Article 15 and the ROPA template, available here .
What are the main data protection risk concerns for bank branches registered in the DIFC?	Main concerns will vary by company type and activity. For companies processing large volumes of information, usually processors and storage security will come into play, as well as where the data is being sent to. The biggest concern, however, is asking yourself whether your company can demonstrate that it is accountable to data subjects and transparent to regulators and data subjects. Would you be able to say with confidence that you did all you could to assess and mitigate risk, comply with notice and notification requirements, and have appropriate policies and procedures in place? If the answer is yes, you are on the right track.
Is DP Law 2020 applicable to a Single Family office with no third party contact in any way in the office?	Yes. DP Law 2020 is applicable to all entities in the DIFC and to some entities outside of the DIFC. Please review Article 6 of the DP Law 2020. Compliance requirements such as notification, impact assessments, DPO appointment, etc., are different questions that need to be addressed in the context of the amount of processing done by the SFO.
Is keeping a client's email address for communication purposes considered processing personal information?	Yes.
What are data protection obligations of a small Cat 4 firm?	Compliance is the same as for any other company in the DIFC, and must be evaluated in context of the type, amount and risk of personal data processing undertaken by the firm.
What is the criteria to appoint a Data Protection Officer or would a Distributor require to appoint a DPO?	DPOs must be appointed where high risk processing is conducted. Whether a distributor or any other company type appoints one is based on this assessment. The Commissioner’s Office is of the view that it’s always best practice. Please review the guidance on DPO appointments available here . An assessment tool is also available here .

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Contact

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