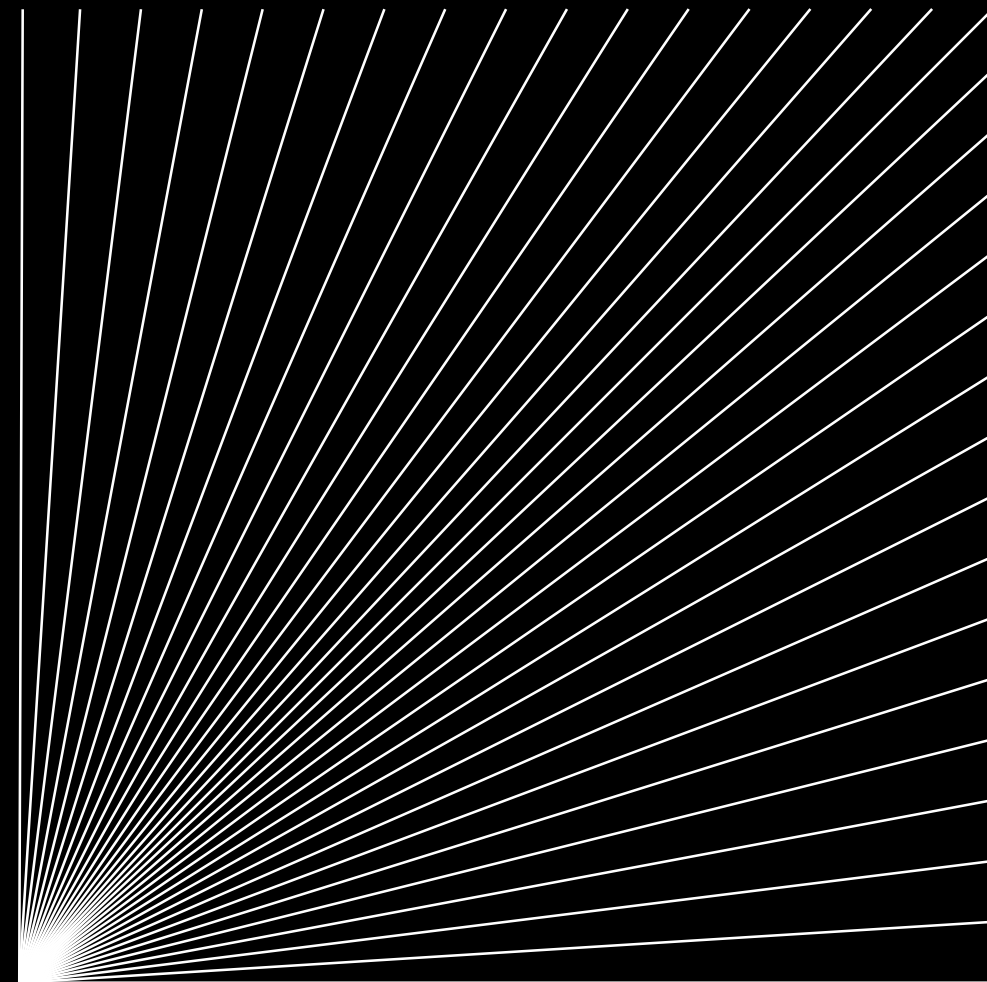


DIFC Data Protection Talks

Talk #2: DIFC DP Law Amendments
and Guidance Consultation

Date: 19 April 2022

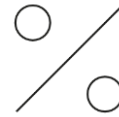
The future is here.



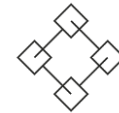
Discussion



Why was the DIFC DP Law 2020 amended?



How do the amendments impact my business?



How can we respond to the data export guidance consultation?



What are your burning questions?

Why was the DIFC DP Law 2020 amended?

As with all laws and regulations, occasionally updates are required to better clarify and address issues – especially for the protection of individuals rights and remedies.

The most significant amendments are in Article 33, to require that entities keep a register where manifestly unfounded or excessive data access requests are made.

Accordingly, the relevant DIFC guidance on individual rights and remedies has been updated.

Article 33(8-11)

Requirements set out for determining manifestly unfounded or excessive requests and the register necessary to record the use of this exception.

March 2022

Effective date of the amendments – compliance is required now.

Guidance

INDIVIDUALS' RIGHTS TO ACCESS & CONTROL PERSONAL DATA PROCESSING found [here](#)

How do the amendments impact my business?

Check the [guidance](#) – information is available to help you make reasonable decisions about what to do when a request has been made by an individual, but you believe that some sort of exemption applies, and also to tell you how to document it.

Check the [Request Response Assessment Tool](#) – this tool will help you ask the questions necessary to make these decisions if you don't know where to start or what to do.

Check your internal processes and database, all of them – go to processors, co-controllers, or any other group entity that might have the requested information and also to ascertain whether the request has been made to another part of the business.

Check yourselves – your company should have an internal policy and public-facing explanation of how to make such requests. Keep in mind that motivation for the request should not be considered, ordinarily, and you should think about the consequences of not responding or exercising an exemption or limiting an individual's rights. Cooperation is the starting point.

How can we respond to the data export guidance consultation?

The Commissioner's Office recently posted a non-legislative, consultation on guidance, to solicit feedback on a risk index that will help direct your company's international transfers decisions.

The Ethical Data Management Risk Index is similar to corruption indexes, as in it supports a transfer impact assessment (required by some jurisdictions) so you know whether additional measures will be needed to safeguard the transfer to another jurisdiction outside the DIFC. EDMRI+ will be developed to help you do your own assessment of the importing company and may be mandatory to conduct if sending to a high risk jurisdiction.

The Data Export and Sharing Handbook has been updated as well. The current draft updates are part of the consultation feedback the Commissioner's Office is seeking.

It is really important to understand what eases the compliance burden on DIFC entities, and we hope that this index is a key aid in your compliance position on international transfers. Your objective, constructive feedback is a vital part of this dialogue and resulting guidance.

Please review the consultation materials [here](#) and provide your feedback [here](#) or to commissioner@dp.difc.ae

What kinds of questions should we consider for transfers outside the DIFC?



What are “onward transfers”?



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?



What are the Schrems decisions, the EU-US Trans-Atlantic Privacy Framework and how do they impact our company’s data transfers?

What government authorities may access Personal Data my company processes?

What are YOUR burning questions?

How closely does UAE data protection law resemble the GDPR? Are there any prospects of the UAE gaining adequacy status in the EU?	The UAE DP Law contains many of the same principles and elements of the GDPR and DIFC DP Law. It is a framework law at the moment, however, and it is our understanding that the implementing regulations will provide specific details. While the Commissioner's Office cannot speak for the drafters of the UAE DP Law, it would make sense to make adequacy status a key policy objective. The relevant UAE government authorities would need to communicate these intentions, however, and at the appropriate time.
Will the mainland be an accepted jurisdiction for DIFC entities going forward?	Maybe..... our hope is that it will, sooner than later, but the remaining regulations and set up of the regulator's office needs to be completed.
Does a company need to have an annual privacy impact assessment?	The Annual DP Assessment is required for entities that have appointed a DPO. Please review the relevant guidance for further information. A DPIA, however, should be conducted by all companies as and when needed.
Would like to understand the scope of applicability of the UAE Data Protection Law in B2B organizations.	The UAE DP Law is not applicable in the DIFC. Treat it like any other third country law for ongoing compliance obligations.
Need better clarity on the DP Law please.	There is an extensive data protection website , with various sub-menus, particularly for guidance on all areas of the DP Law 2020. Please review and contact the Commissioner's Office at commissioner@dp.difc.ae for remaining questions.
How is (company) leadership is protected under data protection laws applicable in Dubai?	Company leadership, or any leadership, are individuals like anyone else, and have rights under the DP Law. With respect to compliance, the company itself is responsible – there is generally no personal liability for leadership if enforcement action is required.
What are most important changes for employers managing employee data?	Employee data is personal data and often special category data, as much as any other data is. It must be treated in line with the DP law requirements and obligations, including and especially when sharing with third parties. There is also specific guidance for companies dealing with subject access requests from employees.
Do we have an reference name for the new register required by the amendment law – the accountability register for requests?	No specific name, but it should at least be clear what the register relates to. Your suggestion sounds perfect, and perhaps we'll steal it from you.

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isn't there.

Contact

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