

INSTRUCTION

No. 20, Dated 03.08.2012

ON THE PROCESSING OF PERSONAL DATA IN THE BANKING SECTOR

Based on the letter "c," point 1 of Article 30, and the letters "ç" and "f," point 1 of Article 31 of Law no. 9887, dated March 10, 2008, "On the Protection of Personal Data," the Commissioner for the Protection of Personal Data

INSTRUCTS:

1. The purpose of this guideline is to define the rights and obligations of banking subjects, branches of foreign banks, as well as non-bank financial subjects (hereinafter referred to as "financial subjects") in the framework of processing personal data during their banking activities.
2. This guideline is applicable to all financial entities that, during their financial activities, collect, manage, and control personal data for banking and financial purposes.
3. For the purposes of this guideline, the terms used have the following meanings:
 - a) "Bank" is a legal entity with its headquarters in the territory of the Republic of Albania, which engages in banking activities and other activities, as defined by Law No. 9662, dated December 18, 2006, "On Banks in the Republic of Albania," as amended.
 - b) "Banking activities" refer to the acceptance of monetary deposits or other repayable funds from the public and the use of these funds for granting credit and for their own account.
 - c) "Financial activity" is any type of activity defined in Article 54, paragraph 2, of Law No. 9662, dated December 18, 2006, "On Banks in the Republic of Albania."
 - d) A "non-bank financial subject" is a legal entity licensed by the Bank of Albania to engage in one or more of the financial activities defined in Article 54, paragraph 2, of Law No. 9662, dated December 18, 2006, "On Banks in the Republic of Albania."
 - e) "The credit registry" has the same meaning as provided in subparagraph 44, paragraph 1 of Article 4 of Law No. 9662, dated December 18, 2006, "On Banks in the Republic of Albania."
 - f) "The data reporter," as per Article 4, paragraph b) of Decision No. 67 of the Supervisory Council of the Bank of Albania, dated October 13, 2010, "On the content of information and the functioning of the Credit Registry at the Bank of Albania," refers to all banks, branches of foreign banks, and non-bank financial entities that are licensed by the Bank of Albania and report information/data to the Credit Registry. For the purposes of implementing this Guideline, the Bank of Albania is considered a Data Reporter in the Credit Registry in relation to the loans granted to its employees in accordance with the law "On the Bank of Albania." For the functioning of the Credit Registry, other financial entities may also be Data Reporters based on agreements signed between them or their supervisory authorities and the Bank of Albania.

- g) "Personal data" refers to data defined as such in Law No. 9887, dated March 10, 2008, "On the Protection of Personal Data," as amended.
 - h) "Processing of data" means any operation related to the collection, control, processing, and transmission of personal data and information or data related to the credit status of the borrower and the creditor exposure of the banking and/or financial system.
 - i) "Consent of data subjects" is any written statement given explicitly and freely with full consent and being fully aware of the reason why the data will be processed, implying that the data subject agrees to the processing of their data.
 - j) "Negative information" refers to information regarding delays in payments by the client, whether they are monthly installments or the entire amount of the loan (principal, interest arrears, and/or fines), and any other type of obligation breach according to the loan agreement.
 - k) "Video surveillance" is the system of monitoring the environment with cameras that can capture and store images of physical individuals.
4. Banks only collect those personal data of customers and/or third parties with whom the bank enters into contractual relationships due to its commercial activities and which are necessary for carrying out the activities for which it is licensed by the Bank of Albania or to fulfill its needs as a legal entity engaged in commerce.
 5. Processing data on the legal status of clients without their consent is prohibited.
 6. The standards for obtaining consent from the client are in accordance with Article 24 of Article 3, Article 12, and Article 18 of Law No. 9887, dated March 10, 2008, "On the Protection of Personal Data," as amended.
 7. All data of data subjects processed in the Credit Registry and by banks must be accurate and updated in a manner that ensures a true reflection of the current status of the data subject.
 8. Special attention is given to the accuracy of data, especially in the case of negative information. If the registered negative information is found to be entirely or partially inaccurate or incomplete, it is officially removed and replaced with accurate data corrected by the Data Reporter.
 9. The bank takes special security measures to protect the personal data it processes. Security measures must be clear, and standard operating procedures are established for all employees. Security measures should be in line with the type and nature of the personal data being processed and the protection they require.
 10. Files created for the purpose of preventing money laundering and the financing of terrorism will be kept separate from those containing data about clients and financial services. Banks implement the highest technical and organizational security measures to safeguard these files due to the sensitive nature of the personal data they contain and the risks to which they are exposed. These security measures are necessary to prevent the unauthorized or unlawful dissemination, processing, alteration, loss, or unauthorized interference with this data.
 11. In every case of processing personal data that are part of the files created by the bank for the purpose of preventing money laundering and the financing of terrorism, the provisions of Law No. 9887, dated March 10, 2008, "On the Protection of Personal Data," as amended, are respected. Since the purpose of maintaining these files and personal data is related to

an important public interest and the prevention and prosecution of criminal activities, as defined in Article 12, paragraph 3 of the law on the protection of personal data, the data subject's right to access is limited. The consent of the data subject who is part of the files created for the purpose of preventing money laundering and the financing of terrorism is not necessary.

12. Personal data collected by banks are retained for the following periods;
 - a) At the end of the financial relationship, the client's data are blocked in the database. This blocking prevents these data from being viewed and processed by bank operators. These data can only be viewed by individuals with special status and only with the approval of the highest authority of the bank or a specifically authorized structure.
 - b) Personal data of clients are retained for up to five years after the end of the financial relationship with the client. At the end of the five-year period, the bank deletes these data from its records and both the computer and physical systems.
 - c) If, based on the current Albanian legislation, a competent authority or institution orders the retention of this data beyond the five-year period, the data will be copied into a separate database, and the security measures and retention period will be in accordance with the law under which the authority requests the non-deletion of the data.
13. The video surveillance conducted by banks is designed in a way that the camera coverage only includes and continuously monitors the external areas of the bank/branch of a foreign bank, the vicinity around generators, the area around ATMs, and the route where the transportation of monetary funds (cash) occurs. Banks provide visible notification at the entrance of the bank/branch of the foreign bank that its premises are under surveillance by cameras. This information is prepared in accordance with Annex I of this Guideline.
14. The retention period for audio-visual data collected by the bank's video surveillance system will not exceed a maximum period of 2 months.
15. In any case where the data subject claims that their rights and personal interests have been violated, they have the right to seek the intervention of the Commissioner in accordance with the provisions of the law on the protection of personal data. In case of contradiction with the provisions of other regulatory acts, the regulations of this guideline, the law on the protection of personal data, as well as the specific legislation for banks in the Republic of Albania, will prevail.
16. Banks and financial institutions are obliged to, during the exercise of their activities related to the collection, retention, processing, administration, and control of personal data, in addition to this Guideline, apply the provisions of the law on the protection of personal data, as well as the guidelines and other sub-legal acts issued by the Commissioner in its implementation.
17. Non-compliance with the requirements of this guideline constitutes a violation of the law on the protection of personal data and is subject to penalties as specified in Article 39, paragraphs 1, letters a), b), c), d), and dh/1) of that law.
18. All banks, branches of foreign banks, and non-bank financial entities that operate in the Republic of Albania are obliged to implement this guideline.

This guideline enters into force immediately and is published in the Official Journal.

COMMISSIONER
Flora Çabej (Pogaç)