

## LEGAL ALERT

# NEW REGULATORY REQUIREMENTS REGARDING TREATMENT OF PERSONAL DATA IN LIGHT OF COVID-19 PANDEMIC

May 28, 2020



Under Law no. 8/2005 (“**Data Protection Law**”), any entity or its representative carrying out treatment of personal data is required to comply with the notification obligations as stipulated in Article 21 of the Data Protection Law. This obligation can only be exempted by law or specific authorization issued by the Macau Office for Personal Data Protection (“**MDPO**”).

However, due to the COVID-19 pandemic, entities have been forced to carry out on a continued basis the treatment of personal data, specifically health-related data, in order to enhance prevention and containment measures. Due to the marked increase in the collection and treatment of this type of personal data for these purposes, the MDPO issued dispatch no. 02/GPDP/2020 (the “**Dispatch**”), along with three new authorizations, namely Authorization no. 01/2020, Authorization no. 02/2020 and Authorization no. 03/2020 (“**New Authorizations**”), allowing simplified notification procedure and even exemption of notification requirements for the treatment of specific types of personal data.

To this effect, the Dispatch and the New Authorizations were published in the Official Gazette of RAEM on April 15, 2020 and contain the following salient features:

### **EXEMPTIONS AND/OR SIMPLIFIED NOTIFICATION PROCEDURES**

Under the New Authorizations, the notification obligations of the following types of personal data treatment are **exempted** or **simplified**, depending on the circumstances:

- 1) Personal data collected for the prevention and control of infectious diseases purposes (especially related to Law no. 2/2004 “Prevention, Control and Treatment of Infectious Diseases Law”)
- 2) Biometric data collected for identification of attendance-recording purposes
- 3) Biometric data collected for identification of security purposes

Personal Data collected for Measures of Infectious Diseases Purposes (Authorization no. 01/2020)

Especially in the time of COVID-19, data subjects are required to submit personal health declaration before entry of public and private entities. For this purpose, entities collecting and treating the categories of personal data below are exempted from the existing notification obligations.

**Categories of data collected:** identity information, health data, data of entry and exit and other required information.

However, this exemption does not apply to data transferred to places **outside of Macau SAR**. In these cases, entities are required to comply with the simplified notification process (MDPO specific notification form), as stipulated in Article 9 of Authorization no. 01/2020.

Biometric Data Collected for Identification of Attendance-recording Purposes (Authorization no. 02/2020)

**Categories of data collected:** name, internal identity document number, photo, date and time of entry and exit, occupation, position, job situation and workplace.

**Categories of biometric data collected:** fingerprint or palm features; In case the entities in charge are in relation to health, social service or scientific research, face or sound features are also allowed to be collected.

Biometric Data Collected for Identification of Security Purposes (Authorization no. 03/2020)

**Categories of data collected:** name, internal identity document number, photo, date, and time of entry and exit or usage, occupation, position, job situation, workplace and other direct information that required.

**Categories of biometric data collected:** fingerprint or palm or face features; In case the entities in charge are in relation to health, social service or scientific research, or for the protection of important assets or the need of IT systems, sound features are also allowed to be collected.

Notes:

- Combination of data is **not** allowed for any of the above-mentioned data treatment.
- Consent of the data-holder shall be obtained for the collection of the two above-mentioned biometric data sets, and such collection shall not affect other administrative management, compensations, and benefits to the employees of the companies at any time.

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