

***Template***

 **RISK MANAGEMENT, DPIA**

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# INTRODUCTION

FPT Software Company, Ltd. ("FPT Software" hereinafter) Corporate Data Protection Policy, guidelines, procedures, and templates lay out strict requirements for processing personal data pertaining to customers, business partners, employees or any other individual. It meets the requirements of the European Data Protection Regulation/Directive as well as other national Data Protection Regulations and ensures compliance with the principles of national and international data protection laws in force all over the world. The policy, guidelines and templates set a globally applicable data protection and security standard for FPT Software and regulates the sharing of information between FPT Software, subsidiaries, and legal entities. FPT Software have established guiding data protection principles – among them transparency, data economy and data security – as FPT Software Personal Data Protection Handbook and ISM guidelines.

## Purpose

This template describes a structured way to execute a DPIA in compliance with the requirements of GDPR and other national/international personal data protection acts.

For further information on other aspects of data protection and compliance with the GDPR and other personal data protection acts, please refer to FPT Software Corporate Personal Data Protection Policy and Personal Data Protection Handbook V3.3.

## Application Scope

See statement\_PIMS scope\_V1.2.

## Application of national Laws

The Data Protection Policy, guidelines, procedures, and templates comprises the internationally accepted data privacy principles without replacing the existing national laws. It supplements the national data privacy laws. The relevant national law will take precedence in the event that it conflicts with the Data Protection Policy and guidelines, or it has stricter requirements than this Policy and guidelines. The content of the Data Protection Policy and guidelines must also be observed in the absence of corresponding national legislation. The reporting requirements for data processing under national laws must be observed.

Each subsidiary or legal entity of FPT Software is responsible for compliance with the Data Protection Policy, this guideline, and the legal obligations. If there is reason to believe that legal obligations contradict the duties under the Data Protection Policy or the guidelines, the relevant subsidiary or legal entity must inform the Global Data Protection Officer. In the event of conflicts between national legislation, the Data Protection Policy, and this guideline, FPT Software GDPO will work with the relevant subsidiary or legal entity of FPT Software to find a practical solution that meets the purpose of the Data Protection Policy, guidelines, and templates.

## Responsibility

The Global Data Protection Officer, appointed by the FPT Software Board Member responsible for Data Protection on behalf of the CEO of FPT Software is fully responsible.

The Global Data Protection Officer (GDPO) is an enterprise security leadership role required by the General Data Protection Regulation (GDPR) and other national/international laws/regulation.

The GDPO is responsible for overseeing data protection strategy and implementation to ensure compliance with GDPR requirements and other Personal Data Protection Acts.

The primary role of the GDPO is to ensure that organization processes, the personal data of employees, customers, providers, or any other individuals in compliance with the applicable data protection rules. GDPO should be able to perform the duties independently.

GDPO is responsible to advice, control and execute DPIA. GDPO must ensure that all departments of the company are following the company guidelines and the respective laws.

GDPO must inform FPT Software board about DPIA results and measures taken to mitigate risks.



More details in Guideline\_Personal Data Protection Organization\_V3.3.

# GUIDELINE CONTENT

This template is an example to record our DPIA process and outcome. It follows the process set out in our DPIA guidance and the criteria for an acceptable DPIA set out in European guidelines on DPIAs.

Use this template at the beginning of any major project involving the use of personal data, or if you are making a significant change to an existing process.

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| --- |
| 1. Identify, if a DPIA is needed
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| Explain broadly what the project aims to achieve and what type of processing it involves. It can be helpful to refer or link to other documents, such as a project proposal. Summarize why you identified the need for a DPIA.  |
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| 2. Describe precise the processing  |

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| Description of the nature of the processing: How are data collected, used, stored, and deleted? What is the source of the data? Data are shared with anyone. It can be useful to refer to a flow diagram or another way of describing data flows. Types of processing identified as likely high risk. |
|  |
| Description of the scope of the processing: What is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? Retention period? How many individuals are affected? What geographical area does it cover?  |
| Description of the context of the processing: What is the nature of the relationship with the individuals? How much control will they have? Would they expect you to use their data in this way? Do they include children or other vulnerable groups? Are there prior concerns over this type of processing or security flaws? Is it novel in any way? What is the current state of technology in this area? Are there any current issues of public concern to factor in? Are there any approved code of conduct or certification scheme (once any have been approved)? ISO27701, P-Mark, HITRUST? |
|  |
| Description of the purposes of the processing: What do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing?  |
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| If there is an international data transfer included, describe the chosen ‘Appropriate Safeguards’. |

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| 3. Consultation Process |
| Consider how to consult with relevant stakeholders: Description of when and how to seek individuals’ views – or justification why it’s not appropriate to do so. Who else do you need to involve within your organization? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts? Also Support by FSU/BU, Nearshore center, OB, customer, 3rd parties. |
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| 4. Assess necessity and proportionality  |
| Description of compliance and proportionality measures, in particular: lawful basis for processing. Does the processing actually achieve the purpose? Is there another way to achieve the same outcome? How to prevent function creep? How to ensure data quality and data minimization? Information to individuals? How to support data subject rights? What measures do you take to ensure processors comply? Safeguard for any international transfers?  |
|  |
| 5. Identify and assess risks |

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| --- | --- | --- | --- |
| Description of the source of risk and nature of potential impact on individuals. Include associated compliance and corporate risks as necessary.  | Likelihood of harm (Remote, possible, or probable) | Severity of harm (Minimal, significant, or severe) | Overall risk(Low, medium, or high) |
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| 6. Identify measures to mitigate/reduce risks  |
| Identification of additional measures can be taken to reduce or eliminate risks identified as medium or high risk in no. 5 |

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| --- | --- | --- | --- | --- |
| Risk | Options to reduce or eliminate risk  | Effect on Risk(Eliminated, reduced, or accepted) | Residual Risk (Low, medium, or high) | Measure approved (Yes/No) |
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| --- |
| 7. Sign Off, Records Outcomes  |
| Item | Name/Date | Notes |
| Measures approved by: |  | Integrate actions back into project plan, with date and responsibility for completion |
| Residual risks approved by: |  | If accepting any residual high risk, consult the Supervisory authorities (e.g., ICO) before going ahead |
| GDPO advice provided: |  | GDPO should advise on compliance, step 6 measures and whether processing can proceed |
| Summary of GDPO advice: |
| GDPO advice accepted or overruled by:  |  | If overruled, explanation of reasons  |
| Comments: |
| Consultation responses reviewed by:  |  | If the decision departs from individuals’ views, explanation of reasons  |
| Comments: |
| This DPIA will be kept under review by:  |  | GDPO should also review ongoing compliance with DPIA  |

# APPENDIXES

## Definition

| **Abbreviations** | **Description** |
| --- | --- |
| PII, Personal Identifiable Information,Personal Data | Refer to the personal data defined by the EU GDPR (Article 4 (1)),‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. |
| Data Subject | EU GDPR (Article 4 - 1),Data subject refers to any individual person who can be identified, directly or indirectly. |
| Data Controller | EU GDPR (Article 4 - 7),Data Controller means the natural or legal person, public authority, agency or anybody which alone or jointly with others, determines the purpose and means of processing of personal data; where the purpose and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law. |
| Data Processor | EU GDPR (Article 4 - 8),Data Processor means a natural or legal person, public authority, agency or anybody which processes data on behalf of the controller. |
| Recipient  | EU GDPR (Article 4 - 9),A natural or legal person, public authority, agency or anybody, to which the personal data are disclosed, whether third party or not. |
| Third Party | EU GDPR (Article 4 - 10),A natural or legal person, public authority, agency or anybody other than the data subject, controller, processor and persons who under direct authority of controller or processor, are authorized to process personal data |
| DPO/GDPO | Data Protection Officer/Global Data Protection Officer |
| DPIA | Data Protection Impacted Assessment |
| PIMS | Personal Information Management System |
| EU | European Union |

## Related Documents

| **No** | **Code** | **Name of documents** |
| --- | --- | --- |
| 1 | EU GDPR | EU General Data Protection Regulation |
| 2 | 95/46/EC | EU Data Protection Directive 95/46/EC |
| 3 | Privacy shield | EU-U.S. and Swiss-U.S. Privacy Shield Frameworks designed by the U.S. Department of Commerce and the European Commission and Swiss Administration to provide companies on both sides of the Atlantic with a mechanism to comply with data protection requirements when transferring personal data from the European Union and Switzerland to the United States in support of transatlantic commerce. |
| 4 | APPI | Act on the Protection of Personal Information, Japan.It came into force on 30 May 2017.   |
| 5 | PDPA | Personal Data Protection Act 2012, Singapore |
| 6 | PDPO | Personal Data (Privacy) Ordinance, Hongkong, 2012 |
| 7 | PIPA | South Korea’s substantial Personal Information Protection Act (PIPA) was enacted on Sept. 30, 2011 |
| 8 | PIPEDA | Personal Information Protection and Electronic Documents Act, Canada 2018 |
| 9 | Privacy Act, APPs, CDR | Privacy act Australia including Australian Privacy Principles, Consumer Data Right |
| 10 | HITRUST | Health Information Trust Alliance (CSF, Common Security Framework) |
| 11 | HIPAA | Health Insurance Portability and Accountability Act of 1996 (HIPAA), US |
| 12 | PCI DSS | Payment Card Industry Data Security Standard, May 2018 |
| 13 | CCPA | California Consumer Privacy Act of 2018, Cal. Civ. Code §§ 1798.100 et seq. |
| 14 | PDPL, UAR  | Decree-Law No. 45 of 2021 |
| 15 | DPA Philippines | Republic Act 10173, Data privacy Act 2012 |
| 16 | PIPL | Personal Information Protection Law of the People’s Republic of China and related laws and regulations |
| 17 | PDPA Malaysia  | Personal Data Protection Act 2010, Malaysia |
| 18 | TISAX | Trusted information security assessment exchange |
| 19 | BS10012: 2017 | British Standard Personal Information Management System  |
| 20 |  | Vietnamese laws on Privacy:- Article 21 of the 2013 Constitution- Article 38 of the Civil Code 2015- Article 125 of the Penal Code- Clause 2 of Article 19 of the Labor CodeDecree of the Vietnamese Government: Nghị Định Quy Định Về Bảo Vệ Dữ Liệu Cá Nhân Still not in force |
| 21 | FPT Software Personal Data Protection Handbook | PDP\_ Handbook\_Version\_V3.3 |

## 3.3 Data Protection Law, Vietnam, Overview

There is no single data protection law in Vietnam. Regulations on data protection and privacy can be found in various legal instruments. The right of privacy and right of reputation, dignity and honour and fundamental principles of such rights are currently provided for in Constitution 2013 (“**Constitution**”) and Civil Code 2015 (“**Civil Code**”) as inviolable and protected by law.

Regarding personal data, the guiding principles on collection, storage, use, process, disclosure or transfer of personal information are specified in the following main laws and documents:

* **Criminal Code** No. 100/2015/QH13, passed by the National Assembly on 27 November 2015
* Law No. 24/2018/QH14 on Cybersecurity, passed by the National Assembly on 12 June 2018 (“**Cybersecurity Law**”);
* Law No. 86/2015/QH13 on Network Information Security, passed by the National Assembly on 19 November 2015; as amended by Law No. 35/2018/QH14 dated 20 November 2018, on amendments to some articles concerning planning of 37 Laws (“**Network Information Security Law**”);
* Law No. 59/2010/QH12 on Protection of Consumers’ Rights, passed by the National Assembly on 17 November 2010; as amended by Law No.35/2018/QH14 dated 20 November 2018, on amendments to some articles concerning planning of 37 Laws (“**CRPL**”);
* Law No. 67/2006/QH11 on Information Technology, passed by the National Assembly on 29 June 2006; as amended by Law No. 21/2017/QH14 dated 14 November 2017 on planning (“**IT Law**”);
* Law No. 51/2005/QH11 on E-transactions, passed by the National Assembly on 29 November 2005 (“**E-transactions Law**”);
* Decree No. 85/2016/ND-CP dated 1 July 2016, on the security of information systems by classification (“**Decree 85**”);
* Decree No. 72/2013/ND-CP dated 15 July 2013 of the Government, on management, provision and use of Internet services and online information; as amended by Decree No. 27/2018/ND-CP dated 1 March 2018 and Decree No.150/2018/ND-CP dated 7 November 2018 (“**Decree 72**”);
* Decree No. 52/2013/ND-CP dated 16 May 2013 of the Government; as amended by Decree No. 08/2018/ND-CP dated 15 January 2018, on amendments to certain Decrees related to business conditions under state management of the Ministry of Industry and Trade and Decree No. 85/2021/ND-CP dated 25 September 2021 (“**Decree 52**”);
* Decree No. 15/2020/ND-CP of the Government dated 3 February 2020 on penalties for administrative violations against regulations on postal services, telecommunications, radio frequencies, information technology and electronic transactions (“**Decree 15**”);
* Circular No. 03/2017/TT-BTTTT of the Ministry of Information and Communications dated 24 April 2017 on guidelines for Decree 85 (“**Circular 03**”);
* Circular No. 20/2017/TT-BTTTT dated 12 September 2017 of the Ministry of Information and Communications, providing for Regulations on coordinating and responding to information security incidents nationwide (“**Circular 20**”);
* Circular No. 38/2016/TT-BTTTT dated 26 December 2016 of the Ministry of Information and Communications, detailing cross-border provision of public information (“**Circular 38**”);
* Circular No. 24/2015/TT-BTTTT dated 18 August 2015 of the Ministry of Information and Communications, providing for the management and use of Internet resources, as amended by Circular No. 06/2019/TT-BTTTT dated 19 July 2019 (“**Circular 25**”); and
* Decision No. 05/2017/QD-TTg of the Prime Minister dated 16 March 2017 on emergency response plans to ensure national cyber-information security (“**Decision 05**”).

Applicability of the legal documents will depend on the factual context of each case, e.g businesses in the banking and finance, education, healthcare sectors may be subject to specialized data protection regulations, not to mention to regulations on employees’ personal information as provided in Labour Code 2019 (“**Labour Code**”).

The most important Vietnamese legal documents regulating data protection are the Cybersecurity Law and Network Information Security Law. Cybersecurity laws in other jurisdictions that were inspired by the GDPR of the EU, the Cybersecurity Law of Vietnam shares similarities with China’s Cybersecurity Law enacted in 2017. The law focuses on providing the government with the ability to control the flow of information. The Network Information Security Law enforces data privacy rights for individual data subjects.

A draft Decree detailing a number of articles of the Cybersecurity Law (“**Draft Cybersecurity Decree**”), notably including implementation guidelines for data localization requirements, together with a draft Decree detailing the order of and procedures for application of a number of cybersecurity assurance measures and a draft Decision of the Prime Minister promulgating a List of information systems important for national security, are being prepared by the Ministry of Public Security (“**MPS**”) in coordination with other relevant ministries, ministerial-level agencies and bodies.

MPS has drafted a Decree on personal data protection (“**Draft PDPD**”), which is contemplated to consolidate all data protection laws and regulations into one comprehensive data protection law as well as make significant additions and improvements to the existing regulations. The Draft PDPD was released for public comments in February 2021 and was originally scheduled to take effect by December 2021. The Finalization process consuming much more time than the MPS first anticipated. The Draft PDPD might be finalized and coming in force end of 2022.