

## Avior Capital Markets International Limited

### **Important information**

In line with Article 24 GDPR (EU) 2016/679, taking into account the nature, scope, context and purposes of processing as well as the risks to the rights and freedoms of natural persons, Avior Capital Markets International Limited have implemented appropriate technical and organisational measures to ensure pursuance to the General Data Protection Regulation (GDPR). This policy stands as the cornerstone to Avior Capital Markets International Limited's compliance with the GDPR and is reviewed and updated accordingly.

Review date: 12 June 2020

Board approval:

Next review date: 12 June 2021

The EU General Data Protection Regulation (GDPR) replaces the Data Protection Directive 95/46/EC and was designed to harmonize data privacy laws across Europe, to protect and empower all EU citizens' data privacy and to reshape the way organizations across the region approach data privacy.

In line with Article 5 of the GDPR, Avior Capital Markets International Limited must conform to the following principles at all times.

<p><b>1. Lawfulness, fairness and transparency</b></p>	<p>Personal data shall be processed lawfully, fairly and in a transparent manner in relation to the data subject.</p>
<p><b>2. Purpose limitation</b></p>	<p>Personal data shall be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes.</p>
<p><b>3. Data minimisation</b></p>	<p>Personal data shall be adequate, relevant and limited to what is necessary in relation to the purposes for which it is processed.</p>
<p><b>4. Accuracy</b></p>	<p>Personal data shall be accurate and, where necessary, kept up to date.</p>
<p><b>5. Storage limitation</b></p>	<p>Personal data shall be kept in a form which permits identification of data subjects for no longer than is necessary for the purposes for which the personal data is processed.</p>
<p><b>6. Integrity and confidentiality</b></p>	<p>Personal data shall be processed in a manner that ensures appropriate security of the personal data, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.</p>
<p><b>7. Accountability</b></p>	<p>The controller shall be responsible for, and be able to demonstrate compliance with the GDPR.</p>

Avior Capital Markets International Limited is at all times responsible for, and able to demonstrate compliance with the aforementioned principles.

Compliance monitoring

In order to maintain a high level of compliance in relation to the rules stipulated within this policy, Avior Capital Markets International Limited carries out an annual Data Protection compliance audit. Conducting a thorough diagnostic audit allows Avior Capital Markets International Limited to recognise any deficiencies or areas for improvement; upon mitigation, ensuring total compliance to the GDPR. Examples of the areas covered within an audit include:

- (a) Data protection governance, and the structures, policies and procedures to ensure GDPR compliance
- (b) The processes for managing both electronic and manual records containing personal data
- (c) The processes responding to any request for personal data
- (d) The technical and organisational measures in place to ensure that there is adequate security over personal data
- (e) The provision and monitoring of staff data protection training and the awareness of data protection
- (f) Data audit as per Appendix 2

#### Data subject rights and requests

The GDPR provides the following rights for individuals:

1. The right to be informed
2. The right of access
3. The right to rectification
4. The right to erasure
5. The right to restrict processing
6. The right to data portability
7. The right to object
8. Rights in relation to automated decision making and profiling.

Avior Capital Markets International Limited have in place adequate systems and controls to enable and facilitate the application of the eight data subject rights listed above.

When a data subject makes a request Avior Capital Markets International Limited will embark on a pragmatic decision-making process headed up by Alex Naicker.

Unless Avior Capital Markets International Limited deem requests to be excessive or unnecessary in their nature, no fee will be charged to the data subjects for considering and/or complying with requests.

#### Rights to access

All requests of this nature should be referred to the compliance department. Avior Capital Markets International Limited will respond to requests within 30 days.

The data subject has the right to obtain the following information from Avior Capital Markets International Limited:

- (a) The purposes of the processing
- (b) The categories of personal data concerned
- (c) The recipients or categories personal data stored for the data subject

- (d) The envisaged period for which the personal data will be stored, or, if not possible, the criteria used to determine that period
- (e) The use of any automated decision-making e.g. profiling

When requested, Avior Capital Markets International Limited shall provide a copy of the personal data held. For any further copies requested by the data subject, Avior Capital Markets International Limited may charge a reasonable fee based on administrative costs. Where requests are made via electronic means, Avior Capital Markets International Limited shall provide the data in a commonly used electronic form.

#### Right to rectification

Avior Capital Markets International Limited will ensure all data subjects are able to exercise their right to obtain from the firm without undue delay the rectification of inaccurate personal data concerning him or her.

#### Right to erasure

Without undue delay Avior Capital Markets International Limited will erase personal data of a data subject where requested, and where one of the following grounds applies.

- (a) The personal data is no longer necessary in relation to the purposes for which it was collected or otherwise processed
- (b) The data subject withdraws consent which the processing is based on, and where there is no other legal ground for the processing
- (c) The data subject objects to the processing and there are no overriding legitimate grounds for the processing, or where the data subject objects to processing
- (d) The personal data has been unlawfully processed
- (e) The personal data has to be erased compliant with a legal obligation in the member state law
- (f) The personal data have been collected in relation to the offer of information society services

Article 17 3 (b) GDPR, states that the right to erasure is disapplied where the firm must retain data in order to comply with other applicable regulation. The regulations in Avior Capital Markets International Limited's case are, The Money Laundering Regulations requirement for firms to hold KYC data for 5 years, and MiFID II Article 16 requirements on record keeping. This is referred to in Avior Capital Markets International Limited's privacy notice. Avior Capital Markets International Limited shall also hold personal data for as long as is required to fulfil their contractual and statutory duties.

#### Right to restrict processing

Avior Capital Markets International Limited will cease processing of personal data in the following circumstances:

- (a) Where an individual contests the accuracy of the personal data, Avior Capital Markets International Limited will restrict the processing until the accuracy of the data is verified
- (b) Where an individual has objected to the processing and the firm are considering whether we have legitimate grounds to override those of the individual
- (c) When processing is found to be unlawful and the individual opposes erasure and requests a restriction instead

- (d) If we no longer need the data but the individual requires the data to establish, exercise of defend a legal claim

#### Right to data portability

The right to portability only applies:

- (a) To personal data an individual has provided to a controller
- (b) Where the processing is based on the individual's consent or for the performance of a contract
- (c) When processing is carried out by automated means

To comply, Avior Capital Markets International Limited must:

- (a) Provide the personal data in a structured, commonly used and machine readable format.
- (b) Provide the data free of charge (unless excessive or unnecessary)
- (c) If requested and technically feasible, transmit the data directly to another organisation.
- (d) Consider possible prejudice of the rights of individuals, where the personal data concerns more than one individual

#### Lawful basis for processing

Avior Capital Markets International Limited ensures that at all times there will be a lawful basis for gathering personal data, this will be disclosed in Avior Capital Markets International Limited's privacy notice. The following circumstances set out the lawful bases for processing personal data. At least one of these must apply whenever Avior Capital Markets International Limited processes personal data:

- a) The individual has given clear consent for Avior Capital Markets International Limited to process their personal data for a specific purpose
- b) The processing is necessary for a contract Avior Capital Markets International Limited has with the individual, or because they have asked Avior Capital Markets International Limited to take specific steps before entering into a contract
- c) The processing is necessary for Avior Capital Markets International Limited to comply with a legal obligation
- d) The processing is necessary in order to protect the vital interests of the individual
- e) The processing is necessary in order for Avior Capital Markets International Limited to perform a task in the public interest or for Avior Capital Markets International Limited's official functions, and the function's task has a clear basis in law
- f) It is necessary for the legitimate interests or the legitimate interests of a third party unless there is a good reason to protect the individual's personal data which overrides those legitimate interests.

Individuals have the right to withdraw consent at any time, and it must be as easy to withdraw as it was to give consent. The withdrawal of consent shall not affect the lawfulness of processing based on consent before its withdrawal.

#### Consent

Consent is one of the six lawful basis for processing, no single basis is better or more important than the others. At least one lawful basis must apply in order to carry out processing activities. Where consent is the lawful basis relied upon, it must be given by a clear affirmative act, which establishes freely given, specific, informed and unambiguous indication of the data subject's agreement to the processing of their data. Avior Capital Markets International Limited will obtain consent via a written statement, by electronic means, or an oral statement.

Avior Capital Markets International Limited rely on the following lawful bases in order to carry out their processing activities:

- Processing is necessary for the performance of a contract with you or to take steps to enter into a contract to conduct regulated activities; and
- Processing is necessary for compliance with a legal obligation

Avior Capital Markets International Limited will at all times ask existing clients to provide fresh consent when personal data will be used for a new purpose.

In cases where Avior Capital Markets International Limited would send out marketing messages, they will also ensure that the recipients of those messages have provided consent and have opted-in to receiving marketing messages.

Avior Capital Markets International Limited request, manage and record consent pursuant to Articles 5, 6, 7 and 9 of GDPR.

- (a) Avior Capital Markets International Limited check that consent is the most appropriate lawful basis for processing
- (b) Avior Capital Markets International Limited make the request for consent prominent and separate from our terms and conditions
- (c) Avior Capital Markets International Limited request a positive opt in
- (d) Avior Capital Markets International Limited do not use pre-ticked boxes or any other type of default consent
- (e) Avior Capital Markets International Limited use clear, plain language that is easy to understand
- (f) Avior Capital Markets International Limited specify why we want the data and its purpose
- (g) Avior Capital Markets International Limited provide granular options to consent separately to different purposes and types of processing
- (h) Avior Capital Markets International Limited name our organisation and any third party controllers who will be relying on our consent
- (i) Avior Capital Markets International Limited ensure that individuals can refuse to consent without detriment
- (j) Avoid making consent a precondition of service

Avior Capital Markets International Limited record when and how the firm obtained consent from individuals. The firm also keep a record of the exact information originally provided.

Exercises Avior Capital Markets International Limited may carry to ensure the appropriate management of consent include the following.

- (a) Avior Capital Markets International Limited regularly review consents to check that the relationship, the processing and the purposes have not changed
- (b) Avior Capital Markets International Limited have processes in place to refresh consent at appropriate intervals, including any parental consents
- (c) Avior Capital Markets International Limited consider using privacy dashboards or other preference-management tools as a matter of good practice
- (d) Avior Capital Markets International Limited make it easy for individuals to withdraw their consent at any time, and publicise how this is done
- (e) Avior Capital Markets International Limited act on withdrawals of consent as soon as possible
- (f) Avior Capital Markets International Limited do not penalise individuals who wish to withdraw consent

Avior Capital Markets International Limited will not infer consent from silence or inactivity. Where a data subject's consent is to be given following a request by electronic means, Avior Capital Markets International Limited will ensure the request is clear, concise and not unnecessarily disruptive to the use of the service for which it is provided.

#### Data privacy by design

Avior Capital Markets International Limited have in place technical and organisational measures which integrate data protection into processing activities.

Privacy and data protection is a key consideration in the early stages of any project Avior Capital Markets International Limited undertakes

For example, when:

- (a) Building new IT systems for storing or accessing personal data
- (b) Developing legislation, policy or strategies that have privacy implications
- (c) Embarking on a data sharing initiative
- (d) Using data for new purposes

Privacy and data protection considerations will be integrated into Avior Capital Markets International Limited's risk management methodologies and policies.

#### Data protection impact assessments (DPIA)

Avior Capital Markets International Limited will carry out a DPIA where data processing is likely to result in high risk to individuals, for example:

- (a) Where a new technology is being implemented
- (b) Where a profiling operation is likely to significantly affect individuals
- (c) Where there is large scale processing of special categories of data

In assessing the level of risk Avior Capital Markets International Limited will consider both the likelihood and severity of any impact to individuals concerned.

Avior Capital Markets International Limited ensure that there is a sound understanding of DPIA amongst certain members of the firm.

- (a) Avior Capital Markets International Limited provide training so that all staff understand the need to consider a DPIA at the early stages of any plan involving personal data
- (b) Avior Capital Markets International Limited's existing policies, processes and procedures include references to DPIA requirements, where applicable
- (c) Avior Capital Markets International Limited understand the types of processing that requires a DPIA
- (d) Avior Capital Markets International Limited will create and document a robust DPIA process
- (e) Avior Capital Markets International Limited will provide training for relevant staff on how to carry out a DPIA

### Breach Reporting

In the case of a personal data breach, Avior Capital Markets International Limited shall without undue delay, and where practicable, notify the ICO not later than 72hours after having become aware of the breach. This is not required, where the breach will not likely result in a risk to the rights and freedoms of natural persons. Where the notification is not made with 72 hours Avior Capital Markets International Limited must provide a valid reason for the delay. ICO contact details can be found in Appendix 1.

Notifications made by Avior Capital Markets International Limited shall at least:

- (a) Describe the nature of the personal data breach
- (b) Communicate the name and contact details of the relevant department handling the data breach.
- (c) Describe the likely consequences of the personal data breach
- (d) Describe the measure taken or proposed to be taken by Avior Capital Markets International Limited to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects

Where the personal data breach is likely to result in a high risk to the rights and freedoms of subjects, Avior Capital Markets International Limited shall communicate the data breach to the data subject without undue delay.

Avior Capital Markets International Limited shall communicate the matter to the data subject in clear and plain language the nature of the personal data breach, detailing at least the information in points (b), (c) and (d) as above.

### Record keeping

Avior Capital Markets International Limited employ fewer than 250 people, and so, Article 30 GDPR is technically not applicable. That being said, due to the other data monitoring requirements dictated by GDPR and for best practice, Avior Capital Markets International Limited will maintain a record of processing activities under its responsibility. That record shall contain the following information:

- (a) The name and contact details of the controller
- (b) The purposes of the processing
- (c) A description of the categories of data subjects and of the categories of personal data
- (d) The recipients to whom the personal data has been or will be disclosed including recipients in third counties or international organisations

- (e) Where applicable, transfers of personal data to a third country or international organisation, including the identification of that third country or international organisation
- (f) Where possible, the envisaged time limits for erasure of the different categories of data
- (g) Where possible, a description of the technical and organisation measures referred to in Article 32 (1)

Avior Capital Markets International Limited keeps records in writing, and in electronic format.

If requested by the FCA/ICO, Avior Capital Markets International Limited will make records available immediately.

Complaints handling

Upon receipt of a data subject complaint Avior Capital Markets International Limited will internally investigate the issue. Avior Capital Markets International Limited will inform the data subject of progress and eventually the outcome of the complaint. This must be communicated within a reasonable period.

Where the issue cannot be resolved between the data subject and Avior Capital Markets International Limited, they may choose to seek redress through mediation, litigation procedure or via complaint to the ICO. Avior Capital Markets International Limited must inform data subjects of their right to complain directly to the ICO.

**Appendix 1.**

<b>Personal data</b>	Any information (including opinions and intentions) which relates to an identified or identifiable natural person
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<b>Data controller</b>	A natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data
<b>Data subject</b>	The identified or identifiable natural person to which the data refers
<b>Consent</b>	Any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her
<b>International organisation</b>	An organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries.
<b>ICO</b>	Data protection supervisory authority: Information Commissioner's Office Telephone: 03031-231-113 Opening hours: Monday to Friday 9am- 5pm

## Appendix 2.

### Monitoring Data checklist

Details of the data held by Avior Capital Markets International Limited	Email addresses, Physical addresses and telephone and fax numbers
Reason for holding that data	Received from clients directly or obtained from Regulators.
Methods for obtaining that data	Email, Internet and mail.
Date that the data was obtained	Whenever initial contact was made with the clients, varies.
Individuals responsible for the data	Alex Naicker and Johan Van Heerden
Data storage	Mimecast for Email and physical documents are stored in folders. Our servers also store some client details.
Data retention	Held as long as is required for Avior to fulfil it's contractual and statutory duties.
Data deletion methodology	Peter Koutromanos can delete in Mimecast and Alex Naicker can delete physical and any data stored on the server.

Signatures