

The General Data Protection Regulation (GDPR) – What is it and what does it mean for your firm?

Who is affected?

Fund Managers and Private Equity Firms.

Summary

The General Data Protection Regulation (GDPR) will be directly applicable in the UK and create additional obligations to firms alongside the Data Protection Act 1998 (DPA). It is important that firms understand their new obligations under GDPR, which will take effect on 25 May 2018. Although the UK is leaving the European Union, the government has confirmed that Brexit will not affect its implementation.

Implications for Fund Managers and Private Equity Firms

The revised regulations place a key focus on Territorial Scope, Penalties, Data Protection Officers, Breach Reporting and more:

- Greater focus on Territorial Scope, GDPR expands the reach of the European Data Protection Legislation to data controllers and processors who offer services inside the EU (even if based outside of it).
- Organisations do not have to notify authorities of data processing but are required to retain records of data processing activities (subject to limited exceptions for SMEs).
- Organisations will be regulated by a single regulator in the place of their main establishment. This means that if a firm operates across multiple member states, they will be supervised by and report to, one 'lead' regulator.
- The GDPR significantly raises the stakes with regard to compliance, with maximum penalties of 4% annual global turnover or up to €20m (whichever is higher).
- Organisations, without undue delay, are expected to contact their Data Protection Authorities (in the UK the Information Commissioners Office) within 72 hours (where feasible) of becoming aware of any data protection breaches.
- Private Equity Firms should be aware that Data Protection Impact Assessments (DPIAs) will now be required to assess the risk levels for the rights and freedom of individuals. If the DPIA reveals a significant risk, organisations must consult with their regulator before beginning the process.
- Fund Managers should understand the updates to Data Subject Rights as the GDPR contains new rights around data portability, the right to be forgotten and to prevent profiling.

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Further information:

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This is what you need to do

With a significant rise in penalties for regulatory violation, there is a greater need for Fund Managers and Private Equity firms to update their policies and procedures in line with GDPR. Strategic planning should be implemented to ensure the transition to the updated regulations do not affect core business operations. In particular, the following should be considered:

- Clear policies and procedures to ensure any data breaches are notified within 72 hours.
- Ensure there is a culture of accountability. This may involve appointing a data protection officer, monitoring and reviewing the effectiveness of data processing procedures and training all staff in their obligations.
- Ensure that fully informed consent is obtained before processing personal data and if possible, have this in writing. Data subjects have the right under GDPR to request that their personal data is removed, for example, when the data is no longer necessary for the purpose it was collected. Therefore, document any reasons for its retention.

Timeline

GDPR will be implemented on 25 May 2018. Firms should begin to review their data protection policies as soon as possible ready for implementation.

How we can help?

Lawson Conner has worked extensively with our clients to assess the impact of regulatory change. We would be delighted to discuss how we can help Fund Managers and Private Equity Firms meet these new challenges. Lawson Conner's team of compliance professionals can assist you at every stage as you seek to comply with the new regulatory obligations.

About Lawson Conner

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Lawson Conner offers customised solutions in the areas of Fund Structuring, Compliance Advisory, Global Regulatory Infrastructure, Fund Distribution, Regulatory Hosting, Appointed Representative Services and ManCo Services.

As a reliable and trusted partner, we create long term value by working with passion, expertise and unparalleled commitment to the industry and our clients.



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