

BICSMA´S

DATA SUBJECT RIGHTS POLICY

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*Note*

*This publication is educational material and does not constitute legal advice. For full information and guidance, please seek professional legal advice.*

# 1. Data subject rights

Bicsma processes personal data about individuals (this includes the personal data of customers, contacts, employees and others). All individuals whose personal data are processed (data subjects) enjoy specific rights (data subject rights) under the applicable data protection laws. Bicsma’s data subjects may exercise their data subject rights by contacting Bicsma and submitting a data subject request.

**The data subject’s rights include:**

1.1 Access: obtaining a copy of the data subject’s personal data processed by Bicsma;

1.2 Erasure of the data subject’s personal data processed by Bicsma (this right is often referred to as "the right to be forgotten");

1.3 Object to the processing of the data subject’s personal data by Bicsma;

1.4 Rectification (correction) of the data subject’s personal data processed by Bicsma;

1.5 Restriction of the processing of the data subject’s personal data by Bicsma;

1.6 Portability: obtaining a copy of the data subject’s personal data processed by Bicsma with the aim of transferring the data to another entity;

1.7 Excluding the individual from automated decision-making by Bicsma or requesting human intervention; and

1.8 Removing the individual from any direct marketing by Bicsma.

The next section describes how Bicsma as a data controller (the entity which determines the purposes and means of the personal data processing) will respond to data subject requests.

# 2. Responsibility to respond to a data subject request

2.1 The data controller of an individual's personal data is primarily responsible for responding to a data subject request. Under the applicable data protection laws, the controller must facilitate the exercise of data subject rights. Therefore, Bicsma will assist all data subjects in exercising the rights listed in the previous section.

2.2 At present, Bicsma does not offer products and services for which it would assume the role of processor. If such products or services are offered in the future, Bicsma will promptly inform the data controller of any data subject request and provide reasonable assistance to help the data subject to exercise their rights in accordance with the data controller's duties under the applicable data protection laws.

# 3. Personal data Bicsma shares with third parties

3.1 Where Bicsma has shared the personal data with any other parties (collectively referred to as “recipients”), Bicsma is obliged to inform those parties of any accepted data subject request. This applies, in particular, to rectification, erasure and restriction requests. The obligation does not apply if notifying the recipients would involve disproportionate effort.

3.2 On request, Bicsma must provide the data subject with information about the recipients to which the data subject’s personal data have been disclosed.

# 4. How to make a data subject request

4.1 All requests shall be submitted to the following e-mail address: *dataprotection@bicsma.com*

4.2 Where a Bicsma employee receives a request from another Bicsma employee, a former Bicsma employee, a customer, or any other individual, the request shall be forwarded immediately to Bicsma’s Data Protection Officer (*dataprotection@bicsma.com*), together with the date on which the request was received and any other details provided by the requestor.

4.3 Any questions regarding data subject requests should be directed to Bicsma’s Data Protection Officer (*dataprotection@bicsma.com*)

# 5. Verification procedure

5.1 Where a request is received, the Data Protection Officer (or any other employee who may assist in handling data subject requests) shall assess and verify whether Bicsma truly is the controller of the personal data concerned and whether the personal data truly relate to the requestor. Requests may only be considered valid if they were submitted by the individual to whom the personal data relate.

5.1.1 Where it is determined that the controller of the personal data concerned is not Bicsma but a customer, a processor or a third party, Bicsma notifies the data controller without undue delay and assists the controller in meeting the request, in accordance with the applicable contract terms and the relevant obligations imposed by the applicable data protection laws.

5.1.2 Where it is determined that Bicsma is the controller of the personal data concerned, Bicsma contacts the requestor and confirms receipt of the request in writing. Bicsma verifies the identity of the requestor.

5.2 Where Bicsma is not exempt from complying with the request under the applicable data protection laws, Bicsma will respond to the request.

# 6. Exemptions

6.1 A data controller may refuse to act on a request if the request is excessive and/or manifestly unfounded. Where Bicsma decides to invoke this exemption to refuse a request, Bicsma must be able to demonstrate the excessive/unfounded character of the request. An example of an excessive/unfounded request is where the data subject repeatedly asks for information that has already been provided to the data subject by Bicsma.

6.2 Specific exemptions may apply, depending on the type of the request. Specific exemptions are outlined in Section 9.

6.3 Where Bicsma refuses a request on the ground that it is excessive or manifestly unfounded, Bicsma notifies the data subject of the refusal, outlining the relevant arguments.

# 7. Deadlines

7.1 Requests must be answered without undue delay and no later than one (1) month following receipt of the request. Where a request is particularly complex, the deadline may be extended.

7.2 Where a request cannot be answered within one month of receipt, the deadline may be extended by up to two (2) additional months. Bicsma must inform the data subject of any such extension and explain the reasons for the delay.

# 8. Fee charged for responding to requests

8.1 Bicsma is not permitted to charge the data subject for responding to a request, unless the request has been determined excessive and/or manifestly unfounded or unless an exemption applies. Where the excessive/unfounded character of the request is demonstrated or an exemption applies, Bicsma may charge a reasonable fee based on the administrative costs of providing the information or taking the requested action.

# 9. Types of requests

## 9.1 Requests to obtain access to the personal data (access requests)

The right of access is the right of an individual to obtain confirmation of whether a data controller processes personal data about him or her. If personal data relating to the individual are processed, the individual must be provided with the details of the personal data processed and a description of the specific aspects of the processing activities relating to such personal data. Together with the information, the individual must receive a copy of their personal data processed.

**9.1.1 Information to be provided in response to an access request**

9.1.1.1 The copy of the personal data and the information about the processing must be provided in an intelligible form.

9.1.1.2 Information provided in response to an access request should include:

(i) A description of the personal data and the categories of personal data concerned;

(ii) The estimated period for which the personal data will be stored;

(iii) The purposes for which the personal data are processed;

(iv) The recipients or categories of recipients to whom the data are, or may be, disclosed by the data controller;

(v) Confirmation of the data subject's right to request rectification or erasure of the personal data and to restrict the processing or object to the processing;

(vi) Confirmation of the data subject's right to lodge a complaint with the competent data protection authority;

(vii) Details about the source of the personal data if the data were not obtained from the data subject;

(viii) Details about whether the personal data are subject to automated decision-making (including profiling); and

(xi) Where personal data is transferred from the European Economic Area to a country or international organisation outside of the European Economic Area, the appropriate safeguards implemented by the data controller relating to such transfers in accordance with the applicable data protection laws.

**9.1.2 Format of an access request**

9.1.2.1 An access request does not need to refer to the applicable data protection laws to qualify as valid.

9.1.2.2 An access request does not need to be made in writing. Where the request is made in writing, the requestor should provide an e-mail address and confirmation of whether the data requested can be sent via email (or otherwise specify the preferred means by which they would like to obtain the data).

9.1.2.3 Requests that are made electronically (e.g. by e-mail) may be answered electronically (in a commonly used format, such as by attaching pdf documents to the e-mail), unless the data subject stipulates otherwise (for example, requests the information to be sent by postal service).

**9.1.3 Exemptions**

9.1.3.1 Bicsma will not refuse to comply with access requests unless Bicsma can demonstrate that it is not in the position to identify the requestor or it can demonstrate that an exemption applies.

## 9.2 Requests to rectify personal data (rectification requests)

The right to rectification is the right of an individual to obtain rectification, without undue delay, of inaccurate personal data about him or her processed by the controller.

9.2.1 Where Bicsma holds inaccurate or incomplete personal data about an individual, the individual is entitled to request rectification of the data.

9.2.2 Where Bicsma rectifies an individual's personal data in response to a rectification request, Bicsma will take reasonable efforts to notify all recipients of the personal data (such as data processors) of the rectification.

9.2.3 Supplementary statements to complete the information. Bicsma may consider including a statement made by the requestor to ensure the completeness of the data.

## 9.3 Requests to erase personal data (erasure requests)

The right to erasure is the right of an individual to have the controller delete personal data about him or her on specific grounds. An example of such a ground is where the personal data are no longer necessary to satisfy the purposes for which they were collected.

**9.3.1 Circumstances in which right to erasure may apply**

An individual may request erasure where

9.3.1.1 The personal data are no longer necessary for the purpose for which they were collected, used or otherwise processed;

9.3.1.2 The personal data were unlawfully processed by data controller;

9.3.1.3 Processing was based on the data subject’s consent. The consent has been withdrawn and there is no other legitimate ground for the processing;

9.3.1.4 The individual objects to the processing and there are no overriding legitimate grounds for processing the data;

9.3.1.5 The personal data must be deleted to comply with the data controller's legal obligations; and/or

9.3.1.6 The personal data were collected in connection with services offered on the data controller's website.

**9.3.2 Erasure of personal data by recipients**

9.3.2.1 Where Bicsma erases the data subject’s personal data in response to an erasure request, Bicsma will take reasonable efforts to notify all recipients of the personal data of the erasure.

9.3.2.2 Where Bicsma has made the personal data public, Bicsma must take reasonable steps, including technical measures (taking into account the available technology and the cost of implementation), to inform other controllers storing, using or otherwise processing the personal data of the erasure. Where an erasure request was granted, any links to, copies of, or replications of the personal data must be erased.

**9.3.3 Exemptions**

9.3.3.1 In addition to the general exemptions outlined in Section 6, Bicsma is exempt from the obligation to erase personal data where the processing is necessary for:

(i) Compliance with Bicsma's legal obligations;

(ii) Establishing, exercising or defending legal claims;

(iii) Scientific, historical or statistical purposes, and where erasure of the data would make the processing impossible or seriously impair it;

(v) Public interest reasons including (1) performance of a task carried out in the public interest, (2) exercise of official authority vested in Bicsma, or (3) for public health reasons or archiving in the public interest (although these exemptions are unlikely to apply to Bicsma); and/or

(vi) Exercising the freedom of expression and information.

## 9.4 Right to object to the processing

The right to object: Right of an individual to object, on grounds related to his or her particular situation, to a controller's processing of personal data about him or her, if the processing is based on the legitimate interests of the controller.

**9.4.1 Circumstances in which individuals may object to the processing**

9.4.1.1 Where Bicsma relies on its legitimate interests as a lawful ground for the processing, the data subject may object to the processing.

9.4.1.2 Individuals may also object to the processing where the processing is required to perform a task in the public interest or to exercise an official authority vested in the controller.

**9.4.2 Exemptions**

9.4.2.1 In addition to the general exemptions outlined in Section 6, Bicsma is exempt from the obligation to cease the processing of the personal data where:

(i) Bicsma can demonstrate the compelling nature of its legitimate interests for processing the data. Bicsma can demonstrate that its legitimate interests override the interests, rights and freedoms of the data subject;

(ii) The processing is required to establish, exercise or defend a legal claim; and/or

(iii) The processing is carried out in the public interest for scientific, historical or statistical purposes.

## 9.5 Right to object to direct marketing

The right to object to direct marketing is the right of an individual to object to direct marketing, including profiling related to direct marketing.

9.5.1 Where such a request is accepted, Bicsma must stop using the personal data for direct marketing purposes. Bicsma is unlikely to send direct marketing communications to employees and other workers in the context of their employment relationship or engagement.

## 9.6 Right to restriction of processing (restriction requests)

The right to restriction: Right of an individual to require a controller to restrict the processing of personal data about him or her on specific grounds.

9.6.1 Bicsma will consider all restriction requests, although receipt of such requests is less likely to apply in the context of employment.

## 9.7 Right to data portability (portability requests)

The right to data portability: Right of an individual to receive his or her personal data from a controller in a structured, commonly used and machine-readable format in order to transfer the data to another controller, where the processing is 1) based on the consent of the individual, and 2) carried out by automated means.

9.7.1 Bicsma will consider all portability requests, although receipt of such requests is unlikely to apply in the context of employment.

## 9.8 Right not to be subject to automated decision-making (including profiling)

The right not to be subject to automated decision-making is the right of an individual to object to an automated decision made about the individual which has a legal or other similar effect on the individual. Where the automated decision is likely to have a severe impact on the data subject’s life, the data subject may request human intervention.

9.8.1 Bicsma will consider all requests aimed at obtaining human intervention. This applies, in particular, to online recruitment.

