

### New Federal Law on the Protection of Personal Data in Possession of Private Parties

Mexico City, March 25, 2025

On December 20, 2024, the National Institute of Transparency, Access to Information, and Protection of Personal Data (“INAI”) was dissolved through a constitutional amendment and transferred its powers and obligations related to access to information, transparency, and data protection to the Executive Branch.

As a result, the new Federal Law on the Protection of Personal Data in Possession of Private Parties (the “FDPL”) was issued and published in the Official Gazette on March 20, 2025.

#### A. New regulating authorities

Among the changes to the authorities and structure, the responsibilities that used to hold INAI are now divided in the following manner:

- The Anti-Corruption and Good Governance Ministry (the “Ministry”) replaced INAI and assumed its responsibilities for transparency, access to information, and personal data.
- On the other hand, the Personal Data Protection Unit, within the Ministry, also assumes personal data protection responsibilities.
- Additionally, a new decentralized agency, called Transparency for the People has the authority to resolve certain appeals.

The LFPDPPP aims to standardize rules and procedures, as well as adjust the powers of regulatory authorities. However, it includes many relevant changes that may impose new obligations on data controllers, increasing operational burdens and requiring modifications to privacy notices, and certain internal procedures.



## **B. New definition to data controller**

- Data Controller is now defined as “private individuals or legal entities that process personal data.”
- Under the previous FDPL, “data controller” was defined as the entity that decided about data processing. Now, anyone who processes personal data, even without making decisions about it, may be considered a data controller.

## **C. Modifications to consent regulation**

- The LFPDPPP used to establish exemptions in the law for obtaining the data subject’s consent. Now, any regulation, rule, or secondary regulation, and not only laws, can establish exceptions to consent.
- In addition, the current FDPL now establishes tacit consent as the general rule, allowing companies to obtain it broadly.

## **D. Changes to the privacy notice**

- Controller’s privacy notices must be amended in order to contain the following requirements:
  - The personal data items that will be processed, including a list of the sensitive personal data items.
  - A distinction between the specific processing purposes that require the data subject’s consent.
  - It is no longer a requirement to mention data transfers.
- In addition, the FDPL introduces new requirements for simplified privacy notices to ensure transparency

## **E. Changes to ARCO rights**

- Access: data subjects can now request, in addition to being informed of the data held by the controller, information related to the conditions and generalities of the processing.
- Rectification: data subjects can now request rectification not only when their data is inaccurate or incomplete, but also when it is outdated.



- Opposition: the reasons for which the data controller must cease data processing are expanded: (i) if, although lawful, the processing causes harm to the data subject for a legitimate reason; or (ii) when the processing is automated without human intervention and could affect the data subject's rights.

## **F. Sanctions**

- Sanctions for data controllers in case of non-compliance, the amounts, as well as infringements related to personal data, have not been modified.

## **G. Mitigation measures**

To comply with Mexico's new data protection laws, companies must update their privacy notices, strengthen their agreements and Data Processing Agreements ("DPA"), enhance security, and implement measures to ensure personal data confidentiality.

Companies must also ensure the cessation of processing in certain cases and adapt internal processes to comply with the new regulations. These changes increase obligations and operational burdens for data controllers, so properly implementing the regulatory framework is essential.

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