



# Protecting Data Subjects' Rights

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*We believe the customer should be in control of their own information. You might like these so-called free services, but we don't think they're worth having your email, your search history and now even your family photos data mined and sold off for god knows what advertising purpose. And we think some day, customers will see this for what it is.*

*Tim Cook, Apple CEO*

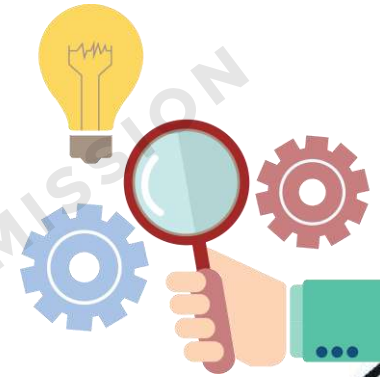


# *Key Concepts*

# Scope

The DPA shall not apply to the following **specified information**, only to the minimum extent of collection, access, use, disclosure or other processing necessary to the purpose, function, or activity concerned:

Information necessary for banks, other financial institutions under the jurisdiction of the independent, central monetary authority or Bangko Sentral ng Pilipinas, and other bodies authorized by law, to the extent necessary to comply with Republic Act No. 9510 (CISA), Republic Act No. 9160, as amended, otherwise known as the Anti-Money Laundering Act, and other applicable laws.



# Consent



Freely given, specific, informed indication of will, whereby the data subject agrees to the collection and processing of his or her personal, sensitive personal, or privileged information.

Evidenced by written, electronic or recorded means.



# Data Sharing



Disclosure or transfer to a third party of personal data under the custody of a personal information controller or personal information processor.

In the case of the latter, such disclosure or transfer must have been upon the instructions of the personal information controller.

Excludes outsourcing.

# Data Privacy Principles

## *Transparency*

The data subject must be aware of the nature, purpose, and extent of the processing of his or her personal data.



## *Legitimate Purpose*

The processing of information shall be compatible with a declared and specified purpose which must not be contrary to law, morals, or public policy.



## *Proportionality*

The processing of information shall be adequate, relevant, suitable, necessary, and not excessive in relation to a declared and specified purpose.





# *Rights of the Data Subject*



# Rights of the Data Subject

- ◆ Right to be informed
- ◆ Right to object
- ◆ Right to access
- ◆ Right to rectification
- ◆ Right to erasure or blocking
- ◆ Right to data portability
- ◆ Right to file a complaint
- ◆ Right to damages

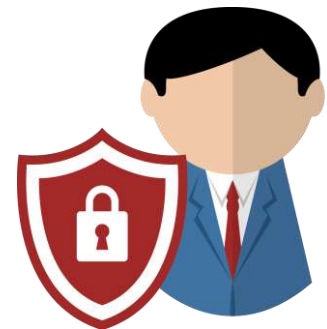


# *Consumer Protection Standards*

# Consumer Protection Standards

## *BSP Regulations On Financial Consumer Protection*

- ◆ Reflect the core principles expected to be observed at all times by BSFIs in their dealings with financial consumers
- ◆ Should be embedded into the corporate culture of the BSFIs



# Consumer Protection Standards

## *BSP Regulations On Financial Consumer Protection*

- ◆ Disclosure and transparency
- ◆ Protection of client information
- ◆ Fair treatment
- ◆ Effective recourse
- ◆ Financial education and awareness







*Confluence of  
Standards Involving  
Personal Data*



# MORB

## Protection of client information

a. Confidentiality and security of client information

# DPA concepts

- ◆ Privacy Policy/Manual (internal)
- ◆ Privacy Notices (external)
- ◆ Privacy Impact Assessment
- ◆ Implementation of organizational, technical and physical security measures
- ◆ Data breach management



# MORB

## Protection of client information

b. Sharing of customer information

## Effective recourse

# DPA concepts

- ◆ Consent
- ◆ Right to be informed
- ◆ Right to access
- ◆ Right to rectification
- ◆ Right to damages
  
- ◆ Right to file a complaint

# *Data Sharing*



# Data sharing: When allowed

GENERAL RULE: When a personal information controller obtains the consent of the data subject prior to collection and processing

EXCEPTION: Consent is not required for the processing of personal data, as provided by law



# Data Sharing Agreement

A contract, joint issuance, or similar document that contains the terms and conditions of a data sharing arrangement between two or more parties

Only personal information controllers can be parties to a data sharing agreement





# Data Sharing Agreement

Data sharing for commercial purposes, including direct marketing, shall be covered by a data sharing agreement (DSA). It shall:

- a. Establish adequate safeguards for data privacy and security, and uphold rights of data subjects
- b. Be subject to review by the Commission, on its own initiative or upon complaint of data subject



# *Foreign Account Tax Compliance Act*

# FATCA



FATCA is a US legislation passed in 2010 aimed at improving tax compliance of US persons who are evading US tax by using financial accounts held outside of the US.

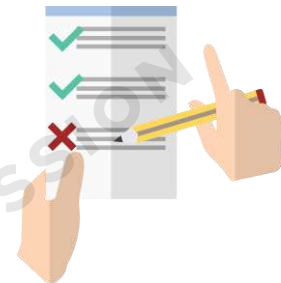
FATCA requires all non-US financial institutions to report relevant information on financial accounts held by US persons to the US Internal Revenue Service (IRS).

# What information will be reported?



1. Name, address, and U.S. TIN or date of birth if no US TIN available;
2. Account number (or functional equivalent in the absence of an account number);
3. Name and identifying number of the Reporting Philippine Financial Institution;
4. Account balance or if the account was closed during such year, immediately before closure;
5. For 2015 onwards reportable accounts: other account details, i.e. total gross interest, total gross dividends, and the total gross amount of other income generated with respect to the assets held in the account, etc.

# FATCA compliance and the DPA



- ◆ May fall under lawful processing of sensitive personal information where:
  - Consent is given by a data subject; or
  - Processing of the sensitive personal information is provided for by existing laws and regulations.





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