

# Equatex Group Policy

# Internal Data Protection Policy (Equatex as a Processor)

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## 1. Introduction

The ever increasing Processing of data by electronic means and the growing body of legal regulations on privacy and data protection around the world are placing increased demands in the way corporate groups handle Personal Data. As an international group of companies, Equatex AG and its affiliated group companies (hereinafter, the "Equatex Group" or "Equatex", "we" or "us") are committed to offering a high, uniform minimum standard in the collection and Processing of Personal Data.

This Group Data Protection Policy (hereinafter, the "Policy") provides a consistent, global standard for the collection and Processing of Personal Data.

## 2. Definitions

For the purpose of this Policy, the following definitions shall apply:

- **Adequate Jurisdiction** mean one of the following jurisdictions that have been designated by the European Commission as providing an adequate level of protection for personal data: Andorra, Argentina, Canada (for organizations that are subject to Canada's PIPEDA law), Switzerland, the Faroe Islands, Guernsey, Israel, Isle of Man, Jersey, New Zealand, Uruguay, and the US (for organizations that are certified to the EU-US Privacy Shield), and such other jurisdictions as may be deemed to be adequate by the European Commission from time to time.
- **Anonymized Data** means data that have been anonymized or redacted, such that no individuals can be identified, whether directly or indirectly (e.g., by combining the data with other available information). The method and functionality of any anonymisation or redaction must be comprehensively documented and is subject to the Head of Data Protection and Information Security's prior approval.
- **Associates** means board members, directors, officers, managers, external directors, employees, temporary and casual staff, trainees, advisors, agents, freelancers, independent contractors or external service providers of the Equatex Group having access to or Processing Personal Data.
- **Client** means any third party that appoints Equatex to provide services (e.g., plan administration services) that involve the Processing of Personal Data.
- **Controller** is the natural or legal person which, alone or jointly with others, determines the purposes for which, and means by which, Personal Data are Processed.
- **Countries not providing for an adequate level of protection** means any jurisdiction that is not an Adequate Jurisdiction.
- **Data Breach** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data.
- **Data Protection Authority** means any governmental authority formally tasked with overseeing compliance with applicable data protection laws.
- **Data Subject** is any person to whom Personal Data relate. Data Subjects usually are individuals. In some countries, however, a Data Subject can also be a legal entity.
- **Data Transfer** is any disclosure of Personal Data by a Controller to a Third Party regardless of whether such disclosure occurs by sharing physical documents, electronically or by supplying the Third Party

with tangible data storage devices containing Personal Data. Providing a Third Party with access to Personal Data also amounts to a Data Transfer.

- **Personal Data** means information about an identified or identifiable person. A person is considered identifiable if, for example, it is possible to directly or indirectly identify such person by referring to an identification number or other factors specific to the physical, physiological, mental, economic, cultural or social identity of that person. Examples of Personal Data may include a person's photo, name, ID number, phone number, or address.
- **Processing** is any operation that is performed upon Personal Data. Processing includes, for example, the collection, recording, storage, organization, adaptation, access, use, disclosure, transfer, distribution, combination, or alignment of Personal Data. Processing also includes anonymizing, destroying or deleting Personal Data and tangible data storage media containing Personal Data.
- **Processor** is any natural or legal person that is authorized to Process Personal Data on behalf of Controller. For example, an Equatex Group company Processing Personal Data for a Client is a Processor.
- **Sensitive Data** means a sub-category of Personal Data that requires special protection and that relates to the racial or ethnic background, political views, religious or philosophical convictions, trade union membership, health, or sexual orientation of the Data Subject. Some countries may also treat information regarding criminal or administrative sanctions as sensitive data.
- **Standard Contractual Clauses** means the clauses issued by the European Commission pursuant to Commission Decision 2001/497/EC; Commission Decision 2004/915//EC; or Commission Decision 2010/87/EU, or such other equivalent decisions as the European Commission may issue from time to time.
- **Third Party** is any natural or legal person other than the Data Subject or the Processor. Another member of the Equatex Group and its Associates (as defined in Section 3 herein) can also be a Third Party for data protection purposes.

### 3. Scope of Application

This Policy applies to all Personal Data that are Processed by members of the Equatex Group in their capacity as Processors (i.e., where a Client or other third party determines the purposes for which, and means by which, those data are Processed, and the relevant Equatex Group member performs Processing activities under the instructions of that Client or other third party). For example, this Policy is applicable to Processing of participant data in relation to share schemes that Equatex administers on behalf of its Clients.

This Policy does not apply to the Processing of Personal Data by members of the Equatex Group in their capacity as Controller (i.e., where the relevant Equatex Group member determines the purposes for which, and means by which, those data are Processed). There is a separate policy covering Processing activities performed by Equatex Group members in their capacity as Controllers. It is the responsibility of each Associate to understand, in relation to the Processing activities in which he or she participates, whether the relevant Equatex Group member is a Controller or a Processor.

This Policy applies regardless of the country in which:

- the member of the Equatex Group Processing the Personal Data is domiciled; or

- the collection and Processing of Personal Data takes place; or
- the Data Subject holds citizenship or has their place of residence.

This Policy applies to Personal Data collected and Processed: (a) electronically; or (b) in hard copy file systems structured by reference to specific criteria relating to the identities of Data Subjects.

This Policy also applies globally.

This Policy does not apply to the Processing of Anonymized Data.

## 4. Purpose of this Policy

Any breach of data protection law may result in legal sanctions, including significant fines, and damage Equatex's reputation, as well as harm to Client relationships.

This Policy sets out a consistent, global standard for the Processing of Personal Data by members of the Equatex Group in their capacity as Processors. It incorporates the key principles of data protection laws found in many national and supranational data protection or privacy laws.

All Associates must abide by the requirements of this Policy, unless those requirements are in direct conflict with mandatory requirements of applicable law, in which case applicable law shall prevail. Applicable law may provide for a standard that is higher than, or different to, the standard contemplated by this Policy, or may impose additional legal obligations with which Associates must comply.

Each member of the Equatex Group is responsible for ensuring that this Policy is implemented in accordance with applicable law, and that all Associates of such Equatex Group member comply with this Policy, if and to the extent this Policy is not in violation of any applicable law.

## 5. Key Principles for Processing of Personal Data

The Controller is primarily responsible for ensuring compliance with the requirements of applicable law, in most cases. Nevertheless, the following key principles must be observed at all times by Equatex Group members when Processing Personal Data in their capacity as Processors:

### a) *Compliance with the Controller's instructions regarding Processing of Personal Data*

Equatex must only Process Personal Data in accordance with the Controller's instructions. Failure to adhere to this principle may cause Equatex to become a Controller, in relation to such Processing activities, which may place Equatex in breach of applicable data protection laws.

If an Equatex Group member is unable, for any reason, to comply with the Controller's instructions (e.g., because those instructions conflict with applicable law, or the terms of the relevant contract between Equatex and the Controller) then that Equatex Group member should:

- promptly notify the Controller of such inability, providing a reasonable level of detail as to the instructions with which it cannot comply and the reasons why it cannot comply, to the greatest extent permitted by applicable law; and

- cease all Processing of the affected Personal Data (other than merely storing and maintaining the security of the affected Personal Data – see section (f) below) until such time as the Controller issues new instructions with which the Equatex Group member is able to comply.

b) *Obligation of confidentiality*

As a general rule, all Personal Data Processed by Equatex must be treated confidential, and all Associates are subject to a binding obligation of confidentiality in respect of such Personal Data. Any unauthorized Processing of Personal Data by Associates is prohibited. Any Processing of Personal Data that is not in accordance with the instructions of the Controller is prohibited, unless the Head of Data Protection and Information Security has given prior express approval to that Processing activity.

Any Processing undertaken by an Associate who has not been authorized to carry out such Processing as part of his or her formal duties is unauthorized, and is a breach of this Policy. In particular, its Associates are forbidden from using Personal Data of which Equatex is the Controller or Processor for private purposes.

c) *Records of processing activities*

Each Equatex Group member must maintain records of its processing activities, including:

- the details of the Controller, the Equatex Group Processor and any sub-Processors;
- the categories of Personal Data Processed, and the Processing activities performed;
- a record of any Data Transfers; and
- a general description of the security measures implemented in respect of the Processed Personal Data.

d) *Cooperation with Data Protection Authorities*

Equatex Group members acting as Processors must provide all reasonable cooperation to Data Protection Authorities who have jurisdiction over the relevant Processing activities, or jurisdiction over the Controller of the relevant Personal Data.

e) *Data Retention*

Equatex must not retain Personal Data for longer than necessary to comply with: (i) the instructions of the Controller; and (ii) the requirements of applicable law. Once those purposes have been fulfilled, Equatex should seek the instructions of the Controller (to the extent not already provided) as to whether to return the relevant Personal Data, or delete/destroy those data.

f) *Data Security*

Appropriate technical and organizational measures must be implemented in order to safeguard Personal Data from unauthorized access and unlawful Processing or disclosure, as well as accidental loss, modification, or destruction. These measures must cover any and all physical documents, electronic data or tangible data storage devices containing Personal Data. All Associates must ensure that they adhere to the requirements of the Equatex Information Security Policy in respect of all Processing of Personal Data.

g) *Data breach reporting*

In the event that Associates become aware of any actual or suspected Data Breach, the Head of Data Protection and Information Security should be notified immediately. The Controller should be informed of the Data Breach without undue delay, in accordance with any applicable contractual terms agreed between Equatex and the Controller. Note that applicable laws in some jurisdictions impose extremely short deadlines for reporting Data Breaches to Data Protection Authorities (e.g., in the European Union a deadline as short as 72 hours may apply).

Examples of common Data Breaches include, but are not limited to:

- lost or stolen laptops, removable storage devices, or paper records containing Personal Data;
- databases containing Personal Data being “hacked” into or otherwise illegally accessed;
- Associates accessing or disclosing Personal Data outside the requirements of their work duties; and
- Associates inadvertently providing Personal Data to the wrong person (e.g., by sending out Personal Data to the wrong email address).

## 6. Appointment of sub-Processors

When Personal Data are Processed by a Processor, the Controller remains primarily responsible for the Processing and for compliance. Equatex Group members acting as Processors must not appoint sub-Processors (or otherwise sub-contract the Processing of Personal Data) without the prior express written authorization of the Controller.

To the extent that the necessary authorization is not provided by the Controller in its agreement with Equatex, Equatex should obtain such authorization in writing before appointing the relevant sub-Processor. Such authorization does not need to identify the sub-Processor by name – a general authorization from the Controller, permitting the appointment of sub-Processors for specified purposes would be sufficient.

Equatex Group members acting as Processors implement the following measures when appointing sub-Processors:

- To the extent that its contract with the Controller imposes any obligations on the Equatex Group member regarding the Processing of Personal Data, those obligations must be flowed down onto the sub-Processor. It should be noted that the Equatex Group member will generally be liable for non-compliance by any sub-Processor it appoints.
- When selecting the sub-Processor, the Equatex Group member must ensure that the candidate sub-Processor has in place appropriate technical and organizational measures to ensure the security and confidentiality of the Personal Data.
- The terms and conditions governing the Processing of Personal Data on behalf of the ultimate Controller must be set out in a written contract between the Equatex Group member and the sub-Processor. The relevant contract must also provide that the sub-Processor may Process the Personal Data only in accordance with the Controller’s instructions as set out in the contract, or as otherwise communicated by the Equatex Group member.

Any contracts involving the Processing of Personal Data by a sub-Processor must be submitted to the Head of Data Protection and Information Security for prior approval.

## 7. Data Transfers

Equatex Group members must not engage in Data Transfers of Personal Data for which they are Processors, without the prior express written authorization of the Controller. In addition, because each Data Transfer amounts to an act of Processing, the key principles set out in Section 5 of this Policy must be complied with in all cases.

No Personal Data may be transferred to a Third Party without the prior approval of the Head of Data Protection and Information Security. This includes any agreements involving a Data Transfer to Countries not providing for an adequate level of protection. The Head of Data Protection and Information Security may authorize Data Transfers to Countries not providing for an adequate level of protection if the Third Party receiving the Personal Data agrees to be bound by terms no less protective of any Personal Data than the obligations imposed on the Equatex Group under this Policy or applicable law.

## 8. Rights of the Data Subject

The Controller is generally responsible for complying with the rights of Data Subjects. However, in order to comply with those rights, the Controller may issue instructions to any Equatex Group member that is Processing the relevant Personal Data in its capacity as a Processor. Each such Equatex Group member should provide the Controller with all reasonable assistance necessary to give effect to the rights of data subjects.

## 9. Additional Requirements

Applicable law may provide for specific notification duties or other obligations relating the Processing of Personal Data, which may not have been anticipated in this Policy (e.g., regarding banking secrecy or outsourcing). Each member of the Equatex Group may issue data protection guidelines that address any additional obligations imposed by applicable law and complement this Policy. Such additional guidelines are subject to prior approval by the General Counsel.

## 10. Amendments

The Head of Data Protection and Information Security is responsible for proposing amendments to this Policy in order to take account of new legal, business and technological developments.

## 11. Violations and Sanctions

The violation of this Policy by an Associate may result in punitive action under employment and/or disciplinary laws and policies. Such action may extend in particular to formal warnings, the withdrawal of internet access, compensatory damages, the forfeiture of extra discretionary bonuses, transfers or even immediate dismissal, termination of contract along with criminal proceedings and/or penalties. If provided by local law, the Associate may also be held liable for any damage caused to Equatex.

Any Associate of the Equatex Group who believes that a violation of this Policy is occurring or has occurred must report and discuss the matter to/with the Head of Data Protection and Information Security.

This revised Policy on Data Protection enters into force on 13.03.2018.



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Vice-Chairman of the Board



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