

# 4 Points to Consider about the Brazilian Data Protection Act:

The Brazilian general data protection act nº 13.709/2018, also known as “Lei Geral de Proteção de Dados” (LGPD), is scheduled to enter into force in August 2020. This new law, following the European Regulation (GDPR), consolidates and unifies the Brazilian legislation regarding the protection of personal data collected or dealt with within the national territory. Envisaging sanctions and fines of up to 2% of the gross annual revenue (limited to BRL 50 MM) per infraction, LGPD establishes new rights to the title-holders of the personal data and increases the responsibility of controllers and operators of the same. Thus, in order to guarantee the protection of personal data, both public and private entities must observe and respect a number of rights and obligations regarding collection, use, disclosure, retention and exclusion of personal and sensitive information, processed online or offline. The new legal requisites warranted by the LGPD add up to the increasing longing of the market and the consumers, which makes it necessary to think of personalized solutions which adequately respond to the challenges related to the protection of personal and sensitive data. Becoming compliant with the current laws, however, is only one aspect of a larger strategy which has as its main objective to deal with personal data in a transparent way – a fundamental attitude for a relationship based on trust and loyalty with the consumers in today’s world which is getting ever more interconnected and worried about privacy and self-determination. The rise of this new paradigm of privacy in the corporate culture can improve the reputation, make more loyal customers and become a competitive differential in the market. It goes without saying that planning is essential to achieve this. It is necessary - for the drawing up, implementation and continued improvement of a true privacy program - to blend together juridical experience and expertise in other areas of knowledge like

technology and information security, as well as to promote awareness among partners and collaborators at different levels of the company. Privacy policies of an enterprise must be in line with its business objectives and targets, as follows:

**1 – STRATEGIC MANAGEMENT:** understanding the structure (framework) and definition of processes and systems.

**2 – GOVERNANCE OF PRIVACY:** defining policies, patterns and rules of organizational privacy.

**3 – EVALUATION RESULT:** integrating guidelines related to the main concepts of the Project

**4 – PRIVACY OPERATIONAL LIFE CYCLE:**

- *Analyze: the privacy frameworks, along with the personally directed analysis, will provide the guidelines to measure and align activities of data processing, helping the enterprise to understand the necessary steps to fulfill legal compliance.*
- *Protect: integrating privacy principles into the management practices of information security in order to take up, define and establish practices to guarantee privacy.*
- *Manage: regular monitoring, auditing and exchanging of communication.*
- *Respond: orientation and consultancy in responding to solicitations of information, making sure of legal conformity, planning and responding de facto to eventual incidents.*

These 4 Points to Consider Regarding Brazilian Data Protection have been prepared by Maria Fernanda Hosken Perongini, Privacy & Data Protection consultant and partner at Franco Advogados, a leading Brazilian law firm specialized in Corporate Law and independent members of Abacus Worldwide. The author is Master in IP Law and Innovation (INPI) and member of the International Association of Privacy Professionals (IAPP). If you would like to know more about Franco Advogados please contact **Olivia Freitas** [olivia.freitas@francoadv.com](mailto:olivia.freitas@francoadv.com).

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