



**Zenith Pensions Custodian Limited**

# DATA PRIVACY POLICY

**Version 2.0**

**October, 2023**

## 1.0 Introduction

1.1 Pursuant to its statutory mandate of keeping pension assets of contributors under the Contributory Pension Scheme (CPS) in Nigeria, Zenith Pensions Custodian Limited (ZPC) collects and keeps in custody, the personal data of pension contributors, retirees, their related persons and their employers. The data include, but are not limited to biodata of Contributors and retirees.

1.2 This Data Privacy Policy is, therefore, instituted by ZPC to inform pension contributors and retirees about the protection of their personal data collected and stored by ZPC pursuant to the performance of its statutory responsibilities. The Policy also explains how the data are collected, stored, used, as well as the few exceptional instances where such data may be disclosed.

## 1.3 Definitions

**Consent of the data subject** means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her

**Database** means a collection of data organized in a manner that allows access, retrieval, deletion and procession of that data; it includes but not limited to structured, unstructured, cached and file system type databases

**Data Controller** means a person who either alone, jointly with other persons or in common with other persons or as a statutory body, determines the purposes for and the manner in which personal data is processed or is to be processed

**Data Portability** means the ability for data to be transferred easily from one IT system or computer to another through a safe and secure means in a standard format.

**Data Protection Compliance Organization (DPCO)** means any entity duly

licensed by the NDPC for the purpose of training, auditing, consulting and rendering services and products for the purpose of compliance with this Regulation or any foreign Data Protection law or regulation having effect in Nigeria

**Data Subject** means an identifiable person; one who can be identified directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity

**Personal Data** means any information relating to an identified or identifiable natural person (data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person; It can be anything from a name, address, a photo, an email address, bank details, posts on social networking websites, medical information, and other unique identifier such as but not limited to MAC address, IP address, IMEI number, IMSI number, SIM and others

**Processing** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction

**Personal Data breach** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed

**Sensitive Personal Data** means data relating to religious or other beliefs, sexual tendencies, health, race, ethnicity, political views, trades union membership, criminal records or any other sensitive personal information

## **2.0 Nature and reason for collection of personal data**

- 2.1 Pursuant to the provisions of the Pension Reform Act (PRA) 2014 and extant regulations, ZPC collects data of pension contributors, retirees and their related persons. These may include name, gender, marital status, date of birth, nationality, National Identification Number, employment information and Next-of-Kin Information, amongst others.
  
- 2.2 In particular, ZPC collects the personal data of a pension contributor in order to provide him/her the benefits of CPS. In this regard, there is the need to collect some basic personal data of contributors to ensure that uniquely identifiable persons are paid pensions in accordance with the Act. Collection of data of the next-of-kin of contributors, retirees and their related persons further ensures that ZPC has continuous access to them.

### **3.0 Consent of Data Subject**

Collection of data of the contributors, retirees and/or their related persons by ZPC shall be subject to the consent and authorization of the data Subject. Consequently, PFA may, with the consent of the data subject capture and forward data to ZPC. In addition, data recapture forms, including the electronic formats, contain data authorization clauses which are activated when the data subject completes the form.

### **4.0 Processing and Protection of Personal Data**

4.1 ZPC shall process personal data of contributors, retirees and other related persons only for the purpose for which the data is collected. ZPC shall process such data on both electronic and manual platforms, as may be required.

4.2 Only authorized officers of ZPC shall have access to the personal data of pension contributors, retirees and related persons collected. Pursuant to Section 113 of the PRA 2014, such authorized persons shall include every member of the Board, officer, employee, agent or any other person engaged or authorized by ZPC to examine any document or make an inquiry thereto. Such authorized persons have confidentiality obligation not to disclose or use any information or data with such person obtained directly or indirectly, except under the express authority of ZPC or as otherwise provided for under this Policy.

### **4.3 Nigerian Data Protection Regulation**

The Regulation, which came into force on January 25, 2019, regulates the gathering, storing and processing of personal data (regardless of whether data is stored electronically, on paper or on other materials), and protects the rights and privacy of all living individuals (including children). The Regulation applies to natural persons residing in Nigeria or residing outside Nigeria but of Nigerian descent.

## **Applicability**

Each individual pension operator will be the data controller under the terms of the Regulation – this means it is ultimately responsible for controlling the use and processing of personal data. Pension operators shall appoint a Data Protection Officer (DPO) for the purpose of ensuring adherence to this Regulation, relevant data privacy statements and data protection directives of the Company.

## **Governing Principles of Data Protection**

The Regulation mandates every data controller to process any personal data in accordance with the governing principles of data protection. In order to comply with the obligations, pension operators must undertake to adhere to the following principles.

## **Data Processing**

The following statement shall guide compliance with the Regulation on data processing.

ZPC shall:

- Collect and process personal data in accordance with specific, legitimate and lawful purpose consented to by the data subject
- Take reasonable steps to ensure that any personal data is accurate
- Store personal data about individuals that is sufficient for the purpose it is holding it for in relation to that individual.
- Store individuals' personal data only for the period within which it is reasonably needed
- Secure personal data against all foreseeable hazards, breaches such as theft, cyber-attack, viral attack, dissemination, manipulations of any kind, damage by rain, fire or exposure to other natural elements
- Exercise duty of care of personal data in its possession
- Be accountable for its acts and omissions in respect of data processing and in accordance with the Regulation

## **Lawful Processing**

ZPC shall process personal data of individuals if at least one (1) of the following applies:

- The data subject has given consent to the processing of his or her personal data for one or more specific purposes
- Processing is necessary for the performance of a contract to which data subject is party or in order to take steps at the request of the data subject prior to entering into a contract
- Processing is necessary for compliance with a legal obligation to which ZPC is subject
- Processing is necessary in order to protect the vital interests of the data subject or of another natural person
- Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official public mandate vested in ZPC

## **Procuring Consent**

To fulfil the requirement of the Regulation, personal data will be processed in accordance with the rights of data subject. ZPC's business operations will be guided by the following statements:

- ZPC shall not obtain personal data except the specific purpose of collection is made known to the data subject
- They shall ensure that consent of data subject has been obtained without fraud, coercion or undue influence
- ZPC shall ensure that the data subject has consented to processing of his or her personal data and the legal capacity to give consent, where processing is based on consent
- ZPC shall request for consent in a manner which is clearly distinguishable from other matters, in an intelligible and easily accessible form, using clear and plain language, where the data subject's consent is given in the context of a written declaration
- ZPC shall inform the data subject his/her right and the ease to withdraw his/her consent at any time
- When assessing whether consent is freely given, ZPC shall take utmost account of whether the performance of a contract, including the provision of a service, is conditional on consent to the processing of personal data that is not necessary or excessive for the performance of the contract
- ZPC shall request for consent of the data subject where data may be transferred to a third party for any reason

## **Due Diligence and Prohibition of Improper Motives**

To align with these requirements, ZPC shall:

- Not seek consent that may engender direct or indirect propagation of atrocities, hate, child rights violation, criminal acts and anti-social conducts
- Take reasonable measures to ensure that a party to any data processing contract does not have a record of violating the Regulation and such party is accountable to NITDA or a reputable regulatory authority for data protection within or outside Nigeria

## **Data Security**

PenOp recognizes the importance of protecting data from unauthorized access and data corruption and ZPC shall:

- Develop security measures including but not limited to protecting systems from hackers
- Set up firewalls and protect email systems
- Store data securely with access to specific authorized individuals
- Employ data encryption technologies
- Develop organizational policy for handling personal data and other sensitive or confidential data
- Continuously build capacity for all staff

## **Third Party Data Processing Contracts**

- To ensure compliance with the Regulation, being a data controller, ZPC shall:
- Ensure that a written contract is signed by a third party that will process personal data of individuals
- Ensure that such third party that will process the data obtained from data subjects complies with the Regulation

## **Objections by the Data Subject**

ZPC shall acknowledge that individuals have the right to object to the processing of their data, as such ZPC shall only process personal data in accordance with data subjects' rights as listed below:

- Option to object the processing of personal data relating to the data subject which the operator intends to process for the purposes of marketing
- Option to be expressly and manifestly offered the mechanism for objection to any form of data processing free of charge
- Transfer to a Foreign Country
- ZPC shall comply with the Regulation and any transfer of personal data which is



undergoing processing or is intended for processing after transfer to a foreign country or an international organization shall take place subject to the provisions of the Regulation.

### **Exceptions in Respect of Transfer to a Foreign Country**

In the absence of any decision made by NDPC or Honorable Attorney General of the Federation (HAGF) on the transfer of personal data to a foreign country, ZPC shall initiate the transfer or set of transfers of personal data to such foreign country or an international organization only when:

- The data subject has explicitly consented to the proposed transfer, after having been informed of the possible risks of such transfers for the data subject due to the absence of an adequacy decision and appropriate safeguards and that there are no alternatives
- The transfer is necessary for the performance of a contract between the data subject and the pension operator or the implementation of pre-contractual measures taken at the data subject's request
- The transfer is necessary for the conclusion or performance of a contract concluded in the interest of the data subject between operator and another natural or legal person
- The transfer is necessary for important reasons of public interest
- The transfer is necessary for the establishment, exercise or defense of legal claims
- The transfer is necessary in order to protect the vital interests of the data subject or of other persons, where the data subject is physically or legally incapable of giving consent
- ZPC, in compliance with the Regulation, shall explicitly communicate through clear warnings of the specific principle(s) of data protection that are likely to be violated in the event of a transfer to a third country.

### **Rights of Data Subjects**

To comply with this section under the Regulation, ZPC shall:

- Take appropriate measures to provide any information relating to processing, to the data subject in a concise, transparent, intelligible and easily accessible form, using clear and plain language, in particular for any information addressed specifically to a child
- Provide such information in writing, or by other means, including, where appropriate, by electronic means
- Provide any information relating to processing of data obtained from the data subject orally, at the request of the data subject, provided that the identity of the data subject is proven by other means

- Inform the data subject without delay and at least within one (1) month of receipt of a request relating to the processing of his/her data, the reasons for not providing the information and the possibility of lodging a complaint with the supervisory authority
- Provide information, any form of communication or any actions taken to a data subject free of charge
- Charge data subject if request for his/her data is manifestly unfounded or excessive, in particular because of his/her repetitive character. The charge shall be a reasonable fee taking into account the administrative costs of providing the information or communication or taking the action requested
- Write a letter to the data subject stating “refusal act” on the request and copy NDPC on every occasion through a dedicated channel which shall be provided for such purpose, provided that such request is excessive
- Bear the burden of demonstrating the manifestly unfounded or excessive character of the request
- Request for provision of additional information necessary to confirm the identity of the data subject where the operator has reasonable doubts concerning the identity of the requestor
- Provide the information in combination with standardized icons in order to give in an easily visible, intelligible and clearly legible manner, a meaningful overview of the intended processing and machine-readable format when presented electronically
- Provide the data subject with all of the following information, prior to collecting personal data:
  - ✓ The identity and the contact details of ZPC
  - ✓ The contact details of the Data Protection Officer
  - ✓ The purposes of the processing for which the personal data are intended as well as the legal basis for the processing
  - ✓ The legitimate interests pursued by ZPC or by a third party
  - ✓ The recipients or categories of recipients of the personal data, if any
  - ✓ Where applicable, the fact that ZPC intends to transfer personal data to a third country or international organization and the existence or absence of an adequacy decision by NDPC
  - ✓ The period for which the personal data will be stored, or if that is not possible, the criteria used to determine that period
  - ✓ The existence of the right to request from ZPC, access to and rectification or erasure of personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability

- ✓ The existence of the right to withdraw consent at any time, without affecting the lawfulness of processing based on consent before its withdrawal
- ✓ The right to lodge a complaint with a relevant authority
- ✓ Whether the provision of personal data is a statutory or contractual requirement, or a requirement necessary to enter into a contract, as well as whether the data subject is obliged to provide the personal data and of the possible consequences of failure to provide such data
- ✓ The existence of automated decision-making, including profiling and, at least, in those cases, meaningful information about the logic involved, as well as the significance and the envisaged consequences of such processing for the data subject
- ✓ Where ZPC intends to further process the personal data for a purpose other than that for which the personal data were collected, ZPC shall provide the data subject prior to that further processing with information on that other purpose and with any relevant further information
- ✓ Where applicable, that ZPC intends to transfer personal data to a recipient in a foreign country or international organization and the existence or absence of an adequacy decision by NDPC
- ✓ Inform the data subject the appropriate safeguards for data protection in the foreign country
- ✓ Rectify, without undue delay, inaccurate personal data concerning data subjects per their requests
- ✓ Acknowledge the right of data subjects to have their incomplete data completed, including by means of providing a supplementary statement
- ✓ Delete personal data without delay, upon request of the data subject
- ✓ Delete personal data where one of the following grounds applies:
  - The personal data are no longer necessary in relation to the purposes for which they were collected or processed
  - The data subject withdraws consent on which the processing is based
  - The data subject objects to the processing and there are no overriding legitimate grounds for the processing
  - The personal data have been unlawfully processed
  - The personal data have to be erased for compliance with a legal obligation in Nigeria
- ✓ Take all reasonable steps to delete all the personal data made public and inform other companies processing the personal data of the data subject request
- ✓ Acknowledge data subjects' rights to obtain restriction of processing their personal data where one of the following applies:

- The accuracy of the personal data is contested by the data subject for a period enabling ZPC to verify the accuracy of the personal data
  - The processing is unlawful, and the data subject opposes the erasure of the personal data and requests the restriction of their use instead
  - ZPC no longer needs the personal data for the purposes of the processing but they are required by the data subject for the establishment, exercise or defense of legal claims
  - The data subject has objected to processing pending the verification to confirm whether the legitimate grounds of ZPC override those of the data subject
- ✓ Process personal data with the data subject consent, where processing has been restricted
  - ✓ Communicate any rectification or erasure of personal data or restriction to each recipient to whom the personal data has been disclosed, unless this proves impossible or involves disproportionate effort
  - ✓ Provide personal data concerning data subjects, in a structured manner, commonly-used and machine-readable format to such data subjects
  - ✓ Not hinder the data subject from transmitting those data in its database to another company where the processing is based on consent, on a contract and processing is carried out by automated means
  - ✓ Execute data subjects' requests on transmission of their personal data to another company, where technically feasible

### **Roles and Responsibilities**

In compliance with the Regulation, PenOp has identified key stakeholders and their responsibilities to drive the operationalization of the Policy and implementation of necessary data protection controls within individual pension operators.

#### **Board**

- Set the tone at the top on data protection
- Ultimately responsible for ensuring that their Organization meets the obligations of the Regulation

#### **Executive Management Committee**

- Ensure data protection objectives are established and are aligned with the strategic direction of the Company
- Ensure that the resources needed for the protection of data are available
- Communicate the importance of effective data protection in the Company and of conforming to its requirements

- Support other relevant Management roles to demonstrate their leadership as it applies to their areas of responsibility

### **Data Protection Officer**

- Keep Executive Management updated about data protection responsibilities, risks and issues
- Review all data protection procedures and related policies, in line with an agreed schedule
- Arrange data protection training and advice for the people covered by the Policy
- Handle data protection questions from staff and anyone else covered by the Policy
- Deal with requests from individuals to obtain the data PenOp holds about them
- Review and approve any contracts or agreements with third parties that may handle the Company's sensitive data

### **Divisional Head, Information Technology Division**

- Ensure all systems, services and equipment used for storing data meet acceptable security standards
- Evaluate any third-party services the pension operator is considering using to store or process data such as private cloud computing services

### **Information Security Unit**

- Perform regular checks and vulnerability scans to ensure adequate security of hardware and software used in data processing

### **Internal Control Unit**

- Provide reasonable assurance regarding the achievement of the operational objectives, such as the effectiveness and efficiency of the security controls

### **Internal Audit Group**

- Carry out internal audit and report findings to Executive Management Committee
- Recommend preventive and corrective action

### **Consequences**

The consequence of not adhering to the Policy will be handled in line with the Company's Disciplinary Policy.

### **References**

Nigeria Data Protection Act 2023

## **5.0 Storage and Retention of Personal Data**

5.1 ZPC shall securely store the personal data of pension contributors, retirees and related persons so collected in hard paper copies, computers, servers and other electronic devices.

5.2 ZPC shall hold personal data of contributor, retirees and related persons for as long as may be deemed necessary to keep track of contribution remittances and payments of benefits. The retention period shall however not be less than the 10 years, in line with the provisions of the National Archives Act, CAP.N6 Laws of the Federation of Nigeria,2004

## **6.0 Disclosure of Personal Data**

Without prejudice to the foregoing provisions, however, ZPC may be obliged to disclose personal data in its custody on the following reasonable circumstances:

- a) Where disclosure is made in compliance with statutory obligation or pursuant to an order of a court of competent jurisdiction.
- b) Where the data owner has expressly consented to the disclosure or instructed that his/her data be fully or partially disclosed to a name person; Provided that such consent or instruction may be withdrawn and communicated to ZPC in writing at any time before disclosure.
- c) Where the disclosure is made to the owner of the data for his/her personal use or record.

## **7.0 Violation of Data Privacy and Remedies**

Contributors, retirees or their related persons whose data privacy rights are violated under this Policy shall report in writing, such violation to the

Commission and ZPC for immediate restoration. Pursuant to the provisions of the PRA 2014 and extant Regulations of the Commission, the Commission shall direct ZPC to restore the right of the affected contributor, retiree or related person immediately. Failure of ZPC to restore such rights as appropriate shall entitle the contributor, retiree or related person to legal remedies, subject to the provisions of the Custodial Service Agreement with ZPC and the provisions of the PRA 2014.

## **8.0 Governing Laws**

This Data Privacy Policy is issued by ZPC, pursuant to the provisions of the PRA 2014, and is consistent with Sections 13 of the Constitution of the Federal Republic of Nigeria 1999 (as amended). It is also consistent with Clause 2.5 (a-i) of the Nigeria Data Protection Regulation 2019 issued by the National Information and Technology Development Agency (NITDA) and Article 8 of the International Convention on Data Protections.

## **9.0 Review and Enquiries**

This Privacy Policy is subject to review by ZPC from time to time as the need arises. All enquiries regarding the Policy should be directed to:

The Managing Director,  
Zenith Pensions Custodian Limited  
4<sup>th</sup> & 5<sup>th</sup> floors  
Civic Towers  
Ozumba Mbadiwe Road  
Victoria Island