The General Data Protection Regulation (GDPR) is a major revision to data protection laws in the EU and has potential implications for companies around the world, including those based in the Middle East.

Middle East organisations need to understand whether or not they must comply with the GDPR. Our guide will walk you through the key tests to apply in order to establish whether or not the GDPR applies to you. If you need to update your practices to ensure compliance, Norton Rose Fulbright can help.

One feature of the GDPR is the strict obligations imposed on companies with regards to personal data breaches. An AIG CyberEdge policy can assist with the financial and reputational ramifications resulting from a data breach and can ensure your business remains up and running.
GDPR HAS BEEN IN FORCE SINCE 25 MAY 2018

Complying with data protection rules has never been so important. Is your business affected by the GDPR? If so, is it compliant and adequately protected in the event of a data breach?

You may think the General Data Protection Regulation is not relevant to your business….take our test below to understand whether you must be GDPR compliant.

The Regulation protects people’s personal data and this simple guide will help you understand if your business is exposed and how legal advice and insurance can assist in the event of a data breach.

The UAE’s diverse mix of local and international companies and significant trade volumes with the EU makes considering the applicable data protection regulations imperative.

The EU is a significant trading partner for the UAE. In 2017, it accounted for...

12% of the UAE’s global trade (imports and exports), worth €52.7bn

The number of data breaches and therefore claims is growing year on year

Source: European Union: Trade in goods with United Arab Emirates

Source: AIG Cyber Claims Report 2018; AIG Europe, Middle East, Africa
Does your company need to be compliant with the GDPR?
Check by answering these simple questions

For more information, please see our guidance on page 6

START

Does your business process personal data?

Yes → Does your business have an establishment in the EU?

Yes → Is the processing of personal data in the context of the activities of the establishment?

Yes → You are required to be GDPR-compliant

No → Yes → You are required to be GDPR-compliant

No → No → GDPR is not directly applicable to your business

Yes → Does your business have an establishment in the EU?

Yes → Is the processing of personal data in the context of the activities of the establishment?

Yes → You are required to be GDPR-compliant

No → No → GDPR is not directly applicable to your business

Yes → Do you actively offer free or paid-for goods or services to individuals based in the EU?

Yes → You are required to be GDPR-compliant

No → No → GDPR is not directly applicable to your business

Yes → Do you monitor any behaviour of individuals based in the EU?

Yes → You are required to be GDPR-compliant

No → No → GDPR is not directly applicable to your business

Yes → Does the law of any EU member state apply to you by virtue of public international law?

Yes → You are required to be GDPR-compliant

No → No → GDPR is not directly applicable to your business

For more information, please see our guidance on page 6

If you need to be GDPR compliant, Norton Rose Fulbright can discuss what this means for your business.

An AIG CyberEdge policy can assist with the financial and reputational ramifications resulting from a data breach to ensure that your business remains up and running.

Even if you do not need to be GDPR compliant, you may wish to consider updating your data privacy policies from a best-practice perspective. Norton Rose Fulbright can assist with this.
Data breaches put personal information at risk and can damage a company’s reputation.

**MOST COMMON BREACHES IN 2017 (%)**

- **Ransomware**: 26%
- **Data breach by hackers**: 12%
- **Other unauthorised access**: 11%
- **Impersonation fraud**: 9%
- **Malware/virus**: 8%
- **Other**: 34%

**INDUSTRIES MOST AT RISK, 2017 (%)**

- **Professional services**: 18%
- **Financial services**: 18%
- **Retail / wholesale**: 12%
- **Business services**: 10%
- **Manufacturing**: 10%
- **Other**: 32%

The risk of falling foul of GDPR is higher for industries that hold sensitive personal and financial information, however, no industry is immune to GDPR exposure.

Substantial fines have been introduced under the GDPR:

For serious breaches:
- €10m
- or
- 2%
  of total worldwide annual turnover, whichever is the greater.

For very serious breaches:
- €20m
- or
- 4%
  of total worldwide annual turnover, whichever is the greater.

Source: AIG Cyber Claims Report 2018; AIG Europe, Middle East, Africa
CyberEdge - Add our expertise to yours

GDPR increases the need for effective insurance to protect an organisation and help it take the correct action should a breach occur. A timely response to an attack is critical to minimising its impact.

The AIG CyberEdge end-to-end risk management solution, consisting of pre-breach risk management solutions, a broad insurance policy wording and best-in-class incident response services, is designed to help organisations get back to normal operations as soon as possible following a cyber breach or cyber-attack.

End-to-End Risk Management Solution

From our innovative loss prevention tools providing education and potentially preventing a breach, to the services of our CyberEdge Breach Resolution Team if a breach does occur, insureds receive responsive guidance every step of the way.

<table>
<thead>
<tr>
<th>Loss Prevention Services</th>
<th>Insurance Coverage</th>
<th>Breach Resolution Team</th>
</tr>
</thead>
<tbody>
<tr>
<td>Knowledge</td>
<td>Third-Party Loss Resulting From a Security or Data Breach</td>
<td>7/24 Guidance Supported by IBM</td>
</tr>
<tr>
<td>Training and Compliance Solutions Powered by IBM</td>
<td>Direct First-Party Costs of Responding to a Breach</td>
<td>Legal and Forensics Services: KPMG, Norton Rose Fulbright</td>
</tr>
<tr>
<td>IT Security Assessment Services Powered by IBM</td>
<td>Lost Income and Operating Expense Resulting From a Security or Data Breach</td>
<td>Notification, Credit and ID Monitoring</td>
</tr>
<tr>
<td>Consultation</td>
<td>Threats to Disclose Data or Attack a System to Extort Money</td>
<td>Crisis Communication Experts</td>
</tr>
<tr>
<td>Proactive Shunning Services Powered by IBM RiskAnalytics</td>
<td>Online Defamation and Copyright and Trademark Infringement</td>
<td>Over 15 Years (Since 1999) Experience Handling of Cyber-Related Claims</td>
</tr>
</tbody>
</table>

For more information about our CyberEdge solution please contact your insurance broker or reach out to one of our cyber underwriters.
### Definitions and Guidance Section

<table>
<thead>
<tr>
<th>Test</th>
<th>Source</th>
<th>Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Processing</strong></td>
<td>Article 4 GDPR</td>
<td>Processing is very broad and means any operation which is performed on personal data. Processing includes, for example: the collection, storage, use and disclosure of personal data.</td>
</tr>
<tr>
<td><strong>Personal Data</strong></td>
<td>Article 4 GDPR</td>
<td>Personal data is any information relating to an identified or identifiable individual. This is interpreted broadly under the GDPR. Personal data includes, for example: name, address, passport/ID number, bank account number, gender, ethnic origin, test results. The information a business holds about its employees is personal data.</td>
</tr>
<tr>
<td><strong>Establishment</strong></td>
<td>Article 3(1) GDPR</td>
<td>An establishment is a stable presence in the EU. This may occur in a variety of ways, for example through a branch, subsidiary or office in an EU country. The European courts have interpreted “establishment” broadly. One or two employees could be sufficient to constitute an establishment in the EU.</td>
</tr>
<tr>
<td><strong>‘In the context of an establishment’</strong></td>
<td>Article 3(1) GDPR</td>
<td>EU case law has interpreted this requirement broadly. Google Spain established that a non-EU business processing data is in the context of an EU establishment if the two are “inextricably linked”. An inextricable link is likely to be found where the non-EU business depends economically on activities conducted in the EU.</td>
</tr>
<tr>
<td><strong>Actively offer Goods or Services</strong></td>
<td>Article 3(2)(a) GDPR</td>
<td>There must be an intent to draw EU Data Subjects as customers. This condition is not met by a business merely having a website that can be accessed by individuals in the EU to buy goods. Key factors which can evidence the active offering of goods and services include: the language options, currency options, shipping options and the top level domain name.</td>
</tr>
<tr>
<td><strong>Monitoring</strong></td>
<td>Article 3(2)(b) GDPR</td>
<td>Monitoring means tracking on the internet; including to predict preferences, behaviours and attitudes or perform analytics. A common example is the use of cookies that collect data on how individuals interact with your website or their activity on other websites in order to analyse or predict preference.</td>
</tr>
<tr>
<td><strong>Member State Applicability</strong></td>
<td>Article 3(3) GDPR</td>
<td>This is a question of public international law. For example, this will apply in a Member State’s diplomatic mission or consular post.</td>
</tr>
</tbody>
</table>
Contacts

Adjou Ait Ben Idir  
Partner, Norton Rose Fulbright, Dubai  
Adjou.AitBenIdir@nortonrosefulbright.com  
+971 4 369 6393

Alexander Blom  
Head of Broker & Client Engagement, AIG MEA Ltd  
Alexander.Blom@AIG.com  
+971 (0)4 509 6272

Norton Rose Fulbright is a global law firm. We provide the world’s preeminent corporations and financial institutions with a full business law service. We have more than 4000 lawyers and other legal staff based in more than 50 cities across Europe, the United States, Canada, Latin America, Asia, Australia, the Middle East and Africa.

Recognized for our industry focus, we are strong across all the key industry sectors: financial institutions; energy; infrastructure, mining and commodities; transport; technology and innovation; and life sciences and healthcare. Through our global risk advisory group, we leverage our industry experience with our knowledge of legal, regulatory, compliance and governance issues to provide our clients with practical solutions to the legal and regulatory risks facing their businesses.

Wherever we are, we operate in accordance with our global business principles of quality, unity and integrity. We aim to provide the highest possible standard of legal service in each of our offices and to maintain that level of quality at every point of contact.

Norton Rose Fulbright Verein, a Swiss verein, helps coordinate the activities of Norton Rose Fulbright members but does not itself provide legal services to clients. Norton Rose Fulbright has offices in more than 50 cities worldwide, including London, Houston, New York, Toronto, Mexico City, Hong Kong, Sydney and Johannesburg. For more information, see nortonrosefulbright.com/legal-notices.

The purpose of this communication is to provide information as to developments in the law. It does not contain a full analysis of the law nor does it constitute an opinion of any Norton Rose Fulbright entity on the points of law discussed. You must take specific legal advice on any particular matter which concerns you. If you require any advice or further information, please speak to your usual contact at Norton Rose Fulbright.

AIG is the marketing name for the worldwide property-casualty, life and retirement, and general insurance operations of American International Group, Inc. For additional information, please visit our website at www.aig.com. All products and services are written or provided by subsidiaries or affiliates of American International Group, Inc. Products or services may not be available in all countries, and coverage is subject to actual policy language. Non-insurance products and services may be provided by independent third parties. Certain property-casualty coverages may be provided by a surplus lines insurer. Surplus lines insurers do not generally participate in state guaranty funds, and insureds are therefore not protected by such funds.