

General Secretariat

Decision No. 02/2021 of 9 February 2021

Subject: Approval decision of the BDO Processor Binding Corporate Rules by the Belgian

Data Protection Authority (DOS-2020-04834)

Having regard to Article 47(1) of the EU General Data Protection Regulation 2016/679 (GDPR), the

General Secretariat of the Belgian Data Protection Authority ("General Secretariat") shall approve the

Processor Binding Corporate Rules ("BCR-P") submitted by BDO Corporation ("BDO") provided that

they meet the requirements set out under this Article.

Having regard to Article 20, §1er 8° of the "Law of 3 December 2017 creating the Authority of

Data protection".

Where:

The Information Commissioner's Office (hereafter "ICO") initially reviewed the BCR-P as the competent

Authority for the BCRs (BCRs Lead) before the applicant BDO formally requested for the Belgian Data

Protection Authority to become its BCRs Lead instead of the ICO. The request was justified according

to the WP 263.rev.01, section 1.2 criteria and accepted by all supervisory authorities on June 19th,

2020 in line with the procedure described in section 2.1 of the WP263.rev.01.

In accordance with the cooperation procedure as set out in the Working Document WP263.rev.01, the

BCR-P application of BDO were reviewed by the Belgian Data Protection Authority, as the competent

Authority for the BCRs (BCR Lead) and by two SAs acting as co-reviewers. The application was also

reviewed by the concerned SAs to which the BCRs were communicated as part of the cooperation

procedure.

The review concluded that the BCR-P of BDO comply with the requirements set out by Article 47(1)

of the GDPR as well as the Working Document WP256.rev.01 and in particular that the aforementioned

BCRs:

a) Are legally binding and contain a clear duty for each participating member of the Group including

their employees to respect the BCRs by:

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contractually binding BDO's affiliates vis-à-vis each other to comply with the BCRs through

contractual arrangements which include a "joining agreement" and commitment to abide by

the BCRs. See "Introduction" of the BCRs

including a duty to respect the BCRs in employee's employment contracts. See "Introduction"

of the BCRs

including the commitment that each Member including their employees shall respect the

instructions from the controller regarding the data processing and the security and

confidentiality measures as provided in the Service Agreement. See Rule 2B and Rule 4

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b) Expressly confer enforceable third party beneficiary rights to data subjects with regard to the

processing of their personal data as part of the BCRs:

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See BCRs, Section C (Third Party Beneficiary Rights)

c) Fulfil the requirements laid down in Article 47(2)

at.

b.

the structure and contact details of the group of undertakings, or group of enterprises

engaged in a joint economic activity and of each of its members:

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See BCRs, final paragraph of the "Introduction"

the data transfers or set of transfers, including the categories of personal data, the type

of processing and its purposes, the type of data subjects affected and the identification

of the third country or countries in question:□

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See BCRs, final paragraph of the “Introduction”□

vs.□

legally binding nature, both internally and externally:□

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BCRs, “Introduction”, Annex 1, 1A and 1B to the Application Form□

d.□

e.□

f.□

the application of the general data protection principles, in particular purpose limitation,□

data minimization, limited storage periods, data quality, data protection by design and by□

default, legal basis for processing, processing of special categories of personal data,□

measures to ensure data security, and the requirements in respect of onward transfers to□

bodies not bound by the binding corporate rules:□

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BCRs, Rules 1A; 1B; 2B; 3; 4A; 4B; 4C; 6; 13A□

the rights of data subjects in regard to processing and the means to exercise those rights,□

including the right not to be subject to decisions based solely on automated processing,□

including profiling in accordance with Article 22, the right to lodge a complaint with the□

competent supervisory authority and before the competent courts of the Member States□

in accordance with Article 79, and to obtain redress and, where appropriate, compensation□

for a breach of the binding corporate rules:□

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BCRs, Section C; Rule 5□

Appendix 1 ☐

the acceptance by the controller or processor established on the territory of a Member ☐

State of liability for any breaches of the binding corporate rules by any member concerned ☐

not established in the Union; the controller or the processor shall be exempt from that ☐

liability, in whole or in part, only if it proves that that member is not responsible for the ☐

event giving rise to the damage: ☐

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BCRs, Section C ☐

Ruling [02]/[2021] - 3/5 ☐

g. how the information on the binding corporate rules, in particular on the provisions referred ☐

to in points (d), (e) and (f) of this paragraph is provided to the data subjects in addition ☐

to Articles 13 and 14: ☐

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BCRs, “Introduction”; Rule 2; Section C ☐

h. the tasks of any data protection officer designated in accordance with Article 37 or any ☐

other person or entity in charge of the monitoring compliance with the corporate binding ☐

rules within the group of undertakings, or group of enterprises engaged in a joint ☐

economic activity, as well as monitoring training and complaint-handling: ☐

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BCRs, Rule 7A ☐

i. ☐

d. ☐

k. ☐

L. ☐

the complaint procedures: ☐

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BCRs, Section C; Section 2.5; Rule 10□

Appendix 3 (Complaint Handling Procedure)□

the mechanisms within the group of undertakings, or group of enterprises engaged in a□
joint economic activity for ensuring the verification of compliance with the binding□
corporate rules. Such mechanisms shall include data protection audits and methods for□
ensuring corrective actions to protect the rights of the data subject. Results of such□
verification should be communicated to the person or entity referred to in point (h) and□
to the board of the controlling undertaking of a group of undertakings, or of the group of□
enterprises engaged in a joint economic activity, and should be available upon request to□
the competent supervisory authority:□

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BCRs, Rule 9, 11□

Appendix 2 (Audit Protocol)□

Appendix 4 (cooperation procedure)□

the mechanisms for reporting and recording changes to the rules and reporting those□
changes to the supervisory authority:□

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BCRs, Rule 12□

Appendix 5 (Updating Procedure)□

the cooperation mechanism with the supervisory authority to ensure compliance by any□
member of the group of undertakings, or group of enterprises engaged in a joint economic□
activity, in particular by making available to the supervisory authority the results of□

verifications of the measures referred to in point (j):□

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BCRs, Rules 9; 11□

Appendix 2- Audit Protocol□

Appendix 4 – Cooperation Procedure□

Mr. the mechanisms for reporting to the competent supervisory authority any legal□

requirements to which a member of the group of undertakings, or group of enterprises□

engaged in a joint economic activity is subject in a third country which are likely to have□

a substantial adverse effect on the guarantees provided by the binding corporate rules:□

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BCRs, Rules 1A□

not. the appropriate data protection training to personnel having permanent or regular access□

to personal data:□

BCRs, Rules 8□

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The EDPB provided its opinion 04/2021 in accordance with Article 64(1)(f). The Belgian Data Protection□

Authority took utmost account of this opinion and communicated to the Board that it will amend the□

Ruling [02]/[2021] - 4/5□

draft decision accordingly.□

DECIDES AS FOLLOWING:□

1. The BCR-P of BDO provide appropriate safeguards for the transfer of personal data in accordance□

with Article 46(1),(2f) and Article 47 (1), (2) GDPR and hereby approves the BCR-P of BDO.□

2. However, before making use of the BCR it is the responsibility of the data exporter in a Member□

State, if needed with the help of the data importer, to assess whether the level of protection□

required by EU law is respected in the third country of destination, including onward transfer□
situations. This assessment has to be conducted in order to determine if the guarantees provided□
by BCRs can be complied with in practice, in light of the circumstances of the possible impingement□
created by the third country legislation with the fundamental rights and the circumstances□
surrounding the transfer. If this is not the case, the data exporter in a Member State, if needed□
with the help of the data importer, should assess whether it can provide supplementary measures□
to ensure an essentially equivalent level of protection as provided in the EU.□

3. Where the data exporter in a Member State is not able to take supplementary measures necessary□
to ensure an essentially equivalent level of protection as provided in the EU, personal data cannot□
be lawfully transferred to a third country under this BCR. Therefore the data exporter is required□
to suspend or end the transfer of personal data. In such case if a Group Company envisages to□
transfer personal data to a third country nevertheless, it must notify the competent supervisory□
authority beforehand to enable that SA to ascertain whether the proposed transfer should be□
suspended or prohibited in order to ensure an adequate level of protection.□

4. The approved BCRs will not require any specific authorization from the concerned supervisory□
authorities.□

5. In accordance with Article 57.2.j GDPR, each concerned Supervisory Authority maintains the power□
to order the suspension of data flows to a recipient in a third country or to an international□
organization whenever the appropriate safeguards envisaged by the BCR-P of BDO are not□
respected□

David Stevens□

Secretary General□

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ANNEX TO THE DRAFT DECISION□

The BCR-P of BDO that are hereby approved cover the following:□

a. Scope: Only members of BDO acting as processors, that are legally bound by the□

BCR's BDO (BCR's, "Introduction") ☐

b. EEA countries from which transfers are to be made: Austria, Belgium, ☐

Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, ☐

France, Germany, Greece, Hungary, Ireland, Italy, Iceland, Latvia, ☐

Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, ☐

Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden ☐

c. Third countries to which transfers are to be made : See BCRs, "Introduction" ☐

i.e. Purposes of the transfer : See BCRs, "Introduction" ☐

e. Categories of data subjects concerned by the transfer : ☐

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See BCRs, "Introduction" ☐

f. Categories of personal data transferred: ☐

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See BCRs, "Introduction" ☐