

## **BANK OF AFRICA KENYA LIMITED - DATA PRIVACY POLICY STATEMENT**

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Bank of Africa Kenya Limited (BOA) values your privacy and is committed to protecting your privacy. BOA promises to treat all your personal information carefully and responsibly. In this Data Privacy Policy ("Policy"), we describe the information we collect, how we use it, and when and with whom we share it. Additionally, we have set out in our Policy the data protection principles which we adhere to together with your rights as a Data Subject. This Policy complies with the provisions of Article 31 of the Constitution of Kenya 2010 on the right to privacy and the Data Protection Act, 2019 (DPA) and applies to all our Banking customers, service providers and other stakeholders. Unless otherwise provided, undefined capitalized terms used herein shall have the definitions as set forth in our Standard Terms and Conditions.

### **1. Definitions and interpretation**

1.1 In this Policy, unless the context otherwise requires:

- 1.1.1 **"Child"** means an individual who has not attained the age of eighteen years; as defined under article 260 of the Constitution of Kenya 2010;
- 1.1.2 **"Consent"** means any manifestation of express, unequivocal, free, specific and informed indication of the data subject's wishes by a statement or by a clear affirmative action, signifying agreement to the processing of personal data relating to the data subject;
- 1.1.3 **"Data"** means any proprietary and confidential information or Personal Data of the parties and those of their customers and clients, whether commercial, financial, technical or otherwise (whether oral, written, machine readable or in any other form) and material (whether electronically recorded, written or otherwise);
- 1.1.4 **"Data Commissioner"** the Commissioner is to oversee the implementation of and be responsible for the enforcement of the Act. The Commissioner will exercise oversight on data processing operations, either of own motion or at the request of a data subject, and verify whether the processing of data is done in accordance with the DPA;
- 1.1.5 **"Data Controller"** determines the purpose and means of processing of personal data;
- 1.1.6 **"Data Processor"** Processes personal data on behalf of the data controller;
- 1.1.7 **"Data Subject"** means an identified or identifiable natural person who is the subject of personal data;
- 1.1.8 **"DPA"** means the Data Protection Act, 2019 (No. 24 of 2019);
- 1.1.9 **"The Bank"** means Bank of Africa Kenya or BOA
- 1.1.10 **"Personal Data"** shall mean any information relating to an identified or identifiable natural person; 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. For the avoidance of doubt, Personal Data has the meaning as set forth in the applicable Data Protection Laws (and any regulations issued thereunder) that is processed by The Bank under these Policy;
- 1.1.11 **"POCAMLA"** means the Proceeds of Crime and Anti-Money Laundering Act, 2009 (No. 9 of 2009)
- 1.1.12 **"Processing"** 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, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction,

erasure or destruction; the meaning of Process or Processing will include: collecting, recording, storing, retrieving, consulting, use, erase and altering of data;;

1.1.13 **“Profiling”** means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's race, sex, pregnancy, marital status, health status, ethnic social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth; personal preferences, interests, behaviour, location or movements; and

1.1.14 **“Sensitive Personal Data”** means data revealing the natural person's race, health status, ethnic social origin, conscience, belief, genetic data, biometric data, property details, marital status, family details including names of the person's children, parents, spouse or spouses, sex or the sexual orientation of the data subject

## 2. Principles of Data Protection

2.1 We adhere to the principles relating to Processing of Personal Data set out in the DPA which require Personal Data:

2.1.1 to be Processed in accordance with your right to privacy;

2.1.2 to be Processed lawfully, fairly and in a transparent manner in relation to you;

2.1.3 to be collected for explicit, specified and legitimate purposes and not further Processed in a manner incompatible with those purposes;

2.1.4 to be adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed;

2.1.5 to be collected only where a valid explanation is provided whenever information relating to your family or private affairs is required;

2.1.6 to be accurate and, where necessary, kept up to date, with every reasonable step being

2.1.7 taken to ensure that any inaccurate Personal Data is erased or rectified without delay;

2.1.8 to be kept in a form which identifies the Data Subjects for no longer than is necessary for the purposes which it was collected; and

2.1.9 not to be transferred outside Kenya, unless there is proof of adequate Data protection safeguards or consent from you.

## 3. Type of information we collect and Process

3.1 We collect the following type of information from you:

3.1.1 **Personal Data:** we collect details of your name, date and place of birth, national identification number, postal address, physical and residential address, email address, telephone number, title, the Kenya Revenue Authority personal identification number, nationality, passport photo, employment details, specimen signature, sex and next of kin details and business information such as job title and the company you work for.

3.1.2 **Sensitive Personal Data:** we collect details such as your property details, marital status, race, Religious beliefs, Biometric and locality;

3.1.3 **Financial Data:** we collect details of your income, Bank account details, credit history, creditworthiness and your credit reference bureau (CRB) report;

- 3.1.4 **Online Data:** whenever you use our products and services through online Banking, mobile applications or our website, we and our third-party service providers may use cookies, web beacons, and other tracking technologies to collect information about the type of computers or devices you use to access our online Banking services, our website or mobile applications, browser type, ISP or operating system, domain name, access time, referring or exit pages, page views, IP address, with your consent your location and geolocation data, how frequently you use online Banking services, our mobile applications or visit our website.
- 3.1.5 **Contact Information:** we collect information about you for contact and billing purposes including your name, postal and physical address, phone number and email address. There are some personal information fields that you have to fill in if you want The Bank to provide you with any product and/or service or onboard you as an employee, supplier, director or job applicant. This information can be provided in writing, electronically or telephonically, but it must be accurate and complete. These fields are indicated by an asterisk (or as otherwise indicated) on the respective forms/websites. If The Bank does not receive the necessary personal information, we will not be able to continue with your application. If you are already a(n)customer/employee/supplier/director and The Bank asks you for this information and you do not provide it, The Bank will have to suspend the provision of the product and/or services for a period of time, or as the case may be, even terminate our relationship with you.

#### **4. Collection and Processing of Personal Data**

- 4.1 We collect and use personal information to enable us to perform the Services, respond to your requests and deliver our Services for which you have engaged us, verify your identity, and carry out requests made by you in relation to our Services.
- 4.2 You agree with us that we may hold and process, by computer or otherwise, any information obtained about you and that we may include personal data in our systems which may be accessed by other companies in our group for credit assessment, statistical analysis including behaviour and scoring and to identify products and services (including those supplied by third parties) which may be relevant to you; and permit other companies within our group to use personal data and any other information we hold about you to bring to your attention products and services which may be of interest to you.
- 4.3 The Bank may collect personal information in the course of our business, when you contact us or request information from us, when you engage our Services or as a result of your relationship with one or more of our staff and clients. When we require personal information from you in order to fulfil a statutory or contractual requirement, or where such information is necessary to enter into a contract or is otherwise an obligation, we will inform you and indicate the consequences of failing to do so.
- 4.4 Subject to clause 4.5 below, we collect your Personal Data directly from you upon your specific consent to collect the data.
- 4.5 Notwithstanding sub-clause 4.1 we may collect your Personal Data indirectly where—
- 4.5.1 The Data is contained in a public record;
  - 4.5.2 You as a Data Subject have deliberately made the Data public;

- 4.5.3 You as the Data Subject have consented to the collection from another source including from an authorised attorney;
  - 4.5.4 You as the Data Subject have an incapacity and the guardian appointed has consented to the collection from another source;
  - 4.5.5 The collection from another source would not prejudice your interests as a Data Subject;
  - 4.5.6 Collection of Data from another source is necessary —
    - a) For the prevention, detection, investigation, prosecution and punishment of crime;
    - b) For the enforcement of a law which imposes a pecuniary penalty; or
    - c) For the protection of the interests of the Data Subject or another person.
- 4.6 Where we request you to provide certain information to us and you fail to do so, you understand The Bank’s ability to effectively administer its services to you will be greatly hampered if not unable to provide the same.
- 4.7 We shall not process Personal Data relating to a Child unless —
- 4.7.1 consent is given by the Child's parent or guardian; and
  - 4.7.2 the Processing is in such a manner that protects and advances the rights and best interests of the Child.
- 4.8 We may request you for information we deem necessary to assist us verify:
- 4.8.1 the age of the Child; or
  - 4.8.2 consent to Process Child’s Personal Data.
- 5. How we use the information collected**
- 5.1 We may use your information for any of the following reasons:
- 5.1.1 to enable us conduct customer due diligence and Know Your Client (KYC) checks as required by the Central Bank of Kenya;
  - 5.1.2 Financial monitoring as required by **POCAMLA**: to enable us monitor your account for money laundering and terrorism financing activity. We may report any suspicious activities to the Financial Reporting Centre and any other relevant authority;
  - 5.1.3 to enable us or our third-party service providers check your creditworthiness and to assess your ability to repay a facility;
  - 5.1.4 to assess whether you are eligible for our products and services offered;
  - 5.1.5 to perform contracts to which you are a party or to take steps prior to entering into agreements and security documents;
  - 5.1.6 The Bank may also need to share your personal information with external organisations, such as credit bureaus, tax authorities or other regulatory or industry bodies, so that we can meet our due diligence or regulatory requirements;
  - 5.1.7 **Relationship management and marketing**: We may ask you for feedback about our products and services, or record your conversations with us online, by telephone or mobile or in our branches and to administer surveys, sweepstakes, promotions, or competitions;
  - 5.1.8 for customer support and to respond to your inquiries;
  - 5.1.9 for internal record-keeping purposes;
  - 5.1.10 to enable you use the services available through our website, mobile and online applications including registering you for our services and verifying your identity and authority to use our services;

- 5.1.11 to improve and maintain our website, mobile and online applications and for product development;
- 5.1.12 to address fraud or safety concerns, or to investigate complaints or suspected fraud or illegality;
- 5.1.13 to periodically send promotional emails and text messages regarding new products from us and special offers or other information that may interest you. We may send you news and newsletters from time to time,
- 5.1.14 with your consent, to contact you by text message or electronic mail regarding certain services or information relating to us;  
An opt out option will be provided whenever these messages referred to in Clause 5.1.13 and 5.1.14 above are sent.
- 5.1.15 for website, mobile application and online Banking analytics, including to determine which portions of the website and mobile and online applications are used most frequently, your interests, to assist in determining relevant advertising both on and off the website and mobile application, to evaluate the success of our advertising campaigns;
- 5.1.16 We may need to share your personal information with our business partners or counter-parties, where we are involved in corporate transactions relating to the sale or transfer of any of our businesses, legal entities or assets. The Bank will not share your personal information with third parties who do not need your personal information, or where The Bank is not legally permitted to do so. When The Bank decides to transfer your personal information to third parties, we will only provide it to organisations that have the same data privacy policies as BOA or those who are subject to laws relating to the processing of personal information that are similar to those that apply to BOA.
- 5.1.17 To obtain feedback on our sites and our offering;
- 5.1.18 To statistically analyze user behaviour, experience and activity.
- 5.1.19 We use personal information to better understand how you and others use our Services, so that we can improve our Services, develop new features, tools, offerings, services and the like, and for other research and analytical purposes.
- 5.1.20 Where you are a BOA director, we create a record of you as a director on our system;
- 5.1.21 Where you've been identified as a next of kin by an employee or customer, we create a record of you on our system; and
- 5.1.22 Where you are a supplier to BOA, we process your personal information for due diligence, risk assessment, administrative and payment purposes.

## **6. Your rights with respect to your Personal Data and other information**

- 6.1 As our customer and a Data Subject, you have the following rights with respect to your Personal Data:
  - 6.1.1 to be informed of the use to which your Personal Data is to be put;
  - 6.1.2 to access your Personal Data in our custody and to receive such Data in a structured, commonly used and machine-readable format and:
    - 6.1.2.1 you have the right to transmit such Data which you have obtained from us to another Data Controller or Data Processor without any hindrance;
    - 6.1.2.2 where technically possible, you have the right to have your Personal Data transmitted directly from us to another Data Controller or Data Processor

PROVIDED THAT this right is not applicable in the instance where —

- a) Processing may be necessary for the performance of a task carried out in the public interest or in the exercise of an official authority;
- b) it may adversely affect the rights and freedoms of others; or
- c) it breaches confidentiality of another Data Subject.

6.1.3 to object to the Processing of all or part of your Personal Data;

6.1.4 to correct any false or misleading Data;

6.1.5 unless otherwise provided under the DPA, to withdraw consent at any time;

6.1.6 not to be subject to a decision based solely on automated Processing, (including Profiling) which produces legal effects concerning or that significantly affect you; and

6.1.7 to object to the Processing of your Personal Data.

6.2 A right conferred on you as a Data Subject may be exercised—

6.2.1 where the Data Subject is a Child, by a person who has parental authority or by a guardian;

6.2.2 where the Data Subject has a mental or other disability, by a person duly authorised to act as their guardian or administrator; or

6.2.3 in any other case, by a person duly authorised by you.

6.3 We shall comply with Data portability requests under clause 6.1.2 at your cost and within a period of thirty (30) days PROVIDED THAT where the portability request is complex or numerous, the period may be extended for such further period as may be determined in consultation with the Data Commissioner.

6.4 If you have a complaint relating to the protection of your personal information, including the way in which it has been collected or processed by BOA, please contact us using the local contact details as listed below.

## 7. Disclosure of Information Collected

7.1 Unless otherwise described in this Policy, we may also share the information that we collect from you as follows:

7.1.1 **Consent:** We may disclose your Personal Data to third parties with your consent to do so. Such consent includes the disclosure of your information

- a. in order to provide services or products that you have requested; or
- b. as described in this Policy, the Standard Terms and Conditions, or any other legal terms applicable to you.

7.1.2 **Service Providers:** We may provide access to your information to select third parties who perform services on our behalf. These third parties provide a variety of services to us including without limitation legal services, credit rating services, sales and marketing, advertising, market research, Data storage, analysis and Processing, identity verification and fraud and safety protection.

7.1.3 **Legal Requirement:** We may disclose your information when required by law or when such disclosure is necessary to:

- a. comply with court order(s), or other legal process we receive;

- b. establish or exercise our legal rights including enforcement of securities and agreements with you; or
- c. defend ourselves against legal claims.

7.1.4 **Mergers, takeovers and amalgamations:** We may disclose your information in the event of a merger, partnership or business asset sale between us and another Bank, company or business.

7.1.5 **App Store Providers:** We may provide your identity and mobile device identifier to third-party app store providers (for example, the Apple App Store and the Android App store) to allow you to download our mobile applications.

7.1.6 **Bank's parent company, subsidiaries and affiliates:** We may transmit, transfer or process your information to, or through, any country in the world, as deemed necessary or appropriate, in order to better and effectively provide services to you subject to Clause 13 hereunder.

## 8. Retention of Personal Data

8.1 We shall retain your Personal Data only as long as may be reasonably necessary to satisfy the purpose for which it is Processed unless the retention is —

- 8.1.1 required or authorised by law;
- 8.1.2 reasonably necessary for a lawful purpose;
- 8.1.3 authorised or consented by you as the Data Subject; or
- 8.1.4 for historical, statistical, journalistic literature and art or research purposes.

8.2 We shall delete, erase, anonymise or pseudonymise Personal Data not necessary to be retained under clause 8.1 in a manner as may be specified at the expiry of the applicable retention period which shall not be less than seven (7) years.

## 9. Rectification and erasure of Personal Data

9.1 You may request us to:

- 9.1.1 rectify without undue delay Personal Data in our possession or under our control that is inaccurate, out-dated, incomplete or misleading; or
- 9.1.2 erase or destroy without undue delay Personal Data that we are no longer authorised to retain, irrelevant, or obtained unlawfully.

9.2 Where we have shared the Personal Data with a third party for Processing purposes, we shall take reasonable steps to inform the third parties Processing such Data, that you have requested —

- 9.2.1 the rectification of such Personal Data in their possession or under their control that is inaccurate, out-dated, incomplete or misleading; or
- 9.2.2 the erasure or destruction of irrelevant, or unlawfully obtained Data or such Personal Data that we are no longer authorised to retain.

9.3 Where we are required to rectify or erase Personal Data under clause 9.1 but the Personal Data is required for the purposes of evidence, we shall, instead of erasing or rectifying, restrict its Processing and inform you within a reasonable time.

## **10. Technical and organisational measures for data security**

10.1 We implement appropriate technical and organizational measures, which are reasonably designed to help protect your Personal Data from unauthorised access or disclosure such as:

10.1.1 Encryptions and passwords to access control

10.1.2 Firewalls, malware scans, anti-virus protection patches and updates

10.1.3 Complete and regular risk assessments on all processing activities as well as reviews to ensure they remain effective and up to date

10.1.4 Vulnerability scans on all devices, networks and servers to identify any gaps or areas of weakness and to mitigate against any of these risks

## **11. Notification and communication of breach**

11.1 Where your Personal Data has been accessed or acquired by an unauthorised person, and there is a real risk of harm to you, we shall inform you in writing within a reasonably practical period, unless we are not able to establish your identity.

## **12. Changes to the Policy**

12.1 We may, in our sole and absolute discretion and taking into account any change in the DPA or any other written law, change this Policy at any time. Where we make changes to the Policy, we shall notify you of the changes through electronic means or such other means of communication which may be available to us. All changes to this Policy will be posted on the website. Unless otherwise stated, the current version shall supersede and replace all previous versions of this Policy.

## **13. Transfer of Sensitive Personal Data**

13.1 Our computer systems are currently based in Kenya, so we will Process your Personal Data in Kenya.

13.2 We will only transfer your Personal Data out of Kenya:

13.2.1 if we have given proof to the Data Commissioner on the appropriate safeguards with respect to the security and protection of the Personal Data; or

13.2.2 if the transfer is necessary—

(i) for the performance of a contract between The Bank and you or implementation of pre-contractual measures taken at your request;

(ii) for the conclusion or performance of a contract concluded in your interest between us and another person;

(iii) for any matter of public interest;

(iv) for the establishment, exercise or defence of a legal claim;

(v) in order to protect your vital interests or of other persons, where you are physically or legally incapable of giving consent; or



- (vi) for the purpose of compelling legitimate interests pursued by us which are not overridden by your interests, rights and freedoms.

13.3 We will only transfer your Sensitive Personal Data out of Kenya for Processing:

13.3.1 upon obtaining your consent; and

13.3.2 on obtaining confirmation of appropriate safeguards of protecting Sensitive Personal Data in the recipient organization.

14 If you have any questions or complaints regarding our privacy Policy or practices, please do not hesitate to contact The Bank through our postal address, website, email and telephone numbers as indicated below.

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P. O Box 69562-00400 Nairobi, Kenya

Tel: [0703058000](tel:0703058000) / [0203275000](tel:0203275000)

SMS: 20030

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