

# HMF

HART MUIRHEAD FATTA

ATTORNEYS-AT-LAW

## PRIVACY NOTICE

### WHAT IS THIS?

At Hart Muirhead Fatta and HMF Corporate Services Limited, we take privacy seriously and we are committed to protecting the data you provide to us.

This notice explains when and why we process personal data collected from you or provided to us by third parties, how this data is used, the conditions under which it may be disclosed to others, and how it is kept secure. It also provides you with information regarding various rights you may have in respect of processing of your personal data by HMF.

This notice may be updated from time to time in accordance with changing privacy and data protection laws, so please re-visit this page occasionally to ensure that you are happy with any changes. If any amendments have an impact on how we process your personal data, the notice will say so.

### WHO WE ARE

Hart Muirhead Fatta, Attorneys-at-Law is a partnership of Attorneys and is registered at the Companies Office of Jamaica under the Registration of Business Names Act, which provides legal advice and assistance to its clients. We are regulated by the General Legal Council in Jamaica. Hart Muirhead Fatta is bound by the ethical obligations of confidentiality under the Legal Profession Act of Jamaica, the Legal Profession (Canons of Professional Ethics) Rules and attendant rules and regulations.

HMF Corporate Services Limited is a company limited by shares that is registered under the Trust and Corporate Services Act and provides trust and corporate services to Hart Muirhead Fatta.

As a law firm, in most situations HMF is a data Controller. This means that HMF determines why and how the personal data it collects, is processed. In very limited circumstances, HMF may act as a data Processor, in which case it will process personal data only on documented instructions of another Controller.

Where this notice refers to "HMF", "we", "our" or "us" below, unless it mentions otherwise, it is referring to Hart Muirhead Fatta or HMF Corporate Services Limited, as the Controller of your personal data.

### HOW WE COLLECT YOUR PERSONAL DATA

When we refer to "personal data", we mean information that could identify you directly, such as your name, or indirectly by a certain characteristic combined with information we already hold about you.

We may receive information about you from you or third parties when we are acting for you or a client and we are required to obtain information about you, for example if you are

employed by or an officer of a client company, a beneficiary of an estate or trust or a party or a witness in a litigation case.

Where we receive information about you from a third party, we will only use that information for the purposes of the legal matter and to comply with any regulatory or legal obligations we are subject to.

### **Information that you give to us**

You give us information about yourself when you make an enquiry to HMF, or engage us to provide legal services. It includes additional information that you provide to us during the course of any legal matter.

### **Information we receive from you or other sources**

We may receive information about you from third parties. For example:

#### **Personal data**

- your contact details;
- identification information;
- financial or billing information;
- employment information; and
- any details from correspondence and information regarding a matter on which we advise our client, including for example:
  - biographical; or
  - personal/circumstantial details.

#### **This information may be provided:**

##### **In transactional matters**

Law firms, accountants and other professional advisors acting for you where our client is a party to or otherwise concerned in the course of, for example:

- a corporate transaction (where your details may be emailed to us or placed in an online data room by us or other advisers or other circumstances);
- a commercial or domestic conveyancing transaction;
- a family, trust, estate or probate matter; or
- due diligence.

##### **In dispute resolution**

Witnesses, law firms, counsel, insurers, experts and other professional advisors acting for you or for us on your behalf, or for third parties, where you or our client is a party to or otherwise concerned in the course of, for example:

- mediation, arbitration and other forms of alternative dispute resolution;

- potential or actual litigation;
- disclosure, preparation or exchange of witness or expert evidence; or
- obtaining records such as employment, financial, health or education.

#### **By customers of financial institutions**

- Banks, building societies and finance companies, where you are their customer/debtor, who are clients of ours or from whom we are given or request information.

#### **By clients acting in a representative capacity**

- Personal representatives, attorneys, trustees, deputies and litigation friends who may provide us with information in connection with a matter including litigation which we are conducting for a client.
- Friends, family members or colleagues who may provide information to us about you as part of the work we undertake for them, for example where you are or may be:
  - a beneficiary of an estate or trust;
  - appointed by them in some representative capacity, such as executor; or
  - a party in or a witness to a dispute.

#### **Our people**

- Recruitment consultants who may provide information about you to us in relation to a potential job at HMF.
- Employers who may provide a reference on you to us.
- Court agents, court officers (i.e. sheriffs and enforcement officers).

#### **From regulators**

- Regulatory bodies when making regulatory enquiries.
- Enforcement authorities including, when making enquiries into potential criminal offences, the Police.

#### **Through referrals**

- Professional advisers who may refer your case or matter to us.
- Any other introducer of a case or matter to us.

We may supplement the personal data collected from you with information from publicly available sources, such as information to validate your identity or address, or to perform a credit or an identity check, in accordance with our obligations under the Proceeds of Crime Act, Terrorism Prevention Act and other anti-money laundering rules and regulations.

#### **Mandatory information**

Please note that your provision of documents for identity verification purposes is necessary for us to comply with our legal and statutory obligations. Failure to provide these documents

will mean that we are unable to undertake know your client (“KYC” identification) as required by Proceeds of Crime Act, Terrorism Prevention Act and other anti-money laundering rules and regulations, and, subsequently, we will not be able to act for you or the organisation instructing us, as applicable.

**TYPE OF PERSONAL DATA WE PROCESS ABOUT YOU**

As a law firm dealing with cases and matters, we may process a range of personal data about you. To make it easier to understand the information that we use about you, we have divided this information into categories in the table below and provided a short explanation of the type of information each category covers (please note that not all categories may be applicable to you):

<b>Category</b>	<b>Personal data included in this category</b>
<u>Banking/Billing</u>	information used to send/receive funds to/from you or that appears on your bills
<u>Behavioural</u>	your activities, actions and behaviours
<u>Biographical</u>	your life experiences and circumstances
<u>Contact</u>	information which can be used to address, send or otherwise communicate a message to you (i.e. email address, postal address, employer name and job title)
<u>Correspondence</u>	information contained in our correspondence or other communications with you or about you, or about our products, services or business
<u>Employment</u>	your previous, current or future employment details
<u>Financial</u>	Information of financial transactions, history, standing and forecasts including credit and other references
<u>Identification</u>	information contained in a formal identification document or social security or other unique reference relating to you
<u>Insurance</u>	your insurance applications, policies and any information relating to your insurance claim
<u>Legal</u>	information from public and other records including Companies Office of Jamaica, National Land Agency, Registrar General’s Department, Tax Administration of Jamaica, the Supreme Court of Judicature of Jamaica, the Court of Appeal, Government and Local authorities, Regulators and Enforcement agencies including relating to paying transfer tax, stamp duty and other government fees in your legal transactions, as well as any legal claims made by you or against you or the claims process
<u>Monitoring</u>	we may record phone or video calls and meetings and retain transcripts of dialogue i.e. Zoom conversations, for our records or for training purposes. If you visit one of our offices, your image may be recorded on CCTV for security purposes

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Sensitive Personal  
Data

your political opinions, religious or philosophical beliefs or trade union membership, any personal data that relates to your health, sex life, sexual orientation or criminal offences or records or any genetic or biometric data about you

## HOW AND WHY WE USE YOUR PERSONAL DATA

We may use the information we collect about you in the following ways.

### Where it is necessary for us to perform a CONTRACT with you

We may use and process your personal data where we have supplied you (or continue to supply you) with any legal services, where we have arranged for the supply of another firm's services to you, or where you are in discussions with us about a particular matter on which you are considering taking advice.

We will use your information in connection with the contract for the provision of services when it is needed to carry out that contract or for you to enter into it.

We may also use and process your personal data in connection with our recruitment activities, if you apply for a position with us (whether directly or through a third party) or send your details to us on a speculative basis.

### Where we have a LEGITIMATE INTEREST

We may use and process your personal data where it is necessary for us to pursue our legitimate interests as a business for the following purposes;

- to carry out our conflict checks to ensure that we are able to provide services to you;
- to enter into and perform the contract we have with you or your business (where you are an employee or an owner of that business);
- to carry out work when instructed by another firm who is representing you;
- to assess and improve our service to clients or our clients' customers (where applicable) through recordings of any calls;
- to pursue a legal claim on behalf of our clients (including debt recovery);
- for the prevention of fraud and other criminal activities;
- to verify the accuracy of the data that we hold about you and to create a better understanding of you as a client and our clients' customers (where applicable);
- to assist in the management of queries, complaints or claims;
- to notify you or your business of changes in the law that might affect you or your business; and
- for the establishment, exercise or defence of our legal rights.

### Where required by LAW

Where you engage us to provide legal services to you, we will need to process your personal data and the personal data of third parties in order to comply with our legal obligations, for

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example under the Civil Procedure Rules. We also have a legal obligation to comply with the Canons of Professional Ethics, the Legal Profession Act and any rules and guidance from the General Legal Council.

It is also a legal requirement for you to provide us with information to verify your identity in connection with anti-money laundering and criminal financing legislation. We will use that information for the purpose of complying with the Proceeds of Crime Act, Terrorism Prevention Act and other anti-money laundering rules and regulations) unless we have obtained your consent to use it for any other purpose.

We may use and process your personal data in order to comply with other legal obligations to which we are subject, as follows:

- to maintain a record of undertakings where HMF is the giver or receiver of an undertaking;
- to comply with our other legal and regulatory obligations, e.g. undertaking conflict checks; and
- for the prevention of fraud and other criminal activities.

## **Sensitive personal data**

We may need to use more sensitive personal data about you or others associated with you, (e.g. your family). We will only use this kind of information where:

- we have your explicit consent; or
- it is necessary for us to use this information to protect your vital interests or those of another person where it is not possible to obtain consent; or
- it is necessary for us to do so in connection with the establishment, exercise or defence of legal claims or whenever courts are acting in their judicial capacity; or
- in exceptional circumstances, another of the grounds for processing special categories of personal data are met, such as protecting the economic well-being of an individual at economic risk.

Where you have provided us with explicit consent to use sensitive personal data about you, you may withdraw your consent for us to use this information at any time. Please see *Withdrawing your consent* for further details.

Please note that if you choose to withdraw your consent for us to use sensitive personal data about you, this may impact our ability to provide legal or support services to you which may not be in your best interest.

## **OTHERS WHO MAY RECEIVE OR HAVE ACCESS TO YOUR PERSONAL DATA**

### **Our suppliers and service providers**

Our work for you may require us to provide information to third parties who will use your information for the purposes of providing services to us or directly to you on our behalf. Such third parties may include for example insurers or cloud server providers.

When we use third party service providers, we only disclose to them any personal data that is necessary for them to provide their services and we have an agreement in place that requires them to keep your data secure and not to use it other than in accordance with our specific instructions.

### **Others involved in your case or matter**

Our work for you may require us to provide information to third parties such as law firms, accountants, counsel, technical experts, expert witnesses, medical professionals and other professional advisers, who will use your information in connection with your case or matter. They may provide their own services directly to you.

Where we are engaged by a third party such as a bank or lender in connection with your contract with them, we may share information you provide to us with that third party about the progress of the case.

Any third party to whom we disclose information about you will be under an obligation to keep your information secure and not to use it for any purpose other than that for which it was disclosed unless you agree with them otherwise.

### **WHERE WE STORE YOUR PERSONAL DATA**

All information you provide to us for our use is stored on our secure servers which are located within Jamaica or cloud server providers. The third parties listed under Others who may receive and have access to your personal data may be located outside of Jamaica or they may transfer your data outside of Jamaica. Those countries may not have the same standards of data protection and privacy laws as in Jamaica, which means additional safeguards must be put in place.

We will not transfer your personal data to other countries unless we have in place an appropriate safeguard.

### **HOW LONG WILL WE KEEP YOUR PERSONAL DATA FOR**

If we collect your personal data, the length of time for which we retain it is determined by a number of factors including the type of data, the purpose for which we use that data and our regulatory and legal obligations attached to this use.

We maintain internally a full schedule of types of data and the specified period of time for which we will retain this.

The only exceptions to this are where:

- the law requires us to hold your personal data for a longer period, or delete it sooner;
- in limited cases, the law permits us to keep your personal data indefinitely provided we have certain protections in place.

### **YOUR RIGHTS**

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You have a number of rights in relation to your personal data under data protection legislation. In relation to certain rights, we may ask you for information to confirm your identity and, where applicable, or clarification to enable us to find your personal data. Except in rare cases, we will respond to you within one calendar month from either (i) the date that we have received your clarification; or (ii) we have confirmed your identity; or (ii) where we do not need to do this because we already have this information, from the date we received your request.

## **Accessing your personal data**

You have the right to ask for a copy of the data that we hold about you by emailing or writing to us at the address at the end of this notice. We may not be able to provide you with a copy of your personal data if it concerns other individuals or we have another lawful reason to withhold that data.

We may charge you a reasonable fee based on administrative costs if you request a copy of data we have previously provided to you or if your request is manifestly unfounded or excessive.

In line with our environmental commitments, we will try to provide you with a copy of your data by electronic means where this is possible, unless you have specified otherwise in your request.

## **Correcting and updating your personal data**

The accuracy of your data is important to us, therefore if you change your name or address/email address, or you discover that any of the other data we hold is inaccurate or out of date, please let us know by contacting us using the details set out at the end of this notice.

## **Withdrawing your consent**

Where we rely on your consent as the lawful basis for processing your personal data, as set out under *How we use your personal data*, you may withdraw your consent at any time by emailing or writing to us at the address at the end of this notice. (Please use "Withdrawal of consent" as the subject heading of your email).

If you withdraw your consent, our use of your personal data up until you're the date you withdrew your consent is still lawful.

## **Objecting to our use of your personal data**

Where we rely on our legitimate interests as the lawful basis for processing your personal data for any purpose(s), as set out under *How we use your personal data*, you may object to our using your personal data for these purposes by emailing or writing to us at the address at the end of this notice. Except for the purposes for which we are sure we can continue to process your personal data and where our interests override yours (e.g. in debt recovery), we will temporarily stop processing your personal data in line with your objection until we have investigated the matter. If we agree that your objection is justified in accordance with your



rights under data protection legislation, we will permanently stop using your data for those purposes. Otherwise, we will provide you with our justification as to why we need to continue using your data.

### **Erasing your personal data or restricting its processing**

In certain circumstances, you may ask for your personal data to be removed from our systems by emailing or writing to us at the address at the end of this notice. Please note that this right is not an absolute right. Provided we do not have any continuing lawful reason to continue processing or holding your personal data, we will make reasonable efforts to comply with your request.

You may also ask us to restrict processing your personal data where you believe our processing is unlawful, you contest its accuracy, you have objected to its use and our investigation is pending, or you require us to keep it in connection with legal proceedings. We may only process your personal data whilst its processing is restricted if we have your consent or are legally permitted to do so, for example for storage purposes, to protect the rights of another individual or company or in connection with legal proceedings.

### **Complaining about the use of your personal data**

If you wish to complain about the way we use your personal data, you can e-mail us using the details set out at the end of this notice. If you are dissatisfied with our response to your complaint and remain concerned about the way we have processed your personal, you have the right to complain to the Office of the Information Commissioner data or seek to enforce your rights through a judicial remedy. Please visit the OIC's website for further details.

## **SECURITY**

### **How we protect your personal data**

The transmission of information via the internet is not completely secure. Although we will do our best to protect your personal data, we cannot guarantee the security of your data transmitted to our website and any transmission is at your own risk. Once we have received your personal data, we have in place reasonable and appropriate controls to ensure that it remains secure against accidental or unlawful destruction, loss, alteration, or unauthorised access.

Where we collect any sensitive personal data about you, we will apply additional security controls to protect it.

Where we have given you (or where you have chosen) a password which enables you to access any of our online or electronic resources, you are responsible for keeping this password confidential. We advise you not to share your password with anyone.

## **CONTACT US**



If you wish to contact us with any queries about this Notice or about the way we process your personal data, you can contact our Data Protection Officer at Hart Muirhead Fatta, 53 Knutsford Boulevard, Kingston 5, Saint Andrew, Jamaica. Alternatively, you can contact us by e-mail at: [dpo@hmf.com.jm](mailto:dpo@hmf.com.jm).

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