

#TMTThursday

NEW NDPC DIRECTIVE ON INTERNATIONAL DATA TRANSFERS



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The Nigeria Data Protection Commission (NDPC) has released the General Application and Implementation Directive (GAID) 2025, providing operational guidance for implementing the Nigeria Data Protection Act (NDPA) 2023, including requirements for documenting and notifying cross-border data transfers.

Under the NDPA, a data controller/processor may transfer personal data outside Nigeria only where an adequate level of protection exists, or where approved mechanisms (Binding Corporate Rules (BCRs), standard contractual clauses, codes of conduct, or certification mechanisms) are in place. NDPA Sections 41–43.

The Act empowers the NDPC to:

- Assess adequacy
- Approve Binding Corporate Rules (BCRs), contractual clauses, and certification mechanisms
- Issue directives or require documentation supporting the legality of a transfer. NDPA Sections 41(2)–(3), 42.

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The GAID clarifies procedural expectations, including keeping records of cross-border transfer mechanisms, demonstrating adequacy, and responding to NDPC requests for evidence of compliance.

- Controllers and processors must document the legal basis for any data transfer (e.g., adequacy, approved clauses, Binding Corporate Rules (BCRs), or statutory derogations) in line with NDPA Section 41(2).
- Organisations relying on contractual clauses, Binding Corporate Rules (BCRs), or certifications should be prepared to submit these instruments for NDPC review or approval, consistent with the Commission's mandate under NDPA Section 42.
- GAID guidance indicates that the NDPC may require notifications or evidentiary documentation explaining how adequacy was assessed for a foreign jurisdiction.
- Where transfers rely on the limited derogations in NDPA Section 43, the GAID emphasises detailed justification and recordkeeping.

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