

Afilias – Key Data Protection (Registrant Data)

密钥数据保护（注册人数据）

1. Introduction 前言

The following is a high level overview of the key compliance measures implemented by Afilias in order to comply with its obligations under data protection law. As an Irish incorporated company, the primary relevant legislation is the Irish Data Protection Acts 1988 and 2003 (“DP Acts”). However, the data protection legislation of other jurisdictions may apply to Afilias from time to time.

以下概述了 Afilias 为履行《数据保护法》规定的义务所实施的密钥合规措施。作为爱尔兰公司，首要遵从的相关立法是 1988 年和 2003 年颁布的《爱尔兰数据保护法案》（以下简称《数据保护法》）。除此，其它司法管辖区的数据保护法规也可适时适用于 Afilias。

The rules pursuant to the DP Acts vary depending on whether an entity is a data controller or a data processor of the personal data that it processes. Afilias is considered both a data controller and data processor of personal data processed by it as described below. In its capacity as a Registry Operator for a Top Level Domain (TLD), Afilias is generally considered to be acting in the capacity of a data processor in relation to personal data of Registrants processed by it, with the relevant Registrar being a data controller. Afilias’ responsibilities in this regard are to a large degree set out in the various ICANN Agreements pursuant to which its main function in relation to the data is to collect that which is supplied to it by the Registrars and to collate it into a usable database that can be accessed for particular services to include WHOIS services.

《数据保护法》中针对个人数据的控制方和处理方的规定是不同的。Afilias 被视为以下个人数据的控制方和处理方。作为一家顶级域名（TLD）的注册管理机构，Afilias 一般被视为注册人个人数据的处理方，而相关注册商被视为数据控制方。在这一点上，Afilias 的职责在不同的 ICANN 协议中已做出规定。根据这些规定，其与数据相关的主要职能是采集注册人提供给它的数据，并将它们整理到一个可用的数据库中，这个数据库可被访问，用于提供包括 WHOIS 服务在内的特定服务。

2. Data Controller 数据控制方

In brief, a data controller is a legal entity which controls and is responsible for the keeping and use of personal data. Afilias is the data controller of information that it collects in relation to its employees or other personal data that it collects independently of its position as a data processor, for its own uses and purposes.

简而言之，数据控制方是一个法人实体，它负责控制、保存和使用个人数据。Afilias 仅是其采集的其员工相关的数据，或与其作为数据处理方无关的、用于其自身运营目的的其他个人数据的数据控制方。

3. Data Processor 数据处理方

A company which holds or processes personal data (being data which can identify a living individual), on behalf of a data controller, but does not exercise responsibility for or control over

the personal data, is a “data processor”.

”数据处理方“是一个公司可以代表数据控制方保存及处理其个人数据（可识别个人的数据），但不对此数据的执行负责。

Generally, a data processor has separate legal personality from a data controller for whom they are processing personal data. Data processors are contracted to provide particular data processing services for a data controller. “Processing” is extremely widely defined and covers all dealings in data such as storing, recording, keeping, disclosing, retrieving or using.

通常而言，个人数据的数据处理方的法人身份不同于此个人数据的数据控制方。数据处理方与数据控制方签约，为其提供特定的数据处理服务。“处理”的定义极其宽泛，涵盖数据的素有操作，如存储、记录、保存、披露、检索或使用。

4. Responsibilities of Data Processors 数据处理方的职责

Unlike data controllers, data processors have limited responsibilities under the DP Acts. Of most concern, Afiliias is responsible to ensure that personal data is kept secure from unauthorised access, disclosure, destruction or accidental loss. The details of the written contracts relevant to Afiliias’ processing of Registrant personal data are set out below under the heading “ICANN Agreements”.

与数据控制方不同，《数据保护法》对数据处理方规定的职责是有限的。最受关注的一点是，Afiliias 负责确保个人数据不会遭受未授权访问、披露、损坏或意外丢失。Afiliias 作为个人数据处理方的相关规定在与 ICANN 的书面协议中有详细信息，详见“ICANN 协议”。

The measures put in place in order to satisfy the requirements of ensuring appropriate security measures, a number of factors have been taken into consideration by Afiliias:

为满足确保适当安全措施的要求，Afiliias 将众多因素考虑在内：

- The current state of technological development and technical security measures; these measures are reviewed over time.
技术发展和技术安全措施的现状，这些措施将随时间的推移得到审核。
- The costs of implementing security measures.
实施安全措施的成本。
- The harm that might result from any unlawful processing (such as access, disclose or use).
非法处理（如访问、披露或使用）可能造成的危害。
- The nature of the data concerned. For example, there will be a greater duty of care given to the processing of sensitive personal data (which is defined as including information as to race, physical or mental health, political opinions or religious or philosophical beliefs). Afiliias has no plans to collect such data.
相关数据的性质。例如，处理敏感数据（其定义是：包含与种族、生理或心理健康、政治观点或宗教哲学信仰有关的信息）时应更加谨慎。Afiliias 没有采集这些数据的计划。

Afiliias staff are aware of security measures and appropriate training is in place. Audit trails and logs produced through third-party customer relations software services are combined with

internal audit and review procedures to ensure that staff comply with these measures. Afiliias 的员工了解安全措施和适当的培训已就绪。通过第三方客户关系软件服务生成的审计线索和日志与内部审计和审核流程整合，以确保员工遵从这些措施。

5. ICANN Agreements ICANN 协议

The following are the key provisions from the ICANN Agreements relating to data protection with which Afiliias must comply.

以下是 ICANN 协议中与数据保护相关的、Afiliias 必循遵守的主要条款。

1.1 *Registrar Accreditation Agreement between ICANN and the Registrar ICANN 与注商之间的注册商认证协议*

Clause 3.5 of this agreement indicates that the Registrar claims all rights and exclusive ownership in the personal data collected to include the name and address of the Registered Name Holder, the name, postal address, email address, voice telephone number and fax number of the Technical Contact and of the Administrative Contact. The Registrar also agrees to grant non-exclusive, irrevocable, royalty free licences to make use of and disclose the data elements mentioned above for the purpose of providing a service or services providing interactive, query based public access (WHOIS services). Clauses 3.7.7.4 – 3.7.7.8 and Clause 5.8 provide indications that the Registrar is a data controller and owner of the personal data provided to it in relation to the registration of a particular domain name within the TLD.

该协议中条款 3.5 表明，注册商对所采集的个人数据享有所有权利和独家所有权，包括注册域名持有人的姓名和地址以及技术和行政联系人的姓名、邮政地址、电子邮件地址、语音电话号码和传真号码。注册商还同意向 ICANN 授予非排他性、不可撤销的、无版权的许可，同意后者为提供一项或多项互动的基于查询公共访问服务（WHOIS 服务）利用和披露上述数据元素。条款 3.7.7.4 – 3.7.7.8 和条款 5.8 表明，注册商是注册人为域名注册而提供的所有相关的个人数据的数据控制方和所有者。

1.2 *Registry-Registrar Agreement between Afiliias and the Registrar. Afiliias 与注册商之间的注册局—注册商协议*

This agreement provides that Registrars will provide internet domain name registration services for the applicable TLD, and Afiliias shall provide the Registrar access to the registry system that it operates. Clause 2.6 provides that Afiliias shall notify the Registrar of the purposes for which personal data submitted to it by the Registrar is collected, the intended recipients, and the mechanisms for access to and correction of the data. In addition Afiliias is required to take reasonable steps to protect the personal data from loss, misuse, unauthorised disclosure, alteration or destruction.

该协议规定，注册商提供适用 TLD 的互联网域名注册服务，而 Afiliias 应允许注册商访问其运营的注册局系统。条款 2.6 规定，Afiliias 应告知注册商其采集后者提交的个人数据的目的、预定接收者、以及数据的访问的纠正机制。此外，Afiliias 被要求采取合理措施保护个人数据免遭丢失、误用、未授权披露、篡改或损坏。

Clause 3.6 of the same agreement provides that the Registrar will grant Afiliias a non-exclusive,

non-transferable, limited licence to the personal data for the propagation of and the provision of authorised access to the TLD Zone files and as otherwise required in Afiliias' operation of the the TLD. Clause 3.6 of the agreement also provides that the Registrar shall require each Registered Name Holder to consent to the use, copying, distribution, publication, modification and other processing of Registered Name Holders personal data by Afiliias and its designees and agents in a manner consistent with the purposes specified pursuant to subsection 2.6 (mentioned above).

该协议中条款 3.6 规定，注册商应向 Afiliias 授予一个使用个人数据的非排他性、不可转让、有限的许可，用于传播和提供对顶级域名 Zone 文件的访问，或满足 Afiliias 运营顶级域名的其它要求。该协议中条款 3.6 还规定，注册商还应要求每个注册域名的注册人同意 Afiliias 及其指定人员或代理，基于 2.6 节（以上提及）中描述的目的，使用、复制、分发、发布、修改和以其它方式处理注册域名持有人的个人数据。

6. Conclusion 结束语

Afiliias is obliged to take reasonable steps to protect personal data from loss, misuse, unauthorised disclosure, alteration or destruction. Furthermore, Afiliias is not provided the right under its agreement with ICANN to use or authorise the use of the personal data in a way that is incompatible with the notice provided to the Registrars. In addition, Afiliias is not entitled to claim any intellectual property rights in data supplied by or through the Registrars. The purpose of this policy is to indicate that Afiliias' sole function in relation to the data supplied to it by the Registrars is to collate it into a usable database that can be accessed for particular services to include WHOIS services. No ownership in the personal data passes to Afiliias.

Afiliias 有义务采取合理措施保护个人数据免遭丢失、误用、未授权披露、篡改或损坏。此外，根据其于 ICANN 签署的协议， Afiliias 无权使用或授权他人以不符合告知注册商的方式使用个人数据。另外， Afiliias 对注册商或通过注册商提供的个人数据无权享有任何知识产权。这个政策的目的是为了表明， Afiliias 对注册商向其提供的数据的唯一职责就是将它们整理到一个可用的数据库中，这个数据库可被访问，用于提供包括 WHOIS 服务在内的特定服务。个人数据的所有权并未转移到 Afiliias。