

CLARIFICATIONS ON THE VALIDITY OF THE BRAZILIAN GENERAL DATA PROTECTION LAW

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Although the validity of articles 52, 53 and 54 of the Brazilian General Data Protection Law – “LGPD” (Law No. 13.709/2018), that refer to administrative sanctions, has been postponed for August 1st, 2021, through Law No. 14.010/2020, published on June 12, the entry into force of the other articles of the LGPD is still uncertain, as Provisional Measure No. 959/2020 (“MP 959/20”), which defines the LGPD's effective date on May 3, 2021, still depends of appreciation by the Chamber of Deputies' plenary.

There are some hypotheses regarding MP 959/20's fate: **(1)** it can simply expire or be rejected; **(2)** it can be approved according to its original wording; or **(3)** it can be approved with changes. Thereafter, there are 3 possible scenarios:

1

MP EXPIRES OR IS REJECTED:

- LGPD comes into force on August 16th, 2020
- Sanctions come into force on August 1st, 2021

2

MP IS APPROVED WITHOUT CHANGES:

- LGPD comes into force on May 3rd, 2021
- Sanctions come into force on August 1st, 2021

3

MP IS APPROVED WITH CHANGES:

- National Congress defines new dates

Even though we are moving towards a scenario in which the general rules of the LGPD will come into force before the enforceability of its administrative sanctions, this fact should not be considered a waiver for companies not to proceed with their adequacy and compliance projects with the new determinations, since they will still be subject, in any case, to indemnity due to damages caused to data subjects, individually or collectively, and subject to the actions of the Brazilian Government Agency for Law Enforcement and the consumer protection agencies. It is important to highlight that only the administrative sanctions applicable by the National Data Protection Authority (not yet constituted) were postponed to August 2021.

For further information, contact IWRCF's **Digital Law & Data Protection** team.