



Legal Kornet

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Article 6(1)(f) GDPR

STONECAST FINANCIAL LLC

## LEGITIMATE INTEREST ASSESSMENT

### *Revision History*

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0.1	December 01, 2018	Nikita Tepikin	A,B,C

### *Document Control*

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## 1 INTRODUCTION

The **General Data Protection Regulation (EU)2016/679)) (GDPR)** defines six legal bases under which personal data can be processed. Article 6(1)(f) refers to legitimate interests as a lawful basis for processing where:

*“processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.”*

A controllers' **interests** can be defined as an advantage or benefit to them; or a stake in the processing or outcome. It is because of these '**interests**' that the Regulation warrants an evaluation when using this legal basis, with Recital 47 stating *"the existence of a legitimate interest would need careful assessment"*.

Therefore, we conduct hereby legitimate interest analysis to reveal the interest on processing the personal data below.

## 2 RELYING ON LEGITIMATE INTERESTS

*Relying on legitimate interests as the grounds for processing personal data is only lawful when such processing is necessary, and any controller interests are not outweighed by the rights and freedoms of the individual. The GDPR requires the documentation of any legitimate interests' assessment and decision, as well recording in the privacy notice any legitimate interests pursued by the controller or by a third party where processing is based on point (f) of Article 6(1).*



### 3 ASSESSMENT STAGES

Where the GDPR does not specify the format for the 'legitimate interests' assessment, the Information Commissioner's Office (ICO) and Article 29 Working Party (WP29) both refer to stages of the assessment for determining if legitimate interests are the most appropriate basis for processing.

The WP29's Guidelines on Transparency states that:-

"The specific interests at question must be identified for the benefit of the data subject. As a matter of best practice, the data controller should also provide the data subject with the information from the following table, which should have been carried out by the data controller in order to inform reliance on Article 6(1)(f) as a lawful basis for processing".

The ICO have defined a 3-part test for assessing the use of legitimate interests and break these parts down into:

1. Purpose
2. Necessity
3. Balancing

#### 3.1 PURPOSE

Determining the purpose of the processing and what function it serves for the controller provides the basis for identifying any legitimate interests and documenting them. Defining the purpose allows the controller to establish which legal basis is most appropriate and to move onto the other assessment stages if legitimate interests is deemed appropriate.

In this stage, all identified interests should be recorded, even if they are not all being relied on for processing. The questions outlined in section 4 of this document help to produce responses that define the purpose and interests. The interests can be that of the controller or the interests of third parties, and commercial interests as well as wider societal benefits. Interests that are pervasive and significant will be less easily overridden by an individual's rights and freedoms when carrying out the following test.

#### 3.2 NECESSITY

The ICO define 'necessity' as "processing must be a logical and proportionate way of achieving your purpose." We need to demonstrate that processing is necessary and evidence that there is no less intrusive way to achieve the same result. Consider the organisational interests raised from stage one and any broader objectives relevant to the processing.

If we identify another (less intrusive) way to achieve the same objective or interest (or determine that the processing is not necessary), then we cannot rely on Legitimate Interests.

#### 3.3 BALANCING

The final stage of a Legitimate Interests Assessment (LIA) is to balance the processing against the individual's interests, rights and freedoms. This means documenting and demonstrating an evaluation of those rights and freedoms and ensuring that the individual's interests do not override that of the controller.

This stage is about considering the impact the intended processing will have on an individual and evaluating any impact against the controller's identified interests.

### 4 LEGITIMATE INTERESTS ASSESSMENT (LIA)

The below Legitimate Interests Assessment (LIA) to determine if legitimate interests is the most appropriate legal basis for processing of data.

The assessment below shall be reviewed periodically, as well as if there are any changes to the interests, purpose of processing or any factors that could change the outcome of the assessment. An LIA should be

complied in compliance with the GDPR principles, the accountability principle and the Regulatory requirements.

<b>Data Controller</b>	Monacoin Financial LLC
<b>Data Subject(s)</b>	Instagram users with opened and temporary accounts (Waggle)
<b>Nature of personal data processed</b>	<p>Social network profile of Instagram. Statistical data in accordance with Article 102 of GDPR</p> <p>Full name, avatar, biography, Internet Protocol (IP) address</p> <p>Location, city, country, age, gender, language, topics, interest, historical data, number of followers, users patterns of followers and analyzed data subject (followers).</p> <p>Images, graphics, photos, audio and video clips, records, comments, textual works, works of authorship, applications, links and other content or materials from Instagram by followers.</p>
<b>Purpose of Data Collection</b>	Production of statistical results.
<b>Recitals 162 to GDPR</b>	'The statistical purpose implies that the result of processing for statistical purposes is not personal data, but aggregated data, and that this result or the personal data are not used in support of measures or decisions regarding any particular natural person'
<b>Special category, criminal offence or children's data</b>	For operation of collection and the processing of personal data necessary statistical purposes may involve data about children. Monacoin, Controller use special safeguards measures provided below.
<b>Process owner</b>	Monacoin Financial LLC (Waggle/holder)
<b>Assessment Start date</b>	December 01, 2018
<b>Decision Date</b>	December 01, 2018

### Description of Waggle/holder

Waggle/holder for Instagram analysis. Waggle to provide statistics on account authenticity. It uses an authentic quality score, calculated by AI to detect cheating, and identify followers who will never bring in revenue.

The reports show the number of real people and influencers, the percentage of new followers and suspicious accounts in the feed.

Waggle/holder to focus report when it comes to evaluating audience credibility. Then you get report and get this precise analysis in minutes, so you don't have to hire experts.

Waggle/holder uses Customer contact details and purchase information to establish, support and conduct customer relationships as necessary for the performance of services. Should the Customer fail to provide the personal data we need, we may be unable to complete the transaction. We only contact Customers with service related information. Where marketing is involved, Customers have an option to opt out at any time before first and any subsequent contact.





Fig 1

A high-performance architecture of Hyper-fusion system is built at the very moment's processing dozens of millions of records every second and more rate of analysis of data.

The whole system is operating in two independent data centers, Amazon and Digital Ocean and also include our proprietary GPU-based computer cluster made it as we can make and run our neural network based algorithm.

The algorithm goes through various parameters to finally choose the right sample size: number of followers, number of posts, comments per week, posts per week, average number of comments in recent posts, influence growth rate.



## LEGITIMATE INTEREST ANALYZES

### A) IDENTIFYING A LEGITIMATE INTEREST

	Question	Answer	Comments
1	What is the purpose of the processing operation?	<p>The processing is necessary to achieve economic and other non-financial interests on the basis of the rights of the data subject on the processing of their personal data.</p> <p>Provide an internal report of a DPO or a controller.</p> <p>For the purpose of assessing the rights of the data subject, the controller should be aware of the development of the data subject in which he can be affected by the processing of his data.</p>	The first step is to identify the Legitimate Interest - what is the purpose for processing the personal data?
2	Is the processing necessary to meet one or more specific organisational objectives?	The processing is necessary to achieve our business goals to achieve our clients an optimal state of the DPO and as a result to receive income for further development of our business.	If the processing operation is required to achieve a lawful business objective, then it is likely to be legitimate for the purposes of the assessment.
3	Is the processing necessary to meet one or more specific objectives of any Third Party?	<p>The report helps determine who requires the report to make the right choice before starting to work with a DPO.</p> <p>The report works with DPOs should be an independent report to ensure a fair and good account and can work with objectives.</p>	While you may only need to identify one Legitimate Interest for the purposes of an LIA - the interest that you are looking to rely on - it may be useful to list all apparent interests in the processing. One of you as the Controller, as well as those of any Third Party who are likely to have a Legitimate Interest.
4	Does the GDPR, Privacy Regulation or other national legislation specifically identify the processing activity as being a legitimate activity, subject to the completion of a balancing test and positive outcome	<p>No. But Recitals 162 to GDPR proclaims the following:</p> <p><i>"Where personal data are processed for statistical purposes, this Regulation should apply to that processing. Statistical purposes mean any operation of collection and the processing of personal data necessary for statistical surveys or for the production of statistical results. Those statistical results may further be used for different purposes, including a scientific research purpose. The statistical purpose implies that the result of</i></p>	For example, Legitimate Interest might be relied on where an individual's including their or employee information is processed by a group of companies for the purposes of administrative (internal HR) of the Controller is processing sensitive Personal Data in the employee context, then they may be able to rely on Article 6(1)(f).

		<i>processing for statistical purposes is not personal data, but aggregate data, and that this result or the personal data are not used in support of measures or decisions regarding any particular natural person."</i>	
	Why is the processing activity important to the Controller?	<p>Legitimate interest is critical for the business. Otherwise, it is impossible to develop the products and generate the reports the need to develop the strategies in the whole.</p> <p>Reports is the very basis of the business.</p> <p>The mission of Regulator is to make the biggest industry better, transparent and efficient.</p>	A Legitimate Interest may be objective or business critical. However, even if the Controller's interest in processing personal data for a specific purpose is obvious and legitimate, based on the objectives of the Controller, it must be a clearly articulated and communicated to the individual.

**B) THE NECESSITY TEST**

Question	Answer	Comments
1. is there any alternative way to achieve the objective without conducting this processing activity	<p>No. We have considered any alternative solutions but it will cause a disproportionate effort.</p> <p>For instance, we have to open each account manually and transfer the data from the accounts in Excel and look at the comments by themselves, but without accumulated data on the market and the history of changes in the indicators of the selected accounts (generated with AI), it is impossible to draw conclusions. Regulator had wanted not to be popular due to the fact that earlier people used to access quality with their "heads", but the efficiency was close to zero.</p>	<p>If there is not an alternative, then clearly the processing is necessary.</p> <p>If there is an alternative but it would require disproportionate effort, then the processing may still be necessary or</p> <p>If there are multiple ways of achieving the objective, then a Data Protection Impact Assessment should have identified the least intrusive means of processing the data which would be necessary.</p>

**B) THE BALANCING TEST**

	Question	Answer	Comments
1	Would the individual expect the processing activity to take place?	<p>The - If individual, an account user of Telegram would expect that the personal data may be used by that person.</p> <p>In the same time individual may not expect that an being collected for statistical purposes.</p>	<p>If individual would expect the processing to take place then the impact on the individual is likely to have already considered by them and accepted. If they have no expectation, then the impact is greater and a greater score might be the following one.</p>
2	Does the processing add value to a product or service that the individual uses?	<p>The - If provides information on usage of Telegram the user provide the information with information on features of the Telegram as well as to know whether particular usage may be increased or cooperate with the advertising system.</p>	<p>If the processing adds value for the individual the user strengthen the use for Telegram service.</p>
3	Is the processing likely to negatively impact the individual's rights?	<p>It may have negative impact in some cases.</p> <p>For example, usage is not mean that the personal information is being processed. Therefore, it is not automatically automatically affecting their and interests in the public. Therefore, it is not a personal information.</p> <p>But, in an use processing of the data from the subject, meaning could use the personal data in any other use.</p>	<p>Consider how whether the processing could lead to discrimination, financial loss, reputational damage, loss of confidentiality or professional secrecy, or any other interests or social disadvantage. Please note this is not an exhaustive list. Does the processing process the subject meaning could use the personal data? (see GDPR Recital 17)</p>
4	Is the processing likely to result in unwarranted harm or distress to the Individual?	<p>It may have negative impact in some cases.</p> <p>For example, usage is not mean that the personal information is being processed. Therefore, it is not automatically automatically affecting their and interests in the public. Therefore, it is not a personal information.</p> <p>But, in an use processing of the data from the subject, meaning could use the personal data in any other use.</p>	



5	Would there be a prejudice to Data Controller if processing does not happen?	Yes, all other ways of means collection of data, for example manually, would not be as good and as a result destroy the business.	Would there be a negative impact on the controller or commercial on the data controller if these processing were not to take place?
7	Is the processing in the interests of the individual whose personal data it relates to?	It is more likely - yes. These bloggers, giving "free press" are themselves interested in services of "Facebook" in order to understand the quality of their content and the potential interest they may represent in the advertising and otherwise.	Focus your response on the interests and potential benefits of the processing.
8	Are the legitimate interests of the individual aligned with the party looking to rely on their legitimate interests for the processing?	The processing is of potential and balanced interest to both parties. If the individual chooses not to engage with the processor, neither party benefits. If the individual does choose to engage, both parties are likely to benefit.	If the processing is in the interests of the individual, then it is more likely that legitimate interests can be relied on, as the individual's interests will be aligned with those of the Controller. Where the processing is more closely aligned with the interests of the Controller or a Third Party, then with those of the individual, it is less likely that the interests will be balanced and greater emphasis needs to be placed on the interest of the processing and relationship with the individual.
9	What is the connection between the individual and the organisation?	<ul style="list-style-type: none"> <li>• Existing customer</li> <li>• Former or potential customer</li> </ul>	Identify the connection - Existing customer - Legitimised customer - Employee or contractor - Business client - Former or potential customer - Supplier - None of these
10	What is the nature of the data to be processed? Does data of this nature have any special protections under GDPR?	<p>Special category data of Article 9, Recital 104 of Regulation and Article 10 of Directive</p> <p>Yes</p> <p>Legitimate interest - Recital 47 of Directive</p> <p>Contract - Recital 47 of Directive</p> <p>Legal obligation - Recital 47 of Directive</p> <p>Public interest - Recital 47 of Directive</p> <p>Legal claim - Recital 47 of Directive</p> <p>Other - Recital 47 of Directive</p>	If processing Special Categories of Personal Data, an Article 9 condition must be identified as the lawful basis of processing.

		<p>From program by followers.</p> <p>No there is no any special protection under GDPR</p>	
11	Is there a two-way relationship in place between the organisation and the individual whose personal information is going to be processed? If so how close is that relationship?	<p>Ongoing</p> <ul style="list-style-type: none"> <li>• Periodic</li> <li>• No relationship as yet</li> </ul>	<p>When there is an ongoing relationship, or indeed a more formal relationship, there may well be a greater expectation on the part of the individual that their information will be processed by the organisation. The degree to which this is the case will depend on the nature of processing.</p>
12	Would the processing limit or undermine the rights of individuals?	<p>No - unsubscribe is always available and consistently recorded.</p> <p>If any third party object to processing of the data we delete it immediately.</p>	<p>If processing would undermine or frustrate the ability to exercise their rights in line with the rights set out in the GDPR.</p>
13	Has the personal information been obtained directly from the individual, or obtained indirectly?	<p>It had been</p> <p>Directly</p> <p>It was not through user or third party or other a user.</p> <p>Indirectly</p> <p>Third party was complete website having algorithm for processing and creating content, and then user is added to this.</p>	<p>If the information was obtained directly from the individual then you should take the consideration of the nature of the processing, e.g. your Privacy Notice, the relationship with the individual and the expectations of use. If the data was collected directly and there is an on-going relationship, this is likely to be the case in terms of the processing operation. Where Personal Data is not collected directly, there may need to be a more compelling legitimate interest to ensure that it will also depend on the nature of the processing and if the organisation has a two-way relationship with the individual.</p>
14	Is there any imbalance in who holds the power between the organisation and the individual?	<p>There is no imbalance - the individual is extremely unlikely to depend on (can choose other, competing seller) and can unsubscribe at any time.</p>	<p>If the organisation has a dominant position, this will tip the balance slightly against the use of legitimate interests. This will be the rights and freedoms of individuals but given in the GDPR you have way to unsubscribe the user. The Controller will need to consider how a balance of interests of power is struck, individual's rights are not ignored.</p>
15	Is it likely that the individual may expect their information to be used for this purpose?	<p>Third party website only agreed records.</p> <p>As the user this user of records may not knowing that their data are used for external program.</p>	<p>Given the relationship between the parties, communications being provided, including the information which is available, would the individual reasonably expect or anticipate that their information would be used for this or related purposes? The stronger the</p>

			<p>regardless, the greater the chance that Legitimate Interests can be relied on.</p>
16	<p>Could the processing be considered intrusive or inappropriate? In particular, could it be perceived as such by the individual or in the context of the relationship?</p>	<p>There is an intrusion per se into the private life of the individual.</p> <p>Legitimate interests only applied where:</p>	<p>Processing should not be considered intrusive into the private life of an individual nor be justified based on the nature of the relationship or special circumstances. However, the greater the intrusion, personal or otherwise, the more compelling the Legitimate Interests should be and the more the rights of the individual need to be considered within the balance. Consider how the way the data is processed (e.g. how wide the mailing, profiling, disclosure to a large number of people or publication).</p>
17	<p>Is a fair processing notice provided to the individual, if so, how? Are they sufficiently clear and up front regarding the purposes of the processing?</p>	<p>In circumstances where the individual deals with us personally or directly, a fair processing notice has been built into our contract. Where that is not the case, the nature of our processing being entirely in accordance with industry norms and with the standards upon which available, or our processing notice on the website.</p> <p>Key: Transparency compliance!</p>	<p>Remember that the more unusual, unexpected or intrusive the processing, the greater the importance of making the individual aware of the processing. Particularly where Legitimate Interests are relied on.</p>
18	<p>Can the individual, whose data is being processed, control the processing activity or object to it easily?</p>	<p>The individual has all the rights provided by GDPR.</p>	<p>Giving the individual increased control or elements of control may help a Controller rely on Legitimate Interests where otherwise they could not. If individual control is not possible or not appropriate, explain why.</p>
19	<p>Can the scope of the processing be modified to reduce/mitigate any underlying privacy risks or harms?</p>	<p>As Legitimate Interests relies only data necessary for activities that is publicly available.</p> <p>For example, some of our competitors collect much more data than Legitimate Interests, but they collect the Facebook agreement.</p>	<p>This is a similar concept to a Data Protection Impact Assessment. Where a DPA might identify potential privacy harms it also allows the organisation to mitigate the risk of non-compliance by adapting or altering the scope of the activity. The same is true for an LIA. If you conclude that the processing presents a privacy risk to the individual, the processing can be limited or adapted to reduce the potential impact.</p>

## D) SAFEGUARDS AND COMPENSATING CONTROLS

### What existing safeguards are in place?

Hyperflexible access access to the premises via ID readers, so that only authorized persons have access. The ID cards can be blocked individually; access is also logged.

Furthermore, an alarm system is installed in the premises, preventing infiltration by unauthorized persons. The alarm system is linked to a locking mechanism for the doors.

#### Protective measures for system access control

Each employee has access to the system services only via his/her own employee access. The access rights involved are limited to the responsibilities of the respective employee and/or team.

Hyperflexible requires access to our own systems via password procedures and the use of TSP keys of at least 1024 bits in length. The TSP keys strengthen the productive systems against attacks that target Hyperflexible passwords, as the password-based access to the relevant systems is disabled.

Hyperflexible has, in addition, a regulation for the creation of passwords. This guarantees higher security also for systems that offer password-based access.

#### Passwords must meet the following requirements:

At least 8 characters long

At least 1 letter in upper case

At least 1 letter in lowercase

At least 1 number

At least 1 non-alphanumeric character

Our systems are protected by firewalls that reject all incoming connections by default. Only connection types defined by exception are accepted.

### Protective measures for data access control

All servers and services are subject to continuous monitoring. This includes the logging of personal access in the user interface.

Due to the close proximity of the employees, a visual inspection is possible at any time.

Locking and/or logging off when leaving work is prescribed in writing and is practised.

#### Protective measures for transfer control

The handling of local data storage devices, e.g. USB sticks, is regulated via agreements.

Access to the systems from outside the company network is possible only via secure VPN access.

#### Protective measures for input control



The employees do not work directly at desktop level, but instead use applications to access the data.

All employees access the system via individual access and use a common login, as there are very few employees and these sit in close proximity of each other and monitor each other by agreements and visual inspection.

#### Protective measures for availability control

Hyperledger ensures the availability of data in several ways. On the one hand, there is regular backup of the entire system. This steps in if the other availability measures fail.

Critical services are operated redundantly in multiple data centers and controlled by a high-availability system.

The workstations are also protected with the usual measures. For example, virus scanners are installed, laptops are encrypted.

#### Protective measures for operation control

To operate data, Hyperledger can typically separate desktops so that an accidental reading of data by unauthorized persons can occur.

Access to the data itself is also restricted by the fact that employees use services (applications) which control access.

Will any further safeguards be put in place?

Yes. The Hyperledger shall be quarterly audited by the company Digital Security

<https://www.hyperledger.org/>

### EUROPEAN UNION ADOPTION AND DEMONSTRATION OF THE CONTRACT

#### Statement of assessment:

The outcome of our assessment is that \_\_\_\_\_ believe we will be able to rely on "legitimate interest" for our processing operation, bearing in mind that:

- it poses no risk to her the private life or destruction of her the rights,
- she has to make access of our processing and would reasonably expect it,
- she has to afford the simple ability to unsubscribe with a single click
- there is no overriding balance of power to our favour - if anything, the reverse

## Annex 1

Demo of Statistics provided by \_\_\_\_\_

Nikita Tepikin, Lawyer, Legal Kornet

LLM, Esq. Patent Counsel, NY License Attorney,

Registration number 5251814 \_\_\_\_\_

