

RESOLUTION CD/ANPD No. 2, OF JANUARY 27, 2022

Regulation for the application of Law No. 13,709 of August 14, 2018, the General Data Protection Law (LGPD), for **small business data processing agents**

WHO ARE THE SMALL BUSINESS DATA PROCESSING AGENTS?

“Small business agents” include **microenterprises, small businesses, startups** and non-profit legal entities, natural persons and non-person entities that assume typical controller or operator **obligations**.

SMALL BUSINESSES AND MICROENTERPRISES

Small businesses being those that annually earn equal to or less than **BRL 4,8 million** annually and microenterprises being those that annually earn **BRL 360 thousand** or less.

STARTUPS

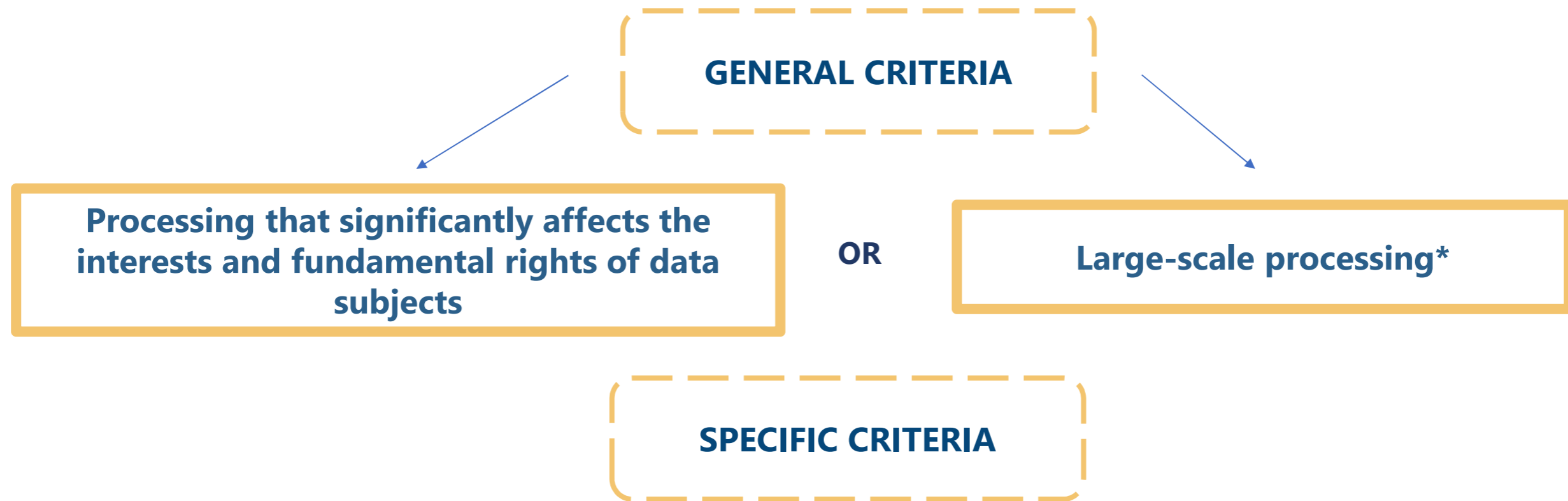
Organizations that meet the criteria of art. 4 of Complementary Law No. 182 of 2021

Exemptions Provided in the Resolution

- Fulfillment of **records of processing activities (ROPA)** in a simplified manner (ANPD will provide a model for this simplified registration).
- Appointment of a **Data Protection Officer (DPO)** will not be mandatory. But even without a DPO, there must be a communication channel with data subjects.
- Establishment of a **simplified essential information security policy** that addresses the needs for processing personal data.
- Communication of **security incidents** may be waived or made in a more flexible way, as determined later by the ANPD.
- **Doubling the deadline** to respond to requests from data subjects in order to communicate to the ANPD and the data subjects about a security incident, provide a clear and complete copy of the data processed – right of access (art. 19, II, LGPD) and present any information requested by the ANPD.
- The provision of the simplified declaration referred to in art. 19, I, of the LGPD can be made within **15 days**, counting from the date of the data subject request.

The waivers set forth in the regulation do not exempt small business data processing agents from complying with the other provisions of the LGPD, including the legal bases and principles; data subject rights; and other legal, regulatory and contractual provisions relating to the protection of personal data and data subject rights.

Such exemptions do not apply to small business data processing agents who carry out high-risk processing activities - those who cumulatively meet at least one general and one specific criteria shown below:



- Use of **emerging or innovative** technologies;
- Surveillance or control of **publicly accessible zones**;
- Decisions made solely on the basis of **automated processing** of personal data, including those intended to profile personal, professional, health, consumer and credit aspects of the data subjects;
- **Sensitive data or data from vulnerable groups**, including children and adolescents and the elderly;
- Other situations in which the processing activity can prevent the exercise of rights or the use of a service, as well as cause **material or moral damage** to the data subjects, such as discrimination; violation of physical integrity; damage to image and reputation; financial fraud; or identity theft.

*When there is a significant number of data subjects, considering the volume of data and the duration, frequency and geographic extension of the processing.