

## DATA PRIVACY INFORMATION

Version: February 2020

### I. Information on data processing pursuant to Articles 13 and 14 GDPR (General Data Protection Regulation)

We herewith inform you about the processing of your personal data and the claims and rights you have under data protection law. The content and extent of data processing is mainly governed by your business relationship with KA Finanz AG (in the following also the “company”), and also by the statutory wind-down task of KA Finanz AG pursuant to § 84 BaSAG (*Bundesgesetz über die Sanierung und Abwicklung von Banken*).

#### 1. Who is responsible for data processing and who can you turn to?

Responsibility for data processing lies with:

##### **KA Finanz AG**

Taborstraße 1-3, 1020 Vienna, Austria  
T +43 1 310 06 06, F +43 1 310 06 06-660  
[www.kafinanz.at](http://www.kafinanz.at)

The **data protection officer** of KA Finanz AG is:

Wolfgang Mader  
[dsgvo@kafinanz.at](mailto:dsgvo@kafinanz.at)

#### 2. What data are being processed and where do these data come from?

We process the personal data which we receive from you or a third party commissioned by you within the scope of the business relationship or in the course of setting up a business relationship with you. Furthermore, we process data which we have lawfully obtained from publicly available sources (such as company register, register of associations, land register, media) or service providers.

Personal data include your personal details (name, address, contact data, date and place of birth, nationality, professional data etc.), identification data (e.g. ID card data) and authentication data (e.g. specimen signature). In addition, personal data may include order data (e.g. payment orders), data arising from the performance of our contractual obligations (e.g. turnover data), information on your financial status (e.g. credit standing, scoring and rating data etc.), documentation data, register data, audio and visual data, processing results generated by KA Finanz AG itself, as well as data needed to meet statutory and regulatory requirements.

### **3. For which purposes and based on which legal grounds are my data processed?**

We process your personal data in accordance with the provisions of the European General Data Protection Regulation (GDPR) and the Austrian Data Protection Act 2018 (DSG).

#### **3.1 Within the scope of the consent given by you (Article 6 (1)(a) GDPR)**

If you have given consent to the processing of your personal data, we will process these data only for such purposes and to such extent as defined and agreed in the declaration of consent (such as registration for asset sales at our website). You can withdraw your consent with effect for the future at any time. Withdrawal of consent does not affect the lawfulness of the data processing carried out on the basis of the consent as provided up to the time of withdrawal.

#### **3.2 To perform our (pre-)contractual obligations (Article 6 (1)(b) GDPR)**

Personal data are processed in order to carry out the legal relationship between you and KA Finanz AG in particular to perform the contracts we have entered into with you as well as to carry out all activities necessary for the operation and management of a wind down company pursuant to BaSAG. The purposes of data processing are governed first and foremost by the specific legal relationship and the wind-down strategy of KA Finanz AG, in the particular case and the associated operational tasks. This may include, among other things, the execution of transactions. The wind-down strategy is derived from the wind-down plan

#### **3.3 To comply with our legal obligations (Article 6 (1)(c) GDPR)**

The processing of personal data may be necessary to meet various statutory obligations (in particular the execution of the statutory wind-down task pursuant to BaSAG but also under the Austrian Banking Act (BWG), the Austrian Financial Markets Anti-Money Laundering Act (FM-GwG), the Austrian Securities Supervision Act (WAG 2018), the Austrian Stock Exchange Act (BörseG) etc.) and regulatory requirements (imposed by, e.g., the European Central Bank, the European Banking Authority, the Austrian Financial Market Authority etc.), which KA Finanz AG, being a wind down company pursuant to § 162 BaSAG, is required to comply with. The purposes of the data processing are based primarily on the specific legal relationship and the statutory wind-down task.

Examples include:

- Submitting notifications to the Financial Intelligence Unit in certain cases of suspicions (section 16 Austrian Financial Markets Anti-Money Laundering Act);
- Providing information to the Austrian Financial Market Authority pursuant to the Austrian Securities Supervision Act and the Stock Exchange Act, for instance, to monitor compliance with the provisions on market abuse of inside information;
- Providing information to authorities in charge of financial crime matters in proceedings dealing with an intentional financial offence;
- Providing information to fiscal authorities based on existing statutory obligations.

#### **3.4 To pursue legitimate interests (Article 6 (1)(f) GDPR):**

Upon balancing the interests of all stakeholders, data may, where necessary, be processed for the purposes of legitimate interests pursued by us or by third parties. The following cases may be involved here:

- measures to ensure the safety of buildings and equipment

- recording of telephone conversations (e.g. in portfolio management);
- measures for business management of the wind-down activity
- measures to protect employees and business partners as well as the property of the company;
- measures to prevent and combat fraud;
- in the context of legal prosecution

#### **4. Who receives my data?**

Your data will be provided to those employees or departments of the company which need your data to fulfil contractual, legal and regulatory obligations or to pursue legitimate interests. Moreover, processors commissioned by us (e.g. IT and back office service providers) and service providers (such as attorneys, tax advisers and other advisers) will receive your data if they need such data to provide the agreed service. All processors are contractually obligated to treat your data as confidential and to process them only to the extent necessary to perform their services.

Where statutory or regulatory obligations apply, public authorities and institutions (e.g. the European Banking Authority, the European Central Bank, the Austrian Financial Market Authority, administrative authorities, courts etc.) may be the recipients of your personal data.

With respect to data transfer to other third parties, please note that also as a wind-down company we are obligated to observe banking secrecy under § 38 BWG and therefore to keep confidential all customer-related information and facts entrusted or made accessible to us within the scope of the business relationship. We are therefore only allowed to transfer your personal data if you have expressly waived, in advance and in writing, our obligation to observe banking secrecy or if we are obligated or authorized to do so under legal and/or regulatory provisions or to fulfil our statutory wind-down task. Credit institutions and financial institutions or similar entities as well as (potential) purchasers of assets of KA Finanz AG may also be recipients of your personal data in this context.

#### **5. For how long will my data be stored?**

We process your personal data as long as is it necessary for the fulfilment of our contractual and statutory duties, normally for the duration of the entire business relationship [from (pre-contractual) first contacts to contract execution to contract termination], or as long as necessary to achieve the above-mentioned purpose/s and, beyond that, pursuant to legal retention or documentation requirements, based, inter alia, on the Austrian Business Code (UGB), the Austrian Federal Tax Code (BAO), the Austrian Banking Act (BWG), the Austrian Financial Markets Anti-Money Laundering Act (FM-GwG) and the Austrian Securities Supervision Act (WAG 2018).

Additionally, the statutory limitation periods are relevant, which according the General Civil Code (ABGB) generally amount to three years, but in some cases may also be up to 30 years. For as long as it is necessary, depending on the potential claim and for the exercise of KA Finanz AG's legal claims, we can preserve personal data which is required for the assertion of such claims.

## **6. What data protection rights do I have?**

You have, at any time, a right to access, rectification, erasure or restriction of processing of your stored data, a right to object to processing as well as a right to data portability as set out in data protection law (see Article 15 et seq. GDPR). If you think that in processing your data we are infringing statutory data protection provisions, please contact us so we can discuss your concerns.

You can also address any complaints you may have to the competent data protection authority:  
Datenschutzbehörde | Barichgasse 40-42 | 1030 Vienna | [www.dsb.gv.at](http://www.dsb.gv.at)

## **7. Do I have to provide data?**

In the context of our business relationship, you have to provide such personal data as are necessary to establish and manage the business relationship or which we are required to collect by law. If you fail to provide such data, we will, as a rule, have to refuse to enter into a contract with you or to execute an order or we will no longer be able to perform an existing contract and must therefore terminate it. However, you are not obligated to consent to the processing of other data that are not relevant for the performance of a contract and/or that are not required under legal or regulatory provisions.

## **8. Will my data be transmitted to third countries?**

Data transmission to countries outside of the EU and the EEA (so-called third countries) only takes place insofar as this is necessary for the execution of your orders or if required by law (e.g. reporting duties under tax regulations), or if you have given us your express consent to such transmission, or if this is necessary for the fulfilment of our statutory wind-down task, or in the context of data processing carried out by processors on our behalf.

The transmission of personal data to a third country takes place only on the basis of an adequacy decision of the EU Commission with effect for the EU, or on the basis of standard EU data protection clauses or in accordance with Art. 49 (1) GDPR (e.g. attorneys, public accountants, notaries, creditors, courts and other public authorities, if this is necessary for the fulfilment of the respective contract or for the assertion, exercise or defence of legal claims).

## **9. Automated decision making (including profiling)**

We do not use any automated decision making within the meaning of Art. 22 GDPR.

## **10. Amendment of data privacy information**

Please note that we may amend the present data privacy information as and when necessary. You will always find the most recent version of this information on our website at [www.kafinanz.at/datenschutz](http://www.kafinanz.at/datenschutz).

## **II. Information on data processing under the Austrian Financial Markets Anti-Money Laundering Act (FM-GwG)**

The Austrian Financial Markets Anti-Money Laundering Act obligates KA Finanz AG, in the context of duties of due diligence for the prevention of money laundering and terrorist financing, to obtain, and retain, certain documents and information from business partners when establishing a business relationship or carrying out an occasional transaction.

Under the Austrian Financial Markets Anti-Money Laundering Act, KA Finanz AG must identify and verify, among other things, the identity of business partners, of business partners' beneficial owners, or of any settlors of the business partner. Furthermore, it has to assess the objective pursued by the business partner and the type of business relationship desired by the business partner and to obtain and verify information on, and, if necessary, obtain proof of, the origin of the funds used and to continuously monitor the business relationship and any transactions carried out within its scope. The company must, in particular, make copies of the documents and information received which are necessary to meet the described due diligence obligations and retain said copies as well as supporting evidence and records of transactions.

**The Austrian Financial Markets Anti-Money Laundering Act confers the statutory authority to use such data in complying with the duties of due diligence for the prevention of money laundering and terrorist financing**, which the company is obligated by law to comply with and which serve public interests. The data processing operations performed for such due diligence purposes are based on a legal obligation imposed on the company. For this reason, the company is not permitted to comply with any withdrawal of consent of the business partner for such data processing.

**Following a five-year retention period from the end of the business relationship, the company must delete all personal data processed and/or stored by the company solely on the basis of the Austrian Financial Markets Anti-Money Laundering Act for the purposes of the prevention of money laundering and terrorist financing, unless a longer retention period is required or permitted under the provisions of other federal laws or longer retention periods are officially imposed by the Financial Market Authority.**

Personal data used by the company solely on the basis of the Austrian Financial Markets Anti- Money Laundering Act for the purposes of the prevention of money laundering and terrorist financing must not be further processed in a way that is incompatible with those purposes. Such personal data must not be processed for any other purposes, such as, for example, commercial purposes.