

# Data Protection Information

Revision of: 18<sup>th</sup> April 2023

## 1. Name and contact details of the controller and its representative

FMS Wertmanagement AöR  
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Fax: +49 (0)89 / 954 7627 -800  
E-Mail: [info@fms-wm.de](mailto:info@fms-wm.de)  
Registry court: Munich HRA 96076

Represented by:  
Christoph Müller (spokesman of the management board)  
Carola Falkner

## 2. Contact details of the data protection officer

Dr. Johannes Starke  
Syndikus (Legal counsel) / Data Protection Officer  
FMS Wertmanagement AöR  
Prinzregentenstraße 56  
80538 München  
Telephone: + 49 (0)89 954 7627 -621  
Mobile: + 49 (0)172 8154 105  
Email: [johannes.starke@fms-wm.de](mailto:johannes.starke@fms-wm.de)

## 3. Purpose of the processing of personal data by FMS Wertmanagement AöR

FMS Wertmanagement AöR (“**FMS-WM**”) is a winding-up agency as defined in sec. 8a (1) sentence 1 of the German Law on the Establishment of a Financial Market Fund and an Economic Stabilisation Fund. FMS-WM has 100 employees on its payroll, of which 98 are in Munich. The remaining employees of FMS-WM are assigned to the establishment of FMS-WM in Rome. As of 1st October 1 2010, FMS-WM took over risk positions and non-strategic operations (collectively the “**Risk Portfolio**”) from Hypo Real Estate Holding AG and its direct and indirect subsidiaries and special-

purpose companies within the country and abroad (collectively the “**HRE Group**”) in order to stabilise the HRE Group and the financial market. According to the charter of FMS-WM<sup>1</sup>, FMS-WM has the task to wind up the risk portfolio in a manner aimed at maximising the Risk Portfolio’s value. To do so, it may conduct all banking and financial service transactions as well as any other business. Further details can be found in the charter of FMS-WM. According to its mission, FMS-WM established own money market and capital market programmes.

Other purposes of the processing of personal data by FMS-WM are:

- Personnel data management
- Job applicant data management
- Supplier and service provider management

FMS Wertmanagement Service GmbH (“**FMS-SG**”) was entered in the commercial register of Munich (HRB 198697) on 10 May 2012 as a wholly-owned subsidiary of FMS-WM. Upon the end of the cooperation agreement between FMS-WM and Deutsche Pfandbriefbank AG (“**pbb**”) on the management of the Risk Portfolio of FMS-WM, FMS-SG took over the management of the Risk Portfolio as of October 2013. Pursuant to the articles of association, the purpose of FMS-SG is the management of bank portfolios, particularly such consisting of loans, bonds and derivatives, and the provision of all services associated with the foregoing. The services of FMS-SG to be provided for FMS-WM since October 2013 include, but are not limited to the current credit risk supervision, the keeping of credit files or risk assessments, the preparation of most various portfolio reports, the handling of the payment transactions, as well as extensive preparatory work and analyses for decisions of FMS-WM in connection with the reduction of the Risk Portfolio.

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<sup>1</sup> Available for viewing at <https://www.fms-wm.de/de/downloadcenter-de/investoren/konstituierende-dokumente/15-statut-der-fms-wertmanagement-aoer-1>

#### 4. Groups of data subjects, the relevant data or data categories, and the respective legal basis

To comply with the purposes set out in section 3 above, the data and/or data categories listed below are mainly collected, processed and used in relation to the groups of data subjects below based on the legal basis as shown below:

Groups of data subjects	Data and/or data categories	Legal bases
Borrowers, jointly liable persons and security providers (including the beneficial owners)	<ul style="list-style-type: none"> <li>○ Name data</li> <li>○ Address and communications data</li> <li>○ Data relating to visits, if any, of contact persons to FMS-WM: second name, first name, date of visit, company, contact person at FMS-WM</li> <li>○ Data in the context of identification pursuant to the Money Laundering Act (Geldwäschegesetz/GwG)</li> </ul>	Art. 6 (1) b) GDPR <sup>2</sup> GWG (KYC-check resp. identification in accordance with GWG); Art. 6 (1) f) GDPR (as far as data are collected in the course of visits of the borrowers, the legitimate interest of FMS-WM is to ensure that only authorised person are present in its premises. In addition, FMS-WM must be able to track who has been in its premises and when; as far as the processing of data of representatives of borrowers being legal persons is concerned, the legitimate interest of FMS-WM is the necessity to communicate with the borrower)
Job applicants	<ul style="list-style-type: none"> <li>○ Name data</li> <li>○ Address and communications data</li> <li>○ Data in connection with visits, if any (job interview) by contact persons to FMS-WM (second name, first name, date of visit, contact</li> </ul>	Art. 6 (1) b) GDPR and sec. 26 BDSG <sup>3</sup> ; Art. 6 (1) f) GDPR (as far as data are collected in the course of visits of job applicants, the legitimate interest of FMS-WM is to ensure that only authorized persons are present in its

<sup>2</sup> Available for viewing at <http://eur-lex.europa.eu>.

<sup>3</sup> Available for viewing at [https://www.gesetze-im-internet.de/englisch\\_bdsch/index.html](https://www.gesetze-im-internet.de/englisch_bdsch/index.html).

	<p>person at FMS-WM)</p> <ul style="list-style-type: none"> <li>○ Data relevant for the application: date of birth, marital status, citizenship, training, information on the occupational career, testimonials and qualifications, curriculum vitae (with the candidate's photo, if applicable)</li> <li>○ Data in connection with reference interviews with the former employer</li> <li>○ Data in connection with potential analyses</li> </ul>	<p>premises. In addition, FMS-WM must be able to track who has been in its premises and when); Art. 6 (1) a) GDPR</p>
Suppliers, service providers, banks and investors	<ul style="list-style-type: none"> <li>○ Name data of the contact persons</li> <li>○ Address and communications data</li> <li>○ Transaction and contract data, accounting and performance data, bank account data</li> <li>○ Recording of the telephone calls of the dealers<sup>4</sup></li> <li>○ Chat recordings on trading platforms<sup>5</sup>,</li> </ul>	<p>Art. 6 (1) b) GDPR (contract between FMS-WM and the supplier / service provider); Art. 6 (1) f) GDPR (as far as data are collected in the course of visits of representatives of suppliers / service providers / investors, the legitimate interest of FMS-WM is to ensure that only authorized persons are present in its premises. In addition, FMS-WM must be</p>

<sup>4</sup> The MaRisk BTO 2.2.1 Nr. 4 provides/provided for the obligation of FMS-WM to record the business talks of the dealers on recording media and to preserve such records for *at least* three months. FMS-WM operates a dealer telephone system.

Against this background, FMS-WM operated a dealer telephone system until 23th September 2022. In accordance with the requirements of BaFin Circular 5/2017 - Appropriate business-related security systems within the meaning of section 25h (1) sentence 1 of the KWG – FMS-WM shall keep the records made up to this date for ten years. The records are deleted ten years beginning with the end of the financial year in which the respective record was made. Since 23th September 2022, FMS-WM has made use of an exemption due to the reduced trading business and no longer keeps records (cf. Hannemann/Schneider, Mindestanforderungen an das Risikomanagement (MaRisk) - Kommentar, 3rd edition 2011, p. 629).

<sup>5</sup> Pursuant to BaFin Circular 5/2017 (GW) - Appropriate business-related security systems within the meaning of Section 25h (1) sentence 1 of the German Banking Act (KWG) - FMS-WM is obliged to keep correspondences (chats, messages, etc.) on trading platforms for a period of 10 years.

	<ul style="list-style-type: none"> <li>○ Handling and control of services and deliveries</li> <li>○ References, qualifications and remuneration of the assigned consultants</li> <li>○ Data in connection with visits, if any, by contact persons to FMS-WM (second name, first name, date of visit, company, contact person at FMS-WM)</li> <li>○ Data in the context of identification pursuant to the Money Laundering Act</li> </ul>	<p>able to track who has been in its premises and when; as far as the processing of data of representatives of suppliers / service providers / investors being legal persons is concerned, the legitimate interest of FMS-WM is the necessity to communicate with the supplier / service provider, investor); Art. 6 (1) c) GDPR in combination with GWG and MaRisk BTO 2.2.1</p>
<ul style="list-style-type: none"> <li>○ Members of supervisory bodies</li> </ul>	<ul style="list-style-type: none"> <li>○ Name data</li> <li>○ Address and communications data</li> <li>○ Data relating to career and qualifications</li> <li>○ Accounting and bank account data</li> <li>○ Travel data</li> <li>○ Data in connection with visits to FMS-WM (second name, first name, date of visit)</li> <li>○ Data in connection with the recording of „directors dealings“ pursuant to MAR (German Market Abuse Ordinance) / WpHG (German Securities Trading Act)</li> </ul>	<p>Art. 6 (1) b) GDPR; Art. 6 (1) f) GDPR (as far as data are collected in the course of visits, the legitimate interest of FMS-WM is to ensure that only authorized persons are present in its premises. In addition, FMS-WM must be able to track who has been in its premises and when); Art. 6 (1) c) GDPR in combination with MAR / WpHG</p>

## 5. Recipients or categories of recipients to whom data may be disclosed

The personal data relating to the groups of data subjects are mainly transferred to the following recipients in compliance with the purposes mentioned in section 4 above:

<b>Groups of data subjects</b>	<b>Recipients or categories of recipients</b>
Borrowers, jointly liable persons and security providers (including the beneficial owners)	<ul style="list-style-type: none"> <li>○ Internal bodies involved in the implementation of the respective transaction processes (particularly Asset Management, bookkeeping, tax, legal and IT departments)</li> <li>○ Public bodies receiving the data based on statutory regulations (e.g. finance authorities, financial supervision)</li> <li>○ External bodies such as affiliated companies and external contractors to the extent as involved in the loan processing and contract performance</li> <li>○ To the extent legally permitted, buyers of loans / data trustee</li> </ul>
Job applicants	<ul style="list-style-type: none"> <li>○ Internal bodies involved in the implementation of the respective transaction processes (e.g. human resources department, heads of human resources departments of the respective speciality departments)</li> </ul>
Suppliers, service providers, banks and investors	<ul style="list-style-type: none"> <li>○ Internal bodies involved in the implementation of the respective transaction processes (e.g., bookkeeping, accounting and IT departments)</li> <li>○ Public bodies receiving the data based on statutory regulations (e.g. finance authorities, German Federal Supreme Audit Institution (Bundesrechnungshof))</li> <li>○ External bodies such as affiliated companies and external contractors, e.g. logistics partner or computation centre, chartered accountant</li> </ul>
Members of supervisory bodies	<ul style="list-style-type: none"> <li>○ Internal units (e.g. accounting, communications &amp; committees)</li> <li>○ External units, e.g. auditors</li> </ul>

## **6. Standard time limits for the erasure of data**

The legislator issued many and varied preservation duties and retention periods. Upon the lapse of such periods, the relevant data are erased on a routine basis if they are no longer required for the performance of the contract. Accordingly, the data with commercial law relevance or financial impact of a completed financial year are erased after further ten years, unless longer periods of retention are compulsory or required for justified reasons. Shorter periods of erasure are used in special fields (e.g. in the human resources area such as rejected applications or warnings). Data not subject to the above rules are erased when the purposes specified in section 3 above cease to apply.

## **7. Planned data transfer to third countries**

Data transfers to third countries occur only in the context of performance of the contract, required communications, as well as other exceptions expressly provided in the General Data Protection Regulation (“**GDPR**”). In any other respect, there will be no transfer to third countries; such transfer is not planned, either.

## **8. Rights of Data Subjects**

By law, we are obliged to inform you of your rights under the GDPR. In the following we explain these rights to you. You are entitled to these rights under the conditions of the respective data protection regulations. No further rights are granted to you by the following presentation:

### **a) Right of access**

You have the right to request confirmation as to whether personal data concerning you are being processed. If this is the case, you have the right to be informed about this personal data and to receive further information, e.g. the purposes of processing, the recipients and the planned duration of storage or the criteria for determining the duration (Art. 15 GDPR).

### **b) Right to rectification and completion**

You have the right to demand the rectification of incorrect data without delay. Taking into account the purposes of the processing, you also have the right to request the completion of incomplete data (Art. 16 GDPR).

**c) Right to erasure**

You have the right to request erasure, as far as the processing is not necessary. This is the case, for example, if the data are no longer necessary for the original purposes, if you have revoked your declaration of consent under data protection law or if the data have been processed unlawfully (Art. 17 GDPR).

**d) Right to restriction of processing**

You have the right to restrict processing, e.g. if you believe that personal data is incorrect (Art. 18 GDPR).

**e) Right to data portability**

You have the right to receive the personal data concerning you that you have provided to us in a structured, common and machine-readable format (Art. 20 GDPR).

**f) Revocation of consents**

Any data subject may at any time revoke his/her consent to the processing of his/her personal data with effect for the future. This also applies to data protection consents that you have given us before the GDPR came into force. However, the legality of the processing carried out up to the point of revocation is not affected by this.

**g) Right to lodge a complaint with a supervisory authority**

Every data subject has a right to lodge a complaint with a supervisory authority for data protection (Art. 77 GDPR in conjunction with Section 19 DSAnpUG-EU), i.e. in particular to the supervisory authority in the member state where the data subject resides or to the supervisory authority responsible for the FMS-WM:

Der Bundesbeauftragte für den Datenschutz und die Informationsfreiheit  
Husarenstraße 39  
53117 Bonn  
Tel: +49 (0)228 / 99799-0  
E-Mail: [redaktion@bfdi.bund.de](mailto:redaktion@bfdi.bund.de)



## **RIGHT TO OBJECT**

**You also have the right to object at any time to the processing of data concerning you for reasons arising from your particular situation, provided that we base the processing on Art. 6 para. 1 lit. e or f GDPR. We then no longer process this data unless we can demonstrate compelling legitimate grounds for the processing which override your interests, rights and freedoms, or for establishment, exercise or defence of legal claims (Art. 21 GDPR).**

### **9. Background of the provision of personal data**

The provision of personal data can be required by law or contract or for entering into a contract. Moreover, there may be a duty to provide the personal data. In specific cases, the data protection officer (section 2.) is available for clarification.

### **10. Automated taking of decisions, including profiling**

There will be no automated taking of decisions, including profiling.

### **11. Further processing of the personal data**

FMS-WM does not intend to further process the collected personal data for a purpose other than the one for which they were collected.

### **12. Modification of this information**

This information is valid as of April 2023. In the event our activities and/or our services change or as a result of amended statutory and/or administrative provisions, it may become necessary to amend this notice. The most recent and applicable version of this notice can be accessed, saved and printed at any time via our website.