

# Bank of America

## Global Banking and Markets Privacy Notice – Australia

Last updated Aug 2020

This Privacy Notice explains how Bank of America entities in Australia, listed in Appendix C, (“**BofA Australia Entity**” or “**we**”), collect, use and disclose personal data online and offline in connection with the services we provide to our corporate and institutional clients (“**Services**”). We refer to the individuals whose Personal Data (as defined below) we process, such as individuals who work for or are otherwise engaged by, or interact with, our clients, their affiliates or other third parties in connection with the Services, as “**you**” in this Privacy Notice.

This Privacy Notice is in addition to other privacy notices related to other services BofA Australia Entity provides to clients and individuals.

### PERSONAL DATA COLLECTION AND PURPOSES FOR USE

BofA Australia Entity collects Personal Data that is directly relevant to its business, required to meet its legal obligations, or that is otherwise permissible to collect under applicable laws. Listed in [Appendix A](#) of this Notice are the categories of Personal Data that we collect and the purposes for which we use the data that we collect, except where restricted by applicable law. In the course of providing certain Services, we receive Personal Data from you, third parties, your client representatives, or from public sources.

We collect and process Personal Data: (i) because we are required or permitted to do so by applicable law, (ii) because such information is necessary to facilitate your relationship with us, and provide the requested Services, (iii) where public interest requires, as classified under local law, or (iv) where necessary, with the explicit consent or authorization of the individual about whom we process Personal Data. If we do not receive the information that we request, we may not be able to provide the requested Services.

Unless otherwise indicated, it is mandatory for BofA Australia Legal Entity to collect, use, store, transfer and otherwise process Personal Data to achieve the purposes listed in [Appendix A](#).

### Collection of Personal Data

We and our agents, affiliates, subsidiaries, and service providers collect Personal Data in a variety of ways, including:

- Through the Services: We may collect Personal Data through providing the Services.
- Other than through the Services: We may collect Personal Data about you other than through the Services, such as when you meet us ahead of transactions, request pitches or proposals from us, or participate in a transaction or contractual arrangement, are referred to in a working party list provided by you or third parties, or in information obtained from deal-related data rooms.
- From Other Sources: We may receive Personal Data from other sources, such as public databases, employers, the entity we provide the Services to and from other third parties.

Keeping Personal Data secure is one of our most important responsibilities. We maintain physical, technical, electronic, procedural and organisational safeguards and security measures to protect personal data against accidental, unlawful, or unauthorised destruction, loss, alteration, disclosure, or access, whether it is processed by us in Australia or elsewhere. Appropriate employees are

authorised to access personal data for legitimate and specified business purposes. Our employees are bound by a code of ethics and other internal policies that require confidential treatment of personal data and are subject to disciplinary action if they fail to follow such requirements.

### **Disclosure of Personal Data**

To the extent permitted by applicable local law and as appropriate to achieve the purposes described in this Notice, Personal Data may be disclosed as described in Appendix B.

BofA Australia Entity may also use and disclose Personal Data as we believe to be necessary or appropriate:

- a) to comply with applicable law including treaties or agreements with or between foreign or domestic governments (including in relation to tax reporting laws), which may include laws outside the country you are located in, to respond to requests from public and government authorities, which may include authorities outside your country, to cooperate with law enforcement, governmental, regulatory, securities exchange or other similar agencies or authorities including to courts, litigation counterparties and others, pursuant to subpoena or other court order or process or otherwise as reasonably necessary, including in the context of litigation, arbitration and similar proceedings to enforce our terms and conditions, and as reasonably necessary to prepare for or conduct any litigation, arbitration and/or similar proceedings to which we or BofA Affiliates are subject or submit, in each case of any country worldwide, or for other legal reasons, who may transfer the Personal Data to equivalent agencies or authorities in other countries;
- b) to central banks, regulators, trade data repositories, or approved reporting mechanisms which may be outside your country; and
- c) to protect our rights, privacy, safety or property, and/or that of BofA Affiliates, you or others.

In addition, we may use, disclose or transfer Personal Data to a third party (i) in the event of any reorganization, merger, sale, joint venture, assignment, transfer or other disposition of all or any portion of our business, assets or stock (including in connection with any bankruptcy or similar proceedings) and/or (ii) to third parties, as requested by clients or their representatives.

### **OTHER INFORMATION**

“Other Information” is any information that does not reveal a person’s specific identity or does not directly relate to an identifiable individual, such as:

- Browser and device information
- App usage data
- Information collected through cookies, pixel tags and other technologies
- Demographic information and other information provided by you that does not reveal a person’s specific identity
- Information that has been aggregated in a manner that it no longer reveals a person’s specific identity
- Survey responses and similar information which reveals views and preferences, but which does not reveal a person’s specific identity.

If we are required to treat Other Information as Personal Data under applicable law, then we may use and disclose it for the purposes for which we use and disclose Personal Data as detailed in this Privacy Notice.

### **Collection of Other Information**

We and our service providers may collect Other Information in a variety of ways, including:

- Through a browser or device: Certain information is collected by most browsers or automatically through devices, such as a Media Access Control (MAC) address, computer type (Windows or Mac), screen resolution, operating system name and version, device manufacturer and model, language, Internet browser type and version and the name and version of the Services (such as the App) being used. We use this information to ensure that the Services function properly.

- **Using cookies:** Cookies are pieces of information stored directly on the computer being used. Cookies allow us to collect information such as browser type, time spent on the Services, pages visited, language preferences, and other anonymous traffic data. We and our service providers use the information for security purposes, to facilitate navigation, to display information more effectively, and to personalize the user’s experience. We also gather statistical information about use of the Services in order to continually improve their design and functionality, understand how they are used and assist us with resolving questions regarding them. We do not currently respond to browser do-not-track signals.

Most browsers allow individuals to automatically decline cookies or be given the choice of declining or accepting a particular cookie (or cookies) from a particular website. Please refer to [www.allaboutcookies.org/manage-cookies/index.html](http://www.allaboutcookies.org/manage-cookies/index.html) for more information. Declining cookies may cause certain parts of the Services to cease working.

- **Using pixel tags and other similar technologies:** Pixel tags (also known as web beacons and clear GIFs) may be used to, among other things, track the actions of users of the Services (including email recipients), measure the success of our marketing campaigns and compile statistics about usage of the Services and response rates.
- **Analytics:** We may use Google Analytics, which uses cookies and similar technologies to collect and analyze information about use of the Services and report on activities and trends. This service may also collect information regarding the use of other websites, apps and online resources. You can learn about Google’s practices by going to [www.google.com/policies/privacy/partners](http://www.google.com/policies/privacy/partners).
- We may use Flash LSOs and other technologies to, among other things, collect and store information about your use of the Services. If you do not want Flash LSOs stored on your computer, you can adjust the settings of your Flash player to block Flash LSO storage using the tools contained in the Website Storage Settings Panel, which can be found by going to [www.macromedia.com/support/documentation/en/flashplayer/help/settings\\_manager07.html](http://www.macromedia.com/support/documentation/en/flashplayer/help/settings_manager07.html). You can also go to the Global Storage Settings Panel at [www.macromedia.com/support/documentation/en/flashplayer/help/settings\\_manager03.html](http://www.macromedia.com/support/documentation/en/flashplayer/help/settings_manager03.html) and follow the instructions (which may explain, for example, how to delete existing Flash LSOs (referred to as “information”), how to prevent Flash LSOs from being placed on your computer without your being asked, and how to block Flash LSOs that are not being delivered by the operator of the page you are on at the time). Please note that setting the Flash Player to restrict or limit acceptance of Flash LSOs may reduce or impede the functionality of some Flash applications.
- **IP Address:** An IP address is automatically assigned to a computer by an Internet Service Provider. An IP address may be identified and logged automatically in our server log files whenever a user accesses the Services, along with the time of the visit and the page(s) that were visited. Collecting IP addresses is standard practice and is done automatically by many websites, applications and other services. We use IP addresses for purposes such as calculating usage levels, diagnosing server problems and administering the Services. We may also derive approximate location from IP address.

### **Uses and Disclosures of Other Information**

We may use and disclose Other Information for any purpose, except where we are required to do otherwise under applicable law. In some instances, we may combine Other Information with Personal Data. If we do, we will treat the combined information as Personal Data as long as it is combined.

### **THIRD PARTY SERVICES**

This Privacy Notice does not address, and we are not responsible for, the privacy information or other practices of any third parties, including any third party operating any website or service to which the Services link. The inclusion of a link on the Services does not imply endorsement of the linked site or service by us or by BofA Affiliates.

### **SECURITY**

We use reasonable organizational, technical and administrative measures to protect Personal Data within our organization. If you have reason to believe that your interaction with us is no longer secure, please immediately notify us in accordance with the “Contacting

Us” section below.

## **INDIVIDUAL RIGHTS**

You may be entitled to make certain requests of BofA Australia Entity under applicable data protection law. These rights may include, subject to applicable conditions or restrictions:

- Right to request access to personal information we hold about you;
- The right to request that BofA Australia Entity maintain accurate records related to your personal information; and
- The right to request erasure, destruction, or anonymization of your personal information.

If you would like to request or exercise any of your rights stated above, , you may contact us by emailing [individualrightsrequests@bofa.com](mailto:individualrightsrequests@bofa.com) . We will respond to your request consistent with applicable law.

For your protection, we may only implement requests with respect to the Personal Data associated with the particular email address that you use to send us your request, and we may need to verify your identity before implementing your request. We will try to comply with your request as soon as reasonably practicable.

Please note that we may need to retain certain information for recordkeeping purposes and/or to complete any transactions that you began prior to requesting a change or deletion. There may also be residual information that will remain within our databases and other records, which will not be removed.

### **Receiving electronic communications from us**

If you no longer want to receive marketing-related emails from us on a going-forward basis, you may opt-out by following the instructions in the relevant electronic communication.

We will try to comply with your request(s) as soon as reasonably practicable. Please note that if you opt-out of receiving marketing-related emails from us, we may still send you important administrative and Service or transaction-related messages, which you cannot opt out of.

## **RETENTION PERIOD**

We will retain Personal Data for as long as needed in accordance with our retention schedules or permitted in light of the purpose(s) for which it was obtained. The criteria used to determine our retention periods include: (i) the length of time we have an ongoing relationship with our client and provide the Services; (ii) whether there is a legal obligation to which we are subject; and (iii) whether retention is advisable in light of our legal position (such as in regard to applicable statutes of limitations, litigation or regulatory investigations).

## **AUTOMATED DECISION MAKING**

We do not use automated decision making in our processes.

## **USE OF SERVICES BY MINORS**

The Services are not directed to individuals under the age of eighteen (18), and we do not knowingly collect Personal Data from individuals under 18.

## **JURISDICTION AND CROSS-BORDER TRANSFER**

Personal Data may be stored and processed in any country where we have facilities or in which we engage service providers, including the United States. In certain circumstances, courts, law enforcement agencies, regulatory agencies or security authorities in those

other countries may be entitled to access Personal Data.

By providing BofA Australia Entity with your Personal Data, you recognize and understand that BofA Australia Entity may collect, use, transfer, or disclose your Personal Data to the third parties and for the purposes identified in this Privacy Notice to reasonably provide you with the Services. If you do not provide us with the Personal Data described in this Privacy Notice, BofA Australia Entity may no longer be able to provide you with the Services and your receipt of such Services may promptly be discontinued.

In the event that BofA Australia Entity seeks to disclose your information to promote or publicize products or services, BofA Australia Entity will obtain specific consent for such marketing purpose prior to such disclosure. Your consent for such marketing purposes is not a condition of receiving the Services.

## **SENSITIVE PERSONAL INFORMATION**

We do not typically collect sensitive Personal Data in connection with the Services. Please do not send us any Personal Data which would be categorized as sensitive personal data under the Australia Personal Data Protection Act or its implementing regulations (e.g., information related to racial or ethnic origin, political opinions, religion or other beliefs, health, biometrics or genetic characteristics, criminal background or trade union membership) (“Special Data”) through the Services or otherwise, unless we specifically request this information from you or make a due diligence enquiry of you where the response necessitates you disclosing Special Data to us. In such a case, please ensure you notify us that you are providing Sensitive Personal Data.

We may receive Sensitive Personal Data from third party service providers and others in support of due diligence activities we undertake to satisfy various legal and regulatory requirements to which we are subject.

## **JURISDICTION-SPECIFIC CLAUSES**

We may collect and process Sensitive Personal Data such as criminal records, credit information, and tax file numbers as required by Law and otherwise in accordance with applicable data protection and privacy laws.

## **UPDATES TO THIS PRIVACY NOTICE**

We may change this Privacy Notice, from time to time. The “LAST UPDATED” legend at the top of this Privacy Notice indicates when this Privacy Notice was last revised. Any changes will become effective when we post the revised Privacy Notice. Use of the Services following these changes (or your continued provision of Personal Data to us) signifies acceptance of the revised Privacy Notice.

## **CONTACTING US**

The BofA Australia Entity who provides the Services in connection with which your Personal Data has been provided is the company responsible for collection, use and disclosure of your Personal Data under this Privacy Notice.

If you have any questions about this Privacy Notice, please contact your Client Relationship Manager. You may also contact our Australia Data Protection Officer at [connect.dpo@bofa.com](mailto:connect.dpo@bofa.com). For urgent queries, you may contact Compliance Officer on +612 9226 5317.

To help us to manage your query, please include your full name and the name of the BofA Australia Entity you understand is processing your personal data and/or any reference number that was made available by a BofA Australia Entity to you.

## **Appendix A**

### **The Categories of Personal Data We May Collect, Use, Disclose, or Transfer, Unless Restricted by Applicable Law**

“Personal Data” is information collected during or related to BofA Australia Entity’s Services, and relating to our Services that identifies an individual or relates to an identifiable individual, including:

- Name
- Account details and related contact information
- Postal address
- Telephone or fax number
- Email address and other identifying addresses for electronic communications
- Date of birth
- Details from passports and other government or state issued forms of personal identification (including social security, driver’s license, national insurance and other identifying numbers)
- Photographic or video images
- Signature (including e-signatures)
- Telephonic or electronic recordings
- Educational qualifications

In the course of providing certain Services, we may also receive from you, or third parties or your client representatives, information including:

- Employment-related information: salary information, stock options, shareholdings, pension, and CVs;
- Information about regulatory and other investigations or litigation to which you are or have been subject;
- Information about your use of our services, and the way individuals employed by our clients use our services;
- Source of wealth of beneficial owner(s); and

### **The Purposes for Which We May Collect, Use, Transfer, and Disclose Personal Data:**

We and our service providers may use Personal Data for our legitimate business interests, including the following:

- a) to validate authorized signatories when concluding agreements and transactions;
- b) to contact nominated individuals in connection with existing transactions and contractual agreements;
- c) to respond to enquiries and fulfil requests from our clients and/or relevant third parties who require information as a necessary part of the provision of the Services, and to administer account(s) and manage our relationships;
- d) to inform our clients about products or services which we believe may be of interest, including tailored ads, marketing proposals or offers (but only with your consent, if required by Law);
- e) to verify an individual’s identity and/or location (or the identity or location of our client’s representative or agent) in order to allow access to client accounts, or conduct online transactions;
- f) to provide advice and guidance to clients;
- g) to protect the security of accounts and Personal Data;

- h) for information and relationship management purposes, and business purposes, including data analysis, audits, developing and improving products and services, identifying usage trends and determining the effectiveness of promotional campaigns, and enhancing, improving or modifying our Services;
- i) for risk management, for fraud detection, prevention and investigation, including “know your customer”, anti-money laundering, conflict and other necessary onboarding and ongoing client checks, due diligence and verification requirements, credit checks, credit risk analysis, and tax reporting;
- j) to provide, and perform our obligations with respect to, the Services or otherwise in connection with fulfilling instructions;
- k) to send administrative information to clients, such as changes to our terms, conditions and policies;
- l) to record transactions in public records;
- m) as part of the sale, merger or similar change of a business; and
- n) to otherwise comply with laws and regulations (including any legal or regulatory guidance, codes or opinions), and to comply with other legal process and law enforcement requirements (including any internal policy based on or reflecting legal or regulatory guidance, codes or opinions).

Please note that Personal Data we collect in order to meet our legal and regulatory obligations related to the prevention of money laundering and terrorist financing is processed only for those purposes, unless otherwise permitted or agreed.

## **Appendix B**

### **Disclosure of Personal Data**

Personal Data may be disclosed to third parties in connection with the Services we are providing. The recipients of any such information will depend on the Services that are being provided. Subject to any restrictions around confidentiality we have expressly agreed with our client or other transaction parties, such disclosures may include disclosures:

- to affiliates and subsidiaries of BofA for the purposes described in this Privacy Notice (“**BofA Affiliates**”);
- to our third party service providers who provide services such as website hosting, cloud computing, data analysis, payment processing, order fulfilment, information technology and related infrastructure provision, customer service, application service providers, data center services, technology service providers, email delivery, auditing, e-signature collection and processing services and other services;
- to third party experts and advisers (including external legal counsel, notaries, auditors and tax advisers);
- to payment, banking and communication infrastructure providers including SWIFT, financial institutions or intermediaries with which we may have dealings including correspondent banks, insurers, insurance brokers, central counterparties (CCPs), clearing houses, clearing and settlement systems, exchanges, trading platforms, regulated markets, credit institutions, financial brokers, other banks, sponsors, issuers, joint syndicate members, sub-underwriters, portfolio reconciliation service providers, margin service providers, middleware platforms, valuation agents, service agents and other service providers assisting on transactions;
- to third party storage providers (including archive service providers, document repositories and deal sites which provide access offering circulars and other marketing materials) and trade data repositories;
- to third party distribution platforms and to operators of private or common carrier communication or transmission facilities, time sharing suppliers and mail or courier services;
- to other deal/transaction participants including issuers, borrowers, potential investors and syndicate members, advisers, other lenders, independent printers producing circulars, prospectuses and marketing materials and translation service providers;
- to counterparties, vendors and beneficiaries, and other entities connected with our client (including guarantors, BofA Affiliates,

underlying clients, obligors, investors, funds, accounts and/or other any principals connected); and

- to other persons as agreed with our client or as required or expressly permitted by applicable law.

Disclosures of Personal Data which we make to our third party service providers, as described in this section, will be made subject to conditions of confidentiality and security as we may consider appropriate to the specific circumstances of each such disclosure.

#### **Appendix C – BAC Australia entities**

- Merrill Lynch (Australia) Futures Limited
- Merrill Lynch Equities (Australia) Limited
- Merrill Lynch (Australia) Nominees Pty Limited
- BANK OF AMERICA, N.A. - AUSTRALIAN BRANCH
- Merrill Lynch Markets (Australia) Pty., Limited
- BALI Australia Leasing Pty Limited