

# Bank of America Data Protection and Confidentiality Terms

Last Updated: November 2020

The Bank of America Data Protection and Confidentiality Terms are provided for entities of “Bank of America” which, may include but are not limited to, Merrill Lynch International, BofA Securities Europe Société Anonyme, Bank of America Europe Designated Activity Company. See ‘[BofA Entities List](#)’ for additional information.

## 1. Data Protection and Permitted Disclosures

- 1.1. You acknowledge that we may obtain information (including personal data as defined in the General Data Protection Regulation (EU) 2016/679) about or from you. We and you will each treat as confidential (both during and after the termination of the relationship between you and us) any information learned about the other, its investment strategy or holdings or products or services in the course of the relationship pursuant to these Data Protection and Confidentiality Terms and, except as otherwise agreed, shall not disclose the same to any third party (except to our respective personnel and professional advisers on a need to know basis and subject to these obligations of confidentiality) without the other’s consent.
- 1.2. Notwithstanding anything to the contrary set out in these Data Protection and Confidentiality Terms, you acknowledge that any personal data we obtain about or from you will be processed by us and our Associated Companies in accordance with the Global Banking and Markets Privacy Notice which can be accessed here: [www.bofaml.com/gdpr](http://www.bofaml.com/gdpr).
- 1.3. You specifically authorise that we may use, store or otherwise process any such information (whether provided electronically or otherwise) and may disclose any such information (including, without limitation, information relating to your transactions and accounts) either as we or any of our relevant Associated Companies shall be obliged or requested to under or pursuant to any Applicable Rules or by any regulatory authority (including any tax authority) or as may be required to administer these Data Protection and Confidentiality Terms, provide services to you, including, without limitation, making any tax reclaim or applying for any exemption, monitoring and analysing the conduct of your account, assessing any credit limit or other credit decision (as well as the interest rate, fees and other charges to be applied to your account) and enabling us to carry out statistical and other analysis, and otherwise market services and products to you.
- 1.4. You acknowledge and agree that we may transfer or disclose such information to any Associated Company or third party wherever located in the world. Such parties may include those who provide services to us or act as our agents, those to whom we transfer or propose to transfer any of our rights or duties under these Data Protection and Confidentiality Terms and those licensed credit reference agencies or other organisations that help us and others make credit decisions and reduce the incidence of fraud or in the course of carrying out identity fraud prevention or credit control checks.

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- 1.5. You acknowledge and agree that we may at any time disclose or publish information that is aggregated or anonymised such that a third party recipient is unable to identify you or the data subject from that information.
- 1.6. When individuals communicate with us or our Associated Companies, to the extent permitted or required by applicable law, telephone conversations and electronic communications, including emails, text messages and instant messages, may be recorded and/or monitored for evidentiary, compliance, quality assurance and governance purposes.. Such records shall constitute conclusive evidence of the conversations, instructions or orders recorded. A copy of the recordings of such conversations and communications will be available to you on request for a period of 5 years and, where requested by the FCA or another competent authority, for a period of up to 7 years. Telephone conversations between you and the sales and sales-trading personnel of the **Bank of America Europe Designated Activity Company** branch in Germany will be retained in accordance with § 83 WpHG for 5 years and, where requested by the German Federal Financial Supervisory Authority (BaFin) for a period of 7 years. A copy of the record will be available on request for a period of 5 years. The purpose of such recording is limited to resolving queries concerning the local introducing brokerage activities and to preserving evidence and enabling BaFin to detect market abuse and monitor market participants' compliance with MIFID II and MIFIR requirements.
- 1.7. Please ensure that individuals connected with you (such as your third party representatives, employees, officers, directors, shareholders, and other related individuals) ("Relevant Individuals") are notified by you about how we handle personal data which is provided to us or we otherwise obtain, by referring them to the Global Banking and Markets Privacy Notice which can be accessed here: [www.bofaml.com/gdpr](http://www.bofaml.com/gdpr).
- 1.8. The Global Banking and Markets Privacy Notice is also relevant to other entities connected with you (including any guarantors, beneficiaries, affiliates, underlying clients, obligors, investors, funds, accounts and/or any principals you purport to act for), to the extent that we handle personal data relating to their Relevant Individuals.
- 1.9. Whenever you provide the personal data of a Relevant Individual to us, we shall rely on you to have the right to provide that data to us, and to have obtained any relevant consents to the collection, use, processing and sharing of personal data by us.

## 2. Confidential Information

- 2.1. Except as otherwise provided in these Data Protection and Confidentiality Terms, we agree to take customary and reasonable precautions to maintain the confidentiality of all Customer Information. Without prejudice to Paragraph 2.2, you acknowledge that we may disclose from time to time Customer Information to our other offices, branches, subsidiaries, affiliates, units and Associated Companies. For the purposes of this

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Paragraph 2, you agree to waive and, if you are acting as agent, to procure that your principal waives, the banking secrecy laws, if any, of the country or countries where you and the accounts are located with respect to such data and Customer Information.

- 2.2. Without prejudice and in addition to any Applicable Rules, we and our Associated Companies and our and their agents and counterparties shall be entitled, in responding to requests for information from any governmental, judicial, taxation or regulatory authority having jurisdiction over us or to whose jurisdiction we submit or from any exchange or clearing house, or credit reference agencies (or other organisations that help us make credit decisions and reduce the incidence of fraud), or an Associated Company, or pursuant to any subpoena or other legal process, or to the extent required in connection with any Applicable Rules, to disclose or produce (as applicable) Customer Information. For the avoidance of doubt, this entitlement includes (without limitation) the use of legal entity identifiers in regulatory reporting.
- 2.3. Under Applicable Rules, we may be obliged to make information about certain transactions public. You agree and acknowledge that any and all proprietary rights in such transaction information are owned by us and you waive any duty of confidentiality attaching to the information which we reasonably disclose.
- 2.4. You further acknowledge that we may disclose Customer Information that has become public other than through breach of these confidentiality obligations or which is obtained by us from a third party who is not known by us to be bound by a confidentiality agreement with respect to that Customer Information.
- 2.5. Neither we nor any Associated Company shall have any duty to disclose to you or take any action in respect of your business or affairs as a result of any fact, matter or thing discovered or learned in the course of carrying on any other business (whether or not investment business) or as a result of or in connection with services which are provided to other persons.