

PRIVACY STATEMENT RELATED TO BREACH OF UNION LAW

▶ Introduction

1. The European Insurance and Occupational Pension authority (EIOPA) is committed to protecting individuals personal data in accordance with Regulation (EU) 2018/1725¹ (further referred as “the EUDP Regulation”).
2. In line with Articles 15 and 16 of the EUDP Regulation, this privacy statement provides information to the data subjects relating to the processing of their personal data carried out by EIOPA.

▶ Purpose of the processing of personal data

3. Personal data are collected and processed for the management of breach of Union law (BUL) proceedings under Article 17 of Regulation (EU) No 1094/2010, including the establishment of the BUL Panel.

If BUL proceedings are triggered by an external complaint, EIOPA may collect and process:

- Personal details of complainants or their representatives (e.g. names, contact details), who send a complaint by email or mail to EIOPA against a national competent authority (NCA) or a financial market participant;
- Personal data of other data subjects, if mentioned in the complaint or accompanying documentation, and deemed relevant for the assessment of the BUL complaint (it cannot be foreseen what other data apart from names might be concerned);

Furthermore, regarding the BUL Panel, the following processings takes place:

- The CVs of the candidates for becoming member of the common pool / BUL Panel are collected and shared with the BoS for appointment;
- The names and contact details of the members of the BUL Panel, as well as the representatives of the competent authorities concerned are collected.

More precisely, these personal data might appear in:

emails exchanged in the context of a case / documents submitted by competent authorities; the minutes taken during Panel meetings; the report/decision communicated by the Panel to the BoS, or the decision of the BoS; the declarations of non-conflict of interest signed by the BUL Panel members.

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

4. Your data will not be used for any purposes other than the performance of the activities specified above. Otherwise you will be informed accordingly.

▶ **Legal basis of the processing of personal data and/or contractual or other obligation imposing it**

5. The legal basis for this processing operation is:

- Articles 17 and 41(2) of Regulation (EU) No 1094/2010
- Rules of Procedure on investigations regarding breach of Union law (EIOPA-BoS-11-017-rev4)

6. In addition, in accordance with Article 5(1)(a) of the EUDP Regulation, processing is lawful as it is necessary for a performance of a task carried out in the public interest.
7. Furthermore, in accordance with Article 5(1)(d) of the EUDP Regulation, EIOPA may share the complainant's and/or their representative's personal data with a concerned NCA based on their unambiguous, free, specific and informed consent.

▶ **Controller of the personal data processing**

8. The controller responsible for processing your data is EIOPA's Head of Legal Unit.

9. Address and email address of the controller:

Westhafen Tower, Westhafenplatz 1
60327 Frankfurt am Main
Germany
datacontroller@eiopa.europa.eu

▶ **Contact detail of EIOPA's Data Protection Officer (DPO)**

10. Westhafen Tower, Westhafenplatz 1, 60327 Frankfurt am Main, Germany

dpo@eiopa.europa.eu

▶ **Types of personal data collected**

11. The following personal data may be collected and processed:

- Personal details, e.g. name and contact details
- Education and training details (contained in the CVs of BUL Panel Members)
- Employment details (contained in the CVs of BUL Panel Members; furthermore, in the context of the external complaint such details may be revealed through email addresses or other data contained in the complaint).

Although personal data collected mostly include contact details (such as last name, first name, telephone/fax, full address, email address) and CVs of the candidates that responded to a call for interest for a member position in the BUL Panel, in the context of an external complaint it cannot be precisely predicted what other types of personal data may be revealed.

▶ **Recipients/processors of the personal data collected**

12. Personal data may be shared with the following:

- Designated EIOPA staff members: designated staff of the Legal Unit and other relevant departments (e.g. Oversight Department, Consumer Protection Department), EIOPA's Senior Management;
- BoS Members;
- Board of Appeal in the case of an appeal;
- With regard to external complaints: with concerned NCA(s), based on explicit consent by data subject.

▶ **Retention period**

13. Personal data are retained as follows:

i. Elections of BUL Panel:

- CVs of non-elected candidates: 1 year after the election
- CVs of elected candidates: Until the end of the mandate of each BUL Panel member

ii. BUL cases:

- The documents in a BUL proceedings, i.e. documents submitted by the NCAs / emails exchanged / meeting minutes / reports and decisions / declarations of interest: 5 years after the case was closed.

iii. External complaints:

- complaints, email correspondence, accompanying documentation: 5 years after the case was closed.

If the BUL case is subject to an appeal with the Board of Appeal and/or an action before the Court of Justice of the EU, the 5-year period only starts after the Board of Appeal has decided on the appeal and/or the Court's judgment has gained the status of res judicata. This is needed to allow for a comparison between similar cases and ensure uniformity and consistency in the handling of BUL cases. Thereafter, transfer to the historical archive.

▶ **Transfer of personal data to a third country or international organisations**

14. No personal data is transferred to a third country or international organisation.

▶ **Automated decision-making**

15. No automated decision-making including profiling is performed in the context of this processing operation.

▶ **What are the rights of the data subject?**

16. You have the right to access your personal data, receive a copy of them in a structured and machine-readable format or have them directly transmitted to another controller, as well as request their rectification or update in case they are not accurate. You also have the right to request the erasure of your personal data, as well as object to or obtain the restriction of their processing.

17. Where processing is based solely on the consent, you have the right to withdraw your consent to the processing of your personal data at any time.

18. Restrictions of certain rights of the data subject may apply, in accordance with Article 25 of the EUDP Regulation.

19. For the protection of the data subjects' privacy and security, every reasonable step shall be taken to ensure that their identity is verified before granting access, or rectification, or deletion.

20. Should you wish to exercise any of the rights provided in points 16 and 17 above, please contact legal@eiopa.europa.eu or EIOPA's DPO (dpo@eiopa.europa.eu).

▶ **Who to contact if you have any questions or complaints regarding data protection?**

21. Any questions or complaints concerning the processing of your personal data can be addressed to EIOPA's Data Controller (datacontroller@eiopa.europa.eu) or EIOPA's DPO (dpo@eiopa.europa.eu).

22. Alternatively, you can have recourse to the European Data Protection Supervisor (www.edps.europa.eu) at any time, as provided in Article 63 of the EUDP Regulation.