

# Data Protection Information

Revision of: 18 March 2019

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

FMS Wertmanagement Service GmbH  
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E-Mail.: info@fms-sg.de  
Registry court: München HRB 198697

Represented by:  
Martin Schlieker  
Jan-Alexander Böckeler  
Thorsten Schwarting

## 2. Contact details of the data protection officers

Dr. Johannes Starke  
Syndikus (legal counsel) / data protection officer  
FMS Wertmanagement AöR  
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80538 München  
Telephone: + 49 (0)89 954 7627 621  
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### 3. Purpose of the processing of personal data by FMS Wertmanagement Service GmbH

FMS Wertmanagement AöR ("**FMS-WM**") is a winding-up agency as defined in sec. 8a (1) sentence 1 of the German Financial Market Stabilisation Fund Act (Finanzmarktstabilisierungsfondsgesetz). As of 1 October 1 2010, FMS-WM took over risk positions and operating divisions not required in terms of strategy (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 bylaw of FMS-WM<sup>1</sup>, FMS-WM has the task to exploit and wind up the risk portfolio in a manner aimed at maximising the Risk Portfolio's value.

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.

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

- Personnel data management
- Job applicant data management
- Customer, supplier and service provider management

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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 basis
<p>Borrowers, jointly-liable persons and security providers (including the beneficial owners [including the fictional beneficial owners])</p>	<ul style="list-style-type: none"> <li>○ Name data</li> <li>○ Address and communications data</li> <li>○ Business and contract data, accounting and performance data, bank account data</li> <li>○ Data with credit rating relevance</li> <li>○ Outstanding loan amount, interest rate</li> <li>○ Address and function data of commercial lessees of real estate used as loan security</li> <li>○ Data relating to visits, if any, of contact persons to FMS-SG: second name, first name, date of visit, company, contact person at FMS-SG</li> <li>○ Data in the context of identification of persons pursuant to the Money Laundering Act (Geldwäschegesetz/GwG): All data in accordance with</li> </ul>	<p>Art. 6 (1) b) GDPR <sup>2</sup> (loan agreement between borrower and FMS-WM (pbb));</p> <p>Art. 6 (1) c) GDPR in combination with KWG (German Banking Act) (check of creditworthiness) and GWG (KYC-check resp. identification in accordance with GWG);</p> <p>Art. 6 (1) f) GDPR (as far as data are collected in the course of visits of the borrowers, the legitimate interest of FMS-SG is to ensure that only authorised persons are present in its premises. In addition, FMS-SG 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-SG is the necessity to communicate with the borrower)</p> <p>fulfilment of duties vis-à-vis</p>

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

	<p>§§ 10, 11, 12 GWG, in particular: second name, first name, place of birth, date of birth, nationality, residential address, origin of assets, in case of “PEPs” (politically exposed persons) political office and, in case of related persons, family relationship</p>	FMS-WM
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-SG: second name, first name, date of visit, contact person FMS-SG</li> <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> </ul>	<p>Art. 6 (1) b) GDPR and sec. 26 BDSG (neu) (German Federal Data Protection Act (new));  Art. 6 (1) f) GDPR (as far as data are collected in the course of visits of the borrowers, the legitimate interest of FMS-SG is to ensure that only authorised persons are present in its premises. In addition, FMS-SG must be able to track who has been in its premises and when)</p>
Suppliers, service providers 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</li> </ul>	<p>Art. 6 (1) b) GDPR (contract between FMS-SG 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 /</p>

	<p>account data</p> <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-SG: second name, first name, date of visit, company, contact person at FMS-SG</li> <li>○ Data in the context of identification pursuant to the Money Laundering Act</li> </ul>	<p>service providers / investors, the legitimate interest of FMS-SG is to ensure that only authorised persons are present in its premises. In addition, FMS-SG must be 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-SG is the necessity to communicate with the supplier / service provider / investor); Art. 6 (1) c) GDPR in combination with GWG</p>
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## 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>
<p>Borrowers, jointly-liable persons and security providers (including the beneficial owners [including the fictional beneficial owners])</p>	<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>
<p>Job applicants</p>	<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</li> </ul>

	respective speciality departments)
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>

## 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 GDPR. In any other respect, there will be no transfer to third countries; such transfer is not planned, either.

## 8. Rights of Data Subjects

Each data subject has the right to be informed pursuant to Art. 15 GDPR, the right to rectification pursuant to Art. 16 GDPR, the right to erasure pursuant to Art. 17 GDPR, the right to restriction of processing pursuant to Art. 18 GDPR, the right to object pursuant to Art. 21 GDPR, as well as the right to data portability pursuant to Art. 20 GDPR. As to the right to be informed and the right to erasure, the limitations pursuant to sec. 34 and/or sec. 35 BDSG (neu) (German Federal Data Protection Act (new) shall apply.

If the processing of data is based on consent, the data subject has the right to revoke his/her consent at any time, such revocation of consent not affecting the legality of the processing made on the basis of the consent until the revocation.

## **9. Right to complain with the supervisory authority**

Each data subject has the right to complain with the appropriate data protection supervisory authority (Art. 77 GDPR in combination with sec. 19 DSAnpUG-EU), i.e. particularly with the supervisory authority in the member state where the place of abode of the data subject is located or with the supervisory authority responsible for FMS-WM:

Bayerisches Landesamt für Datenschutzaufsicht (BayLDA)  
Promenade 27  
91522 Ansbach  
Telefon: +49 (0) 981 53 1300  
Telefax: +49 (0) 981 53 98 1300  
E-Mail: [poststelle@lda.bayern.de](mailto:poststelle@lda.bayern.de)

## **10. 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.

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

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

## **12. 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.