



Compliance AFM

# Privacy Statement

Dutch Authority for the Financial Markets

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[AFM.nl/privacy](https://afm.nl/privacy)



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# Privacy statement

Through this privacy statement, we as the Dutch Authority for the Financial Markets (AFM) are informing professionals and consumers about what we do on a regular basis with the personal data we obtain. The purpose of this statement is to provide clarity about the processing of personal data in view of the General Data Protection Regulation (GDPR), which applies in the entire European Union. On our website we use cookies, with regard to which we have drawn up a [cookie statement](#).

## Purpose of processing

As a market conduct authority, the AFM is committed to promoting fair and transparent financial markets. The AFM processes personal data primarily for the purpose of supervising the financial markets, counteracting unethical conduct and, where necessary, taking enforcement action. In connection with this supervisory duty with which the AFM is charged, we perform statutory duties. The performance of these duties necessarily entails the processing of personal data. In addition, the AFM processes personal data to enable other authorities to perform their (statutory) duties. This includes, for example, other (Dutch and foreign) supervisory and regulatory authorities, judicial authorities and trustees in bankruptcy. The AFM also processes personal data in connection with its own operations.

## What is personal data?

Personal data means any information concerning a natural person from which this person can be directly or indirectly identified. Examples of personal data are name and address details, a client number, an email address or income details, such as a salary slip.

## What is processing?

Processing means anything that is done with personal data. Examples of processing are collecting, recording, storing, retrieving, transmitting, consulting and deleting personal data.

## What is a data subject?

A data subject is an identified or identifiable natural person whose personal data are processed. For more information on the definitions used in the GDPR, see [EUR-Lex](#) and the website of the [Dutch Data Protection Authority](#).

## Controller

The AFM is the controller in respect of the processing and decides for which purpose personal data are processed, which personal data are processed and how.

## Obtained from you as the data subject

When you get in touch with the AFM, we process your personal data. For example, we use the personal data you provide us with in the contact form in order to contact you. This primarily concerns name and address details, email addresses and telephone numbers.

We may also obtain personal data from you directly. For example, if you are a policymaker and wish to be assessed by the AFM in your capacity as a natural person.

## Obtained from third parties

The AFM requests and is provided with personal data from third parties under a specific legal basis; this may in addition be governed by a partnership agreement (covenant).

For example, the AFM may request and be provided with personal data from third parties in connection with an investigation in relation to a business that is subject to our supervision or in the context of an assessment of natural persons. Examples of businesses that are subject to the AFM's supervision include banks, insurers, audit firms, pension administrators, financial consultancy firms, brokers, mortgage lenders and stock exchanges.

In addition, the AFM may request information from other third parties (who are not subject to our supervision). For example, in the context of assessments of natural persons, in which case the AFM may request specific information from the

Public Prosecution Service (OM), the Tax and Customs Administration, the DNB (the Dutch central bank), or from foreign supervisory or regulatory authorities or references. In addition, the AFM may request information from other third parties (on the basis of a [partnership covenant](#) or otherwise) in connection with our supervisory duty. For example, the AFM has a partnership with the Education Executive Agency (DUO) that enables us to check whether persons have the required qualifications.

Furthermore, the AFM receives personal data and information from third parties who contact the AFM on their own initiative, such as consumers who notify us of issues, which may subsequently prompt the AFM to launch an investigation.

The AFM may also obtain and record information from public sources.

### Disclosure to third parties

As a general rule, your personal data will not be disclosed to third parties. By law, certain exceptions apply to this general rule. For example, when a person is suspected of an act or a statement that constitutes a criminal offence, personal data may be used to investigate this. In addition, in the context of our supervisory duty, the AFM collaborates, and where necessary consults, with other authorities, such as the DNB and the authorities who collaborate under the umbrella of the Financial Expertise Centre (FEC), such as the Fiscal Intelligence and Investigation Service (FIOD), the Financial Intelligence Unit (FIU) and the police. For more information, see the website of the [Financial Expertise Centre](#). In short, the AFM can receive personal data from all kinds of third parties. The examples given above are not an exhaustive list of these third parties.

In addition, the AFM may disclose personal data to third parties under a specific legal basis; this may in addition be governed by a partnership agreement (covenant).

The AFM shares personal data with supervisory and regulatory authorities within and outside of the European Union where necessary for the performance of the supervisory duty of the AFM or of those other authorities. This takes place on the basis of a legal [obligation to cooperate](#), for example

with the [European](#) supervisory authorities (the ECB, EBA, ESMA and EIOPA) and as part of the agreements made in international organisations, such as the [IOSCO](#) and the [IFIAR](#).

The GDPR applies to all processing of personal data within these partnerships. To this end, agreements have been made, such as the [Administrative Arrangements](#) under the IOSCO memorandum. In this way, the interests that the GDPR aims to protect are also protected in these partnerships.

In the context of our supervision of audit firms, the AFM may share personal data with the [US regulator \(PCAOB\)](#). This data sharing takes place on the basis of the relevant legislation and under a license from the Dutch Data Protection Authority.

Within the Netherlands, the AFM regularly shares information with the [DNB](#), which may include personal data when necessary. The AFM also collaborates with the Netherlands Authority for Consumers and Markets (ACM), the [Financial Supervision Office \(BFT\)](#) and the Netherlands Gaming Authority.

Lastly, the AFM may under certain conditions disclose information (including personal data) to a court-appointed administrator or guardian, and personal data are disclosed to judicial authorities in the context of formal measures taken by judicial authorities.

### Bases for processing

The AFM processes personal data for various purposes. Each purpose requires a legitimate basis. The bases under which it is lawful to process personal data are listed exhaustively in Article 6 of the GDPR. The bases for processing used by the AFM are explained below:

#### Basis: Consent

The following forms of processing of personal data require the consent of the data subject concerned. The consent must be a freely given, specific, informed and unambiguous indication of the data subject's wishes. You have the right to withdraw your consent at any time. When you do, we will no longer process your personal data from that time on, except when there is another legitimate basis for the processing of your personal data.

### Market studies

The AFM regularly conducts market studies to support and strengthen our supervision and asks the participants' explicit consent to the use of their personal data prior to their participation in the study. *These are studies involving (consumer) market panels, so not investigations at institutions subject to the AFM's supervision.* Participation in these studies is voluntary. In these studies, we collect personal data, such as participants' sex, name, contact details and financial information, such as regarding their household. In order to conduct market studies, the AFM sometimes uses the services of market research companies. Such third parties are referred to as 'processors' in the GDPR. They may use the personal data only for the purposes stipulated by the AFM, and not for any other purposes. Participants in market studies are informed beforehand which third party will conduct the market study on behalf of the AFM. Market studies are conducted in compliance with the [Code of Conduct for Research and Statistics](#).

### News alerts

You can subscribe to the AFM's news alerts. To be able to send you these news alerts and address them to you personally, we ask you to provide basic personal data, such as your sex, name, email address and area(s) of interest. We ask your explicit consent for the processing of these personal data. If you no longer wish to receive news alerts, you can easily change your indicated areas of interest or unsubscribe from the news alerts. We offer you this option in each communication we send you.

### **Basis: Exercise of official authority**

The AFM has the statutory duty to supervise conduct in the Dutch financial markets. Therefore, the basis for the processing of personal information in this context is the AFM's exercise of the official authority vested in it to perform this statutory duty.

### *Supervising conduct in financial markets*

Among other things, the AFM is charged with monitoring compliance with several Dutch laws, including the following:

- Financial Supervision Act (*Wet op het financieel toezicht*)
- Audit Firms (Supervision) Act (*Wet toezicht accountantsorganisaties*)

- Securities Transactions (Supervision) Act 1995 (*Wet toezicht effectenverkeer 1995*)
- Securities (Bank Giro Transactions) Act (*Wet giraal effectenverkeer*)
- Consumer Protection (Enforcement) Act (*Wet handhaving consumentenbescherming*)
- Occupational Pension Scheme (Obligatory Membership) Act (*Wet verplichte beroepspensioenregeling*)
- Money Laundering and Terrorist Financing (Prevention) Act (*Wet ter voorkoming van witwassen en financiering van terrorisme*) and Sanctions Act 1977 (*Sanctiewet 1977*)
- Financial Markets (BES Islands) Act (*Wet financiële markten BES*)
- Money Laundering and Terrorist Financing (Prevention) (BES Islands) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme BES*)
- Financial Reporting (Supervision) Act (*Wet toezicht financiële verslaggeving*)
- Pensions Act (*Pensioenwet*)

In addition, the AFM is charged with monitoring compliance with rules laid down in EU Directives and Regulations that have direct effect in the Netherlands. Examples include the Markets in Financial Instruments Regulation (MiFIR), the Delegated Regulations relating to the Markets in Financial Instruments Directive 2 (MiFID 2), the Alternative Investment Fund Managers Directive (AIFMD) Implementing Regulation, and the Market Abuse Regulation (MAR).

In order to monitor compliance with the legislation and regulations, personal data may be processed. As a general rule, personal data are processed only when this is necessary for the performance of the AFM's supervisory duty. Accordingly, the AFM does not request personal data when anonymised data suffices. Furthermore, in situations where it is not necessary to record names but data do constitute personal data, the AFM pseudonymises such personal data as much as possible.

In the context of its supervisory duty, the AFM may also process personal data relating to criminal convictions and criminal offences. The AFM may obtain such data when we perform assessments of natural persons, impose fines and incremental orders for penalty payments, and conduct investigations into possible unethical conduct by

businesses and natural persons.

*The AFM also processes personal data in the context of its operations*

Pursuant to the Financial Supervision (Funding) Act (*Wet bekostiging financieel toezicht*), the AFM processes personal data for the purposes of calculating, invoicing and collecting the levies payable by natural persons and businesses that are subject to our supervision.

The personal data can be obtained directly from the data subject, or they can be obtained indirectly. Below are examples of both types of situations.

An example of when we obtain personal data *directly* from data subjects is when we perform an assessment of a person's suitability and reliability. When the request is submitted, the data subject receives a list of the data (including personal data) that are necessary for the assessment.

An example of when we obtain personal data *indirectly* from data subjects is when we assess compliance with professional competence requirements in the financial markets. Staff working in financial markets who are in direct contact with customers are required to have specific academic qualifications. Companies that are subject to the AFM's supervision are required to demonstrate that their employees meet these requirements. The AFM can assess this, in which case the company provides the required personal data to the AFM at our request.

Another example of when we obtain personal data indirectly from data subjects is when we obtain these data for the purposes of conducting data research and research into pension advice under the Pensions Act. In this context, the AFM researches aspects such as the design of products and how consumers make pension-related decisions. To this end, pension administrators provide insight into the characteristics of consumers that make specific decisions. Consumers who have accrued a high amount in pension assets, for example, make different decisions than those who have accrued a low amount.

### *Public register*

The AFM has a number of [registers on its website](#) that include data on licences, notifications and exemptions relating to companies that are subject to its supervision. Some parts of these registers include personal data. Personal data are included in a register when the AFM has a legal obligation to publish these data. Examples include the names of policymakers and those of statutory auditors employed by audit firms.

### *AFM Portal*

Companies that are subject to the AFM's supervision must use the AFM Portal (formerly known as the 'Digital Portal') for all the requests and changes they submit to the AFM. This requires submitting a request for access to the AFM Portal. In this request, personal data must be provided. The AFM requires these personal data to check whether it can grant access to the Portal.

### *Contact forms*

If you wish to notify us of an issue or make a complaint relating to the financial markets, you can do so by means of our contact form. To assess whether the issue you raise concerns an offence (e.g. an offence committed by a financial firm or audit firm), we will process the data provided by you that are necessary to be able to assess your notification or complaint. For example, personal data we need to be able to contact you, such as your sex, name, email address and telephone number. If you wish to remain anonymous, we offer that option. However, if we have a legal obligation to share your personal data with competent authorities, such as a court or the Public Prosecution Service, we may still do so after giving this careful consideration.

### *Possibility for the AFM to publish information*

The AFM and its staff generally have a duty of confidentiality. However, several laws with regard to market conduct supervision set out specific exceptions to this duty of confidentiality. Therefore, when this is in the interest of the financial markets and financial market players, the AFM may in some cases publish information that would otherwise be confidential. Examples include the publication of a 'public warning' as referred to in the Financial Supervision Act and the publication of an 'undertaking' as referred to in the Consumer Protection (Enforcement) Act.

### **Basis: Compliance with legal obligation**

The AFM is subject to legislation and regulations, pursuant to which the AFM has the legal obligation to process certain personal data.

### *Publication of imposed measures*

With effect from 11 August 2016, all [measures under the Financial Supervision Act](#) imposed for an offence must be published after they have become [irrevocable](#). Fines for serious offences and incremental orders for penalty payments where a penalty payment has already been incurred, however, must be published sooner. Similar publication regimes apply under the Money Laundering and Terrorist Financing (Prevention) Act, the Audit Firms (Supervision) Act, the Consumer Protection (Enforcement) Act, and the Pensions Act. Therefore, the AFM may also process personal data when publishing measures it has imposed.

### *Informing third parties*

Pursuant to various EU regulations and/or directives, the AFM has the obligation to inform EU authorities and the European Commission about the measures and sanctions the AFM imposes. In this

context, the AFM may process personal data. The AFM is, for example, subject to the following:

- European Market Infrastructure Regulation (EMIR);
- Markets in Financial Instruments Regulation (MiFIR);
- Market Abuse Regulation (MAR);
- General Data Protection Regulation (GDPR).

In certain cases, the AFM also has the obligation to inform the Minister of Finance or to lend its cooperation to a demand made by the Public Prosecution Service.

In certain cases, it is necessary for the AFM to process personal data in order to comply with its legal obligations, such as when the AFM shares information about money laundering or terrorist financing. This must be notified to the Dutch Financial Intelligence Unit (FIU-Netherlands). Here, too, the general rule is that personal data are processed only when this is necessary for the performance of the AFM's obligations.

When processing personal data is not necessary to meet its obligations, the AFM deletes, pseudonymises or anonymises personal data as much as possible, as the AFM may receive more personal data than it needs. For example, because the submission of data is provided for in legislation, or because unnecessary data was sent unsolicited.

In addition, the AFM may be required to disclose personal data to the Dutch Data Protection Authority, such as in connection with an investigation by the latter.

### **Basis: Legitimate interest**

A legitimate interest means that the processing of personal data is necessary in order to represent the interests of the AFM and that the interest of the AFM outweighs the interest of the data subject or the breach of the privacy of the data subject, e.g. a visitor or employee. *This refers to both the AFM as an organisation and its staff.*

This mainly concerns purposes relating to AFM's operations, such as in our purchasing process, contract management or payment process. In addition, the AFM's Internal Audit department may process personal data in order to give the AFM's Executive Board and Supervisory Board assurance

regarding the internal controls of the processes that AFM has put in place to be able to perform its statutory duty.

#### *Visitors*

The AFM's office is located at Vijzelgracht 50 in Amsterdam. Visitors to the building are asked to identify themselves by presenting an ID. In addition, visitors are filmed by the CCTV cameras in and around the building. These data are processed only for the following purposes:

- verifying the visitor's identity;
- ensuring secure access to the building and the premises;
- protecting items in the building and on the premises;
- protecting the safety and health of one or more natural persons;
- recording incidents.

The ID check and the CCTV surveillance are part of a comprehensive package of security measures. All visitors are made aware of the CCTV surveillance by signs at the entrance to the building.

### **Security of personal data**

The AFM has in place appropriate security to protect the personal data it processes, in accordance with the applicable legal requirements and guidelines. This includes both physical and digital security measures. The AFM employs several security officers.

### **Retention periods**

The AFM retains personal data only for as long as is necessary for the purpose for which the personal data have been processed. This is also in line with the statutory retention periods under the Public Records Act (*Archiefwet*). The retention periods are specified in the AFM's data retention policy. The purposes are recorded in a digital data processing register.

When conducting investigations, the AFM retains personal data only for as long as is necessary for the purpose of the investigation. Subsequently, the data are anonymised and they may be used for statistical purposes. Anonymisation means that data subjects cannot be identified from the data.

### **Your rights as a data subject**

As a data subject, you have the following rights with regard to the processing of your personal data:

- right of access
- right to rectification
- right to erasure (i.e. right to be forgotten)
- right to restrict processing
- right to object
- right to data portability

The right to data portability means the right to the portability of your personal data in a machine-readable format. Please beware that the right to data portability does not apply when the processing of your data by the AFM is necessary for the performance of a task carried out in the public interest. This means, for example, that you cannot invoke the right to data portability for data processed by the AFM during an investigation.

You can invoke the right to data portability when the AFM processes your data because you consented to this, or when this processing is necessary for the performance of a contract with you. This applies only to data that the AFM processes digitally, so not to paper files.

If you would like to know which personal data concerning you the AFM has processed, you can submit a written access request. You will receive a reply to your access request within one month. If it emerges that data we have processed concerning you are inaccurate, incomplete or irrelevant, you can submit an additional request to have your data rectified, supplemented or erased.

You can submit the following standard letters to submit your request:

- [right of access](#)
- [right to rectification](#)
- [right to erasure \(i.e. right to be forgotten\)](#)
- [right to restrict processing](#)
- [right to object](#)
- [right to data portability](#)

## Requesting access

As a general rule, you have the right to access all your personal data. However, that can be a huge amount of data. It also includes, for example, personal data from emails, any recorded telephone conversations, and any correspondence concerning you between the AFM and other organisations.

For this reason, you need to consider carefully what data exactly you want access to, and specify this in your request.

You can submit your request by email to:  
[avgverzoek@afm.nl](mailto:avgverzoek@afm.nl)

Alternatively, you can submit your request by letter to:

Dutch Authority for the Financial Markets  
Attn. Legal Affairs / GDPR request  
Postbus 11723  
1001 GS Amsterdam

Include a copy of a valid ID as proof of your identity. You can use the secure ID app issued by the Dutch government ([veilige Kopie ID app](#)) to create a secure copy. You may receive a call to verify your identity.

## Questions

If you have any questions about this privacy statement, please contact our Data Protection Officer.

You can submit your question by email to:  
[privacy@afm.nl](mailto:privacy@afm.nl)

Alternatively, you can submit your question by letter to:

Dutch Authority for the Financial Markets  
Attn. Data Protection Officer  
Postbus 11723  
1001 GS Amsterdam

## Complaint about the AFM

If you have a complaint about the way in which the AFM has processed your personal data, you can contact our Complaints Coordinator ([klachtencoordinator@afm.nl](mailto:klachtencoordinator@afm.nl)), who will handle your complaint in consultation with the Data Protection Officer. Alternatively, you can contact the Data Protection Officer directly ([privacy@afm.nl](mailto:privacy@afm.nl)).

You also have the option to submit a complaint to the [Dutch Data Protection Authority](#).

You can find more information about submitting a complaint with the AFM on our website (under [complaints](#)).



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**Data classification**

AFM-Public