



Zürich, March 2022

## **Data Protection Notice for shareholders of funds managed by Pactum AG**

### **Pactum AG**

Freigutstrasse 20  
8002 Zürich  
Switzerland

(the "Company")

By subscribing to funds (the "Fund" or the "Funds") for which Pactum AG has been appointed Investment Manager (the "**Investment Manager**"), you are providing personal data to the Funds, the Investment Manager and to its Management Company and their respective service providers. This notice is to make you aware of how the Funds and the Management Company (hereinafter "we" and "us") hold, use and process your personal data, as well as the steps taken to ensure our data processing is in compliance with the General Data Protection Regulation (EU/2016/679) ("**GDPR**") and any implementing legislation ("**Data Protection Legislation**").

Unless otherwise stated in this data protection notice ("Notice"), capitalised terms have the meaning given to these terms in the Account Opening and Application Form. For the purpose of this Notice, the terms "data controller", "data processor", "personal data", "data subject" and any other term expressly defined in article 4 of the GDPR have the meaning given to these terms in article 4 of the GDPR.

### **Scope**

This Notice applies to you as investor in the Fund and to any natural persons (including, but not limited to, directors, representatives, agents or employees) whose information you provide to us in connection with our relationship with you. It is your responsibility to ensure that any of these natural persons whose personal data you provide are aware of their rights in this regard and are provided with a copy of this Notice.



Any references to 'you' and 'your' should be construed to include such third parties. This Notice may be updated from time to time and you will be notified in writing in case of any changes .

### **Identity of the controllers**

The Fund is the data controller for the personal data collected and processed in the context of your investment in the Fund. In this capacity, they are responsible of your personal data.

Your personal data will be processed by the Fund, in a capacity as data controller for a certain number of purposes such as collecting money for investment purposes and placing the shares/units of the Fund, in accordance with local laws and regulations, and the terms of the articles and the prospectus of the Fund.

Your Personal Data will also be processed by the Management Company, acting in a capacity as data processor, in its own right, in the context of the Fund management, in order to perform the functions assigned to it by law. Those functions include in particular the administration, the registrar and transfer agency function, the investment management, compliance, risk management and distribution functions, in accordance with the local laws and regulations and the terms of the articles and the prospectus of the Fund.

The purposes for which the Fund and the Management Company process your personal data are further described below.

In providing the services to the Fund or the Management Company, third party service providers such as the Administrator and the Depositary may also act in a capacity as independent data controllers when processing your personal data for the purposes of complying with their own legal and regulatory obligations or for their own legitimate interest (in particular in the context of AML and KYC related processes). Information about processing activities of the Administrator and the Depositary of the Fund are available on their respective website.

### **What personal information do we collect**

We will hold some or all of the following types of your personal data: investor name, e-mail, phone number, address and domicile details, date of birth, career profession, occupation, job function, family details, copies of proof of identity documents which may include a photograph, nationality/-ies, signature, tax identification numbers, financial details, in particular account numbers, data on transactions, trading and settlement, PEP status,



relationship identifiers and any other information required to perform requested services related to your investment in the Fund ("**Personal Data**").

### **Where we obtain personal data from**

We will collect information about you directly and also from a number of external sources.

1. Information that we receive from you:

We process Personal Data that you provide to us directly, and that we obtain from our dealings with you during the course of our relationship:

- from the forms and any associated documentation that you complete when subscribing for an investment,
- when you provide it to us in correspondence and conversations, and
- when you make transactions with respect to the Fund and/or tell us where to transfer money

2. Information that we obtain from others, and who those others are:

We also collect Personal Data from:

- publicly available and accessible registries and sources;
- bankruptcy registers;
- tax authorities, including those that are based in and /outside the EEA
- governmental and competent regulatory authorities to whom we have regulatory reporting obligations;
- credit agencies; and
- fraud prevention and detection agencies and organisations



## **Purposes of Processing**

Your Personal Data may be processed by us for the following purposes:

1. where necessary to perform the contract (and/or pre-contractual steps) with you:
  - to facilitate the opening of your account (including investor and related party identification processes) and administration of your holdings in the Fund and any related account on an on-going basis, including without limitation the processing of redemption, conversion, transfer and additional subscription requests and the payment of distributions and capital call as well as the production and dissemination of transaction and cash flow reports, investors register reports to the Fund and its delegates;
  - to perform any communication to the investors in relation to their investments in the Fund;
  - to perform accounting services for the Fund in particular in relation to the calculation of dividend distributions, redemption proceeds, amounts due by the investors to the Fund;
  - in general, to meet the resulting contractual obligations we have to you
  
2. where necessary for compliance with an EU or EU Member state legal or regulatory obligation to which we are subject. We are required by law or regulation to collect this information from you:
  - in order to carry out anti-money laundering checks and related actions which we consider appropriate to meet any legal obligations imposed on us or to pursue our legitimate interests in relation to, the prevention of fraud, money laundering, terrorist financing, bribery, corruption, tax evasion and to prevent the provision of financial and other services to persons who may be subject to economic or trade sanctions, on an on-going basis, in accordance with the Fund, the Management Company and their delegates' anti-money laundering procedures;
  - to report tax related information to tax authorities and to the Fund or its representatives or delegates/ agents (e.g to comply with the CRS and FATCA legislations, and any applicable tax requirements)(see also below);
  - to comply with legal obligations under company law;
  - to comply with accounting legal obligations;
  - to provide relevant information and reporting to the CSSF or other regulatory



authorities where we are under a legal obligation to do so.

3. for our legitimate interests or those of a third party to which we are transferring Personal Data provided we have considered that our legitimate interests (or those of that third party) are not overridden by your interests, fundamental rights or freedoms.

Our legitimate interests are:

- to disclose information to other data recipients such as service providers of the Fund and of the Management Company and their affiliates, auditors, regulatory authorities and technology providers;
- to monitor and record calls and electronic communications for (i) processing and verification of instructions, (ii) investigation and fraud prevention purposes, (iii) for crime detection, prevention, investigation and prosecution,
- to enforce or defend the rights of the Fund, the Investment Manager, the Management Company and their delegates in order to comply with any legal obligation imposed on them, (v) quality, business analysis, training and related purposes in order to pursue the legitimate interests of the Fund, the Management Company and their delegates to improve their services in relation to such matters or (vi) where the processing is in the public interest;
- to comply with obligations or internal policy requirements of the Fund and the Management Company (e.g. in relation to financial crime prevention);
- to send you commercial communications in the context of existing products or services or for further commercial marketing of similar products or services (marketing);
- to improve the efficiency of the investor identification to streamline KYC/ AML processes and enhance the initial and on-going review of the investors documentation for AML/ KYC purposes;
- to improve the efficiency of the order processing and reduce risks caused by manual intervention in the processing of the subscription and redemption orders;
- to protect our business against fraud, breach of confidence, theft of proprietary materials, and other financial or business crimes;
- to protect the security and integrity of our IT systems.



Given the specific purposes for which the Fund and the Management Company envisage processing your Personal Data, the Fund and the Management Company do not anticipate obtaining your consent to do so. If we were to rely on consent to process your Personal Data, we will contact you to obtain this consent. In case consent is relied upon to legitimate a data processing, you will have the right to withdraw this consent at any time.

**Please also refer to the specific section below for processing activities and related Personal Data disclosures in the context of the Funds' legal obligations under the FATCA and the CRS regimes:**

#### **FATCA related processing activities and disclosures**

In accordance with the Data Protection Legislation, the Fund, as the Data Controller shall comply with its legal obligations under the FATCA Law (as defined in the Subscription Form).

The Fund's ability to satisfy its legal obligations under the FATCA Law will depend on each investor providing the Fund with the FATCA Personal Data (as defined below), including the investor's name, date and place of birth, address, account number (or functional equivalent), account balance or value and U.S. tax identification number, the total gross amount of interest, the total gross amount of dividends, the total gross amount of other income generated with respect to the assets held in the account, the total gross proceeds from the sale or redemption of property paid or credited to the account, the total gross amount of interest paid or credited to the account, the total gross amount paid or credited to the investor with respect to the account, standing instructions to transfer funds to an account maintained in the U.S., and any other relevant information in relation to the investors or their Controlling Persons (as defined in the Subscription Form) for the purposes of the FATCA Law, along with the required supporting documentary evidence (the "**FATCA Personal Data**"). In this context, the investors are hereby informed that, as the Data Controller, the Fund will process the FATCA Personal Data for the purposes as set out in the FATCA Law. The investors shall inform their Controlling Persons, if applicable, of the processing of their FATCA Personal Data by the Fund.

The FATCA Personal Data will be reported by the Management Company or the Administrator, as applicable, to the Luxembourg Tax Authority. The Luxembourg Tax Authority, under its own responsibility, will in turn pass on the FATCA Personal Data to the US Internal Revenue Service in application of the FATCA Law.

The investors are further informed that the FATCA Personal Data related to Reportable Persons within the meaning of the FATCA Law will be disclosed to the Luxembourg Tax Authority annually for the purposes set out in the FATCA Law. In particular, Reportable Persons are informed that certain operations performed by them will be reported to them through the issuance of statements, and that part of this information will serve as a basis for the annual disclosure to the Luxembourg Tax Authority. FATCA Personal Data may also be processed by the Fund's data processors which, in the context of FATCA processing, refer to the Management Company and the Administrator.



### **CRS related processing activities and disclosures**

The Fund may be subject to the Standard for Automatic Exchange of Financial Account Information in Tax matters (the "Standard") and its Common Reporting Standard (the "CRS") as set out in the law implementing the CRS in Luxembourg (the "CRS Law", as defined in the Subscription Form).

The Fund's ability to satisfy its reporting obligations under the CRS Law will depend on each investor providing the Fund with the CRS Personal Data (as defined below), including information regarding direct or indirect owners of the investor, along with the required supporting documentary evidence. In this context, the investors are hereby informed that, as the Data Controller, the Fund will process the CRS Personal Data for the purposes as set out in the CRS Law.

A Reporting Financial Institution, as of 30 June 2017 and without prejudice to other applicable data protection provisions as set out in the Fund documentation, will be required to annually report to the Luxembourg Tax Authority: the name, residence address, TIN(s), the date and place of birth, the country of tax residence(s), the phone number, the account number (or functional equivalent), standing instructions to transfer funds to an account maintained in a Reportable Jurisdiction, the account balance or value, the total gross amount of interest, the total gross amount of dividends, the total gross amount of other income generated with respect to the assets held in the account, the total gross proceeds from the sale or redemption of property paid or credited to the account, the total gross amount of interest paid or credited to the account, the total gross amount paid or credited to the investor with respect to the account, as well as any other information required by applicable laws of i) each Reportable Person that is an account holder, ii) and, in the case of a Passive NFE within the meaning of the CRS-Law, of each Controlling Person that is a Reportable Person (the "**CRS Personal Data**").

The investors are further informed that the CRS Personal Data related to Reportable Persons within the meaning of the CRS Law will be disclosed to the Luxembourg Tax Authority annually for the purposes set out in the CRS Law. The CRS Personal Data may be disclosed by the Luxembourg Tax Authority, under its own responsibility to foreign tax authorities. In particular, Reportable Persons are informed that certain operations performed by them will be reported to them through the issuance of statements, and that part of this information will serve as a basis for the annual disclosure to the Luxembourg Tax Authority.

CRS Personal Data may also be processed by the Fund's data processors ("Processors") which, in the context of CRS processing, refer to the Management Company and the Administrator.

### **Recipients of your Personal Data**

In addition to the Fund and the Management Company, your Personal Data will be disclosed to, and processed by the following entities (the "**Recipients**") for the purpose of providing the services required by you and/or for allowing these companies to comply with their own legal and regulatory obligations (including under company law and anti-money laundering legislation or foreign regulatory requirements):



- FUNDROCK MANAGEMENT COMPANY S.A., as Management Company
- Apex Fund Services (Ireland) Limited which is the Administrator of the Fund;
- European Depository Bank S.A., Dublin Branch as the Depository of the Fund;
- Other recipients including legal or financial advisors, auditors and technology providers (including without limitation certain AML/ KYC mutualisation agents which are licensed as professional of the financial sector in Luxembourg)

These Recipients may further disclose your Personal Data to their affiliates and service providers in order to process the data for the purposes mentioned above and for internal investigations and reporting.

In specific circumstances, your Personal Data may also be disclosed to competent authorities (including tax and financial supervisory authorities or regulatory bodies), courts and bodies as required by applicable law or as requested by such authorities (e.g. for CRS and FATCA laws);

The Fund and the Management Company, as applicable, will take all reasonable steps, as required by Data Protection Legislation, to ensure the safety, privacy and integrity of your Personal Data (including, when applicable, of your FATCA Personal Data and/or CRS Personal Data) and will, as required enter into contracts with such Recipients to protect the privacy and integrity of your Personal Data supplied.

### **Transfers of Personal Data outside the EEA**

In principle, the Fund, the Management Company and Recipients will not transfer your Personal Data to countries outside of the European Economic Area (“**EEA**”) that do not provide adequate level of data protection.

The Management Company and/or the Administrator may transfer your Personal Data to the Investment Manager in Switzerland in which case such transfer will be based on the adequacy decision issued by the European Commission.

In case Personal Data is transferred outside the EEA to a country that does not provide adequate level of data protection, the Fund, the Management Company and the third party service providers will take all steps necessary to ensure that your Personal Data is treated securely, and that appropriate safeguard (in particular Standard Contractual Clauses) are in place to protect the privacy and integrity of such Personal Data, in accordance with the Data



Protection Legislation. Please contact us if you wish to obtain more information concerning these safeguards (see 'Contact Us').

### **Where you do not provide your Personal Data**

Investors are required to provide their Personal Data for statutory and contractual purposes. Failure to provide the required Personal Data may result in the Fund and/or the Management Company being unable to permit or process the investor's investment in the Fund, and this may result in the Fund terminating its relationship with the investor.

### **Security and Retention of your data**

We take all reasonable steps as required by Data Protection Legislation to ensure the safety, privacy and integrity of your Personal Data. We will retain your Personal Data only for as long as is necessary to manage your investment, meet regulatory requirements and carry out the purposes set out above and/or to comply with any legal obligations (whichever is longer). Please contact us if you wish to obtain more information concerning the relevant retention periods (see 'Contact Us').

In principle we will retain your personal information for a period of 10 years following the termination of your relationship with the Fund or for as long as required for the Management Company to comply with applicable legal/regulatory or tax obligations. Under certain circumstances, special retention obligations may be imposed on the Management Company, the third party service providers and their affiliates (in relation to records and other information relevant to pending or reasonably foreseeable litigation, investigations, regulatory inquiries and ongoing proceedings).



## Your Rights

You have certain rights under the GDPR:

- the right to access your Personal Data (including, where applicable, your FATCA Personal Data and/or your CRS Personal Data), including the right to ask for a copy of your such Personal Data where it does not adversely affect the rights and freedoms of others (please note that if you request any further hard copies later on, we may charge you a reasonable fee based on administrative costs);
- the right to have incomplete or inaccurate Personal Data (including, where applicable, FATCA Personal Data and/or CRS Personal Data) corrected (including by means of providing a supplementary statement);

In some limited circumstances:

- the right to object to the use of your Personal Data

In individual cases, we process your Personal Data in order to conduct direct marketing. You have the right to object to the processing of your Personal Data for the purpose of this type of marketing at any time. This also applies to profiling, insofar as it is in direct connection with such direct marketing. If you object to processing for the purpose of direct marketing, we will no longer process your Personal Data for this purpose

On grounds relating to your particular situation, you shall have the right of objection, at any time, to processing of your Personal Data that is necessary for the purposes of the legitimate interests pursued by the controller or by a third party. This also applies to profiling. If you submit an objection, we will no longer process your Personal Data unless we can give evidence of mandatory, legitimate reasons for processing, which outweigh your interests, rights, and freedoms, or processing serves the enforcement, exercise, or defence of interests. Please note, that in such cases we might not be able to provide services and/or maintain a business relationship with you

- the right to restrict the use of your Personal Data (including, where applicable, your FATCA Personal Data and/or your CRS Personal Data)
- the right to require us to erase / delete your Personal Data



Please note that if we process your Personal Data in particular to comply with a legal obligation (see above), we will not be able to respond positively to your request.

- the right to receive Personal Data which you have provided to us in a structured, commonly used and machine- readable format and the right to transmit those data to another data controller.

Please note that this right to data portability only arises where: (a) the processing is based on consent or on a contract; and (b) the processing is carried out by automated means, and (c) it does not adversely affect the rights and freedoms of others. It also only applies to the data that you have provided to us.

- The right to ask questions or lodge a complaint about our processing of your Personal Data with the relevant data protection authority.

In Luxembourg, the relevant data protection authority is the Commission Nationale pour la Protection des Données.

### **How to contact us**

If you want more details on the processing of your Personal Data, if you have any specific queries or concerns regarding the processing of your Personal Data, if you want to exercise your rights towards us or if you would like to make a complaint, do not hesitate to contact:

### **Data Protection Office Representative**

at

Pactum AG

Freigutstrasse 20

8002 Zürich

Switzerland

E-mail: [dataprotection@pactum.ch](mailto:dataprotection@pactum.ch)