

## VISTRA USA PRIVACY NOTICE

**Effective Date:** from 30 September 2019

This Privacy Notice explains how particular companies in the Vistra Group collect, use and disclose your personal data, and your rights in relation to the personal data it holds.

Vistra USA (in this Privacy Notice, "us", "we" and "our") is the data controller of your personal data and as a part of Vistra Group is committed to complying with the Data Protection Law, 2017 of the Cayman Islands ("DPL"), the EU General Data Protection Regulation 2016/679, ("GDPR") and any applicable data protection laws. You may have additional rights under other foreign or domestic laws that may apply to you.

Our Privacy and Data Compliance Officer is Adam Morales. His contact details are:

Email: [Adam.Morales@Vistra.com](mailto:Adam.Morales@Vistra.com)

Telephone: 212-500-6194

This Privacy Notice supersedes any previous Privacy Notice or equivalent which you may have been provided with or seen prior to the Effective Date stated above. We reserve the right to change this Privacy Notice at any time.

Nothing in this Privacy Notice creates any new relationship between you and us or alters any existing relationship between you and us. It is important however that the personal data we hold about you is accurate and current. Please keep us informed if your personal data changes during your relationship with us.

### Your rights

You have the following rights:

- To be informed about the personal data we collect from you and use;
- To obtain access to, and copies of, the personal data that we hold about you;
- To require that we do not begin or that we cease processing your personal data;
- To require us not to send you marketing communications;
- To require us to delete your personal data, subject to our legal obligations;
- To require us to restrict our data processing activities;
- To receive from us the personal data we hold about you which you have provided to us, in a reasonable format specified by you, including for the purpose of you transmitting that personal data to another data controller;
- To require us to correct the personal data we hold about you if it is inaccurate or incomplete at any time;
- To require that we do not subject you to automated decision-making that uses your personal data; and
- To withdraw consent at any time where we are relying on consent to process your personal data.

Please note that the above rights are not absolute, and we may be entitled to refuse requests where exceptions apply. Additionally, while the rights you have can normally be exercised free of charge, the DPL allows us to charge you if your request is manifestly unfounded or excessive. In such cases, we reserve the right to charge you a fee for processing your request.

We may need to request specific information from you to help us confirm your identity and ensure your right to access your personal data (or to exercise any other of your rights). This is a security measure to ensure that personal data is not disclosed to a person who has no right to receive it.

If you have any questions or wish to make a complaint about how we use or collect your personal data, or you wish to exercise any of the rights set out above, please contact us using the following:

By post:

Attn: Adam Morales, Data Protection Officer, Vistra USA LLC, 888 Seventh Avenue - 5<sup>th</sup> Floor, New York NY 10106.

Email: [Adam.Morales@Vistra.com](mailto:Adam.Morales@Vistra.com)

Telephone: 212-500-6194

You have the right to lodge a complaint with the Cayman Islands Ombudsman or with a supervisory authority in the EU Member State of your habitual residence or place of work or in the place of the alleged infringement if you consider that the processing of personal data relating to you and carried out by us or our service providers infringes the DPL or the GDPR respectively.

GDPR complaints can be submitted on-line using the following link:

[http://ec.europa.eu/justice/newsroom/data-protection/news/160229\\_en.htm](http://ec.europa.eu/justice/newsroom/data-protection/news/160229_en.htm)

The Cayman Islands Ombudsman can be contacted by post at:

Ombudsman  
PO Box 2252 Grand Cayman KY1-1107  
Cayman Islands

### **How we collect your data**

We collect your personal data in a number of ways, for example:

- From the information you provide to us when you meet us;
- From information about you provided to us by your company or an intermediary;
- When you communicate with us by telephone, fax, email or other forms of electronic communication. In this respect, we may monitor, record and store any such communication;
- When you complete (or we complete on your behalf) client on-boarding or application or other forms;
- From other companies in the Vistra Group;
- From your agents, advisers, intermediaries, and custodians of your assets;
- From publicly available sources or from third parties, most commonly where we need to conduct background checks about you.

## **The categories of personal data we collect**

We collect the following categories of personal data about you:

- Your name and contact information such as your home or business address, email address and telephone number;
- Biographical information which may confirm your identity including your date of birth, tax identification number, tax status and your passport number or national identity card details, country of domicile and/or your nationality;
- Information relating to your financial situation such as income, expenditure, assets and liabilities, ownership interest in an entity, sources of wealth, as well as your bank account details;
- Information about your knowledge and experience in the investment field;
- An understanding of your goals and objectives in procuring our services;
- Information about your employment, education, family or personal circumstances, and interests, where relevant; and
- Information to assess whether you may represent a politically exposed person, or money laundering risk (which may include personal sensitive data concerning the commission, or alleged commission, of a criminal offence).

## **The basis for processing your personal data (other than with your consent), how we use that personal data and whom we share it with**

### **(i) Performance of a contract with you**

We process your personal data because it is necessary for the performance of a contract to which you are a party or in order to take steps at your request prior to entering into a contract.

In this respect, we use your personal data for the following:

- To prepare a proposal for you regarding the services we offer;
- To provide you with the services as set out in our Terms of Engagement with you or as otherwise agreed with you from time to time;
- To deal with any complaints or feedback you may have;
- To update and maintain records and fee calculations; and
- For any other purpose for which you provide us with your personal data.

In this respect, we may share your personal data with or transfer it to the following:

- Your agents, advisers, intermediaries, and custodians of your assets who you tell us about;
- Third parties whom we engage to assist in delivering the services to you, including other companies in the Vistra Group acting as joint controllers or processors;
- Our professional advisers where it is necessary for us to obtain their advice or assistance, including lawyers, accountants, administrative support service providers, or public

relations advisers;

- Other third parties such as intermediaries who we introduce to you. We will wherever possible tell you who they are before we introduce you; and
- Our service providers acting as processors who provide IT, data storage and system administration services.

**(ii) Legitimate interests**

We also process your personal data because it is necessary for our legitimate interests, or sometimes where it is necessary for the legitimate interests of another person.

In this respect, we use your personal data for the following:

- For direct marketing to you. In this respect, see the separate section on Marketing below;
- Training our staff or monitoring their performance;
- For the administration and management of our business, including recovering money you owe to us, and archiving or statistical analysis;
- Seeking advice on our rights and obligations, such as where we require our own legal advice;

In this respect we will share your personal data with the following:

- Our advisers or agents where it is necessary for us to obtain their advice or assistance;
- With third parties and their advisers where those third parties are acquiring, or considering acquiring, all or part of our business.

**(iii) Legal obligations**

We also process your personal data for our compliance with a legal obligation which we are under. In this respect, we will use your personal data for the following:

- To meet our legal and regulatory obligations, such as compliance with anti-money laundering and counter terrorism financing procedures and laws;
- As required by tax authorities or any competent court or legal authority. In this respect, we will share your personal data with the following:
  - Our advisers where it is necessary for us to obtain their advice or assistance;
  - Our auditors where it is necessary as part of their auditing functions;
  - With third parties who assist us in conducting background checks; and
  - With relevant regulators or law enforcement agencies where we are required to do so.

## **Marketing**

We will send you marketing about similar services we provide, as well as other information in the form of alerts, newsletters and invitations to events or functions which we believe might be of interest to you.

We will communicate this to you in a number of ways including by post, telephone, email, SMS or other digital channels.

If you object to receiving marketing from us at any time, please contact us:

By post:

Attn: Adam Morales, Data Protection Officer, Vistra USA LLC, 888 Seventh Avenue - 5<sup>th</sup> Floor, New York NY 10106.

Email: [Adam.Morales@Vistra.com](mailto:Adam.Morales@Vistra.com)

Telephone: 212-500-6194

## **Transfer and processing of your personal data**

The nature of our operations may involve the transfer of personal data outside the United States to recipients who may not have data protection laws or regulations equivalent to the DPL and the GDPR.

Our servers, storing and keeping your data secure, are located in countries which have an adequate level of protection or with which we have signed agreements incorporating the EU Standard Contractual Clauses under the GDPR.

We have a number of other companies in the Vistra Group, personnel and service providers who may have access to your personal data, and which are located in countries which have an adequate level of protection or with which we have signed agreements incorporating the EU Standard Contractual Clauses under the GDPR.

Where we disclose your personal data as described above to recipients who are located outside of the Cayman Islands or the European Union, we will, wherever possible ensure that adequate legal safeguards and protective measures are put in place for the cross-border transfers of your personal data to third parties to whom personal data will be transferred.

To find out more about transfers by us of your personal data and the countries concerned please contact us:

By post:

Attn: Adam Morales, Data Protection Officer, Vistra USA LLC, 888 Seventh Avenue - 5<sup>th</sup> Floor, New York NY 10106.

Email: [Adam.Morales@Vistra.com](mailto:Adam.Morales@Vistra.com)

Telephone: 212-500-6194

## **Retention of your data**

We will only retain your personal data for as long as we have a lawful reason to do so. In particular:

- where we have collected your personal data as required by anti-money laundering legislation, including for identification, screening and reporting, we will retain that personal data for at least five years after the termination of our relationship, unless we are required to retain this information by another law or for the purposes of court

proceedings; or

- otherwise, we will in most cases retain your personal data for a period of seven years after the termination of our contractual or other relationship with you in case any claims arise out of the provision of our services to you.

### **Protection of Personal Data**

We maintain and require that the recipients to which your personal data are transferred maintain appropriate technical and organizational measures to ensure a level of security appropriate to potential risks, including physical, electronic and procedural safeguards that comply with the DPL and GDPR to protect your information, including:

- the pseudonymization and encryption of your personal data where appropriate;
- ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services;
- ensuring we can restore access to personal data in a timely manner if a physical or technical incident occurs; and
- regular testing, assessment and evaluation of the effectiveness of technical and organizational measures to ensure your personal data is secure.

We restrict access to personal data to those employees who need to know that information in the course of their job responsibilities.

We will destroy, erase or make unreadable, data, computer files and documents containing personal data prior to disposal.

We do not allow third party service providers who process data on our behalf to use your personal data for their own purposes and only permit them to process your personal data for specified purposes and in accordance with our instructions.

### **Data Breaches**

In the unlikely and unfortunate event that your personal data under our control becomes compromised due to a breach of our security, we will act promptly to identify the cause and take the necessary steps to contain and mitigate the consequences of the breach. Where appropriate, we will also notify you of the breach in accordance with the requirements of the DPL and any other applicable law.