

Privacy Statement for the submission of information at compliance@oebb.at

Updated: 14 July 2020

Data protection is important to us

As a public company, OeBB attaches great importance to the protection of data privacy. This is especially relevant for the handling of notices regarding unlawful and other non-compliant behaviour. In order to give everyone the opportunity to submit relevant information, OeBB has set up the e-mail address compliance@oebb.at.

This privacy statement shall make transparent how data received at this address and other data collected in connection with such information will be used.

General Data Protection Regulation

Articles cited in this document refer to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, hereinafter referred to as "GDPR"). The GDPR is directly applicable in all EU Member States.

Controller

Controller as defined in Art. 4 item 7 of the GDPR is the OeBB group company to the detriment of which the investigated act was committed or the right of which is encroached upon by the investigated act. This also applies if the company is not expressly mentioned or incorrectly named in the information received.

The information received at the e-mail address compliance@oebb.at is reviewed for plausibility and assigned to the relevant Group Company by the Compliance Office of ÖBB-Holding AG, Am Hauptbahnhof 2, 1100 Vienna. The respective Group Company is responsible for ensuring that the suspicion on which the information is based on is investigated. That Group Company is also the "master of the data" that is determined in the course of the investigation - and is thus the "controller" within the meaning of the GDPR.

A link to the most important OeBB Group Companies and their imprints is available at: <https://konzern.oebb.at/en/imprint>. The imprints also show the respective corporate purpose of the Group Companies.

Group wide processor

In the analysis of the information received, the Group Companies are supported by the Compliance Office of ÖBB-Holding AG, which is headed by the Chief Compliance Officer of OeBB.

ÖBB-Holding AG therefore participates in the analysis of the incoming information as a "processor" in the sense of Art 4 item 8 GDPR. The Compliance Office assigns the incoming information to the Group Company concerned and supports the company in the internal investigation and the related documentation.

Data protection officer

Within OeBB Group, a data protection officer has been appointed for each Group Company. Please find an overview at: <https://konzern.oebb.at/en/imprint/data-protection-officers>.

The Group's data protection officer is also available at the e-mail address datenschutz.konzern@oebb.at.

Legal basis for data processing

The legal basis for data processing is Art 6 par 1 lit f GDPR, i.e. the legitimate interests pursued by the controller.

The use of personal data of the whistleblower is NOT based on consent pursuant to Art 4 item 11 GDPR, and the information provided cannot be withdrawn or "revoked".

Description and scope of data processing

The purpose of the processing activity is to investigate facts that are suitable for substantiation of a suspicion of misconduct, which falls within the competence of the Compliance Office according to OeBB Group Guideline 15 or serves to avert severe disadvantages for the controller resulting from misconduct of its employees due to other unlawful conduct.

Anonymity of the whistleblower

In general, the identity of the whistleblower will only be disclosed upon consent.

Excluded from this general principle is

- a formal request by an authority to disclose the identity of the whistleblower, e.g. when a witness is interrogated (OeBB Group employees dealing with compliance matters are subject to the obligation to testify and have no right to refuse to testify)
- information provided to data subjects in accordance with Art 15 GDPR, if the notice is untrue and has been given in bad faith and therefore the whistleblower has no legitimate interest in keeping his or her identity secret.

Notification of data subjects

If information provided by a whistleblower mentions a specific person (in particular in connection with a suspicion directed against him or her), the data will be stored in connection with the information, and the data subject will be informed of the data storage as soon as possible in accordance with Art 14 GDPR.

As a matter of principle, this takes place during the internal investigation while the respective person is being interviewed by the Compliance Office, since prior notification could jeopardise the purpose of the investigation.

The data subject will be informed about the investigated suspicion in due course. Likewise, the OeBB Group Company responsible for investigating the suspected case as well as any other OeBB Group Companies involved will be informed. In addition, the manner in which rights of defence and other information rights can be exercised will be provided.

Dealing with other information

Information received that does not relate to misconduct of an employee or a company body of an OeBB company or that relates to circumstances not having caused OeBB any damages or other disadvantages will not be pursued.

However, OeBB reserves the right to forward certain information to public authorities, which upon first impression indicate an incident that is not compliance-relevant, but relevant under criminal law, while maintaining the anonymity of the person who has provided information in the sense described above.

Data recipients

- OeBB-internal recipients
Personal data is used for reporting to the responsible executive management body, which ultimately decides on the further procedure (e.g. involvement of authorities or disciplinary consequences).
Data is also used for reporting on the measures taken within OeBB Group to executive bodies of the subgroup's parent companies as well as ÖBB-Holding AG.
- External recipients
Data determined as part of the processing of information can be transmitted to security authorities, regulators, public prosecutors' offices and criminal courts for the purposes of criminal prosecution in order to provide evidence in criminal matters if required. Data may also be used in civil court proceedings to enforce claims and to provide evidence. In such cases, the identity of the person who has provided information is only revealed upon consent or if an official act mandates disclosure. In this context, please be aware that employees of OeBB Group who are involved in compliance matters are subject to the duty to testify and have no right of refusal to testify.

Service provider

ÖBB-Holding AG uses a software application operated by ÖBB-BCC GmbH as a processor.

In individual cases, ÖBB-Holding AG uses forensic service providers, whose activities are protected by an obligation of professional secrecy, as processors for the investigation of complex facts.

Corresponding agreements are concluded with all processors. In any case, processors are prohibited from deciding on the use of data.

Storage period

Data gathered within the investigation is anonymised two months after the case is closed, so that OeBB can no longer access any personal data after this point in time. Only a general description of the investigated unlawful behaviour, the date on which the information was reported and the date of the outcome of the investigation is retained.

Information relating to the case, especially interview transcripts, notes and copies of other files are archived electronically. Archiving is performed in a way so that OeBB's employees and company bodies cannot access such information anymore by themselves, only upon governmental request and with the involvement of a trustee, who manages necessary access codes.

Rights of data subjects

You have the following rights with regard to the use of your personal data:

- The right of access
- The right to rectification
- The right to erasure
- The right to restrict processing
- The right to data portability
- The right to object

In case you want to exercise the aforementioned rights against ÖBB-Holding AG or any other Group Company, please send a message to the above-named contact details or to the data protection officer mentioned in each subsidiaries' imprint. Please indicate in the subject field the assertion of your rights in accordance with the GDPR as well as the context of your question (data processing in the context of a specific compliance case).

Please be aware that a compliance investigation is not based on consent and there is thus no right to data portability.

You have the option of lodging a complaint with a data protection supervisory authority. The supervisory authority responsible for OeBB Group is: Austrian Data Protection Authority (Österreichische Datenschutzbehörde), Barichgasse 40-42, 1030 Vienna; e-mail: dsb@dsb.gv.at.