

December 2018

## PRIVACY NOTICE FOR MUTUAL ASSISTANCE BROKER (MAB)

### 1. DESCRIPTION OF THE PROCESSING OPERATION

The Mutual Assistance Broker (MAB) is an IT-tool and filing system under the Anti-Fraud Information System (AFIS), developed by the European Anti-Fraud Office (OLAF), to organise structured and non-structured electronic mail exchanges between competent authorities in the Member States and OLAF<sup>1</sup>. The data are stored in a central repository on servers located in OLAF's premises in Brussels as well as on the recipient's systems, making data available for exporting, internal retransmission and analysis. The business interfaces aiming to capture the data in Yachtinfo (Information on small vessels used for transport), Marinfo (Information on commercial vessels for container transport), Cinginfo (Information on seizures of cigarettes, tobacco or counterfeited products), MAB mail are integrated into a single business interface called "Mutual Assistance Broker" (MAB).

The purpose of processing is to assist competent authorities in Member States referred to in Mutual Assistance Regulation in preventing, investigating and prosecuting infringements of customs or agricultural legislation. The processing also aims at enhancing the effectiveness of the cooperation among the Member States and between them and the European Commission.

The controller of the processing operation is the European Commission, European Anti-Fraud Office (OLAF), Unit D4 - Customs and Tobacco Anti-Fraud Policy; AFIS.

Personal data recorded in the MAB will not be used for automated individual decision-making, including profiling<sup>2</sup>. Data subjects will not be subjected to a decision solely based on automated processing, including profiling, which produces legal effects concerning him or her or similarly affects him or her.

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<sup>1</sup> The term 'Competent authorities' is defined in Article 2(2) of Council Regulation (EC) 515/97 of 13 March 1997 on mutual assistance between the administrative authorities of the Member States and cooperation between the latter and the Commission to ensure the correct application of the law on customs and agricultural matters, OJ L 082, 22 March 1997, as amended.

<sup>2</sup> As defined in Article 24 of Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union Institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) 45/2001 and Decision No. 1247/2002/EC, OJ L 295 of 21 November 2018, p. 39, ("EUDPR").

## **2. LEGAL BASIS FOR THE PROCESSING**

The legal bases for this processing are:

- Regulation 2018/1725, the EU Data Protection Regulation ("EUDPR"), in particular Article 4 (1) (a) and (b) on the lawfulness of processing,
- Regulation 515/97, as amended, the "Mutual Assistance Regulation", in particular Articles 17 and 18,
- Regulation 883/2013<sup>3</sup>, as amended,
- Treaty on the Functioning of the European Union (TFEU), Article 325 (5), reporting requirement.

## **3. CATEGORIES OF PERSONAL DATA COLLECTED**

The following categories of personal data related to natural persons (or legal persons whose name may lead to the identity of a natural person) mentioned in the mutual assistance exchanges communicated are recorded in MAB:

- Surname, first name, maiden name, gender,
- Physical characteristics,
- Place and date of birth,
- Nationality,
- Profession,
- A warning indicating any history of being armed, violent, drug addict, suicidal and other warnings (to be selected from a list as well as free text),
- ID document (type, number, date and place of issue),
- Address (PO box, Street, House No, Box, Postal code, City, Country),
- Involvement description (to be selected from list, as well as free text, including an evaluation of the quality of the information), and
- Suggested action.

Additionally, limited personal data are stored about the users of MAB (authorised staff of OLAF, EUROPOL, EUROJUST and Member States and third country designated competent authorities):

- surname, first name,
- service, and
- telephone, mobile phone, fax and email address.

Personal data are only collected from a natural person if s/he is linked to a legal entity for which data are collected. Personal data of natural persons who are not linked to a legal entity are not collected.

The provision of personal data is mandatory to meet the requirements under Articles 17-18 of the Mutual Assistance Regulation. A failure to provide the data may lead the Commission to default on its obligations under the Mutual Assistance Regulation.

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<sup>3</sup> Regulation (EU, Euratom) No. 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No. 1074/1999, OJ L 248 of 18 September 2013.

#### **4. WHO HAS ACCESS TO YOUR INFORMATION AND TO WHOM IS IT DISCLOSED?**

The information in MAB is only **accessible** to dedicated staff in:

- the competent authorities of the Member States,
- the European Commission and the European Anti-Fraud Office, and,
- the competent authorities of third countries within the framework of mutual assistance agreements,
- Eurojust and Europol that work with MAB.

The information in MAB may be **disclosed** to dedicated staff within:

- the competent authorities of the Member States,
- the European Commission and the European Anti-Fraud Office, and,
- the competent authorities of third countries within the framework of mutual assistance agreements,
- Eurojust and Europol.

Dedicated staff are those staff members within the organisations mentioned above that are tasked with detecting, investigating or prosecuting infringements of customs or agricultural legislation.

Personal data recorded in MAB will only be transferred outside the EU to the officials of competent third country authorities (mainly to members of MarInfo and YahtInfo groups)

#### **5. HOW DO WE PROTECT AND SAFEGUARD YOUR INFORMATION?**

In order to protect your personal data, technical and organisational measures have been put in place. Technical measures include appropriate actions to ensure online security as well as measures to address risks of data loss, alteration of data or unauthorised access, taking into consideration the risks presented by the processing and the nature of the data that are processed. Organisational measures include actions restricting data access to authorised persons who have a legitimate need to know for the purposes of this processing operation.

#### **6. HOW LONG DO WE KEEP YOUR DATA?**

Your personal data may be retained by OLAF for a maximum period of one year from the date on which the file was created.

## **7. WHAT ARE YOUR RIGHTS AND HOW YOU CAN EXERCISE THEM?**

You have the right to request access to your personal data, rectification or erasure of the data, or restriction of their processing. You have the right to object to the processing of your data.

Any request to exercise one of those rights should be directed to the Controller ([OLAF-FMB-DATA-PROTECTION@ec.europa.eu](mailto:OLAF-FMB-DATA-PROTECTION@ec.europa.eu)). Where you wish to exercise your rights in the context of one or several specific processing operations or files, please provide their description and reference(s) in your request.

The controller may apply exceptions in accordance with the Regulation 2018/1725 and, where applicable, restrictions based on Article 25 thereof, in accordance with the relevant Commission Decisions<sup>4</sup>.

## **8. CONTACT DETAILS OF THE DATA PROTECTION OFFICER**

You may contact the Data Protection Officer of OLAF ([OLAF-FMB-DPO@ec.europa.eu](mailto:OLAF-FMB-DPO@ec.europa.eu)) with regard to issues related to the processing of your personal data under Regulation (EU) 2018/1725.

## **9. RIGHT OF RECOURSE**

You have the right to have recourse to the European Data Protection Supervisor ([edps@edps.europa.eu](mailto:edps@edps.europa.eu)) if you consider that your rights under Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by OLAF.

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<sup>4</sup> Commission decisions on the basis of Article 25 of the EUDPR will be published in the Official Journal as well as on the dedicated internet pages of OLAF.