

# NODAL EXCHANGE, LLC

## PRIVACY NOTICE

### 1) INTRODUCTION

This privacy notice explains how Nodal Exchange, LLC (“Nodal” “we,” “us,” and “our”) collects, uses, shares, and discloses information about you. This privacy notice also describes our policies concerning your personal data that we collect and process through our website at [www.nodalexchange.com](http://www.nodalexchange.com) and the trading platform, which means any website, application, or services we offer, or when you communicate with us (“Website”) and tells you about your privacy rights. Our terms and conditions of use (“Terms”) further describe the Terms governing your use of this Website. Please see our Terms at <http://www.nodalexchange.com/files/terms-of-use.pdf> for further details.

It is important that you read this privacy notice so that you are fully aware of how and why we are using your data.

By accessing or using this Website, you signify that you acknowledge, accept, and agree with all the terms of this privacy notice, so do not use or access this Website if you disagree with any part of this privacy notice. You should check this page from time to time to ensure that you continue to agree to the terms of this privacy notice.

### **Our Contact Information and Privacy Manager**

Nodal Exchange, LLC  
1921 Gallows Rd, 3<sup>rd</sup> Floor  
Vienna, Virginia 22182  
United States  
(703) 962-9800

We have appointed a privacy manager who is responsible for overseeing questions about this privacy notice. If you have any questions about this privacy notice, including any requests to exercise your legal rights, please contact our privacy manager using the details set out below.

Privacy Manager  
Email: [privacy@nodalexchange.com](mailto:privacy@nodalexchange.com)  
Phone: (703) 962-9853

### **Changes To This Privacy Notice**

This privacy notice was last updated on May 31, 2021.

## 2) THE DATA WE COLLECT ABOUT YOU

Nodal collects information about you and your use of the Website through various means, including when you provide information to us and when we automatically collect information about you when you access, use, or interact with our Website.

Personal data, or personal information, means any information about an individual from which that person can be identified. It does not include data where the identity has been removed (anonymous data).

We may collect, use, store and transfer different kinds of personal data about you which we have grouped as follows:

- a) **Identity Data** includes first name, last name, username, or signature specimens.
- b) **Contact Data** includes an address, email address, and telephone number.
- c) **Transaction Data** includes financial details and bank account information.
- d) **Technical Data** includes internet protocol (IP) address, your login data, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform and other technology on the devices you use to access this website.
- e) **Profile Data** includes your username and password.
- f) **Usage Data** includes information about how you use our Website.
- g) **Marketing and Communications Data** includes your preferences in receiving marketing from us and your communication preferences.

We collect certain **Special Categories** of personal data about you limited to your regulatory, disciplinary and criminal history. We collect such data because we are required to do so by law and only if we receive your express consent. We also collect such data so that we can grant you access to our trading platform and we can provide other exchange related services. We do not share your sensitive personal data with any other third party. Besides that, we do not collect any other sensitive personal data about you; specifically, we do not collect any data about your race or ethnicity, religious or philosophical beliefs, sex life, sexual orientation, political opinions, trade union membership, information about your health or genetic and biometric data.

We also collect, use and share **Aggregated Data** such as statistical or demographic data for any purpose. Aggregated Data may be derived from your personal data but is not considered personal data as this data does not directly or indirectly reveal your identity. For example, we may aggregate your Usage Data to calculate the percentage of users accessing a specific website feature. However, if we combine or connect Aggregated Data with your personal data so that it can directly or indirectly identify you, we treat the combined data as personal data which will be used in accordance with this privacy notice.

### 3) HOW WE COLLECT DATA ABOUT YOU

We use different methods to collect data from and about you including through:

- a) **Direct interactions.** You may give us your Identity, Contact and Profile Data by filling in forms or by corresponding with us by post, phone, email or otherwise; this includes personal data you provide when you:
  - i) visit our Website;
  - ii) attend an event;
  - iii) apply for access;
  - iv) subscribe to our service or publications;
  - v) request marketing to be sent to you;
  - vi) give us some feedback; and
  - vii) communicate with us.
- b) **Automated technologies or interactions.** As you interact with our Website, we may automatically collect Technical Data about your equipment, browsing actions and patterns. We collect this personal data by using cookies, server logs, and other similar technologies. We may also receive Technical Data about you if you visit other websites employing our cookies.
- c) **Third parties or publicly available sources.** We may receive personal data about you from various third parties as set out below:
  - a) Technical Data from the following parties:
    - i. analytics provided by Google based outside the EU

### 4) HOW WE USE YOUR PERSONAL DATA

Nodal uses the information we receive about you for the purposes described in this privacy notice. We process much of the personal data received about you through our Website on the legal basis of Nodal's legitimate interests in providing the Website and its functionalities to you, as explained in the table below. Such processing is necessary for the purposes of the legitimate interests pursued by Nodal or by our service providers related to the Website. Where appropriate, we may rely on alternate legal bases, such as your consent to certain types of processing. Importantly, we will only use your personal data when the law allows us to. Most commonly, we will use your personal data in the following circumstances:

- a) When you allow us to collect your personal data by expressly consenting to receive direct marketing communications via email (You have the right to withdraw consent to marketing at any time by contacting our privacy manager).

- b) Where you allow us to process your personal data on that basis on that consent (You have the right to withdraw consent at any time by contacting our privacy manager).
- c) Where we need to perform the contract we are about to enter into or have entered into with you.
- d) Where it is necessary for our legitimate interests (or those of a third party) and your interests and fundamental rights do not override those interests.
- e) Where we need to comply with a legal or regulatory obligation.

**Purposes For Which We Will Use Your Personal Data**

We have set out below a description of ways we use your personal data, and which of the legal bases we rely on to do so. We have also identified what our legitimate interests are where appropriate. (‘Legitimate Interest’ means the interest of our business in conducting and managing our business to enable us to give you the best service/product and the best and most secure experience. We make sure we consider and balance any potential impact on you (both positive and negative) and your rights before we process your personal data for our legitimate interests. We do not use your personal data for activities where our interests are overridden by the impact on you (unless we have your consent or are otherwise required or permitted to by law). You can obtain further information about how we assess our legitimate interests against any potential impact on you in respect of specific activities by contacting our privacy manager).

Note that we may process your personal data for more than one lawful ground depending on the specific purpose for which we are using your data. Please contact our privacy manager if you need details about the specific legal ground we are relying on to process your personal data where more than one ground has been set out in the table below.

<b>Purpose/Activity</b>	<b>Type of Data</b>	<b>Lawful Basis for Processing</b>
To register you as a new participant and applicant	a) Identity b) Contact c) Special Categories	a) Necessary for our legitimate interests (to provide you with our trading and exchange related services)
To allow you to use our services, including the trading platform:  a) Manage payments, rebates, discounts, fees, and charges b) Collect and recover money owed to us	a) Identity b) Contact c) Special Categories d) Financial e) Transaction f) Marketing and Communications	a) Performance of a contract with you b) Necessary for our legitimate interests (to provide you with our trading and exchange related services) c) Necessary for our legitimate interests (to recover debts due to us)

<p>To manage our relationship with you which will include:</p> <p>a) Notifying you about changes to our terms or privacy notice</p> <p>b) Sending you marketing communications to notify you about our new initiatives or services</p>	<p>a) Identity</p> <p>b) Contact</p> <p>c) Profile</p> <p>d) Usage</p> <p>e) Marketing and Communications</p>	<p>a) Necessary to comply with a legal obligation</p> <p>b) Necessary for our legitimate interests (to keep our records updated and to study how customers use our services)</p> <p>c) Necessary for our legitimate interests (to study how customers use our services, to develop them and grow our business)</p>
<p>To administer and protect our business and this Website (including troubleshooting, data analysis, testing, system maintenance, support, reporting and hosting of data)</p>	<p>a) Identity</p> <p>b) Contact</p> <p>c) Technical</p>	<p>a) Necessary for our legitimate interests (for running our business, provision of administration and IT services, network security, to prevent fraud and in the context of a business reorganization or group restructuring exercise)</p> <p>b) Necessary to comply with a legal obligation</p>
<p>To use data analytics to improve our Website, services, marketing, customer relationships, and experiences</p>	<p>a) Technical</p> <p>b) Usage</p>	<p>a) Necessary for our legitimate interests (to define types of customers for our services, to keep our Website updated and relevant, to develop our business and to inform our marketing strategy)</p>
<p>To make suggestions and recommendations to you about services that may be of interest to you</p>	<p>a) Identity</p> <p>b) Contact</p> <p>c) Technical</p> <p>d) Usage</p> <p>e) Profile</p>	<p>a) Necessary for our legitimate interests (to develop our services and grow our business)</p>

**Marketing**

We strive to provide you with choices regarding certain personal data uses, particularly around marketing and advertising. We have established the following personal data control mechanisms:

**a) Unsubscribing**

You can ask us to stop sending you marketing messages by following the unsubscribing links on any marketing message sent to you or by contacting our privacy manager at any time.

Where you opt out of receiving these marketing messages, this will not apply to personal data that we are required to retain pursuant to the applicable laws.

## **b) Cookies**

You can set your browser to refuse all or some browser cookies, or to alert you when websites set or access cookies. If you disable or refuse cookies, please note that some parts of this Website may become inaccessible or not function properly.

## **Change Of Purpose**

We will only use your personal data for the purposes for which we collected it, unless we reasonably consider that we need to use it for another reason and that reason is compatible with the original purpose or legally necessary. If you wish to obtain an explanation as to how the processing for the new purpose is compatible with the original purpose, please contact our privacy manager.

## **5) DISCLOSURES OF YOUR PERSONAL DATA**

Nodal will not share, sell, rent, or otherwise disclose your personal data to third parties without your consent, except in the limited circumstances described in this privacy notice, including to:

- a) Service providers based in the United States that provide IT and system administration services. We share personal data with our service providers on the legal basis of Nodal's legitimate interests in providing you with the Website. Our engagement of service providers is often necessary for us to provide the Website to you, particularly where such companies play important roles like helping us keep our Website operating and secure. In some other cases, these service providers aren't strictly necessary for us to provide the Website, but help us make it better, like by helping us conduct research into how we could better serve our users. In these latter cases, we have a legitimate interest in working with service providers to make our Website better.
- b) Internally, within Nodal and with our subsidiaries and affiliates. Nodal's personnel may have access to your information as needed to provide and operate the Website in the normal course of business. This includes information regarding your use and interaction with the Website.
- c) Professional advisers including lawyers, bankers, auditors, and insurers based in the United States that provide consultancy, banking, legal, insurance and accounting services.
- d) Regulators and other authorities based in the United States that require reporting of processing activities in certain circumstances. We may be required to disclose Website user information pursuant to lawful requests, such as subpoenas or court orders, or in compliance with applicable laws. We generally do not disclose user information unless we have a good faith belief that an information request by law enforcement or private litigants meets applicable legal standards. We may share your information when we believe it is necessary to comply with applicable laws, to protect our interests or property, to prevent fraud or other illegal activity perpetrated through the Website or using the Nodal name, or to protect the safety of any person. Nothing in this privacy notice is intended to limit any

legal defenses or objections that you may have to a third party's, including a government's, request to disclose your information.

- e) Third parties to whom we may choose to sell, transfer, or merge parts of our business or our assets. Alternatively, we may seek to acquire other businesses or merge with them. If a change happens to our business, then the new owners may use your personal data in the same way as set out in this privacy notice.

We require all third parties to respect the security of your personal data and to treat it in accordance with the law. We do not allow our third-party service providers 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.

## **6) DATA SECURITY**

We use administrative, organizational, technical, and physical safeguards to protect the personal data we collect and process. Our security controls are designed to maintain an appropriate level of data confidentiality, integrity, and availability. We regularly test our Website, data centers, systems, and other assets for security vulnerabilities.

We have put in place procedures to deal with any suspected personal data breach and will notify you and any applicable regulator of a breach where we are legally required to do so.

## **7) DATA RETENTION**

We will only retain your personal data for as long as necessary to fulfill the purposes we collected it for, including for the purposes of satisfying any legal, accounting, or reporting requirements.

To determine the appropriate retention period for personal data, we consider the amount, nature, and sensitivity of the personal data, the potential risk of harm from unauthorized use or disclosure of your personal data, the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements.

Details of retention periods for different aspects of your personal data are available in our retention privacy notice which you can request from us by contacting our privacy manager.

## **8) YOUR LEGAL RIGHTS**

Under certain circumstances, you have rights under data protection laws in relation to your personal data.

- a) **Request access to your personal data.** This enables you to receive a copy of the personal data we hold about you and to check that we are lawfully processing it.

- b) **Request correction of your personal data.** This enables you to have any incomplete or inaccurate data we hold about you corrected, though we may need to verify the accuracy of the new data you provide to us.
- c) **Request erasure of your personal data.** This enables you to ask us to delete or remove personal data where there is no good reason for us continuing to process it. You also have the right to ask us to delete or remove your personal data where you have successfully exercised your right to object to processing (*see* below), where we may have processed your information unlawfully or where we are required to erase your personal data to comply with local law. Note, however, that we may not always be able to comply with your request of erasure for specific legal reasons (such as the Commodity Exchange Act and the Commodity Futures Trading Commission (CFTC) Regulations) which will be notified to you, if applicable, at the time of your request.
- d) **Object to processing of your personal data.** This enables you to ask us to delete or remove personal data where we are relying on a legitimate interest and there is something about your particular situation which makes you want to object to processing on this ground as you feel it impacts on your fundamental rights and freedoms. You also have the right to object where we are processing your personal data for direct marketing purposes. In some cases, we may demonstrate that we have compelling legitimate grounds to process your information which overrides your rights and freedoms.
- e) **Request restriction of processing your personal data of your personal data.** This enables you to ask us to suspend the processing of your personal data in the following scenarios: (a) if you want us to establish the data's accuracy; (b) where our use of the data is unlawful but you do not want us to erase it; (c) where you need us to hold the data even if we no longer require it as you need it to establish, exercise or defend legal claims; or (d) you have objected to our use of your data but we need to verify whether we have overriding legitimate grounds to use it.
- f) **Request the transfer of your personal data to you or to a third party.** This enables you to ask us to provide to you, or a third party you have chosen, your personal data in a structured, commonly used, machine-readable format. Note that this right only applies to automated information which you initially provided consent for us to use or where we used the information to perform a contract with you.
- g) **Withdraw consent at any time** where we are relying on consent to process your personal data. However, this will not affect the lawfulness of any processing carried out before you withdraw your consent. If you withdraw your consent, we may not be able to provide certain products or services to you. We will advise you if this is the case at the time you withdraw your consent.

### **No Fee Usually Required**

You will not have to pay a fee to access your personal data (or to exercise any of the other rights). However, we may charge a reasonable fee if your request is clearly unfounded, repetitive or excessive. Alternatively, we may refuse to comply with your request in these circumstances.

### **What We May Need From You**

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 of your other rights). This is a security measure to ensure that personal data is not disclosed to any person who has no right to receive it. We may also contact you to ask you for further information in relation to your request to speed up our response.

### **Time Limit To Respond**

We try to respond to all legitimate requests within one month. Occasionally it may take us longer than a month if your request is particularly complex or you have made a number of requests. In this case, we will notify you and keep you updated.

## **9) DATA TRANSFERS**

Nodal is headquartered in the United States, and we have operations, entities, and service providers in the United States and throughout the world. Many of our external third parties are based outside the European Economic Area (“EEA”), so their processing of your personal data will involve a transfer of data outside the EEA.

We will take steps to ensure that your personal data receives an adequate level of protection in the jurisdictions in which we process it. Where we use certain service providers, we may use specific contracts approved by the European Commission which give personal data the same protection it has in Europe. For further details, see [\*European Commission: Model contracts for the transfer of personal data to third countries\*](#).

Please contact our privacy manager if you want further information on the specific mechanism used by us when transferring your personal data out of the EEA.

### **Your California Privacy Rights**

Under California Civil Code Section 1798.83 (known as the “Shine the Light” law), Nodal participants and customers who are residents of California may request certain information about our disclosure of personal data and information during the prior calendar year to third parties for their direct marketing purposes. To make such a request, please write to us at the address below or at [privacy@nodalexchange.com](mailto:privacy@nodalexchange.com) with “Request for California Privacy Information” on the subject line and in the body of your message. We will comply with your request within 30 days or as otherwise required by the statute. Please be aware that not all information sharing is covered by the “Shine the Light” requirements and only information on covered sharing will be included in our response.

## California Consumer Privacy Act (CCPA)

Beginning on January 1, 2020, under California Civil Code Sections 1798.100(a), 1798.110, 1798.115, 1798.120(a), 1798.105, 1798.125(a), 1798.130-135(a), and 1798.140(o), Nodal participants and customers who are residents of California have some additional rights with respect to their personal information during the prior calendar year under the California Consumer Privacy Act or (“CCPA”). If you are a California resident, this section applies to you, in addition to the above.

Categories of Personal Information Collected. In the preceding 12 months, we have collected the categories of personal information listed below. For more details about the data points we collect, please see the section titled “The Data We Collect About You.”

- Personal Identifiers which may include name, email address, address, username, internet protocol (IP) address, your login data, signature specimens, telephone number, financial details, bank account information and other similar identifiers.
- Commercial information, including records of services or products purchased or trading activity, your browser type, time zone setting and operating system.
- Internet and other similar network activity, such as information regarding a consumer’s interaction with our website or products.
- Audio and visual information, such as recorded calls and instant message conversations.
- Professional or employment-related information, for example, from employment candidates.
- Inferences about personal preferences and attributes drawn from profiling (e.g. via cookies).

Under the California Consumer Privacy Act of 2018 (“the CCPA”), California consumers have the right to request access to the specific pieces of personal information we have collected about them in the last 12 months. If you are a California consumer, you may also request additional details about our information practices, including the categories of personal information we have collected about you, the categories of sources of such collection, the business or commercial purpose for collecting personal information, the categories of third parties with whom we share your personal information, the categories of personal information we have disclosed about you in the preceding 12 months. If you are a California consumer, you also have the right to request deletion of your personal information (subject to certain exceptions), and to receive equal service and price. Even though Nodal Exchange does not sell personal information, California consumers have the right to opt out of sales of personal information preemptively. In the event Nodal Exchange changes its policies regarding sales of personal information, consumers would be notified in advance.

To make such a request, write to us at the address listed on page 1 of this Privacy Notice or at [privacy@nodalexchange.com](mailto:privacy@nodalexchange.com) with “CCPA Request” on the subject line and in the body of your message. We will comply with your request within 45 days or as otherwise required by the statute. Your request must include sufficient information that allows us to reasonably verify you are the person about whom we collected personal information. We will not discriminate against you if you choose to exercise your rights under the CCPA. Consumers will have equal service from Nodal, regardless of whether they have exercised any of the rights granted by the CCPA.

We do not sell anyone's personal data to third parties.

For further disclosures regarding your personal information, as required by the CCPA, please refer to the main privacy policy above. You can find information about the business and commercial purposes for which we collect your personal information in the section titled "Purposes for Which We Will Use Your Personal Data". For information regarding the sources from which we collect personal data from please refer to the section titled "How We Collect Data About You." For information regarding the categories of third parties to whom we disclose your personal information to, as well as information regarding which categories of personal information are being disclosed please refer to the section titled "Disclosure of Your Personal Data."

## **10) UPDATES TO PRIVACY NOTICE**

Nodal may modify this privacy notice from time to time. The most current version of this privacy notice will govern our use of your information and will be located at <http://www.nodalexchange.com/files/privacy-policy.pdf>. You may contact us to obtain prior versions. We will notify you of material changes to this privacy notice by posting a notice at the Website or by emailing you, if applicable, and provide an overview of any changes.