

## Data Controller Statement for Employers

### On compliance with the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council (GDPR)

**OTP Országos Egészség- és Önszegélyező Pénztár** /OTP National Voluntary Health and Mutual Fund/ (registered office: H-1133 Budapest, Váci út 76, registration number: Budapest Capital Regional Court, 01-04-0000237, hereinafter: Fund) as data controller makes the following statement regarding the measures stipulated by Regulation (EU) 2016/679 of the European Parliament and of the Council 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).

The Fund informs the Employer that the Fund's data processing is related to the performance of the contract between the fund member employee and the Fund, in which the fund member is one of the contracting parties and the processing is absolutely necessary for the performance of this contract.

By filling in the appropriate section of the joining statement, the fund member indicates that their employer undertakes a part or the whole of the membership fee. To this end, it is necessary for the Employer to forward the payment identification data to the Fund.

Based on the above, both the Fund and the Employer are independent controllers under Article 24 of the GDPR in respect of the personal data of the fund member employee available to them. In order to perform the membership and employer contract, both parties have the right to transfer the member's personal data to each other to the extent necessary for the performance of the contract.

Regarding the data transfer between the Fund and the Employer, it must be stated, on the one hand, that it does not constitute joint processing under Article 26 of the GDPR and, on the other hand, that the Fund cannot be deemed to be a processor under Article 28.

According to Article 26 GDPR, joint processing means:

Where two or more controllers jointly determine the purposes and means of processing, they shall be joint controllers.

The purpose of the employer is to provide fringe benefits for the employee. The purpose of the Fund is to perform duties relating to fund membership; thus, neither the purpose, nor the means are shared, which is why the Employer and the Fund are not joint controllers.

Moreover, the Fund is not the Employer's data processor, either, because it does not process the data on behalf of the Employer, but as an independent controller based on the contract signed with the Fund Member. Therefore the employer has no right and possibility to instruct or control.

Both the Fund and the Employer are independent controllers in respect of the personal data of the natural person available to them. In order to perform the membership and employer contract, both parties have the right to transfer the member's personal data to each other to the extent necessary for the performance of the contract.

The Employer must regulate the transfer of data by the Employer to the Fund in the data processing notice for employment relationships, according to which, based on the employed fund member's authorisation, the Employer provides the fund member employee's tax

identification number and name to the Fund on a monthly basis for as long as the employee's employment or membership in the Fund exists.

The Fund also processes the personal data of the contact persons and representatives indicated in the contract with the employer, in connection with the performance of the contract. It is also the responsibility of the Employer to adequately inform the data subjects regarding the transfer of data, in the data processing notice for the processing related to the employment.

In addition, of course, the Fund emphasises that it does its best to comply with the GDPR, and that it has taken numerous measures as part of the preparation, to protect the personal data it processes.

In compliance with the provisions of Article 32 of the GDPR regarding the security of processing, the Fund has implemented, prior to starting the personal data processing, all the technical, organisational and security measures that ensure the security of personal data and minimise the risks of data breaches, taking into account the nature, scope, circumstances and purposes of processing, as well as the varying probability and severity of the risk to the rights and freedoms of natural persons.

In order to ensure the security of data processing, the Fund implements appropriate measures to ensure the continuous confidentiality, integrity, availability and intactness of the systems and services used for the processing of personal data.

In order to prove compliance with the GDPR, the Fund keeps records of its own data processing activities, cooperates with the supervisory authority, and makes the records available upon request in order to check the relevant data processing operations.

The Fund also declares that in connection with the data processing, in addition to complying with the GDPR, it follows and complies with the provisions of Act CXII of 2011 on Informational Self-Determination and the Freedom of Information, Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing, and Act XCVI of 1993 on Voluntary Mutual Insurance Funds (Voluntary Insurance Fund Act).

The Fund's data protection officer is Dr. Cecília Pólik, contact information: [\*\*adatvedelem@otpep.hu\*\*](mailto:adatvedelem@otpep.hu).

Budapest, 7 September 2021