

# **XS**Markets

## PRIVACY POLICY



## 1. Our Commitment to You

We understand the importance of maintaining the confidentiality and privacy of Your Information. By entrusting us with your information, we would like to assure you of our commitment to keep such information private. We have taken measurable steps to protect the confidentiality, security and integrity of Your Information.

This Privacy Policy provides an overview of how **XS Markets Ltd (previously Rockfrost Ltd)** (the “Company”) processes your personal data and sets out the information that the Company must provide to you for the purpose of the EU General Data Protection Regulation (“GDPR”) which is applicable as of 25 May 2018.

By accessing our Company’s website including using any of the communication channels to contact us, we consider that you have read, understood and accepted the terms of this Privacy Policy and how we process any information you disclose to us. Moreover, you agree that this Policy, including any amendments, will govern how we collect, store, use, share and in any other form process your personal data and your rights during our relationship and after its termination.

The information contain herein supersedes any information in relation to the processing of personal data that is included in any of the existing Agreements/Client Agreement and associated forms on matters that are covered by this Privacy Policy. The Company may revise or update this policy from time to time. The new version of this Policy will be available on the Company’s website.


As per the relevant sections of the Law 2016/679, if you are a natural person, the Company is the personal data processor and controller of your personal data in relation to the processing activities which your personal data undergo as stated further below.


For the purposes of this statement:


- (a) Personal Data shall mean any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- (b) Controller shall mean the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;
- (c) Processor shall mean a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.

## 2. Collection of Information

As part of the Company’s Client account opening procedures and ongoing obligations, needs to abide with the legislative framework currently in place with the Cyprus Securities and Exchange Commission (‘CySEC’). Specifically, the Company shall comply with its legal obligations under the AML Law (Law 13(I)/2018), as amended, and the AML Directive

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(Directive DI144-2007-08 of 2012) for the establishment on the Client's economic profile and prevention of money-laundering as well as abide with the relevant record keeping obligations under the European Commission Delegated Regulation (EU) 2017/565 ('Delegated Regulation') and Law 87(I)/2017 for establishing the suitability and appropriateness of each Client based on the services offered by each CIF and recordings of telephone conversations, Client transactions, FATCA and CRS.


The Company based to the above-mentioned, is obliged to request, collect and maintain for at least five (5) years the following:


- (a) Name and Surname
- (b) Date of Birth
- (c) Place of Birth
- (d) Nationality
- (e) Country of Residence
- (f) Copy of the Passport and/or of the Identity Card
- (g) Utility bill (including the full address of the Client)
- (h) Tax Identification Number
- (i) Tax Residence
- (j) Telephone number
- (k) Email
- (l) Employment status
- (m) Employer's name, if applicable
- (n) Profession, if applicable
- (o) Industry of Employment
- (p) Gross Annual Income
- (q) Net Worth
- (r) Anticipated Turnover
- (s) Bank Account Details
- (t) Education
- (u) Trading Experience
- (v) Volume
- (w) Gender
- (x) Source of Funds
- (y) If you hold a prominent public function (for PEPs)
- (z) Payment Details (depending on deposit and withdrawal method)


The Company may collect the said information directly from you (during the account opening procedure) and/or from other persons including for example, credit reference agencies, fraud prevention agencies, banks, other financial institutions, third authentication service providers and the providers of public registers.

The Company may also collect Your Information in regard to your use of our website(s), such as pages visited, frequency, duration of visit and trading activities. The Company also keeps records of your trading behaviour, including a record of:

- a) Products you trade and their performance

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- b) Historical data about the trades and investments you have made including the amount invested
- c) Historical data about your payment activities and your withdrawal activities.

Further to the above, the Company may also request further information to improve its Service to you (Existing or Potential Clients) or our activities (if you are our Provider for Trading Data) under our relevant Agreement, as the case may be, or comply with Applicable Regulations.

The Company records any communications, electronic, by telephone, in person or otherwise, that we have with you in relation to the services that were provided by the Company to you and the relationship with you. The said recordings will be the Company's sole property and will constitute evidence of the communications between the Company and you.

### **3. Use of the Information**

The Company will use, store, process and handle Your Personal Data in accordance with the General Data Protection Regulation 2016/679 and the Processing of Personal Data (Protection of the Individual) Law of 2001, as amended or replaced from time to time.

Your personal data (not publicly available information and/or already possessed by the Company without abiding with the provisions of the general data protection regulation), will be collected and processed explicitly and specifically only for the purposes that have been collected for ('purpose limitation') while the Company must require only the information necessary in relation to the purposes for which they have been collected.

We may transfer your personal information outside the European Economic Area. If we will make such a transfer, we will ensure that the transfer is lawful and that there are appropriate security arrangements in place to safeguard your personal data as provided by Applicable Regulations. In furtherance, the Company follows the European Commission instructions in respect to this matter and it shall ensure that the third country that your data may be transferred is recognised by the EU Commission, as adequate in respect to the protection of your personal data.

### **4. Contacting You**




We may, for the purpose of administering the terms of our Agreement between us, from time to time, make direct contact with you by telephone, fax, email, or post.

If you agree, we or any of our Affiliates of the Company may make contact with you from time to time, by telephone, fax, email or post for marketing purposes to bring to your attention products or services that may be of interest to you or to conduct market research.

### **5. Disclosure of Information**

As part of using your personal information for the purposes set put above, we may disclose your information to:

- (a) Service providers and specialist advisers who have been contracted to provide us with IT, financial, regulatory, compliance, accounting and/or other services.

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- (b) Partners or Tied Agents with whom the Company has closed relationships and who are exclusively working for the Company.
- (c) Regulatory Authorities.
- (d) Anyone authorised by you.
- (e) Relevant authorities to investigate or prevent fraud, money laundering or other illegal activity.
- (f) Trade Repository or similar.
- (g) The Company's employees so as to exercise their duties to further the Agreement between us, or to assure the efficient functioning of our Platform, the Automatic Orders and the Trading Data functions.

The Company requires from organisations outside the Company who handle or obtain personal information to acknowledge the confidentiality of this information, undertake to respect any individual's right to privacy and comply with all the relevant data protection laws and this privacy policy.

## **6. Use of Information**

The Company will use, store, process and handle Your Personal Data in accordance with the General Data Protection Regulation 2016/679 and the Processing of Personal Data (Protection of the Individual) Law of 2001, as amended or replaced from time to time.

Your personal data (not publicly available information and/or already possessed by the Company without abiding with the provisions of the general data protection regulation), will be collected and processed explicitly and specifically only for the purposes that have been collected for ('purpose limitation') while the Company must require only the information necessary in relation to the purposes for which they have been collected.

We may transfer your personal information outside the European Economic Area. If we will make such a transfer, we will ensure that the transfer is lawful and that there are appropriate security arrangements in place to safeguard your personal data as provided by Applicable Regulations. In furtherance, the Company follows the European Commission instructions in respect to this matter and it shall ensure that the third country that your data may be transferred is recognised by the EU Commission, as adequate in respect to the protection of your personal data.

## **7. Your consent**

The use of your personal information requires your consent, such consent will be provided in accordance with the Client Agreement that it is provided to you during the account opening procedure and is also available on the Company's website(s). The Company shall rely on the provided consent as its legal basis for processing your personal data. You have the right at any time to withdraw that consent by contacting us via phone or via email at [compliance@xsmarkets.com](mailto:compliance@xsmarkets.com).

Where you are a natural person and the use of your personal data requires your consent, the Company will request for your consent to be provided freely, specific, informed and an unambiguous indication of your desires, which by statement or by clear affirmative action, signifies agreement to the processing.





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If at any case you feel compelled to consent or you will endure negative consequences if you do not, then your consent will not be valid. Additionally, your consent shall not be bundled-up as a non-negotiable part of terms and conditions, because such action would indicate that you haven't freely provided your consent.

In certain circumstances the company can process your data without your consent. The following are considered to be the most relevant:

- (a) Processing is necessary for compliance with legal obligation to which the controller is subject.
- (b) Processing is necessary for the performance of a contract to which the person is party, or in order to take measures of the person's request prior entering into a contract.
- (c) Processing is necessary in order to protect the vital interests of the data subject.
- (d) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of public authority or a third party to whom the data are communicated.
- (e) Processing is necessary for the purposes of the legitimate interests pursued by the controller or by the third party to whom the personal data are communicated, on condition that such interests override the rights, interests and fundamental freedoms of the persons.

## **8. Management of your personal information and Safeguard Measures**

The Company has taken all the appropriate organisational measures to ensure that your personal data are secured. Moreover, the Company has established an Internal Educational Training for its employees so as to mitigate any risks that may affect your data. The employees that are processing your data are being trained to respect the confidentiality of customer information and the privacy of individuals. We consider breaches of your privacy as top priority and the Company will enhance its internal procedures to prevent any such event.


The Company has implemented procedures in respect to safeguarding your data. Access to your information have only employees and/or Partners/Tied Agents that need to have access to the information in order to enable the continuity of the agreement between you and the Company.


Furthermore, we hold personal information in a combination of secure computer storage, secure servers and from time to time and if it is deemed necessary we will store them in paper-based files. The Company has taken all the necessary steps to protect the personal information that it holds from misuse, loss, unauthorised access, modification or disclosure.


While we will use all reasonable efforts to safeguard Your Information, you acknowledge that the use of the internet is not entirely secure and for this reason we cannot guarantee the security or integrity of any personal data transferred from you, or to you via the internet.

The Company shall keep your personal data for as long as the company has business relationship with you (physical person). Once the business relationship has been ended, we may keep your data for up to five (5) years in accordance with the Laws governing the Company.

The Company may keep your personal data for longer than five (5) years for legal, regulatory

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and/or any other obligatory reason. Retention periods will be determined taking into account the type of information that is collected and the purpose for which it is collected, bearing in mind the requirements applicable to the situation and the need to destroy outdated, unused information at the earliest reasonable time.

#### **9. Affiliates and Partners**

The Company may share information with affiliates in the event such information is reasonably required by such affiliate in order to provide the products or services to its Clients.

The Company may share information with partners, affiliates and associates in order to offer additional similar products and services that meet Clients' needs and which are delivered in a manner that is useful and relevant only where Clients have authorized the Company to do so.

#### **10. Non-affiliated third parties**

The Company does not sell, license, lease or otherwise disclose Clients' personal information to third parties, except as described in this Privacy Policy.

The Company reserves the right to disclose personal information to third parties where required by Law, regulatory and other government authority. The Company may also disclose information as necessary to credit reporting or collection agencies as reasonably required in order to provide the services to Company and/or its Clients.


In addition, the Company may engage third parties to help carry out certain internal functions such as account processing, fulfillment, Client service, Client satisfaction surveys or other data collection activities relevant to its business. Use of the shared information is strictly limited to the performance of the above and is not permitted for any other purpose. All third parties with which the Company shares personal information are required to protect such personal information in accordance with all relevant legislation and in a manner similar to the way the Company protects the same. The Company will not share personal information with third parties which it considers will not provide its Clients the required level of protection.


#### **11. Contact Clients**


From time to time the Company may contact Clients whether by phone or email for the purpose of offering them further information about the Company's services. In addition, the Company may, on occasion, seek to contact Clients, whether by phone or by email, for the purpose of informing them of unique promotional offerings provided by the Company for the Client. Clients consent to the receipt of such contact when they consent to our terms and conditions of use when registering with the Company. Any person wishing to opt out of further contact with the Company at any time whatsoever is entitled to do so, simply by contacting the Company whether by phone or email and requesting that no further contact on behalf of the Company be made.

#### **Restriction of responsibility**

The Company is not responsible for the privacy policies or the content of sites to which [www.xsmarkets.com](http://www.xsmarkets.com) and has no control of the use or protection of information provided by the Clients or collected by those sites. Whenever a Client elects to link to a co-branded web

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site or to a linked web site, the Client may be asked to provide registration or other personal information. Please note that such information is recorded by a third party and will be governed by the privacy policy of that third party.

## **12. Use of "COOKIES"**

The Company uses cookies to secure Clients' trading activities and to enhance the performance of the [www.xsmarkets.com](http://www.xsmarkets.com). Cookies used by the Company do not contain personal information or other sensitive information.

The Company may share web site usage statistics with reputable advertising companies and with its affiliated marketing companies. It is noted that the information collected by such advertising companies is not personally identifiable. To administer and improve the [www.xsmarkets.com](http://www.xsmarkets.com), the Company may use third parties to track and analyze usage and statistical volume information. The third party may use cookies to track behaviour and may set cookies on behalf of the Company. These cookies do not contain any personally identifiable information.

XS Markets Ltd (previously Rockfrost Ltd) uses cookies to capture data to help us improve the service offered and to make improvements in relation to the quality of content contained on our Websites. You can choose whether to accept Cookies or not on your computer.

### **About Hyperlinks**

XS Markets Ltd (previously Rockfrost Ltd) website may contain hyperlinks or links to other sites, and other sites may link to our sites. These websites that may be linking to or from Company's site may have its own privacy policies. XS Markets Ltd (previously Rockfrost Ltd) privacy policy applies exclusively to the Company and information collected by us.

The Company is not responsible for the privacy policies or the content of the sites you link to, nor do we have control over the use or security of information provided by you or collected by those sites. If you choose to link to one of these websites, you may be asked to supply registration or other information. It is important that you realise this information is going to a third-party, and you should become familiar with the privacy policy provided by that third-party.


## **13. Change of Information**


You may inform the Company at any time that Your Information has changed or that you wish the Company to delete information we hold about you by emailing us at [backoffice@xsmarkets.com](mailto:backoffice@xsmarkets.com). We will change or delete Your Information in accordance to your instructions, except to the extent that we are required to hold Your Information for regulatory or legal purposes, to provide you with the Services you have requested or to maintain adequate business records.


## **14. Your Data Protection Rights**

In respect of your personal data that we hold on you, you have the following rights:

- (i) Receive access to your personal data. This enables you to e.g. receive a copy of the personal data we hold about you and to check that we are lawfully processing it. In order to receive such a copy, you can complete our web form through the Company's website.

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- (ii) Request correction [rectification] of the personal data we hold about you. This enables you to have any incomplete or inaccurate data we hold about you corrected.
- (iii) Request erasure of your personal information. This enables you to ask us to erase your personal data (known as the ‘right to be forgotten’) where there is no good reason for us continuing to process it.
- (iv) Object to processing of your 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. If you lodge an objection, we will no longer process your personal data unless we can demonstrate compelling legitimate grounds for the processing which override your interests, rights and freedoms. You also have the right to object where we are processing your personal data, for direct marketing purposes. This also includes profiling in as much as it is related to direct marketing. If you object to processing for direct marketing purposes, then we shall stop the processing of your personal data for such purposes.
- (v) Request the restriction of processing of your personal data. This enables you to ask us to restrict the processing of your personal data, i.e. use it only for certain things, if:
  - it is not accurate;
  - it has been used unlawfully but you do not wish for us to delete it;
  - it is not relevant any more, but you want us to keep it for use in possible legal claims; and
  - you have already asked us to stop using your personal data but you are waiting us to confirm if we have legitimate grounds to use your data.
- (vi) Request to receive a copy of the personal data concerning you in a format that is structured and commonly used and transmit such data to other organisations. You also have the right to have your personal data transmitted directly by ourselves to other organisations you will name [known as the right to data portability].
- (vii) Withdraw the consent that you gave us with regard to the processing of your personal data at any time. Note that any withdrawal of consent shall not affect the lawfulness of processing based on consent before it was withdrawn or revoked by you.

To exercise any of your rights, or if you have any other questions about our use of your personal data, please send an email to [backoffice@xsmarkets.com](mailto:backoffice@xsmarkets.com).

## **15. Personal Data Breaches**

A personal data breach is a “breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data transmitted, stored or otherwise processed”.

A breach is therefore a type of security incident and there are three different types of breach that may occur:

- Confidentiality breach: an accidental or unauthorized disclosure of, or access to, personal data.
- Availability breach: an accidental or unauthorized loss of access to, or destruction of, personal data.
- Integrity breach: an accidental or unauthorized alteration of personal data.



- A breach can affect confidentiality, availability and integrity of personal data at the same time, as well as any combination of these.

## **16. Notification to the Office of the Commissioner**

Not all personal data breaches are necessary to be notified to the Office of the Commissioner.

The breach will only need to be notified if it is likely to result in a risk to the rights and freedoms of data subjects, and this needs to be assessed internally by the Company on a case-by-case basis. A breach is likely to result in a risk to the rights and freedoms of data subjects if, for example, it could result in:

- loss of control over their data
- limitation of their rights
- discrimination
- identity theft
- fraud
- damage to reputation
- financial loss
- unauthorized reversal of pseudonymisation
- loss of confidentiality
- any other significant economic or social disadvantage.

Where a breach is reportable, the Company must notify the Office of the Commissioner without undue delay and, where feasible, no later than 72 hours after becoming aware of the breach. If our report is submitted late, it must also set out the reasons for our delay. Our notification must at least include:

- a description of the nature of the breach including, where possible, the categories and approximate number of affected data subjects and the categories and approximate number of affected records
- the name and contact details of the Company's CEO
- a description of the likely consequences of the breach
- a description of the measures taken, or to be taken, by the Company to address the breach and mitigate its possible adverse effects.

If this information cannot be delivered all at once, we can provide it in stages without extra delay. Awareness of the breach occurs when we have a reasonable degree of certainty that a breach has occurred. In some circumstances, it will be rather obvious right away that a breach has occurred. However, if it is uncertain whether or not a breach has happened, we shall have a limited amount of time after becoming aware of a potential breach to conduct an initial investigation and assessment in order to determine with a reasonable degree of certainty whether or not a breach has occurred. If, after this brief examination, we determine that there is a reasonable probability that a breach has occurred, the 72-hour clock begins to tick from the time the breach is discovered.





## **17. Accessing and updating your Personal Data**

You have the right to request a copy of the personal data about you which we hold in order to correct any inaccuracies and to object to our using your personal data for a marketing purpose, and this is known as a Subject Access Request.

To do this, you should contact us using the details set out below in the “Contact Us” section. There is no fee for requesting that your personal information is corrected, however in processing your request, our reasonable costs may be recovered if necessary if the relevant legislation allows. This covers such things as locating the information and supplying it to you.

Where we refuse to action your request to correct your personal information, you also have the right to request that a statement be associated with your personal information noting that you disagree with its accuracy.

## **18. Data Erasure**

Known as the ‘right to be forgotten’ you may request that we delete all personal data about you which we hold, although we are limited by the law with regards to who this applies.

The conditions for erasure, as outlined in article 17 of GDPR, include the data no longer being relevant to original purposes for processing, or Clients withdrawing consent.

For the Company, this only applies to data held for non-Live accounts. We are legally obligated NOT to delete any data for at least 5 years from ending the relationship for Clients who have had live accounts with us.

## **19. Data Portability**

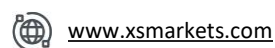
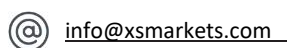
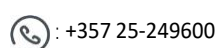
GDPR introduces data portability, which is the right for a Client to receive the personal data concerning them, which they have previously provided, in a 'commonly used and machine-readable format' and have the right to transmit that data to another data controller. This means that if requested by a Client, the Company will put all their data onto a CSV file and if requested send that file to another company.

## **20. Questions**

If you have any questions regarding this policy, wish to access or change your information or have a complaint, or if you have any questions about security on our Website, you may email us at [compliance@xsmarkets.com](mailto:compliance@xsmarkets.com). Furthermore, in case you are not happy with the quality of Services we have provided you with in regard to the personal data processing, you as a natural person have the right to lodge a complaint with our supervisory authority which is the Commissioner for Personal Data Protection in the Republic of Cyprus at <http://www.dataprotection.gov.cy>.

## **21. Update of this Policy**

The Company may update this Privacy Policy from time to time. In the event that the Company materially changes this Policy including how it collects, processes or uses Clients’ personal information, the revised Privacy Policy will be uploaded in the Company’s website.





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In this respect, the Clients hereby agree to accept posting of a revised Privacy Policy electronically on the website as the actual notice of the Company to its Clients. Any dispute over the Company's Privacy Policy is subject to this notice and the Client Agreement. The Company encourages its Clients to periodically review this Privacy Policy so that they are always aware of what information the Company collects, how it uses it and to whom it may disclose it, in accordance with the provisions of this.


## **22. Policy Cookies**


To help our website run better and improve your experience, we use little files called as cookies. To find out more about how we use cookies please see our Cookie Policy, available in our website.

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