

## Conflicts of Interest and Ethics

Record of ESMA activities processing personal data, based on Article 31 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) No 45/2001 and Decision No 1247/2002/EC.

Nr.	Item	Record Information
<b>Conflicts of Interest and Ethics</b>		
1	<b>Last update of the record</b>	15/12/2023
2	<b>Reference number</b>	ESMA40-1831253891-1606
3	<b>Name and contact details of controller</b>	Address of the controller: <b>European Securities and Markets Authority (ESMA)</b> <b>201-203 Rue de Bercy</b> <b>75012 Paris</b> <b>France</b>
4	<b>ESMA area entrusted with processing</b>	ESMA/Legal and Enforcement Department

5	<b>Processors (if any)</b>	European Commission / EU Survey - For the collection of the annual Declarations of Interest of Non-Staff ESMA uses the Commission online platform to run surveys.
6	<b>Name and contact details of DPO</b>	Data Protection Officer (ESMA) <a href="mailto:dpo@esma.europa.eu">dpo@esma.europa.eu</a>
7	<b>Name and contact details of processor (where applicable)</b>	European Commission, contact form: <a href="https://ec.europa.eu/eusurvey/home/support">https://ec.europa.eu/eusurvey/home/support</a> EU Survey Data Privacy Notice: <a href="https://ec.europa.eu/eusurvey/home/privacystatement">https://ec.europa.eu/eusurvey/home/privacystatement</a>

<b>8</b>	<b>Purpose of the processing</b>	<p>The purpose of the data processing is to safeguard the independence of ESMA and its constituent bodies and to maintain the integrity of official policy and administrative decisions and of public management generally, recognising that an unresolved conflict of interests may result in abuse of public office.</p> <p>On the basis of (as may be further amended, repealed or replaced):</p> <ul style="list-style-type: none"> <li>□ Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 as amended by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (the “ESMA Regulation”) and in particular Article 68(1) and Article 70 thereof;</li> <li>□ The Staff Regulations of Officials of the European Communities in particular, Articles 11, 11a, 12, 12b, 13, 15, 16, 17 and 17a thereof (“the Staff Regulations”) and conditions of employment of other servants of the European Communities, in particular, Articles 11, 54, 81 and 124 thereof (“CEOS”);</li> <li>□ Management Board Decision ESMA/2014/MB/67, Article 7 (“Decision on Seconded National Experts”);</li> <li>□ Commission Decision C(2013) 9051 of 16.12.2013 on leave;</li> <li>□ Commission Decision C(2018) 4048 of 29.06.2018 on outside activities and assignments and on occupational activities after leaving the Service;</li> <li>□ Commission Decision C(2017) 5323 of 27.9.2017 on the general provisions for implementing Articles 11, 12 and 13 of Annex VII to the Staff Regulations of Officials (mission expenses) and on authorised travel, Guide to missions and authorised travel;</li> <li>□ The Financial Regulation applicable to the General Budget of the European Communities as well as the detailed rules of application of the Financial Regulation, as implemented by the Management Board Decision on the Financial Regulation of ESMA;</li> </ul>
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|  |  | <ul style="list-style-type: none"><li>□ The Decision of the Board of Supervisors Adopting a Policy on Independence and Decision-Making Processes for avoiding Conflicts of Interest (Conflict of Interest Policy) for Non-Staff ESMA40-134-3263;</li><li>□ Conflict of interest and ethics Policy - ESMA Staff ESMA40-134-2458.</li></ul> |
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<p style="text-align: center;"><b>9</b></p>	<p><b>Description of categories of persons whose data ESMA processes and list of data categories</b></p>	<p>The data subjects are ESMA staff during their work at ESMA, as well as after. This includes Temporary Agents, Contract Agents, Seconded National Experts, temporary workers (interim staff) and trainees.</p> <p>Personal data of ESMA non-staff data subjects may also be processed, such as personal data of Board of Supervisors members and alternates (voting and non-voting), Management Board members and alternates, CCP SC members and alternates (voting and non-voting), CCP ResCo members, observers and their alternates.</p> <p>Declarations and requests for authorisation submitted by these categories of people may contain identification data such as:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> names and surnames;</li> <li><input type="checkbox"/> contact details;</li> <li><input type="checkbox"/> other personal information relevant in this processing operation</li> </ul> <p>In principle, special categories of data (such as sensitive data) should not be included. In particular information that is of no interest or relevance to the possible allegations will not be processed.</p>
<p style="text-align: center;"><b>10</b></p>	<p><b>Time limit for keeping the data</b></p>	<p>For staff data subjects: for the Chair and Executive Director as well as for other ESMA staff members mentioned above, personal data is kept five years after the receipt of the relevant document.</p> <p>For non-staff data subjects: The conservation period of declarations of interests is two years after the discharge for the budgetary year to which the declaration of interests relates.</p>

11	<b>Recipients of the data</b>	<p>For staff data subjects: declarations are to be made to the Ethics Officer (by delegation from the Executive Director), information may also be transmitted (including by the staff member) to the staff member's management, Human Resources team, and/or the Communications team.</p> <p>Furthermore, declarations and documents may be transferred to bodies in charge of a monitoring or inspection task in conformity with Union Law, including the European Court of Auditors, the Internal Audit Service, OLAF, the European Ombudsman and the European Data Protection Supervisor.</p> <p>For non-staff data subjects, generally only the Ethics Officer, the Deputy Ethics Officers and the Chair will have access to the declarations. However, where necessary declarations of interests may be transferred to bodies in charge of a monitoring or inspection task in conformity with Union Law, including the European Court of Auditors, the Internal Audit Service, OLAF, the European Ombudsman and the European Data Protection Supervisor.</p>
12	<b>Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?</b>	<p>Transfers of data to third countries or international organisations are not envisaged. Nevertheless, should the need for such transfers of data arise, all transfers will be assessed on a case-by-case basis. In particular, data will be transferred only when it is necessary for the legitimate performance of tasks covered by the competence of the recipient. Furthermore, all transfers of data are subject to the requirements of Regulation (EU) 2018/1725.</p>
13	<b>General description of security measures, where possible.</b>	<p>All declarations and requests for authorisation are stored in restricted folders/databases or in restricted Paperless workflows, where only actors that are part of the workflow have access to the information.</p>

		<p>In addition, the declarations and confidentiality undertakings of non-staff data subjects, the Executive Director and the Chair their declarations on conflicts of interests are also made public on ESMA's website, after having removed their signature.</p>
<p>14</p>	<p><b>Information on how to exercise your rights to access, rectification, object and data portability (where applicable), including recourse right.</b></p>	<p>You may exercise your rights by contacting the relevant Data Controller (see contact details above).</p> <p>Your rights are the following:</p> <ul style="list-style-type: none"> <li>□ You are entitled to access your information relating to your personal data processed by ESMA, verify its accuracy and, if necessary, correct it in case the data is inaccurate or incomplete.</li> <li>□ You have the right to request the erasure of your personal data, if your personal data is no longer needed for the purpose of the processing, if you withdraw your consent or if the processing operation is unlawful.</li> <li>□ You can ask the Data Controller to restrict the personal data processing, under certain circumstances, such as if you contest the accuracy of the processed personal data or if you are not sure if your personal data is lawfully processed.</li> <li>□ You may also object, on compelling legitimate grounds, to the processing of your personal data</li> <li>□ Additionally, you may have the right to data portability which allows you to make a request to obtain the personal data that the Data Controller holds on you and to transfer it from one Data Controller to another, where technically possible.</li> </ul> <p>In addition, when launching a paperless workflow related to Ethics, you are provided with the Conflict of interests and ethics policy, which contains section related to Data protection.</p>

		<p>In some cases your rights might be restricted in accordance with Article 25 of the Regulation (EU) 2018/1725. In each case, ESMA will assess whether the restriction is appropriate. The restriction should be necessary and provided by law, and will continue only for as long as the reason for the restriction continues to exist.</p> <p>If you have additional questions or concerns you can also contact: <a href="mailto:DPO@esma.europa.eu">DPO@esma.europa.eu</a></p> <p>You have the right to lodge a complaint with the European Data Protection Supervisor (<a href="mailto:edps@edps.europa.eu">edps@edps.europa.eu</a>) if you consider that your rights under the Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by ESMA.</p> <p>For further information, please see <a href="http://www.esma.europa.eu/data-protection">www.esma.europa.eu/data-protection</a>.</p>
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