

| Nr. | Item   | Administrative inquiries and disciplinary investigations   |
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| 1   | Name of the Controller   | Head of Resources Department:<br>hr.helpdesk@esma.europa.eu  |
| 1.1 | Address of the Controller  | ESMA, 103 Rue de Grenelle, 75007 Paris   |
| 1.2 | ESMA Parts Entrusted with Processing   | ESMA/RES/Human resources/Administrative enquiries and Disciplinary procedures  |
| 1.3 | Processors (if any)  | Not applicable   |
| 2   | Name and contact details of DPO  | ESMA's Data Protection Officer:<br>dpo@esma.europa.eu  |
| 3   | Name and contact details of joint controller (where applicable)  | Not applicable   |
| 4   | Name and contact details of processor (where applicable)   | Not applicable   |
| 5   | Purpose of the processing  | Administrative inquiries are investigations within the EU institutions, bodies, offices and agencies for the purpose of investigating a possible failure by staff to comply with their obligations under the Staff Regulations respectively the Conditions of Employment of Other Servants. Administrative inquiries within ESMA seek to determine and are aimed to report facts and circumstances of a case to ESMA's Executive Director, establishing whether the relevant rules and procedures applicable to the situation under investigation have been respected and determining any individual responsibility, having regard to aggravating and extenuating circumstances. Disciplinary proceedings may be opened following administrative inquiries based on established facts and the degree of responsibility of the person concerned. The legal basis for this processing operation are the Staff Regulations and Conditions of Employment of Other Servants of the European Union and in particular Article 86 and Annex IX of the Staff Regulations and Articles 50a and 119 of the Conditions of Employment of Other Servants as well as Management Board Decision ESMA64-87-170 of 22 May 2017 on the conduct of administrative inquiries and disciplinary procedures. |
| 6   | Description of categories of persons whose data ESMA processes and list of data categories   | During administrative inquiries, the appointed investigators may use any of the means legally available to them for collecting identification data, professional data and other personal data relevant for their investigation, including obtaining documents, carrying out on-the-spot investigations (including accessing computer data) and summoning any person subject to the Staff Regulations to provide information. They can also request assistance from other officials or specialised Commission departments. This data may be used to evaluate the information received and assess whether wrongdoing has occurred; it may also be used for contact purposes. Any information, including personal data, is collected for the purpose of the investigation as evidence relevant to the matter under investigation. This will include inculpatory and exculpatory evidence. Standard categories of persons usually include the person being investigated, witnesses, third parties (persons merely quoted in the file) and alleged victims (of psychological or sexual harassment for instance).  |
| 7   | Time limit for keeping the data  | The disciplinary file, and thus any personal data contained in it, is kept in the HR archives for a time period that is necessary in order to take account of it in case of potential repeated misconduct on the part of the person concerned. In practice, the following rules apply:<br>a) files in cases where a decision was taken to open disciplinary proceedings are kept for 20 years from the date of the ED's decision closing the disciplinary proceedings;<br>b) files, in cases where a caution was issued as a result of the inquiry as well as in cases where inquiries were closed without any follow-up, are kept for 5 years from the date on which the Executive Director decides to take no action or to issue a caution to the person concerned;<br>c) files, which have not led to an inquiry, are kept for 2 years.<br>Files will not be kept beyond the periods specified above unless the personal data in the disciplinary file is rendered anonymous. In addition, a copy of the decisions taken in the context of administrative inquiries may also be stored in the personal file of the staff member. This includes the copy of the decision to take no further action if the staff member requires so.  |
| 8   | Recipients of the data   | The appointed investigators have access to the information relevant for the administrative inquiry. In addition, in accordance with the relevant legal provisions, during or after the closure of an inquiry or disciplinary proceedings that may possibly follow, personal data may be communicated on a strict need-to-know basis to other relevant parties such as designated ESMA staff, OLAF, if necessary, the Disciplinary Board, the Paymaster Office, the Court of Justice of the European Union or the European Ombudsman.   |
| 9   | Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?                      | not applicable   |
| 10  | General description of security measures, where possible.  | The personal data are stored in a secured physical and electronic environment, to prevent unlawful access or transfer of data to persons who do not have a 'need to know'. ESMA's IT infrastructure is protected by physical and logical security measures: the servers are installed on a high-security datacentre with restricted physical access to the machines. Network firewalls protect the logic perimeter of the ESMA IT infrastructure; and the main computer systems holding the data are security hardened. Administrative measures include the obligation for ESMA staff and service providers maintaining the equipment and systems to have signed non-disclosure and confidentiality agreements. Any information collected by the appointed investigators, including personal data, is filed in a secure area on ESMA's system and the hard copies are stored in secure, confidential filing cabinets. Any information collected by the appointed investigators, including personal data, is handled as ESMA RESTRICTED USE confidentiality level.  |
| 11  | For more information, including how to exercise your rights to access, rectification, object and data portability (where applicable), see the privacy statement: | ESMA processes personal data in line with Regulation (EU) 2018/1725 and Decision ESMA40-133-716. 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.<br><br>To exercise your rights please contact the Controller at: hr.helpdesk@esma.europa.eu<br><br>For more information, please see ESMA's Data Privacy Statements on <a href="https://www.esma.europa.eu/data-protection">https://www.esma.europa.eu/data-protection</a><br><br>In case of queries please consult ESMA's Data Protection Officer (DPO@esma.europa.eu).<br>You may also contact the European Data Protection Supervisor ( <a href="mailto:edps@edps.europa.eu">edps@edps.europa.eu</a> ).  |