

Nr.	Item	Reporting on infringements in the areas of UCITS, CRAs and TRs
1	Name of the Controller	<p>European Securities and Markets Authority</p> <p>As regards reporting on infringements of the national provisions transposing the Directive 2009/65/EC (UCITS Directive) : Head of Investors and Issuers (NI) Department email: UCITSinfringements@esma.europa.eu</p> <p>As regards reporting on infringements of Regulation (EC) No 1060/2009 (CRA Regulation): Head of Ratings, Indices and Benchmarks (RIS) Department email: Informant.SUP@esma.europa.eu</p> <p>As regards reporting on infringements of Regulation (EU) No 648/2012 (EMIR) and Regulation (EU) 2015/2365 (SFTR): Head of Markets and Data Reporting (MDR) Department email: Informant.SUP@esma.europa.eu</p>
1.1	Address of the Controller	ESMA, 201-203 Rue de Bercy, 75012 Paris, France
1.2	ESMA Area Entrusted with Processing	<p>For reports on infringements of the national provisions transposing the UCITS Directive: ESMA - NI Department.</p> <p>For reports on infringements of the CRA Regulation: ESMA - RIS Department</p> <p>For reports on infringements of EMIR and SFTR: ESMA - MDR Department</p>
1.3	Processors (if any)	Not applicable
2	Name and contact details of DPO	dpo@esma.europa.eu
3	Name and contact details of processor (where applicable)	Not applicable
4	Purpose of the processing	The purpose of the processing operation is to enable secure reporting of potential infringements of the national provisions transposing the UCITS Directive on the basis of Article 99d of the UCITS Directive, as amended, and of potential infringements of the CRAR, EMIR and SFTR.
5	Description of categories of persons whose data ESMA processes and list of data categories	<p>Categories of persons:</p> <ul style="list-style-type: none"> - Natural persons who report potential breaches of the CRA Regulation, EMIR, SFTR or the UCITS Directive; - Natural persons who are eventually accused of breaching the relevant provisions of the CRA Regulation, EMIR, SFTR and the UCITS Directive; - Natural persons who are involved in the matter of a potential breach of the CRA Regulation, EMIR, SFTR and the UCITS Directive and whose rights could be affected by the information contained in the report; - Natural persons working for ESMA or for an NCA who are working on ESMA matters; - Natural persons who appear in the information provided by the whistleblower or in the case prepared by ESMA and whose rights are not affected by the information contained in a report. <p>Categories of data:</p> <p>The personal data concerned in order to manage to whistleblowing procedure are the following:</p> <ul style="list-style-type: none"> - name and title; - contact details; - other personal information relevant to this processing operation. <p>In principle, special categories of 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>Moreover, the relevant reporting form informs whistleblowers that the name, title and contact details provided to ESMA will only be used by ESMA staff to communicate with the whistleblower regarding the case at hand.</p>
6	Time limit for keeping the data	<p>As regards the retention period for personal data relating to reporting of potential infringements in the area of UCITS :</p> <p>The personal data will be processed by ESMA in the context of assessing whether the reported infringements give rise or not to a potential breach of Union law procedure under Article 17 of the ESMA Regulation. For the retention period applied for the processing personal data in the context of breach of Union law, please refer to: https://www.esma.europa.eu/sites/default/files/breach_of_union_law_complaints_and_investigations.pdf</p> <p>As regards the retention period for personal data relating to reporting of potential infringements of the CRAR, EMIR and SFTR:</p> <p>All information will be kept as long as ESMA can impose fines and periodic penalty payments on supervised entities under CRAR, EMIR and SFTR and in any event not more than the longest of the below periods:</p> <ul style="list-style-type: none"> - one year from the beginning of the investigation based on the whistleblower's information, if ESMA obtained through such investigation the same information it was provided by the whistleblowers; - five years from the receipt of the relevant documents by the whistleblower. <p>At the end of the retention period, all internal and submitted documents are destroyed and only a note to the file stating the number and titles of documents and the fact of destruction without mention of the identity of the whistleblower can be kept as a record.</p>
7	Recipients of the data	<p>In order to ensure protection of confidentiality, it is necessary to limit as much as possible the number of persons having contacts with the whistleblower.</p> <p>When information is received from a whistleblower, the relevant Head of Department (HoD) appoints a case team. While the size of the team may vary depending on the complexity of the case, the case team is of limited size (not exceeding three persons) in order to ensure protection of the identity of the whistleblower and of the person(s) who is/are allegedly responsible for the infringement and of other involved persons. The whistleblower only has contact with the HoD and the case team. Only the HoD and the case team are entitled to have access to his/her identity.</p> <p>As regards reporting on infringements of the national provisions transposing the Directive 2009/65/EC (UCITS Directive) :</p> <ul style="list-style-type: none"> - A few selected members of ESMA's Investors and Issuers as well as Legal and Enforcement Departments have access to the relevant data and may become part of the case team, where the information provided by the whistleblower may give rise to a potential case of a Breach of Union Law (BUL) under Article 17 of the ESMA Regulation; - Transfer of information to the relevant NCA <p>Where ESMA receives information regarding potential infringements of national law transposing the UCITS Directive which following its assessment does not give rise to a potential Breach of Union Law case, ESMA should inform the relevant national competent authority (NCA) of this fact. In case the relevant NCA submits a duly justified request for information under Article 35(3) of the ESMA Regulation, ESMA may provide to the NCA the documentation that it has received from the whistleblower if ESMA considers that the NCA has in place the mechanisms required under Article 99d of the UCITS Directive. In transferring the information received, ESMA should not reveal the identity of the whistleblower unless specifically required by national law in the context of further investigations or subsequent judicial proceedings. For this reason, before proceeding to the transmission of documents, ESMA shall assess whether their potential transfer may lead to the identification of the whistleblower's identity (e.g. verify with the whistleblower whether the transmission of any documents may lead to the disclosure of his/her identity). In this case, ESMA shall transmit only a redacted version of the documentation received.</p> <p>As regards reporting on infringements of the CRA Regulation</p> <p>Personal data can only be accessed by ESMA staff from the RIS Department, designated for the purpose of supervisory activities related to supervised entities.</p> <p>As regards reporting on infringements of EMIR and SFTR</p> <p>Personal data can only be accessed by ESMA staff from the MDR Department, designated for the purpose of supervisory activities related to supervised entities.</p>
8	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	N/A
9	General description of security measures, where possible.	<p>Access to the restricted mailbox is authorised only to designated ESMA staff. All information (including personal data) received will be stored as "ESMA CONFIDENTIAL USE". ESMA's shared network drive with information relating to whistleblowing can only be accessed by specifically authorised ESMA staff. Files are in addition stored in an encrypted folder only accessible to authorised ESMA staff in charge with this particular processing operation.</p> <p>Any envelop received in ESMA's Post Office from a whistleblower will be internally delivered following ESMA's Post Office's procedures.</p> <p>When information is received from a whistleblower, the Head of Department appoints a case team. While the size of the team may vary depending on the complexity of the case, the case team is of limited size (not exceeding three persons) in order to ensure protection of the identity of the whistleblower and of the person(s) who is/are allegedly responsible for the infringement and of other involved persons. Only the Head of Department and the case team are entitled to have access to any personal data submitted by the whistleblower.</p>
10	Information on how to exercise your rights to access, rectification, object and data portability (where applicable), including recourse right	<p>You may exercise your rights by contacting the relevant Data Controller (see contact details above).</p> <p>Please note that your personal data will only be used by ESMA staff to communicate with you regarding your complaint. Moreover, the reporting forms published on ESMA's website contain a link to ESMA's general privacy statement (https://www.esma.europa.eu/data-protection) and a link to this record.</p> <p>a) 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.</p> <p>b) 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.</p> <p>c) 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.</p> <p>d) You may also object, on compelling legitimate grounds, to the processing of your personal data.</p> <p>e) 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.</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. For further information, please see www.esma.europa.eu/data-protection.</p> <p>If you have additional questions or concerns you can also contact: DPO@esma.europa.eu</p> <p>You have the right to lodge a complaint with the European Data Protection Supervisor (edps@edps.europa.eu) 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>