

Enforcement Procedure

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
Enforcement Procedure		
1	Last update of the record	19/11/2025
2	Reference number	ESMA40-1159621584-2011
3	Name and contact details of controller	Name and contact details: ESMA Executive Director enforcement@esma.europa.eu Address of the controller: European Securities and Markets Authority (ESMA) 201-203 Rue de Bercy 75012 Paris

		France
4	ESMA area entrusted with processing	ESMA/Legal and Enforcement Department/Enforcement Unit
5	Processors (if any)	Not applicable
6	Name and contact details of DPO	Data Protection Officer (ESMA) dpo@esma.europa.eu
7	Name and contact details of processor (where applicable)	Not applicable
8	Purpose of the processing	The legal bases for ESMA's processing of personal data in this context is the performance of a task carried out in the public interest, as provided for in Article 5(1)(a) and the compliance with a legal obligation to which the controller is subject, as provided in Article 5(1)(b) of Regulation (EU) 2018/1725. More specifically, when ESMA finds that there are serious indications of the possible existence of facts liable to constitute one or more of the infringements listed in Regulation (EU) No 1060/2009 ("CRAR"), Regulation (EU), No 648/2012 ("EMIR"), Regulation (EU) No 600/2014 ("MiFIR"), Regulation (EU) 2015/2365 ("SFTR"), Regulation (EU) 2016/1011 ("BMR"), Regulation (EU) 2017/2402 ("STSS"), Regulation (EU) 2022/2554 ("DORA"), Regulation (EU) 2023/2631 ("EuGBR") and Regulation (EU) 2024/3005 ("ESG Rating Regulation") ESMA appoints an independent investigating officer (IIO) to investigate the matter. The task of the IIO is to investigate

		alleged infringements, taking into account any comments submitted by the entities subject to investigation, and to submit a complete file with his/her findings to ESMA's Board of Supervisors.
9	Description of categories of persons whose data ESMA processes and list of data categories	During the investigation, the independent investigating officer (IIO) may use any of the means legally available to him/her under the CRAR, EMIR, MiFIR, SFTR, BMR, STSS, DORA, EuGBR and ESG Rating Regulation for collecting information, including identification data, professional data and personal data relevant for his/her investigation, such as: • Personal data relating to natural persons acting as owners, employees, officers or service providers for the persons subject to investigation; • Name of ESMA staff working on the specific case (such as IIO and supporting Enforcement Unit staff). The IIO may exercise the power to require information and to conduct investigations and on-site inspections. The IIO also has access to all documents and information gathered by ESMA in its supervisory activities, which may contain personal data of individuals working in the supervised entity (e.g. senior managers, members of the administrative or supervisory board, internal control, compliance function, review function, technology staff, analysts, etc.). In principle, personal data contained in documents and files that are consulted / accessed / collected as part of the evidence during the IIO investigation will not be mentioned in the final Report (unless relevant for the purpose of the investigation / for the understanding of the findings). The entire case file is accessible to the ESMA Chair, to Members of the Board of Supervisors and to ESMA senior Legal Officers assisting the Board.

10	Time limit for keeping the data	The conservation period of personal data under this processing operation is 15 years from the date of the decision of ESMA's Board of Supervisors taking position on the investigatory information collected by the IIO and putting an end to the proceedings. Nevertheless, if at the end of this period of 15 years, there are on-going administrative or judicial proceedings regarding this decision of ESMA's Board of Supervisors, the conservation period is extended for a period which ends one year after these administrative or judicial proceedings have become final. In case of audio or video recordings of interviews or hearings, these recordings are kept for a shorter specific conservation period which corresponds to the period needed for the minutes of these interviews or hearings to be made.
11	Recipients of the data	Access to personal data collected and processed during the investigation and the deliberation / decision phase is restricted to persons with a need to know, namely the IIO, the Legal officer assisting the Board of Supervisors, the Head of Unit Enforcement, the Head of Department Legal & Enforcement, ESMA Chair, Members of the Board of Supervisors and ESMA staff working under the instructions of the IIO or the Legal Officer assisting the Board. In addition, in accordance with the relevant legal provisions, personal data may be transferred to designated persons in the EU institutions, bodies, offices and agencies, the relevant authorities in Member States and/or third countries in order to ensure the appropriate conduct of the enforcement investigation and decision.
12	Are there any transfers of personal data to third countries or international organisations?	Personal data may be transferred outside of the EU/EEA only where necessary and appropriate to fulfil ESMA's obligations in the context of international cooperation in accordance with Article

	If so, to which ones and with which safeguards?	33 of the ESMA Regulation, as may be further amended, repealed or replaced, as well as relevant sectoral legislation provisions such as Article 34 CRAR and 75 EMIR. The transfers will be done in accordance with Chapter V of the Regulation (EU) 2018/1725 and with the 2019 IOSCO-ESMA Administrative Arrangement for the transfer of personal data between EEA and non-EEA Authorities.
13	General description of security measures, where possible.	In order to protect personal data, a number of technical and organisational measures have been put in place. ESMA's IT infrastructure is protected by physical and logical security measures: physical access to the servers is controlled, 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 and processed by the IIO, including personal data, is filed in a secure and encrypted area on ESMA's server and hard copies are stored in locations accessible only to those authorised to access such information. Any information collected by the IIO, including personal data, will be handled as "Confidential" in line with ESMA's internal classification and document handling rules. All information (including personal data) processed as part of this procedure would be processed in application of ESMA's "Global Information Security and Cybersecurity Policy" (ESMA03-485969901-984).
14	Information on how to exercise your rights to access, rectification, object and data	According to Article 23e(4) of CRAR, Articles 25i(4) and 64(4) of EMIR, Article 48i(7) of BMR and Article 38k(7) of MiFIR, Article 35(11) DORA, Article 63(7) EUGBR and Article 40 ESG Rating Regulation, the persons subject to the investigations shall be entitled to have access to the file,

portability (where applicable), including recourse right.	subject to the legitimate interest of other persons in the protection of their business secrets. The right of access to the file shall not extend to confidential information affecting third parties. The IIO informs the data subject about the processing of his/her personal data by attaching privacy statements to his/her relevant communications with the person subject to investigation for example to requests for information, requests for interviews, inspection decision and other documents, which may lead to the collection of personal data. You may exercise your rights by contacting the relevant Data Controller (see contact details above). Your rights are the following: • 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. • 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. • 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. • You may also object, on compelling legitimate grounds, to the processing of your personal data.
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	• 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. 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. If you have additional questions or concerns you can also contact: DPO@esma.europa.eu 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. For further information, please see www.esma.europa.eu/data-protection.
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