

Professional secrecy

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
Professional secrecy		
1	Last update of the record	19/11/2025
2	Reference number	ESMA40-1159621584-2012
3	Name and contact details of controller	Name and contact details: ESMA Executive Director professional-secrecy@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
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	Personal data is processed for the purposes of investigating, and, where relevant, taking the necessary actions against, potential breaches of the Professional Secrecy obligation for Non-Staff, enshrined in Article 70 of Regulation (EU) No 1095/2010 as amended by Regulation (EU) 2024/2987 of the European Parliament and of the Council of 27 November 2024 (ESMA Regulation). Professional Secrecy investigations of allegedly unauthorised disclosure of information by Non-Staff are conducted in accordance with Article 70 of ESMA Regulation and ESMA's Rules of Procedure on Professional Secrecy for Non-Staff and repealing Management Board Decision on Professional Secrecy of 11 January 2011 from 25 January 2017 (ESMA40-1432018523-304) (Rules of Procedure on Professional Secrecy), based on Article 70(3) of the ESMA Regulation.
9	Description of categories of persons whose data ESMA	When carrying out Professional Secrecy investigations, the following personal data is processed: - Name and contact details (name, job position, address, e-mail address, etc.) of the person under investigation;

	processes and list of data categories	- Any personal data provided by the person under investigation throughout the procedure, if this is relevant for the purposes of the investigation. This data can be of very diverse nature; - Any personal data relevant for the assessment of the potential breach of the Professional Secrecy obligation. This data can be of very diverse nature. Incidentally, we also process personal data from other data subjects if this is considered relevant for the purpose of the investigation. This data can be of very diverse nature. Where the personal information collected is of no interest or relevance to the investigation, such information shall be promptly erased.
10	Time limit for keeping the data	The time limit for keeping the data is the following: - Where no breach by a specific NCA is established, the retention period will be five years after the Professional Secrecy investigation is closed; unless administrative or judicial proceedings are opened at national level, in which case the data will be stored for a period which will end one year after these administrative or judicial proceedings have become final; - Where the breach is established and a remedial action plan is recommended to an NCA, the retention period will be five years after the decision(s) of the NCA implementing the remedial action plan are final and binding; i.e. where a decision of an NCA implementing the remedial action plan is subject to an administrative or judicial appeal, data will be stored for a period which will end one year after these administrative or judicial proceedings have become final.
11	Recipients of the data	Inside ESMA, the information collected is accessible, strictly on a need-to-know basis to: - Case handlers; - LEX Head of Department;

		- Members of the Management Board; - Chair; - Executive Director; - Members of the Board of Supervisors, in case the Management Board decides to refer the outcome of the MB enquiry to the Board of Supervisors for information and/or decision; - Other Heads of Department or Heads of Unit, if necessary, strictly on a need-to-know basis. Outside ESMA, only personal data necessary for, and included in, the investigation report and the remedial action plan is transmitted to the concerned NCA. The information would be transmitted to the designated contact person at NCA level. Where possible and not detrimental to the outcome of the enquiry the investigation report will be anonymised.
12	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	Not applicable
13	General description of security measures, where possible.	<u>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).</u> In addition to the above and 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.
14	Information on how to exercise your rights to access, rectification, object and data portability (where applicable), including recourse right.	As per Article 7(2) and (3) of the Rules of Procedure on Professional Secrecy, in case there are indications that the unauthorised disclosure of ESMA Information could be attributed to a specific person, the concerned BoS member can be invited to provide information on the alleged breach of confidentiality. The case handler informs the data subject about the processing of his/her personal data by attaching a privacy notice to his/her relevant communications with the concerned person for example to requests for information, requests for interviews, and other documents, which may lead to the collection of personal data. Privacy notice: 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. - 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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