<table>
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<th>Nr.</th>
<th>Item</th>
<th>Breach of Union Law Complaints and Investigations</th>
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</thead>
</table>
| 1   | Name of the Controller | ESMA Executive Director  
dpo@esma.europa.eu |
| 1.1 | Address of the Controller | ESMA, 201-203 Rue de Bercy, 75012 Paris, France |
| 1.2 | ESMA Paris Entrusted with Processing | ESMA, Legal and Enforcement Department |
| 1.3 | Processors (If any) | Not applicable |
| 2   | Name and contact details of DPO | ESMA DPO  
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 | Personal data is processed for the purposes of assessing whether a breach of Union law (BUL) investigation under Article 17 of Regulation 1095/2010 as amended by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 16 December 2019 (ESMA Regulation) should be opened against a national competent authority (NCA) for failing to comply with its obligations under one of the EU Acts referred to in Article 1(2) of ESMA Regulation, on the basis of the requirements and tasks laid down in the ESMA Regulation and in accordance with ESMA’s rules of procedure on Breach of Union Law investigations (ESMA/2012/B/8/7/174) and, where relevant, also to issue a recommendation addressed to the concerned NCA. |
| 6   | Description of categories of persons whose data ESMA processes and list of data categories | When a person sends a complaint to ESMA, the information he/she gives to ESMA, including his/her personal data, is stored in the BUL database for:  
- 10 years after closure of the case for admissible complaints;  
- 5 years after closure of the case for inadmissible complaints.  
After that period, the information enabling the person to be identified is kept in a form which no longer permits identification of the data subject or deleted, if the information is no longer needed.  
Nevertheless, if at the end of this period of five years, there are on-going administrative or judicial proceedings, the conservation period is extended for a period which ends one year after these administrative or judicial proceedings have become final. |
| 7   | Time limit for keeping the data | Personal data may be transmitted to the concerned NCA. However, the identity of the complainant would not be disclosed to the NCA unless the complainant has given express consent to it. In addition, personal data which is not relevant or necessary for the assessment of the case will not be shared. |
| 8   | Recipients of the data | Inside ESMA, the information is accessible, strictly on a need-to-know basis, to the following persons:  
- Case handlers of BUL complaints (Enforcement Team staff)  
- Policy officers  
- Head of Legal and Enforcement Department  
- Head of the Policy Department concerned  
- Chair  
- Vice-Chair  
- Executive Director  
- Members of the Board of Supervisors  
ESMA may need to share certain information with the national competent authority (NCA) under investigation. In accordance with Article 17 of ESMA’s rules of procedure on BUL investigations (ESMA/2012/B/8/7/174), where the complaint involves an EEA national competent authority (Iceland, Liechtenstein and Norway), ESMA may also need to share the information with the EFTA Surveillance Authority.  
Transfer to other third countries / international organisations is 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 transfer of data will be subject to the requirement of Regulation (EU) 2019/775 and with the 2019 IOSCO-ESMA Administrative Arrangement for the transfer of personal data between EEA and non EEA Authorities available at https://www.esma.europa.eu/about-esma/data-protection#title-paragraph-9. |
| 9   | Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards? | ESMA may need to share certain information with the national competent authority (NCA) under investigation. In accordance with Article 17 of ESMA’s rules of procedure on BUL investigations (ESMA/2012/B/8/7/174), where the complaint involves an EEA national competent authority (Iceland, Liechtenstein and Norway), ESMA may also need to share the information with the EFTA Surveillance Authority.  
Transfer to other third countries / international organisations is 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 transfer of data will be subject to the requirement of Regulation (EU) 2019/775 and with the 2019 IOSCO-ESMA Administrative Arrangement for the transfer of personal data between EEA and non EEA Authorities available at https://www.esma.europa.eu/about-esma/data-protection#title-paragraph-9. |
| 10  | General description of security measures, where possible. | ESMA keeps an electronic central register on breach of Union law complaints received each year. Only ESMA staff members working in the Enforcement Team of the Legal Department have access to such register and to the folders where the relevant documentation is located.  
All information (including personal data) processed as part of a BUL investigation/complaint handling would be processed in application of ESMA’s “Data Classification Policy” (ESMA/2014/INT/134). According to this policy, data is classified as ‘ESMA Restricted’, which means the data is protected by statutes, regulations, laws, ESMA’s policies or contract language, which: a) must be protected against loss, theft, unauthorised access and / or disclosure; b) Must be stored in a closed container whenever it is not being used; c) cannot be published on ESMA’s website; and d) must be destroyed whenever it is not needed anymore.  
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. |
For more information, including how to exercise your rights to access, rectification, object and data portability (where applicable), see the privacy statement:

You may exercise your rights by contacting the relevant Data Controller (see contact details above). When you send an email to the BUL e-mail account (bul@esma.europa.eu), you will receive an automatic acknowledgement of receipt that includes a link to ESMA's general privacy statement and a link to this record. 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.