

Nr.	Item	Professional secrecy
1	Name of the Controller	ESMA Executive Director professional-secrecy@esma.europa.eu
1.1	Address of the Controller	ESMA, 201-203 Rue de Bercy, 75012 Paris, France
1.2	ESMA Parts 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 investigating, and, where relevant, taking the necessary actions against, potential breaches of the Professional Secrecy obligation enshrined in Article 70 of Regulation (EU) No 1095/2010 as amended by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (ESMA Regulation) by non-Staff. 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 (ESMA40-1432018523-304).
6	Description of categories of persons whose data ESMA processes and list of data categories	<p>When carrying out Professional Secrecy investigations, the following personal data is processed:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> name and contact details (name, job position, address, e-mail address, etc.) of the person under investigation;</li> <li><input type="checkbox"/> 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;</li> <li><input type="checkbox"/> any personal data relevant for the assessment of the potential breach of the Professional Secrecy obligation. This data can be of very diverse nature.</li> </ul> <p>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.</p> <p>Where the personal information collected is of no interest or relevance to the investigation, such information shall be promptly erased.</p>
7	Time limit for keeping the data	<ul style="list-style-type: none"> <li><input type="checkbox"/> Where no breach is established, the retention period will be two 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;</li> <li><input type="checkbox"/> Where the breach is established and a remedial action plan is recommended to the concerned NCA, the retention period will be two 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.</li> </ul>
8	Recipients of the data	<p>Inside ESMA, the information collected is accessible, strictly on a need-to-know basis to:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Case handlers;</li> <li><input type="checkbox"/> LCE Head of Department;</li> <li><input type="checkbox"/> Members of the Management Board;</li> <li><input type="checkbox"/> Chair;</li> <li><input type="checkbox"/> Executive Director;</li> <li><input type="checkbox"/> Members of the Board of Supervisors.</li> </ul> <p>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.</p>
9	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	N/A

10	General description of security measures, where possible.	<p>All information (including personal data) processed as part of a Professional Secrecy investigation would be processed in application of ESMA's "Data Classification Policy" (ESMA/2014/INT/134). According to this policy, data classified as 'ESMA Restricted' is data 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.</p> <p>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.</p>
11	For more information, including how to exercise your rights to access, rectification, object and data portability (where applicable), see the privacy statement:	<p>You may exercise your rights by contacting the relevant Data Controller (see contact details above). Your rights are the following:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 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.</li> <li><input type="checkbox"/> 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.</li> <li><input type="checkbox"/> 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.</li> <li><input type="checkbox"/> You may also object, on compelling legitimate grounds, to the processing of your personal data.</li> <li><input type="checkbox"/> 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.</li> </ul> <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.</p> <p>If you have additional questions or concerns you can also contact: <a href="mailto:DPO@esma.europa.eu">DPO@esma.europa.eu</a>.  You have the right to lodge a complaint with the European Data Protection Supervisor (<a href="mailto:edps@edps.europa.eu">edps@edps.europa.eu</a>) 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 <a href="http://www.esma.europa.eu/data-protection">www.esma.europa.eu/data-protection</a>.</p>