

Nr.	Item	Whistleblowing
1	Name of the Controller	ESMA Executive Director ethics@esma.europa.eu
1.1	Address of the Controller	ESMA, 201-203 Rue de Bercy, 75012 Paris, France
1.2	ESMA Area 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 processor (where applicable)	Not applicable
4	Purpose of the processing	<p>Personal data is processed in the context of whistleblowing on the basis of Articles 22a, 22b and 22c of Regulation (EU, Euratom) No 1023/2013 (Staff Regulations) and Articles 11 and the 81 of Conditions of Employment of Other Servants of the European Union ("CEOS"). The purpose of the internal whistleblowing in ESMA is to:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> enable reporting of serious irregularities, including fraud, corruption, theft, serious violation of rules on public procurement, and serious violations of professional obligations at ESMA;</li> <li><input type="checkbox"/> set out reporting channels for whistle-blowers;</li> <li><input type="checkbox"/> manage and follow-up whistleblowing reports;</li> <li><input type="checkbox"/> establish protective measures and act to prevent potential retaliation against whistle-blowers.</li> </ul>
5	Description of categories of persons whose data ESMA processes and list of data categories	<p>Everyone working at ESMA, i.e. temporary agents, contract agents, seconded national experts, on-site consultants, temporary workers (interim staff) and trainees.</p> <p>The whistleblowing report may contain identification data:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> names and surnames;</li> <li><input type="checkbox"/> contact details;</li> <li><input type="checkbox"/> other personal information relevant in this processing operation;</li> </ul> <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>
6	Time limit for keeping the data	<p>If no investigation is initiated, the information should be deleted within six months after the Decision for not launching an investigation is adopted.</p> <p>When an internal investigation is opened, the personal data can be kept as long as the investigation is ongoing and until all appeal possibilities against the related decision have been exhausted. In any case, personal information should be deleted promptly and usually within two months of the completion of the investigation. After the transfer of the whistleblowing report to OLAF, ESMA shall also carefully follow what actions OLAF takes. If OLAF starts an investigation, it is not necessary for ESMA to keep the information for a longer period, therefore ESMA will destroy the personal data promptly and usually within two months. In case OLAF decides not to start an investigation, the information should be deleted without delay.</p>
7	Recipients of the data	<p>Personal data are transmitted on a strictly need-to-know basis with:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Ethics Officers;</li> <li><input type="checkbox"/> Human Resources;</li> <li><input type="checkbox"/> Head of Unit concerned;</li> <li><input type="checkbox"/> Head of Department concerned;</li> <li><input type="checkbox"/> Officers appointed for the internal administrative investigation;</li> <li><input type="checkbox"/> Executive Director.</li> </ul> <p>Personal data may be transmitted to OLAF as part of the whistleblowing report, though the Ethics Officer transmits the whistleblowing report to OLAF, after having deleted personal information, which is not necessary for the assessment of the case.</p> <p>Where as a consequence of an investigation a disciplinary decision is taken, which has a financial impact or involves a change in the grade it is forwarded to Human Resources for the adjustment of the salary. Human Resources then requests the salary adjustment to the Paymaster's Office.</p> <p>If a staff member contests an Executive Director's decision, the disciplinary file may be referred to the Court of Justice of the European Union.</p> <p>It may happen that data are transferred to the competent national authorities such as a national Court where there is an infringement of national law. In such instances, if data are transferred at the request of a national authority, it must establish the 'necessity' for the transfer. If, on the other hand, data are transferred on the sole initiative of ESMA, it will be for the latter to establish the 'necessity' for the transfer in a reasoned decision.</p>
8	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	<p>Transfers of data to third countries or international organisations are 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 transfers of data are subject to the requirements of Regulation (EU) 2018/1725 and with the 2019 IOSCO-ESMA Administrative Arrangement for the transfer of personal data between EEA and non EEA Authorities available at <a href="https://www.esma.europa.eu/about-esma/data-protection#title-paragrah-9">https://www.esma.europa.eu/about-esma/data-protection#title-paragrah-9</a>.</p>

9	General description of security measures, where possible.	<p>All information (including personal data) processed as part of a whistleblowing report or in relation to a (potential) act of whistleblowing is classified as "ESMA Confidential" in ESMA's "Data Classification Database" in application of ESMA's "Data Classification Policy" (ESMA/2014/INT/134). 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. Transfer of such information to persons concerned by the whistleblowing and ESMA is done by courier (encrypted files on USB stick or DVD) and/or encrypted files sent by email in accordance with ESMA's "Classified Documents Handling Procedure" (ESMA/2014/INT/168) for documents classified as "ESMA CONFIDENTIAL USE". Transfers of such information to OLAF is done in the same way.</p>
10	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. For further information, please see <a href="http://www.esma.europa.eu/data-protection">www.esma.europa.eu/data-protection</a>.</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.</p>