

# EUROPEAN CENTRAL BANK

## Part 1.2 of the ECB Staff Rules containing the rules on professional conduct and professional secrecy

(2004/C 92/06)

(This text cancels and replaces the text published in Official Journal C 236 of 22 August 2001, p. 13)

### 1.2. Professional conduct and professional secrecy

The provisions of Articles 4(b), 4(c), 4(f) and 5(b) of the Conditions of Employment are applied as follows:

1.2.1. The Executive Board shall appoint an Ethics Adviser. The Ethics Adviser shall provide guidance on all aspects of professional conduct and professional secrecy. Without prejudice to such obligation, the Ethics Adviser shall provide advice and adopt interpretative ethical criteria. The Ethics Adviser shall be subject to an obligation of strict confidentiality in performing his/her duties. The advice and interpretative ethical criteria shall be published in a generalised format on the ECB's intranet.

The Ethics Adviser shall in particular ensure a consistent interpretation of the ECB's insider trading rules. The Ethics Adviser shall immediately inform the ECB's External Auditor in full of the advice and interpretative ethical criteria developed concerning the insider trading rules.

1.2.2. 'Remuneration, rewards or gifts' means any financial benefit and/or any non-financial benefit.

1.2.3. A member of staff who is invited to attend an event in his/her official capacity may not accept a fee of any kind.

1.2.4. Normal hospitality and token gifts may be accepted to avoid causing offence.

1.2.5. Where there is any doubt, a member of staff shall obtain the approval of his/her Director General/Director before accepting any gift or hospitality or, where this is not possible, report to him/her immediately any gift or hospitality received.

1.2.6. Without the prior permission of the Executive Board, members of staff shall not publish any work or articles or give any lectures relating to the ECB or its activities.

1.2.7. In view of the position held by the ECB and the general economic and financial importance of the issues with which it deals, members of staff shall maintain professional secrecy concerning information relating to issues dealt with by the ECB.

1.2.8. Information relating to issues dealt with by the ECB (inside information) shall mean information; (i) which is known to a member of staff; and (ii) which relates to the administration of the ECB or to transactions of any kind (including proposed transactions) arising in connection with the implementation of the objectives and tasks of the ECB; and (iii) which is confidential; or (iv) which is or might be perceived as being relevant to decisions to be made by the ECB. Inside information relating to issues dealt with by the ECB can comprise a broad range of information and may originate from any country or business area within the ECB. Therefore, the following items are examples only and shall not be exhaustive:

- changes in the monetary or exchange rate policies of the Eurosystem or of other central banks internationally,
- movements in monthly monetary aggregates, balance of payment data or foreign currency reserves or any other market-sensitive economic or financial data,
- impending regulatory changes,
- market-sensitive information related to discussions and negotiations in international for a,
- internal administrative decisions taken by the ECB.

The disclosure of information in the regular course of employment does not constitute a breach of these rules.

- 1.2.9. Members of staff are prohibited from using, whether directly or indirectly via third parties, inside information to which they have access, irrespective of whether such information is used in any kind of private financial transaction conducted at their own risk and for their own account, or at the risk and for the account of third parties. The term 'third party' shall include, but is not limited to, spouses, recognised partners, parents, children, other family members, colleagues, and legal persons.
- 1.2.10. Members of staff are specifically prohibited from taking advantage, whether directly or indirectly via third parties, of their position and functions at the ECB or of inside information to which they have access by acquiring or disposing of, whether at their own risk and for their own account, or at the risk and for the account of a third party as defined in Article 1.2.9, any assets (including transferable securities, foreign currency and gold) or rights (including rights under derivative contracts or closely related financial instruments) to which that information is closely related. This prohibition applies to any kind of financial (investment) transactions, including but not limited to the following:
- investment in securities (shares, bonds, warrants, options, futures or any other securities in the broadest sense of the term, as well as contracts to subscribe to, acquire or dispose of such securities),
  - index contracts based on such securities,
  - interest rate transactions,
  - foreign exchange transactions,
  - commodity transactions.
- 1.2.11. Short-term trading (i.e. a combination of buying and selling within a period of one month) for speculative purposes in any assets (including transferable securities, foreign currency, and gold) or rights (including rights under derivatives contracts or closely related financial instruments) is prohibited unless the member of staff concerned is able objectively to demonstrate the non-speculative nature of and the rationale for such trading.
- 1.2.12. Members of staff shall be prohibited from using any component of the technical infrastructure dedicated to the financial operations of the ESCB when conducting any personal financial transactions at their own risk and for their own account or at the risk and for the account of third parties as defined in Article 1.2.9.
- The term 'technical infrastructure dedicated to financial operations of the ESCB' shall encompass the Bosch dealing telephones, the telex system, connections with agencies or wire services such as Bloomberg and Reuters, TOP, BI, EBS, FinanceKIT and S.W.I.F.T., as well as any subsequent replacements thereof.
- Moreover, the use of mobile telephones in the Market Room and in the premises of the Back Office and the Investment Division shall be prohibited, except as an emergency measure in accordance with ECB contingency procedures.
- 1.2.13. The Executive Board shall determine those members of staff who, by virtue of the exercise of their employment, profession or duties, have access to inside information concerning the financial operations of the ESCB. Such a decision by the Executive Board shall automatically become part of the Staff Rules. Any such members of staff shall refrain from conducting on the same day as an ESCB transaction, whether directly or indirectly, any transactions concerning assets (including transferable securities, foreign currency, and gold) or rights (including rights under derivatives contracts or closely related financial instruments) that have the same generic characteristics (currency, issuer and similar maturity) as those traded on that day by the ESCB, whether at their own risk and for their own account, or at the risk and for the account of third parties as defined in Article 1.2.9.
- 1.2.14. The Executive Board shall determine those members of staff who, by virtue of the exercise of their employment, profession or duties, are deemed to have access to inside information concerning the monetary or exchange rate policies of the ECB or the financial operations of the ESCB. Such a decision by the Executive Board shall automatically become part of the Staff Rules.
- Those members of staff shall, at the request of the Director General Administration provide the following information:
- a list of his/her bank accounts, including custody accounts and accounts with stock brokers,

- a list of any powers of attorney which third parties have conferred upon him/her in connection with their bank accounts, including custody accounts,
- his/her general directives or guidelines to third parties to whom responsibility for managing his/her investment portfolio has been delegated <sup>(1)</sup>.

Those members of staff shall at their own initiative and without delay provide details of any changes to the information above. The information and any updates shall be provided in sealed envelopes and kept in the custody of the Director General Administration, who shall pass it to the ECB's External Auditor at the latter's request.

At the annual request of the ECB's External Auditor, those members of staff shall in addition provide the following documentation for a period of six consecutive months, as specified in the annual request:

- any sale or purchase of assets (including transferable securities, foreign currency, and gold) or rights (including rights under derivatives contracts or closely related financial instruments) conducted by the member of staff at his/her own risk and for his/her own account, or conducted by him/her at the risk and for the account of third parties as defined in Article 1.2.9,
- statements of bank accounts, including custody accounts and accounts with stock brokers; the conclusion or the amendment of mortgages or other loans at his/her own risk and for his/her own account, or by him/her at the risk and for the account of third parties as defined in Article 1.2.9,
- his/her dealings in relation to retirement plans, including the ECB retirement plan.

All information shall be provided in sealed envelopes and kept in the custody of the Director General Administration, who shall pass on the information to the ECB's External Auditor at the latter's request. All information received by the ECB's External Auditor shall remain confidential. In derogation from the abovementioned

rule, a report by the ECB's External Auditor to the ECB's Directorate Internal Audit for the further investigation of a specific case in accordance with Article 1.2.16 shall contain the information received from the member of staff concerned.

1.2.15. In the event that the ECB's External Auditor has reasonable grounds to believe that the abovementioned rules, including the advice and interpretative ethical rules developed by the Ethics Adviser have not been respected, he/she shall have the right to ask any of the ECB's members of staff to provide him/her with full information thereon. The member of staff concerned shall provide full information on a confidential basis to the ECB's External Auditor at the latter's reasoned request regarding the following:

- all his/her bank accounts, including custody accounts and accounts with stock brokers; the conclusion or the amendment of mortgages or other loans at his/her own risk and for his/her own account, or by him/her at the risk and for the account of third parties as defined in Article 1.2.9,
- all his/her investment transactions concerning assets (including transferable securities, foreign currency, and gold) or rights (including rights under derivatives contracts or closely related financial instruments) that he/she has performed at his/her own risk and for his/her own account, or at the risk and for the account of third parties as defined in Article 1.2.9, during the period indicated by the ECB's External Auditor,
- his/her dealings in relation to retirement plans including the ECB retirement plan,
- a list of any powers of attorney which third parties have conferred upon members of staff in connection with their bank accounts, including custody accounts.

The information shall be provided in sealed envelopes via the Director General Administration to the ECB's External Auditor. All information received by the ECB's External Auditor shall remain confidential. In derogation to the abovementioned rule, a report by the ECB's External Auditor to the ECB's Directorate Internal Audit for the further investigation of a specific case in accordance with Article 1.2.16 shall contain the information received from the member of staff concerned.

<sup>(1)</sup> Members of staff identified in accordance with Article 1.2.14 may wish to consider taking the opportunity to delegate the management of their investment portfolios to third parties, such as 'blind trusts', mutual funds, etc.

1.2.16. The ECB's External Auditor shall report any cases of non-compliance with the above-mentioned rules to the ECB's Directorate Internal Audit, which shall further investigate compliance with these rules. Private financial activities carried out in full conformity with the advice and interpretative ethical rules developed by the Ethics Adviser shall not give rise to such a report by the ECB's External Auditor. The member of staff concerned shall be informed of such a report by the ECB's External Auditor, and he/she shall have the right to make his/her views on the report to the ECB's External Auditor.

A report prepared by the ECB's External Auditor, including the information therein supplied by the member of staff concerned, may be used in a disciplinary procedure as set out in Part 8 of the Conditions of Employment for the Staff of the European Central Bank and, to the extent required by applicable law, in any prosecution by external authorities regarding alleged violations of national criminal laws.

1.2.17. A member of staff with any questions on the application of these rules (e.g. whether a private financial transaction he/she may be contemplating would involve a misuse of inside information) should discuss the matter with the Ethics Adviser. The conduct of private financial transactions that is fully in conformity with the advice and interpretative ethical rules developed by the Ethics Adviser shall not give rise to a disciplinary procedure for non-compliance by the member of staff with his/her obligations. Such advice shall, however, not release the member of staff from his/her external liability.

1.2.18. The obligations of members of staff provided for in Articles 1.2.14 to 1.2.15 shall continue to apply beyond the termination of their employment with the ECB for six months following such termination. The request for information by the External Auditor shall refer to a period ending one month after the termination of employment.

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