



EUROPEAN CENTRAL BANK  
EUROSYSTEM

ECB-UNRESTRICTED

This unofficial consolidated version of Administrative Circular 01/2006 is a documentation tool for information only.

►B **ADMINISTRATIVE CIRCULAR 01/2006**  
**on internal administrative inquiries**

**Amended by:**

►M1 Decision ECB/2016/NP4 of the European Central Bank of 12 January 2016 delegating certain powers to the Chief Services Officer in relation to election rules for elected committees, internal administrative inquiries, rules on secondment of members of staff for external work experience, Additional Salary Advancements and promotions.

▼B

*Article 1*

**Legal basis**

Having regard to the Rules of Procedure of the European Central Bank<sup>1</sup>, and in particular Article 11.2 thereof,

Whereas:

1. It has become necessary to introduce a procedure for administrative inquiries where the administration has been informed of possible breaches by ECB employees of their professional duties.
2. Such administrative inquiries need to comply with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>2</sup>.

*Article 2*

**Definitions**

---

<sup>1</sup> Decision ECB/2004/2 of 19 February 2004 adopting the Rules of Procedure of the European Central Bank (OJ L 80, 18.3.2004, p. 33).

<sup>2</sup> OJL8, 12.1.2001, p. 1.

For the purposes of this Administrative Circular:

1. Administrative inquiry means an internal administrative procedure as described in this Administrative Circular, the purpose of which is to clarify the facts. This administrative procedure is without prejudice to any separate disciplinary procedure.
2. Breach of professional duties means a breach of the obligations laid down in the Statute of the European System of Central Banks and of the European Central Bank, the Conditions of Employment, the Conditions of Short-Term Employment, the Staff Rules, the Rules for Short-term Employment, the Code of Conduct of the European Central Bank and any other legal act, legal instrument or internal standard and rule applicable to the ECB employees.
3. Competent senior manager means a senior manager in charge of a business area competent for dealing with the submitted facts in accordance with ECB existing rules and procedures.
4. ECB employees means all permanent and temporary ECB members of staff subject to ECB Conditions of Employment or the Conditions of Short-Term Employment and all persons working for the ECB other than on the basis of an employment contract.
5. Lead inquirer means the Executive Board or a senior manager of a business area with overall responsibility for an administrative inquiry.
6. Person conducting the inquiry means the person appointed by the lead inquirer to conduct an administrative inquiry.
7. Panel means a group of at least three and not more than five persons including the chairperson appointed by the lead inquirer to conduct an administrative inquiry.

### *Article 3*

#### **Submission of facts**

1. Without prejudice to Article 3(1) of Decision ECB/2004/11 of 3 June 2004 concerning the terms and conditions for European Anti-Fraud Office in relation to the prevention of fraud, corruption and any other illegal activities detrimental to the European Communities financial interests and amending the Conditions of Employment for Staff of the European Central Bank<sup>3</sup>, every ECB employee may submit facts, either orally or in writing, to any ECB manager, providing to the extent possible:
  - a. the nature of the incident(s); and
  - b. the name of the possible wrongdoer(s); and
  - c. dates and times when the incident(s) occurred; and
  - d. names of any witnesses of the incident(s); and
  - e. any other evidence; and
  - f. any action already taken by the complainant to stop the incident(s).
2. Any manager who has become aware of a possible breach shall inform the competent senior manager and submit any relevant evidence.
3. An ECB employee, including any manager who has become aware of a possible breach of duties,

---

<sup>3</sup> OJ L 230, 30.6.2004, p. 56.

who considers that the competent senior manager referred to Article 3(2) could have a conflict of interest relating to the relevant incident may submit in writing the relevant facts directly to the Executive Board, explaining the nature of the conflict of interest.

4. On receipt of information in accordance with paragraph 2, or if the competent senior manager becomes otherwise aware of a possible breach of professional duties, they shall assess as soon as possible the submitted facts and evidence to establish whether the submitted facts:
  - a. are not manifestly unfounded;
  - b. do not fall within the scope of Decision ECB/2004/11<sup>4</sup>;
  - c. do not fall within the scope of any other Community or national legal act providing for a more specific procedure and having binding effect on the ECB.
5. If the competent senior manager concludes that the facts justify an internal inquiry, they shall act in accordance with Article 4(1).
6. If the competent senior manager concludes that the submitted facts do not or do not yet justify an internal inquiry procedure, they shall deal with the submitted facts themselves while taking due account of the principles in this Administrative Circular.
7. The competent senior manager shall inform any ECB employee that has submitted any facts in accordance with Article 3(1) about the follow-up given to them.
8. The competent senior manager shall act with independence and impartiality.

#### *Article 4*

##### **Initiation and competence for the conduct of an administrative inquiry**

1. If the competent senior manager considers that the submitted facts justify an internal administrative inquiry, they shall forward the submitted facts to the Director General Human Resources, Budget and Organisation, the Director Internal Audit and the Director General Secretariat and Language Services.
2. If the Director General Human Resources, Budget and Organisation, the Director Internal Audit and the Director General Secretariat and Language Service confirm the need for an administrative inquiry, they shall immediately propose its initiation to the **M1** ► Chief Services Officer, who shall act on behalf of the Executive Board<sup>5</sup> ◀.
3. In the event of a conflict of interest, the Director General Legal Services shall replace any of the senior managers mentioned in paragraph 2 on their own initiative, or if requested by the remaining senior managers. The Executive Board shall be informed thereof.
4. Upon submission of the proposal according to paragraph 2 **M1** ► , and if the submitted facts and

---

<sup>4</sup> Decision ECB/2004/11 of 3 June 2004 concerning the terms and conditions for European Anti-Fraud Office investigations of the European Central Bank, in relation to the prevention of fraud, corruption and any other illegal activities detrimental to the European Communities' financial interests and amending the Conditions of Employment for Staff of the European Central Bank (OJ L 320,30.6.2004, p. 56).

<sup>5</sup> In accordance with Article 6 of Decision ECB/2016/NP4 the Chief Services Officer must keep a record of any delegated decisions taken in accordance with that Decision and keep the Executive Board informed on a quarterly basis. In addition, the Chief Services Officer must submit a quarterly report to the Executive Board in relation to individual decisions in the context of the application of this Administrative Circular.

nature of evidence justify the application of this Administrative Circular, the Chief Services Officer acting on behalf of the Executive Board may decide to open an administrative inquiry. Upon submission of ◀ facts according to Article 3(3), or where the Executive Board becomes aware of a possible breach of professional duties itself, and if the submitted facts and nature of evidence justify the application of this Administrative Circular, the Executive Board may decide to open an administrative inquiry.

5. The decision to open an administrative inquiry shall state:
  - (a) its subject matter and scope; and
  - (b) the senior manager in charge of the administrative inquiry; or
  - (c) that the Executive Board has exceptionally decided to carry out the administrative inquiry itself.
6. Where the Executive Board has decided to carry out the administrative inquiry itself, it shall designate in the abovementioned decision either an individual or a panel to conduct the inquiry.

#### *Article 5*

#### **Conduct of an administrative inquiry**

1. The lead inquirer shall organise the administrative inquiry as deemed appropriate unless the **M1** ► Chief Services Officer acting on behalf of the Executive Board, or the Executive Board if it has decided to open the administrative inquiry itself, ◀ has decided otherwise. The lead inquirer shall inform the Executive Board of the subsequent progress under any initiated administrative inquiry.
2. The person conducting the inquiry, or a panel and its chairperson, shall be from among persons not involved or related to the incident, and accompanied by motivation thereof.
3. The person conducting the inquiry or the members of the panel shall be appointed as soon as possible from the date of the decision to open the administrative inquiry. The person conducting the inquiry and panel members shall be chosen from amongst ECB employees, or where necessary, from external persons with relevant qualifications and expertise.
4. The panel shall take its decisions by a majority of its members. The chairperson shall be the last to cast their vote, which shall be decisive in case of equal division of votes. A member of the panel may not abstain from voting or remain undecided.
5. The lead inquirer, the person conducting the inquiry and panel members shall exercise their function with independence and impartiality. They may not delegate their tasks.
6. The lead inquirer, the person conducting the inquiry and the members of the panel shall act in accordance with high professional and ethical standards and shall excuse themselves should they become aware either on appointment, or during the administrative inquiry, of a possible conflict of interest with the case under review. In the case of a conflict of interest, the lead inquirer shall nominate a replacement for the person conducting the inquiry, or a member of the panel. The **M1** ► Chief Services Officer acting on behalf of the Executive Board, or the Executive Board if it has decided to open the administrative inquiry itself, ◀ shall nominate a replacement for the lead inquirer.

7. Any person who becomes aware of facts substantiating a conflict of interest may submit them to the lead inquirer or to the Executive Board if the conflict of interest concerns the lead inquirer.
8. In performing their duties, the lead inquirer, the person conducting the inquiry and the members of the panel, and all ECB employees who may be asked to provide evidence or explanations according to Article 6(1 )(b) to (e), shall act with due professional propriety and discretion and in particular shall refrain from disclosing any information acquired throughout the inquiry to third persons.
9. Where there is evidence of fraud, corruption and any other illegal activity detrimental to the financial interests of the European Communities, such evidence shall be dealt with in accordance with Decision ECB/2004/11.

*Article 6*

**Means of administrative inquiry**

1. The person conducting the inquiry or all panel members shall ensure a swift, thorough and objective review of the circumstances, evidence and background of the case in order to deliver a reasoned report. To this end, they shall:
  - (a) start the administrative inquiry with an indication of the date of delivery of the reasoned report; and
  - (b) gather evidence; and to that end may
  - (c) request any ECB employee to supply information; and
  - (d) hear witnesses and conduct interviews; and
  - (e) request expertise from relevant business areas or outside independent experts; and
  - (f) request access to files and make on-the-spot searches of ECB premises under the conditions described in paragraph 11; and
  - (g) request interception of telephone conversations as described in paragraph 12.
2. The administrative inquiry shall be carried out in a manner which does not destroy evidence or hinder a potential follow-up. In addition, it shall be conducted over a period of time proportionate to the case's circumstances and complexities.
3. All steps of the administrative inquiry, including any findings and documents, as well as traffic data and recordings made under paragraph 12, shall be personal and confidential and managed in accordance with Administrative Circular 7/2004 of 17 September 2004 on the management and confidentiality of ECB documents. These steps, findings and documents, as well as traffic data and recordings made under paragraph 12, shall be recorded, documented and filed by the person or panel appointed in accordance with Article 5(3).
4. A transcript and/or minutes shall be taken of any interviews. An ECB employee heard under paragraph 1(c) and (d) above shall sign the minutes of their hearing or transmit their comments and/or remarks within 15 calendar days of receipt of the minutes.
5. The person conducting an inquiry, or the panel, shall report regularly to the lead inquirer on the procedure's development. Without prejudice to Article 7(1), they shall report on the course and

- results of the inquiry activities, as well as the time frame for the finalisation of the administrative inquiry. Copies of all relevant documents and minutes of hearings, including the voting's results, on-the-spot searches or any other inquiry acts performed by the person conducting the inquiry or the panel, shall be annexed to the reasoned report.
6. Information acquired in the course of the administrative inquiry shall be used only for the purposes of relevant administrative inquiries. The processing of personal data shall be adequate, relevant and proportionate to the purposes for which they are collected and/or processed. Where an administrative inquiry is not followed by any further steps, the administrative inquiry file shall be kept no longer than 24 months from the year of closure of the administrative inquiry procedure. However, relevant recordings and traffic data made according to paragraph 12 may be kept no longer than six months from the closure of the administrative inquiry procedure unless they are needed for a longer period of time for possible follow-up, including disciplinary or judicial proceedings. The panel or the person conducting the inquiry may consult the ECB's Data Protection Officer when processing special categories of data<sup>6</sup>.
  7. Notwithstanding paragraph 6, where the person conducting the inquiry or the panel becomes aware in the course of the administrative inquiry of evidence implying a criminal offence, the appropriate national authorities shall be informed accordingly.
  8. When the person conducting the inquiry, or the panel, is made aware of facts or evidence of an unrelated or different breach of professional duties, the lead inquirer shall be informed and decide on the appropriate course of action.
  9. The person conducting the inquiry or the panel may recommend to the lead inquirer any measure required to protect interests of the ECB or of an ECB employee.
  10. In cases of alleged discrimination, harassment or mobbing and where exceptional circumstances justify it, the person conducting an inquiry or the panel may recommend to the lead inquirer disclosing the facts and the complainant's identity as appropriate. Such circumstances could include, for example: (a) incidents that may be classified as a criminal offence, such as assault, where the complainant's identity and the facts could be disclosed to the German national authorities according to paragraph 7; or (b) cases in which the complainant is under extreme distress or their health and well-being are being severely affected by the incident(s). The complainant should be made aware that disclosure may take place and of its scope.
  11. If there are reasonable grounds to believe that an ECB employee has breached professional duties the person conducting an inquiry or the panel may check ECB electronic traffic data not older than six months and/or access electronic files, hard copy files or perform on-the-spot searches according to Article 6(1 )(f) following a reasoned decision in writing by the lead inquirer. At the lead inquirer's request, the relevant management of the Directorate General Information Systems shall issue an authorisation to access electronic files. Without prejudice to Article 7(1), the Director General/Director of the ECB employee's business unit shall be notified. The ECB business unit in charge of IS security in the Directorate General Information Systems may be asked to assist with

---

<sup>6</sup> Article 10 of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001; p. 1).

searching electronic files. The ECB business area in charge of ECB physical security in the Directorate General Administration may be asked to assist with the on-the-spot searches. DG-IS shall verify the authenticity of the findings of any search of electronic files.

12. If an employee is on reasonable grounds suspected of a serious breach of professional duties the person conducting an inquiry or the panel may on the basis of a reasoned decision by the **M1** ► Chief Services Officer acting on behalf of the Executive Board, or the Executive Board if it has decided to open the administrative inquiry itself, ◀ at the request of the lead inquirer, and having due regard for the principle of proportionality, check ECB telephone traffic data not older than six months, as well as, if appropriate, intercept telephone calls other than personal calls made from ECB telephones<sup>7</sup>. Telephone interceptions may only be carried out if all other less intrusive means of investigation have been exhausted, or are no longer available. Recordings not relevant to the case shall be immediately deleted; otherwise, recordings shall be filed in accordance with paragraph 3 and preserved in accordance with paragraph 6.
13. The ECB's Data Protection Officer shall be informed *ex ante* of the access to electronic and hard-copy files and telephone interception according to paragraphs 11 and 12, and of an extension of the period for adopting the reasoned report in accordance with paragraphs 15(a) and (c). The ECB's Data Protection Officer shall also be informed if the person conducting an inquiry or the panel intends to restrict the information right of data subjects according to Article 7. Any assisting IT specialists shall not disclose any of their findings to anyone other than the person conducting an inquiry or the panel members.
14. At the end of the administrative inquiry, the person conducting an inquiry or the panel shall submit to the lead inquirer a reasoned report setting out the facts and circumstances of the case and the existence or absence of sufficient evidence of the alleged breach. Where the lead inquirer is a senior manager, the latter shall inform the Executive Board thereof.
15. If the person conducting the inquiry or the panel cannot adopt a reasoned report within the period of time indicated according to Article 6(1)(a), they shall immediately inform the lead inquirer. The **M1** ► Chief Services Officer acting on behalf of the Executive Board, or the Executive Board if it has decided to open the administrative inquiry itself, ◀ shall decide after examining the documentation produced so far by the person conducting the inquiry or the panel whether:
  - (a) the inquiry procedure has been conducted with due diligence and whether the period for adoption of the reasoned report should be extended; or
  - (b) the inquiry procedure has shown that the facts and evidence gathered so far do not substantiate the alleged wrongdoing and the inquiry procedure should be closed without any further steps; or
  - (c) to assign the inquiry procedure to another person or panel because the person conducting the inquiry or the panel has been prevented from finalising the inquiry procedure due to personal incapacity.

---

<sup>7</sup> Administrative Circular 04/2000 of 8 December 2000 on rules for the official and private use of the ECB's telephone and fax equipment defines personal calls and establishes a call charging facility for such calls.

## Article 7

**Rights and obligations of ECB employees**

1. ECB employees that will be affected by the administrative inquiry shall be informed unless this would be harmful to the administrative inquiry<sup>8</sup>. In any event, conclusions referring to persons by name may not be drawn before the persons have been given the opportunity to express their views on all the facts which concern them.
2. In accordance with paragraph 1, an ECB employee who is the subject of an administrative inquiry, a witness or any other person concerned shall be informed of the subject matter and objective of the administrative inquiries (to the extent deemed appropriate by the person conducting the inquiry or the panel<sup>9</sup>), as well as the names of the members of the panel, as early as possible after initiating the administrative inquiry. They shall also be informed that the lead inquirer acts for data collection and processing purposes as the controller<sup>10</sup> and that in the matters of data collection and processing they may have recourse at any time to the European Data Protection Supervisor<sup>11</sup>.
3. ECB employees who are the subject of the administrative inquiry shall be:
  - (a) informed by the person conducting the inquiry, or the panel, prior to the submission of the reasoned report, of the content of the alleged breach of professional duties and granted access to documents related to the allegations made against them which disclose facts important for the exercise of their rights of defence; and
  - (b) granted an opportunity to present their view and add their comments on the conclusions referring to them to ensure the completeness of the inquiry file; the latter shall be included in the reasoned report; and
  - (c) allowed to seek the assistance of a staff representative.

ECB employees or other individuals involved in the administrative inquiry shall also be granted access to all facts which refer to their person, as well as personal data in order to ensure their completeness and accuracy, and shall have the right to obtain from the lead inquirer acting as the controller the rectification without delay of any such inaccurate or incomplete personal references.
4. The lead inquirer shall provide the person(s) subject to the administrative inquiry with the relevant parts of the reasoned report of their direct concern.
5. ECB employees shall in no way suffer inequitable or discriminatory treatment, intimidation, retaliation or victimisation as a result of having submitted facts or communicated the requested information or having given testimony in application of this Administrative Circular. In addition, if the information is provided on a purely voluntary basis and accompanied by a request of anonymity in order to protect the whistle-blower, and if the competent senior manager or the person conducting an inquiry or the panel has accepted the information, they shall be bound to comply with such condition of anonymity unless the whistleblower is involved in the reported wrongdoing. The identity

---

<sup>8</sup> Article 20 of Regulation (EC) No 45/2001 applies to any restriction on information to be given to data subjects in the event of data processing.

<sup>9</sup> Article 20 of Regulation (EC) No 45/2001 applies to any restriction on information to be given to the data subjects in the event of data processing.

<sup>10</sup> In accordance with Article 11(1)(a) and/or Article 12(1)(a) of Regulation (EC) No 45/2001.

<sup>11</sup> In accordance with Article 11(1)(f)(iii) and/or Article 12(1)(f)(iii) of Regulation (EC) No 45/2001.

of the whistle-blower shall be classified as SECRET in accordance with AC 7/2004 of 17 September 2004 on the management and confidentiality of ECB documents and it shall not be mentioned in the inquiry file.

6. Where the facts appear to substantiate the conclusion that an ECB employee has intentionally made false statements or allegations with intention to harm, the person conducting the inquiry or the panel shall communicate this to the lead inquirer.
7. ECB employees shall fully cooperate and provide any assistance required for the administrative inquiry.
8. The Directorate General Human Resources, Budget and Organisation shall for consistency purposes maintain an anonymised list of administrative inquiries.

*Article 8*

**Entry into force**

This Administrative Circular shall enter into force one day after its adoption.

Frankfurt am Main, 21 March 2006.

*For the Executive Board of the ECB*

[signed]

*The President of the ECB*

Jean-Claude TRICHET