

European Central Bank

Staff Rules

Annex XI

**Investigative process to follow up on potential
breaches of professional duties**

1 February 2026

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This Annex sets out the rules on the investigative process conducted under the responsibility of the Directorate Internal Audit to follow up on potential breaches reported in accordance with Article 0.4bis.2.1 of the Staff Rules.

CHAPTER I**General provisions***Article 1**Definitions*

For the purposes of this Annex, and without prejudice to their usage in other parts of the Staff Rules, the following definitions apply:

- (1) 'staff member' means any of the following: (a) member of staff or former member of staff; (b) a graduate programme participant or former graduate programme participant; (c) a short-term contract employee or former short-term contract employee; (d) to the extent they are involved in an investigative process carried out at the ECB, for the purposes of Chapters I to V and VII of this Annex, any (i) high-level ECB official or former high-level ECB official, (ii) trainee or former trainee, or (iii) any other person who undertakes or has undertaken work for or on behalf of the ECB, or is or was involved in the performance of the tasks of the ECB other than on the basis of an ECB employment contract, to which the rules set out in this Annex have been made applicable;
- (2) 'person concerned' means any staff member whose conduct is the subject of an investigative process;
- (3) 'witness' means any staff member or any person other than the person concerned who is asked to cooperate and provide information relating to facts and circumstances that are the subject-matter of an investigative process;
- (4) 'aggrieved person' means a person who brings forward allegations of inappropriate behaviour within the meaning of Articles 0.4bis.1(k) of the Staff Rules, including harassment, against him or her that are the subject-matter of an investigative process, without prejudice to whether or not such inappropriate behaviour is finally established;
- (5) 'appointing authority' means the internal authority as defined in Article 1a.1.1.1(a) of the Staff Rules;
- (6) 'breach' means 'breach' as defined in Article 0.4bis.1 of the Staff Rules and for the purpose of this Annex includes the conduct of any other person who undertakes or has undertaken work for or on behalf of the ECB, or is or was involved in the performance of the tasks of the ECB other than on the basis of an ECB employment contract, to which the rules set out in this Annex have been made applicable;
- (7) 'investigative process' means the use of any of the procedures within the scope of this Annex in order to enable the appointing authority to decide on the appropriate follow-up to a suspected breach reported to

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the Director Internal Audit, comprising, as the case may be, the preliminary assessment, the administrative investigation and the subsequent conduct of a hearing of the person concerned;

(8) 'investigative unit' means the business unit within the Directorate Internal Audit in charge of any of the procedures of the investigative process;

(9) 'administrative investigation' means the part of the investigative process conducted in accordance with the mandate issued by the appointing authority pursuant to Article 15 of this Annex, and includes all actions directed at establishing the facts and circumstances of the case in accordance with the mandate;

(10) 'OLAF' means the European Anti-Fraud Office established in accordance with Commission Decision 1999/352/EC¹;

(11) 'EPPO' means the European Public Prosecutor's Office established in accordance with Council Regulation (EU) 2017/1939²;

(12) 'national law enforcement authorities' means the authorities of Union Member States competent for investigating and sanctioning criminal offences.

Article 2

Organisation of the investigative unit and the investigative process

1. The Director Internal Audit shall have overall responsibility for investigative processes.
2. The investigative unit shall be in charge of investigative processes and carry out:
 - (a) preliminary assessments;
 - (b) administrative investigations;
 - (c) hearings of persons concerned.
3. The conduct of each investigative process shall be assigned to at least two investigators, who shall organise the investigative process as they deem appropriate unless the Director Internal Audit decides otherwise. The assigned investigators shall conduct interviews and hearings jointly. The investigative unit may provide the investigators with secretarial support for administrative steps, including by taking minutes during interviews and hearings or transcribing related recordings.
4. The investigators shall keep the Director Internal Audit informed of the progress of any initiated investigative process. A case may be reassigned to another investigator or other investigators when necessary to ensure the timely progress of the investigative process.

¹ Commission Decision 1999/352/EC of 28 April 1999 establishing the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 20, ELI: <http://data.europa.eu/eli/dec/1999/352/oj>).

² Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') (OJ L 283, 31.10.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/1939/oj>).

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5. In the event of absence, a conflict of interest or any other reason that prevents the Director Internal Audit from carrying out his or her tasks for the purpose of the application of the provisions of this Annex, such tasks shall be carried out by the Head of the Independent Internal Investigations Division. If both the Director Internal Audit and the Head of the Independent Internal Investigations Division are prevented from carrying out such tasks or if a potential breach relates to the Directorate Internal Audit, any member of the Investigation Committee established in accordance with this Annex shall carry out such tasks.
6. The Director Internal Audit may assign external investigators to participate with the investigators in the investigative process where appropriate, but shall ensure that external investigators cannot be the only investigators assigned to an investigative process at a given time. External investigators shall be bound by the same procedural rules as the investigative unit and shall work under the authority of the investigative unit.
7. If necessary, the Director Internal Audit may request that members of staff that do not belong to the investigative unit participate in a particular investigative process subject to the agreement of their line managers.
8. By way of derogation from the provisions set out in this Annex, the Compliance and Governance Office, under the responsibility of the Chief Compliance and Governance Officer, shall follow up on potential breaches reported in relation to private financial transactions in accordance with the procedure laid down in Article 0.4.3.5 of the Staff Rules.

Article 3***Investigation Committee***

1. The Investigation Committee shall be composed of the Director Internal Audit, the Chief Compliance and Governance Officer, and the Director General Human Resources. For investigative processes in respect of members of staff in salary band M the Executive Board shall exercise the function of the Investigation Committee.
2. If the persons concerned in one set of facts under investigation are in different salary bands, the information gathered and considered by each Investigation Committee may be used in the investigative processes carried out by either Investigation Committee.
3. The Investigation Committee shall act as the appointing authority as determined in Annex VII.
4. The Director Internal Audit shall act as Chair of the Investigation Committee.
5. All members of the Investigation Committee shall act in their personal capacity and be independent from their hierarchy in the performance of their duties.
6. If a member of the Investigation Committee becomes aware that they or other members of the Investigation Committee may have a conflict of interest, they shall inform the Chair of such circumstance immediately.

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7. In case of absence or conflict of interest, the Director Internal Audit or, if they are involved, the Chief Services Officer shall take a reasoned decision to replace a member of the Investigation Committee with one of the following alternates: the Director General Legal Services or their Deputy, the Director General Secretariat, or the Deputy Director General Human Resources.
8. The Investigation Committee shall seek the advice of an external expert serving in an advisory capacity as set out in Articles 14, 23 and 29.
9. The deliberations and proceedings of the Investigation Committee shall be treated as personal and confidential in accordance with the ECB's internal rules on confidentiality.
10. The investigative unit shall provide secretarial assistance to the Investigation Committee and shall in particular keep minutes of its meetings.

CHAPTER II

General principles

Article 4

Principles in the conduct of an investigative process

1. The investigative process shall be carried out objectively, independently, impartially and free of undue interference, in accordance with the principles of legality, proportionality and confidentiality, taking account of all relevant information known to the investigators. No one shall unduly influence the investigator or any other person designated to participate in the investigative process in any way.
2. The presumption of innocence shall apply at all procedural stages.
3. If the assigned investigators or any other person designated to participate in the investigative process become aware of a conflict of interest when performing their professional duties in the course of their participation in the investigative process, they shall immediately inform the Director Internal Audit to this effect.
4. The Director Internal Audit may set a maximum length for written submissions put forward pursuant to this Annex by all parties involved in investigations, including the aggrieved person and the person concerned. This maximum length shall not be less than 50 pages per submission and may be extended by the Director Internal Audit in cases involving particularly complex legal or factual issues.

Article 5

File of the investigative process

1. The Directorate Internal Audit shall maintain a file in respect of the investigative process documenting all steps undertaken and including all relevant evidence and information collected. The file shall be classified as 'ECB-CONFIDENTIAL – Personal' and managed in accordance with the ECB's rules on management and confidentiality of documents.
2. The information in the file of the investigative process shall be retained in a non-anonymised form for no longer than two years from the closure of the investigative process or from the closure of any follow-up

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procedure or related legal dispute. For this purpose, the Directorate General Human Resources or the Directorate General Legal Services shall inform the Directorate Internal Audit of any follow-up procedure or related legal dispute.

3. Information may be retained beyond the time-limits set out in paragraph 2 in an anonymised form for historical, statistical, scientific or training purposes.

Article 6

Data protection

1. The investigative unit and other units of the ECB involved in the investigative process may process personal data of the person concerned and other data subjects. The processing of personal data shall be adequate, relevant and proportionate to the purposes for which they are processed. Regulation (EU) 2018/1725 of the European Parliament and of the Council³ and Decision (EU) 2020/655 of the European Central Bank (ECB/2020/28)⁴ apply to the processing of personal data. The Directorate Internal Audit is the organisational unit of the ECB which determines the purposes and means of the processing of personal data.
2. The rights of data subjects may be restricted on the basis of Decision (EU) 2022/2359 of the European Central Bank (ECB/2022/42)⁵ or Decision (EU) 2021/1486 of the European Central Bank (ECB/2021/42)⁶.
3. In the course of an investigative process, the investigative unit may process special categories of personal data as referred to under Article 10(1) of Regulation (EU) 2018/1725 and personal data relating to criminal convictions and offences as referred to under Article 11 of Regulation (EU) 2018/1725.

Article 7

Notification of and assistance to OLAF, the EPPO and national law enforcement authorities

1. Where there is evidence of fraud, corruption and any other illegal activity detrimental to the financial interests of the Union that falls within the competence of OLAF and/or the EPPO, the provisions laid down in Decision (EU) 2016/456 (ECB/2016/3) or in Regulation (EU) 2017/1939, as well as in the

³ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

⁴ Decision (EU) 2020/655 of the European Central Bank of 5 May 2020 adopting implementing rules concerning data protection at the European Central Bank and repealing Decision ECB/2007/1 (ECB/2020/28) (OJ L 152, 15.5.2020, p. 13, ELI: <http://data.europa.eu/eli/dec/2020/655/oj>).

⁵ Decision (EU) 2022/2359 of the European Central Bank of 22 November 2022 adopting internal rules concerning restrictions of rights of data subjects in connection with the European Central Bank's internal functioning (ECB/2022/42) (OJ L 311, 2.12.2022, p. 176, ELI: <http://data.europa.eu/eli/dec/2020/655/oj>).

⁶ Decision (EU) 2021/1486 of the European Central Bank of 7 September 2021 adopting internal rules concerning restrictions of rights of data subjects in connection with the European Central Bank's tasks relating to the prudential supervision of credit institutions (ECB/2021/42) (OJ L 328, 16.9.2021, p. 15, ELI: <http://data.europa.eu/eli/dec/2021/1486/oj>).

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relevant administrative arrangements, are relevant for the investigative process referred to in this Annex.

2. Where there is evidence that indicates that a criminal offence under national law may have been committed, the Director Internal Audit shall make the necessary arrangements to ensure that the competent national law enforcement authority is notified to this effect as soon as reasonably possible, with the exception of those offences that are only pursued upon the application of the injured party.
3. The Director Internal Audit shall inform the Investigation Committee without undue delay when a case is notified to OLAF, the EPPO or national law enforcement authorities. The Director Internal Audit may anonymise this information.

Article 8

Duration of the investigative process

The investigative process shall be carried out as swiftly as reasonably possible within a period of time commensurate with the circumstances and complexity of the case.

CHAPTER III

Rights and obligations

Article 9

Rights and obligations of the person concerned

1. The investigative unit shall notify the person concerned of the opening of an administrative investigation in accordance with Article 16. The notification shall indicate, in particular, the nature of the facts concerned and when they are alleged to have occurred and shall inform the person concerned of their rights and obligations.
2. If, during the course of the administrative investigation, the scope of a mandate is amended in line with Article 15(2), the investigating unit shall inform the person concerned accordingly.
3. During the course of the investigative process the person concerned shall have the right:
 - (a) not to incriminate themselves or their spouse, recognised partner or any close relatives;
 - (b) to put forward at any step of the investigative process facts and circumstances in relation to the case, which right may not be used to unduly delay the proceedings;
 - (c) to be heard, orally or in writing, in accordance with Articles 21, 26 and 27;
 - (d) to be assisted by up to two persons of their choice.
4. The person concerned shall cooperate with the investigative process, comply with Article 11 of this Annex, and remain at the ECB's disposal as long as the procedure concerning him or her is ongoing.

Article 10

Rights and obligations of witnesses

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The investigative unit shall inform witnesses requested to testify in the course of an investigative process of their rights and obligations before they are heard orally or in writing for the first time, including their right not to incriminate themselves or their spouse, recognised partner or any close relatives, their rights set out in Article 19(3) and (5) of this Annex and their right to seek protection against retaliation.

Article 11

General obligations of persons involved in the investigative process

1. In accordance with their duty of loyalty to the ECB, staff members called upon to provide information in an investigative process shall cooperate and provide all requested information available to them, subject to obligations regarding confidentiality or secrecy.
2. The following are prohibited and constitute a breach, and appropriate measures, including if necessary disciplinary measures, shall be taken against any staff member involved in any of them:
 - (a) destruction or manipulation of evidence, or attempts to destroy or manipulate it;
 - (b) interference with or intimidation of witnesses or potential witnesses, or attempts to interfere with or intimidate witnesses or potential witnesses;
 - (c) misleading or attempted misleading of investigators.
3. Without prejudice to their right to be accompanied, assisted or represented in the investigative process, staff members and any other person involved in the investigative process shall be prohibited from any unauthorised disclosure of information about the investigative process or gained in connection with it.
4. All parties involved in the investigative process shall continue to be bound by the obligations in this Article after they have left the service of the ECB or their contractual relationship with the ECB has ended.

Article 12

Protection of whistleblowers in accordance with Article 0.4bis of the Staff Rules

Where the information triggering the investigative process pursuant to this Annex is submitted by a whistleblower as defined in Article 0.4bis of the Staff Rules, protection of identity and protection against retaliation shall be granted in accordance with Article 0.4bis of the Staff Rules.

CHAPTER IV

Preliminary assessment

Article 13

Preliminary assessment

1. Once assigned a case, the investigators in charge shall carry out a preliminary assessment of the information available on the potential breach and the accompanying evidence.
2. The preliminary assessment shall aim at evaluating the information available in order to enable the appointing authority to decide on the appropriate follow-up. In this context, the investigative unit may

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request additional information, in particular from the relevant services and from the source of the information already received. If there is a serious risk that information may be destroyed or tampered with, the investigative unit may preventatively request the relevant services to secure electronic data and other available data. Such secured data shall be securely kept by the relevant services and only be made available to the investigative unit in accordance with the conditions provided for in Article 20(4) of this Annex.

3. At the end of the preliminary assessment, the investigative unit shall draw up an assessment note for the appointing authority so that the latter can decide whether the case is to be closed without further action (non-case) or whether it warrants a follow-up.

CHAPTER V

Administrative investigations

Article 14

Opening of an administrative investigation

1. On the basis of the assessment note provided for in Article 13(3), the appointing authority shall decide whether to open an administrative investigation.
2. Where the assessment note concludes that there is at least prima facie evidence of harassment or of another alleged inappropriate behaviour within the meaning of Article 0.4bis.1a of the Staff Rules, the appointing authority shall open an administrative investigation.
3. An administrative investigation shall not be opened in respect of:
 - (a) a case that concerns facts for which OLAF and/or the EPPO is competent, unless otherwise agreed with OLAF and/or the EPPO; or
 - (b) a potential breach for which disciplinary proceedings may no longer be initiated in accordance with Article 8.3.2a* of the Staff Rules.
4. The appointing authority may consult an external expert on its decision on whether to open an administrative investigation. If the person concerned works at salary bands K or L, the appointing authority shall consult an external expert on its decision. The appointing authority shall give due consideration to the external advice received but shall not be bound by it.

Article 15

Mandate

1. The appointing authority shall issue the investigative unit with a mandate setting out the purpose and scope of each administrative investigation it decides to open. It shall require the investigative unit to

* Now Article 8.3.3 of the Staff Rules.

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establish the facts and circumstances and determine, as appropriate, the individual responsibility of the person or persons concerned in respect of the facts and circumstances of the case.

2. At any time during the investigation, the appointing authority may decide to amend the scope of the mandate, in particular in order to cover additional facts or additional breaches if evidence indicating such additional breaches is discovered in the course of the investigation.

Article 16***Notification of the opening of an administrative investigation***

1. The investigative unit shall notify the person concerned without undue delay that an administrative investigation has been opened in relation to them, provided that such notification does not hinder the administrative investigation.
2. The investigative unit shall not notify the business area of the person concerned that an administrative investigation has been opened, except in cases where there is an exceptional need to do so. Such decision shall be based on the specific circumstances of the case and the right to data protection of persons whose personal data would be affected.

Article 17***Conduct of the administrative investigation***

1. Administrative investigations shall be conducted within the scope of the mandate issued in accordance with Article 15 and in line with the principles applicable to the organisation and conduct of investigative processes as laid down in this Annex.
2. Investigative measures shall be directed at establishing the facts and circumstances of the case, including those that may reduce the individual responsibility of the persons concerned or relieve them from responsibility.
3. Where the investigative unit is made aware of facts or evidence of an unrelated or different potential breach, the investigative unit shall inform the Director Internal Audit, who shall decide on the appropriate course of action.
4. While an administrative investigation is ongoing, the person concerned shall not have access to the file. The rights of the person concerned as a data subject in accordance with Regulation (EU) 2018/1725 remain unaffected.

Article 18***Exhaustive list of powers of investigation***

1. The powers of investigation available to the investigative unit shall be limited to the following:
 - (a) the power to collect and process (i) statements from staff members, the person concerned and any other person who may have information relevant to the administrative investigation; (ii) evidence stored

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electronically by the ECB (e.g. files or electronic communication); (iii) evidence contained in hard copy files; (iv) evidence obtained during on-the-spot searches of ECB premises, offices and vehicles;

(b) the power to request expertise from relevant business areas or internal or external experts.

2. The means of investigation set out in paragraph 1, point (a)(ii) to (iv), may only be used if there are no alternative and less intrusive means available to investigate the case.

3. Information held for purely private purposes is excluded from the means of investigation referred to in paragraph 1. This is without prejudice to the collection and processing of traffic data.

Article 19

Procedure for collecting statements referred to in Article 18(1), point (a)(i)

1. The investigative unit may collect statements from staff members, including the person concerned and any other person who may have information relevant to the administrative investigation, either by calling them to an interview or requesting them to submit written statements.
2. Interviews may also be conducted by videoconference, telephone or any equivalent media.
3. Staff members or any other person called to an interview may be accompanied or assisted by one person of their choice, except for the person concerned, who may be accompanied by up to two persons of their choice.
4. Before a person is interviewed or requested to submit written statements, the investigative unit shall inform them of their rights and obligations regarding the ongoing investigative process as well as the topic of the investigation to the extent this would not hinder the investigation or lead to a breach of confidentiality.
5. Where the interview of a witness produces evidence that he or she may be a person concerned, the interview shall be terminated. The witness shall be given a copy of the signed or personally confirmed records of the statements that he or she has already made in the course of the investigation.
6. The interview shall be recorded in a document which shall be signed or personally confirmed by appropriate means by the staff member, including the person concerned or any other person who was interviewed once the interview has ended. Documents submitted by the staff member during the interview shall be attached to it. The interview may be recorded and the recording may be transcribed by the investigative unit.
7. Staff members, including the person concerned or any other person called to an interview, shall receive a copy of the signed or personally confirmed records of their statements.

Article 20

Procedure to collect and process evidence referred to in Article 18(1), point (a)(ii), (iii) and (iv)

1. The investigative unit may use the means of investigation necessary to collect and process the evidence referred to in Article 18(1), point (a)(ii), (iii) and (iv), on the basis of a reasoned decision by the Director Internal Audit. The reasoned decision shall specify (a) the categories of data sought, (b) whether it is

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envisaged that sensitive personal data is to be included in the data sought, and (c) what safeguards are in place to protect the fundamental rights and freedoms of affected natural persons. The reasoned decision shall justify the necessity and proportionality of the means of investigation. It shall outline the balance between the need to carry out an effective investigation and the protection of the fundamental rights and freedoms of affected natural persons, including their right to privacy and data protection.

2. Where the investigative unit requests evidence referred to in Article 18(1), point (a)(ii), (iii) and (iv), it shall involve the Data Protection Officer (DPO). In particular, the following shall apply:
 - (a) prior to the investigative unit accessing any personal data pursuant to a decision under paragraph 1, the DPO shall be consulted on such decision;
 - (b) at the DPO's request, the DPO shall be provided with access to any information containing underlying factual and legal elements including the reasoned decision;
 - (c) the investigative unit shall document how the DPO was involved, including relevant information that was shared, in particular the date of its first consultation;
 - (d) the DPO may request the Director Internal Audit to review the reasoned decision indicating specific issues of concern from the data protection perspective;
 - (e) where the DPO requests such a review, the investigative unit shall inform the DPO in writing of the outcome of the review requested without undue delay and in any case before any request to collect and process evidence referred to in Article 18(1), point (a)(ii), (iii) and (iv), is made.
3. The business area responsible for the evidence shall assist the investigative unit in searching for, collecting and transferring the evidence, and may entrust a member of staff with the task of performing the searches and securing evidence without undue delay.
4. The investigative unit may request that the evidence is secured before it has taken a reasoned decision in urgent cases where there is a reasonable risk that the evidence may be destroyed or tampered with. In such case, the secured evidence shall only be made available to the investigative unit after the conclusion of the process described in paragraphs 1 and 2.

Article 21

Right to provide comments on the facts established in the administrative investigation

1. Once the administrative investigation has been completed and before written conclusions referring by name to a person concerned are drawn up, the person concerned shall be given the opportunity to comment on the facts concerning him or her.
2. The investigative unit shall invite the person concerned to submit his or her comments in writing. The invitation shall indicate the deadline for submitting comments, which shall not be less than 10 calendar days from receipt of the invitation, unless otherwise agreed with the person concerned.
3. The conclusions of the administrative investigation shall be drawn on the basis of the information gathered and any comments of the person concerned. If no such comments are submitted by the

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deadline, the conclusions shall, unless exceptional circumstances exist, be drawn on the basis of the information gathered.

*Article 22**Administrative investigation report*

1. At the end of the administrative investigation, the investigative unit shall draw up a report.
2. The report shall set out the procedural steps followed during the administrative investigation, the facts and circumstances relevant to the case, the comments made by the person concerned pursuant to Article 21 and, if appropriate, individual responsibilities. Its conclusions shall mention the potential breaches of the obligations incumbent on the person concerned in relation to the facts and circumstances established by the investigation.
3. The report shall be accompanied by copies of all documents and statements relevant to the case.
4. The investigative unit shall transmit the report to the appointing authority including proposals on the appropriate follow-up.

*Article 23**Closure of the case by the appointing authority without further action*

1. On the basis of the administrative investigation report provided for in Article 22, the appointing authority shall decide whether to close the case without further action. If no case can be made against the person concerned, the investigative process in question shall be closed, without further action.
2. Where the appointing authority decides to close the case without further action, it shall inform the person concerned of its decision in writing. At the request of the person concerned, this decision may be inserted in his or her personal file.
3. At the request of the person concerned, and subject to the protection of the legitimate interests of third parties, the appointing authority shall forward to him or her all the documents directly linked to the allegations concerning him or her.
4. The closure of the case shall not prevent the investigation from being reopened on the basis of new facts supported by relevant evidence.
5. The appointing authority may consult an external expert on its decision on whether to close the case without further action. If the person concerned works at salary bands K or L, the appointing authority shall consult an external expert on its decision. The appointing authority shall give due consideration to the external advice received but shall not be bound by it.

CHAPTER VI**Hearing and decision on appropriate follow-up***Article 24**Mandate to conduct the hearing of the person concerned*

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Where, on the basis of the established facts and circumstances of the case, the appointing authority determines that there is evidence of a potential breach requiring a further follow-up to the case, the appointing authority shall issue the investigative unit with a mandate to conduct the hearing of the person concerned. The mandate shall refer to the established facts and circumstances of the case and the potential breaches of the obligations incumbent on the person concerned in relation to the facts and circumstances established including their legal classification in the light of the potential breach, as well as any aggravating and/or extenuating circumstances, in order to enable the appointing authority to decide on the appropriate follow-up to the case.

*Article 25**Notification of the person concerned*

1. The investigative unit shall notify the person concerned of the mandate issued in accordance with Article 24 and invite him or her to a hearing.
2. The notification referred to in paragraph 1 shall contain all information relating to the potential breach, including, except when this affects the legitimate interests of third parties, the following: the report establishing the facts and circumstances of the case and the potential breach, such as the administrative investigation report provided for in Article 22 or the investigation report by OLAF, the EPPO or the national law enforcement authorities as the case may be; any applicable provisions; the proposed legal classification and any aggravating and/or extenuating circumstances; and any accompanying documents and statements relevant to the case that are necessary for the exercise of the right of defence.

*Article 26**Hearing*

1. The date of the hearing set in the invitation to the hearing shall be not less than 10 calendar days from the date on which the invitation to the hearing is received by the person concerned, unless otherwise agreed with the person concerned.
2. The hearing shall take place in the physical presence of the person concerned, unless it is agreed with the person concerned that it may be conducted by videoconference and/or telephone or other equivalent media.
3. The person concerned may choose to be accompanied or assisted by up to two persons of his or her choice at the hearing.
4. The investigative unit shall inform the person concerned before the hearing of his or her rights and obligations in respect of the ongoing proceedings and of their potential follow-up.
5. If, for objective reasons, the person concerned cannot be heard in person, the investigative unit shall give him or her the opportunity to be represented by a person of his or her choice, or comment on the documents referred to in Article 25(2) and to reply to the investigative unit's questions in writing, by a fixed deadline of not less than 10 calendar days.

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6. The investigative unit shall draw up a hearing report. It shall be signed or personally confirmed by appropriate means, either by the person concerned and/or by the person accompanying, assisting or representing him or her, once the hearing has ended. The hearing may also be recorded and the recording may be transcribed by the investigative unit.

7. The investigative unit shall provide the person concerned with a copy of the signed or personally confirmed hearing report as well as a copy of any document presented to him or her during the hearing.

8. Where the person concerned fails to appear at the hearing or to submit written comments and/or replies by the deadline referred to in paragraph 5, the appointing authority may decide to proceed with the case without conducting a hearing.

*Article 27**Additional verifications*

1. Where certain facts relating to the allegations against the person concerned require further verification, the investigative unit shall communicate the results of the verification to the person concerned for comments before the appointing authority decides on the appropriate follow-up in accordance with Article 29.

2. Where the investigative unit has heard other persons, in particular at the request of the person concerned, the investigative unit shall, subject to the legitimate interests of third parties, provide the statements made to the person concerned for comments when the facts mentioned are directly linked to the allegations made against the person concerned.

*Article 28**Final reasoned report*

1. At the end of the investigative process, the investigative unit shall draw up a final reasoned report, which shall include the established facts and circumstances relevant to the case and the potential breaches of the obligations incumbent on the person concerned in relation to the facts and circumstances established including their legal classification as well as any aggravating and/or extenuating circumstances.

2. The investigative unit shall transmit the final reasoned report, together with the hearing report referred to in Article 26(6) and copies of all documents and statements relevant to the case, to the appointing authority for decision in accordance with Article 29 and may include proposals on the appropriate follow-up.

*Article 29**Decision on appropriate follow-up*

1. On the basis of the final reasoned report referred to in Article 28 including all relevant documents, the appointing authority shall without undue delay take one of the following decisions:

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- (a) that no case can be made against the person concerned, in which case the person concerned shall be informed accordingly in writing; or
 - (b) that, even if there is or appears to have been a breach, no disciplinary proceedings shall be initiated and no disciplinary measure shall be taken and, if appropriate, request the Director General Human Resources to address a reminder of the rules to the person concerned; or
 - (c) that, if there is or appears to have been a breach, a disciplinary procedure shall be initiated without the involvement of a disciplinary committee in accordance with Article 8.3 of the Staff Rules; or
 - (d) that, if there is or appears to have been a breach, a disciplinary procedure shall be initiated with the involvement of a disciplinary committee in accordance with Article 8.3 of the Staff Rules.
2. The appointing authority shall communicate its decision in writing without undue delay to the competent disciplinary authority set out in Article 8.3 of the Staff Rules.
3. The appointing authority shall inform the person concerned in writing of its decision under this Article without undue delay and shall provide the person concerned with a copy of the final reasoned report including all relevant documents, subject to the protection of the legitimate interests of third parties.
4. Where the appointing authority decides that no case can be made against the person concerned pursuant to paragraph 1, point (a), he or she may request that a copy of the decision is inserted in his or her personal file.
5. The investigation or prosecution of the person concerned at national level in a Member State shall not prevent the appointing authority from opening parallel disciplinary proceedings relating to the same facts.
6. The appointing authority may consult an external expert before taking a decision under this Article. In complex cases or where the person concerned works at salary bands K or L, the appointing authority shall consult an external expert before taking its decision. The appointing authority shall give due consideration to the external advice but shall not be bound by it.

CHAPTER VII

Specific provisions concerning the rights of aggrieved persons and protective measures

Article 30

Preliminary assessment and follow-up

1. Before the appointing authority decides to close a case without further action (non-case), it shall provide the aggrieved person with a summary of the considerations taken into account in deciding to close the case, including a summary of any statements made by the person concerned. In doing so, the appointing authority shall respect the legitimate interests of third parties. The aggrieved person may submit their comments in reply within a period of not less than five calendar days, as determined by the appointing authority, of receipt of the summary of the considerations provided by the appointing authority.
2. The appointing authority shall notify the aggrieved person of its decision pursuant to Article 14(1) of this Annex.

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3. The investigative unit shall upon request inform the aggrieved person concerned of the stage of the investigative process in relation to the allegation brought forward by the aggrieved person.

*Article 31**Administrative investigation and follow-up*

1. Before the appointing authority adopts any decision referred to under paragraph 2, points (a), (b) and (c), it shall provide the aggrieved person with a summary of the considerations taken into account, including a summary of the statements made by the person concerned and the witnesses heard in so far as they are directly relevant to the decision. In doing so, the appointing authority shall respect the legitimate interests of third parties. The aggrieved person may submit their comments in reply within a period of not less than 10 calendar days, as determined by the appointing authority, of receipt of the summary of the considerations provided by the appointing authority.

2. The investigative unit shall inform the aggrieved person without undue delay in the following cases:

- (a) the administrative investigation has been finalised, and the appointing authority decided to close the case without further action because the investigation established that there was no evidence of harassment or of another inappropriate behaviour within the meaning of Articles 0.4bis.1(k) of the Staff Rules;
- (b) on the basis of the final reasoned report referred to in Article 28, the appointing authority decided that no case can be made against the person concerned;
- (c) on the basis of the final reasoned report referred to in Article 28, the appointing authority decided that no disciplinary measure shall be taken and requested the Director General Human Resources to address a reminder of the rules to the person concerned;
- (d) on the basis of the final reasoned report referred to in Article 28, the appointing authority decided to initiate disciplinary proceedings.

3. The appointing authority shall take a reasoned decision in the cases referred to under paragraph 2, points (a), (c) and (d).

*Article 32**Accompanying and protective measures*

If at any stage of the investigative process the investigative unit identifies a risk of retaliation against a whistleblower and/or a witness, it shall inform the Chief Compliance and Governance Officer in accordance with Article 0.4bis.7.8.

*Article 33**Complaints*

In a possible situation of harassment or of another inappropriate behaviour within the meaning of Article 0.4bis.1(k) of the Staff Rules, aggrieved persons who reported information for investigation through the

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available reporting channel may lodge a special appeal to the Executive Board against the final decisions referred to under Article 30(1) or in the cases referred to under Article 31(2), points (a), (b) and (c), within two months from the date on which they were informed, in accordance with Article 30(2) or Article 31(2), of the decision taken by the appointing authority.

CHAPTER VIII**Suggestions for possible improvements and reporting***Article 34**Suggestions for possible improvements to ECB Heads of Business Areas*

If possible issues concerning processes within an ECB business area are identified during the course of an investigative process, the Director Internal Audit may submit suggestions for possible improvements related to processes to the relevant ECB Head of Business Area. Such suggestions may be based on steps and findings in an investigation, which may be communicated in an anonymised format to the Head of Business Area concerned.

*Article 35**Reporting on investigative and disciplinary processes*

1. The Investigation Committee shall keep an anonymised record of any decisions taken in accordance with this Annex and keep the Executive Board informed by means of an annual report.
2. The Director Internal Audit shall publish an annual report on investigative and disciplinary processes on the ECB's intranet. This report shall be in anonymised form and shall keep staff members informed about the number of cases, the process involved and the outcomes.