

EUROPEAN CENTRAL BANK

AMENDMENT TO THE ETHICS FRAMEWORK OF THE ECB

(This text replaces Part 0 of the ECB Staff Rules as regard the ethics framework of the text published in the Official Journal C 204 of 20 June 2015, p. 3)

(2020/C 375/02)

Part III. Part 0 of the ECB Staff Rules as regards the ethics framework is replaced by the following:

III. PART 0 OF THE ECB STAFF RULES AS REGARDS THE ETHICS FRAMEWORK

0.1. General provisions and principles

- 0.1.1. The privileges and immunities enjoyed by members of staff under the Protocol on the Privileges and Immunities of the European Union are accorded solely in the interests of the ECB. These privileges and immunities shall in no way exempt members of staff from fulfilling their private obligations or from complying with the applicable laws and police regulations. Whenever privileges and immunities are in dispute, the members of staff concerned shall immediately inform the Executive Board.
- 0.1.2. In principle, members of staff who are seconded to the ECB or on leave from another organisation or institution in order to work for the ECB on the basis of an ECB employment contract shall be integrated into the staff of the ECB, shall have the same obligations and rights as other staff, and shall perform their professional duties solely for the ECB's benefit.

0.2. Independence

- 0.2.1. *Conflicts of interest*
- 0.2.1.1. Members of staff shall avoid conflicts of interest when performing their professional duties.
- 0.2.1.2. A 'conflict of interest' means a situation where members of staff have personal interests that may influence or appear to influence the impartial and objective performance of their professional duties. 'Personal interests' means any benefit or potential benefit, of a financial or non-financial nature, for members of staff, their family members, their other relatives or their circle of friends and close acquaintances.
- 0.2.1.3. Members of staff who become aware of a conflict of interest when performing their professional duties shall immediately inform their line manager thereof. The line manager may initiate any appropriate measures to avoid such conflict of interest after having sought the advice of the Compliance and Governance Office. If the conflict cannot be solved or mitigated by other appropriate measures, the line manager may relieve staff from responsibility for the relevant matter. If the conflict of interest is related to a procurement process, the line manager shall inform the Central Procurement Office or the Procurement Committee, as applicable, which shall then decide on the measures to be taken.
- 0.2.1.4. Prior to a candidate's appointment, the appointing authority, as defined in point (a) of Article 1a.1.1, shall in accordance with the rules on selection and appointment assess whether there may be a conflict of interest resulting from the candidate's previous occupational activities or their close personal relationship to members of staff, members of the Executive Board or members of other internal bodies of the ECB. The appointing authority shall seek the advice of the Compliance and Governance Office if they identify a conflict of interest.

0.2.2. *Gifts and hospitality*

0.2.2.1. Members of staff may neither solicit nor accept for themselves or any other person any advantage connected in any way with their employment with the ECB.

0.2.2.2. An 'advantage' is any gift, hospitality or other benefit of a financial or non-financial nature which objectively improves the financial, legal or personal situation of the recipient or any other person and to which the recipient is not entitled by law. Minor hospitality offered during a work-related meeting shall not be considered as an advantage. An 'advantage' is considered connected with a recipient's employment with the ECB if it is offered on the basis of the recipient's position with the ECB, rather than on a personal basis.

0.2.2.3. As an exception to Article 0.2.2.1, and provided they are not frequent and not from the same source, the following may be accepted:

- (a) hospitality offered by the private sector with a value of up to EUR 50 if it is offered in the context of a work-related occasion. This exception shall not apply to hospitality offered by current or potential suppliers or by credit institutions in the context of on-site inspections or audits undertaken by the ECB, in which cases no hospitality may be accepted;
- (b) advantages offered by other central banks, national public bodies or European and international organisations which do not go beyond what is customary and considered appropriate;
- (c) advantages offered in specific circumstances in which their rejection would have caused an offence or put the professional relationship at serious risk.

0.2.2.4. Members of staff shall register with the Compliance and Governance Office without undue delay

- (a) any advantage accepted in accordance with Article 0.2.2.3(c);
- (b) any advantage whose value cannot be clearly established to be under the thresholds provided for in Article 0.2.2.3;
- (c) any offer of third parties of advantages the acceptance of which is prohibited.

Members of staff shall hand over to the ECB any gifts accepted in accordance with Article 0.2.2.3(c). Such gifts shall become the ECB's property.

0.2.2.5. The acceptance of an advantage shall not, in any event, impair or influence the objectivity and freedom of action of staff.

0.2.3. *Procurement*

Members of staff shall ensure the proper conduct of procurement procedures by maintaining objectivity, neutrality and fairness, and ensuring the transparency of their actions. Members of staff shall in particular comply with all general and specific rules related to avoiding and reporting conflicts of interest, the acceptance of advantages and professional secrecy.

Members of staff shall only communicate with suppliers participating in a procurement procedure through official channels and shall communicate with them in writing, wherever possible.

0.2.4. *Awards, honours and decorations*

Members of staff shall obtain authorisation from the Compliance and Governance Office before accepting awards, honours or decorations in connection with their work for the ECB.

0.2.5. *Prohibition of payment from third parties for the performance of professional duties*

Members of staff shall not accept for themselves any payments from third parties in respect of the performance of their professional duties. If payments are offered from third parties, they shall be made to the ECB.

Activities that relate to ECB tasks or the member of staff's responsibilities are presumed to be part of the overall professional duties of the member of staff. In case of doubt, the responsible line manager shall assess and decide whether an activity is to be considered a professional duty.

0.2.6. *External activities*

0.2.6.1. Members of staff shall obtain written authorisation before engaging in an external activity that is of an occupational nature or goes otherwise beyond what can be reasonably considered a leisure activity.

The Director-General Human Resources or their Deputy, after consulting the Compliance and Governance Office and the relevant line managers, shall grant such authorisation if the external activity does not in any way impair the performance of the member of staff's professional duties towards the ECB and does not constitute a likely source of conflict of interest.

Such authorisation shall be granted for a maximum of five years at a time.

0.2.6.2. As an exception to Article 0.2.6.1, no authorisation shall be required for external activities that are:

- (i) unremunerated; and
- (ii) in the domain of culture, science, education, sport, charity, religion, social or other benevolent work; and
- (iii) not related to the ECB or the member of staff's professional duties at the ECB.

0.2.6.3. Without prejudice to Articles 0.2.6.1 and 0.2.6.2 above, members of staff may engage in political and trade union activities, but in doing so shall not make use of their position at the ECB and shall explicitly state that their personal views do not necessarily reflect those of the ECB.

0.2.6.4. Members of staff who intend to stand for or who are elected or appointed to public office shall notify the Director General Human Resources or their Deputy, who shall decide, after consulting the Compliance and Governance Office, having regard to the interest of the service, the importance of the office, the duties it entails and the remuneration and reimbursement of expenses incurred in carrying out the duties of the office, whether the member of staff concerned:

- (a) should be required to apply for unpaid leave on personal grounds;
- (b) should be required to apply for annual leave;
- (c) may be authorised to discharge their professional duties on a part-time basis;
- (d) may continue to discharge their professional duties as before.

If a member of staff is required to take unpaid leave on personal grounds or is authorised to discharge their professional duties on a part-time basis, the period of such unpaid leave or part-time work arrangement shall correspond to the member of staff's term of office.

0.2.6.5. Members of staff shall perform external activities outside working hours. On an exceptional basis, the Director-General Human Resources or their Deputy may authorise derogations from this rule.

0.2.6.6. The Director-General Human Resources or their Deputy may, at any time and after consulting the Compliance and Governance Office and hearing the member of staff, where possible, require the member of staff to terminate external activities that may in any way impair the performance of the member of staff's professional duties towards the ECB or constitute a likely source of conflict of interest, even if previously authorised. If so required, members of staff shall be granted a reasonable period of time to terminate the external activities, unless an immediate cessation of such activities is necessary in the interest of the service.

0.2.7. *Gainful occupation of a spouse or recognised partner*

Members of staff shall inform the Compliance and Governance Office of any gainful occupational activity of their spouse or recognised partner that may lead to a conflict of interest. Should the nature of the occupational activity lead to a conflict of interest with the professional duties of the member of staff, the Compliance and Governance Office shall first inform and advise the responsible line manager with regard to the appropriate measures to be initiated to mitigate the conflict of interest, including, if necessary, relieving of the member of staff from responsibility for the relevant matter.

0.2.8. *Post-employment restrictions*

Negotiating prospective occupational activities

0.2.8.1. Members of staff shall behave with integrity and discretion in any negotiations concerning prospective occupational activities. They shall inform the Compliance and Governance Office if the nature of the occupational activity may lead to a conflict of interest with the professional duties of the member of staff. If there is a conflict of interest, the Compliance and Governance Office shall inform and advise the responsible line manager with regard to the appropriate measures to be initiated to mitigate the conflict of interest, including, if necessary, relieving of the member of staff from responsibility for the relevant matter.

Notification obligations

0.2.8.2. Members of staff and former members of staff shall notify the Compliance and Governance Office before accepting any occupational activity during the following notification periods:

- (a) members of staff at salary band I or above and involved in supervisory activities: two years from the date on which their involvement in supervisory activities ceased;
- (b) members of staff at salary bands F/G to H and involved in supervisory activities: six months from the date on which their involvement in supervisory activities ceased;
- (c) other members of staff at salary band I or above: one year from the date on which they were effectively relieved of their professional duties.

Cooling-off periods

0.2.8.3. The following members of staff shall be subject to cooling-off periods:

- (a) members of staff who were during their employment with the ECB involved in supervisory activities for at least six months may only start working for:
 - (1) a credit institution in the supervision of which they were directly involved after the expiry of:
 - (i) one year if they are at salary band I or above (which may in exceptional circumstances be increased to up to two years in accordance with Article 0.2.8.7);

- (ii) six months if they are at salary band F/G to H

from the date on which their direct involvement in the supervision of the credit institution ceased;
- (2) a direct competitor of such a credit institution after the expiry of:
 - (i) six months if they are at salary band I or above;
 - (ii) three months if they are at salary band F/G to H

from the date on which their direct involvement in the supervision of the credit institution ceased;
- (b) members of staff at salary band I or above who worked in the Directorate-General Economics, the Directorate-General Research, the Directorate-General Macro-Prudential Policy and Financial Stability, the Directorate-General Market Operations, the Directorate Risk Management, the Directorate-General International and European Relations, the ECB Representation in Washington, the Directorate-General Secretariat (with the exception of DIV/IMS), the Counsel to the Executive Board, the Directorate-General Legal Services, the Directorates General Micro-Prudential Supervision I to IV or the Secretariat to the Supervisory Board for at least six months may only start working for a financial corporation established in the Union after the expiry of three months from the date on which their work in these business areas ceased;
- (c) members of staff at salary band K or above who worked in any other ECB business area for at least six months may only start working for a financial corporation established in the Union after the expiry of three months from the date on which their work in these business areas ceased;
- (d) members of staff at salary band I or above who were during their employment with the ECB engaged in payment systems oversight for at least six months may only start working for an entity in the oversight of which they were directly involved after the expiry of six months from the date on which their direct involvement in the oversight of the entity ceased;
- (e) members of staff at salary band I or above who were during their employment with the ECB directly involved in the selection of a supplier or the management of a contract with a supplier may only start working for such a supplier after the expiry of:
 - (1) six months if the total value of the contract(s) with this supplier is more than EUR 200 000 but less than EUR 1 million;
 - (2) one year if the total value of the contract(s) with this supplier is EUR 1 million or more

from the day on which their involvement ceased;
- (f) members of staff at salary band I or above may after their employment with the ECB only engage in lobbying and advocacy vis-à-vis the ECB on matters for which they were responsible during their employment with the ECB after the expiry of six months from the date on which their responsibilities for these matters ceased;
- (g) members of staff at salary band I or above who were during their employment with the ECB directly involved in a legal dispute or seriously conflictive relationship with another entity may only start working for such an entity or for any other party acting on behalf of that entity after the expiry of six months from the date on which their direct involvement ceased.

- 0.2.8.4. If the envisaged occupational activity falls under two different cooling-off periods, the longer one shall apply.
- 0.2.8.5. For members of staff whose employment with the ECB does not exceed four years the duration of the notification obligations and cooling-off periods set out in Articles 0.2.8.2 and 0.2.8.3 shall not exceed half of the duration of their employment with the ECB.
- 0.2.8.6. Upon the request of a member of staff, the Executive Board may exceptionally waive or reduce the cooling-off periods laid down in Article 0.2.8.3, if there are particular circumstances that exclude conflicts of interest resulting from the subsequent occupational activity. The member of staff shall submit a reasoned request including supporting evidence to the Compliance and Governance Office for decision by the Executive Board within a reasonable period.
- 0.2.8.7. If the cooling-off period set out in Article 0.2.8.3(a)(1)(i) applies, the Executive Board may in exceptional circumstances and upon a proposal from the Compliance and Governance Office decide to increase that cooling-off period up to a maximum of two years where conflicts of interest persist.

0.3. Professional Standards

0.3.1. *Professional secrecy*

Members of staff shall comply with the ECB's rules on management and confidentiality of documents, in particular seek authorisation to make disclosure of information within and outside the ECB, where necessary.

0.3.2. *Relations with external parties*

0.3.2.1. Members of staff shall be mindful of the ECB's independence, reputation and the need to maintain professional secrecy. In the performance of their professional duties, members of staff shall neither seek nor take instructions from any government, authority, organisation or person outside the ECB. Members of staff shall inform their line manager of any attempt by a third party to influence the ECB in the performance of its tasks.

When expressing views on issues on which the ECB has not established a position, members of staff shall explicitly state that their personal views do not necessarily reflect those of the ECB.

0.3.2.2. Members of staff shall maintain a high level of accessibility in their contacts with other European institutions, bodies, agencies and international organisations and be responsive and make themselves available for timely reactions.

Members of staff shall conduct their relations with their colleagues in the national central banks of the European System of Central Banks (ESCB) and the national competent authorities which participate in the single supervisory mechanism (SSM) in a spirit of close mutual cooperation, bearing in mind their obligations towards the ECB and the impartial role of the ECB within the ESCB.

0.3.2.3. Members of staff shall maintain caution in their relations with interest groups and the media. Members of staff shall refer all requests for information by the general public or the media to the Directorate-General Communications and Language Services (DG/C) in accordance with the provisions laid down in the Business Practice Handbook. Members of staff shall refer all requests by the general public or the media for access to ECB documents to the Directorate-General Secretariat in accordance with the provisions laid down in the Business Practice Handbook.

0.3.2.4. Members of staff who intend to speak at external conferences or seminars or consider contributing to external publications shall seek prior authorisation in accordance with the Business Practice Handbook and comply with the relevant provisions.

0.3.2.5. Articles 0.3.2.3 and 0.3.2.4 shall not apply to staff representatives with regards to matters falling within their mandate. Staff representatives may inform DG/C about any media contacts, speeches or external publications in good time. Their duty of loyalty and professional secrecy obligations shall remain fully applicable in all cases.

0.3.3. *In-house relations*

0.3.3.1. Members of staff shall comply with their managers' instructions and with applicable reporting lines. If members of staff consider that an instruction given to them is irregular, they shall inform their line manager of their concerns, or, if they consider that the line manager has not sufficiently addressed their concerns, their Director-General, Director or their Deputy. If the instruction is confirmed by the Director-General, Director or their Deputy in writing, members of staff shall execute such instruction unless it is manifestly illegal.

0.3.3.2. Members of staff shall not require other staff to perform private tasks for them or for others.

0.3.3.3. Members of staff shall behave loyally towards their colleagues. In particular, members of staff shall neither withhold from other members of staff information that may affect the conduct of business, particularly to gain a personal advantage, nor provide false, inaccurate or exaggerated information. Moreover, they shall not obstruct or refuse to cooperate with colleagues.

0.3.4. *Respect of the principle of separation between supervisory and monetary policy functions*

Members of staff shall respect the principle of separation between supervisory and monetary policy functions as specified in the rules implementing this principle.

0.4. **Private financial transactions**

0.4.1. *General principles*

0.4.1.1. Members of staff shall employ utmost caution and care when making private financial transactions for their own account or for the account of a third party to safeguard the reputation and credibility of the ECB as well as public confidence in the integrity and impartiality of its staff. Their private financial transactions shall be non-speculative, restrained and in reasonable proportion to their income and wealth in order not to put their financial independence at risk.

0.4.1.2. The Compliance and Governance Office may issue binding guidelines for the interpretation and application of this Article. Subject to the approval by the Executive Board, the Compliance and Governance Office may in particular specify further private financial transactions which shall be prohibited or subject to prior authorisation under Articles 0.4.2.2 and 0.4.2.3 if such transactions are or may be perceived to be in conflict with the ECB's operations. The Compliance and Governance Office shall publish such guidelines by appropriate means.

- 0.4.1.3. Members of staff shall be prohibited from using or attempting to use information which pertains to the activities of the ECB, national central banks, national competent authorities or the European Systemic Risk Board, and which has not been made public or is not accessible to the public (hereinafter 'inside information'), to further their own or another's private interests.

Members of staff are specifically prohibited from taking advantage of inside information in any private financial transaction or in recommending or advising against such transactions.

- 0.4.1.4. In case of doubt as regards the interpretation of this Article, members of staff shall seek the advice of the Compliance and Governance Office before engaging in a private financial transaction.

0.4.2. *Categories of private financial transactions*

Without prejudice to the general obligations laid down in Articles 0.4.1 and 0.4.3, members of staff shall comply with the rules applicable to the following categories:

- (a) exempt private financial transactions;
- (b) prohibited private financial transactions;
- (c) private financial transactions subject to prior authorisation;
- (d) private financial transactions subject to ex-post reporting.

0.4.2.1. *Exempt private financial transactions*

Without prejudice to the general obligations laid down in Articles 0.4.1 and 0.4.3, members of staff may make the following private financial transactions without being subject to any restrictions or notification obligations:

- (a) purchase or sale of units in a collective investment scheme in respect of which the member of staff has no influence on the investment policy, except schemes whose main purpose is to invest in assets falling under Articles 0.4.2.2(b) and 0.4.2.3(b) and (c), as well as funds transfers and foreign exchange transactions directly connected with such purchase or sale;
- (b) purchase or redemption of insurance policies or annuities;
- (c) purchase or sale of foreign exchange for the occasional acquisition of non-financial investments or assets, for private travel purposes, or to cover current or future personal expenses in a currency other than that in which the salary of the member of staff is paid;
- (d) expenditures, including purchase or sale of non-financial investments or assets including real estate;
- (e) arrangement of mortgages;
- (f) transfer of funds from a member of staff's current or savings account held in any currency to another current or savings account owned by them or a third party;
- (g) other private financial transactions which are neither prohibited nor subject to prior authorisation and the value of which does not exceed EUR 10 000 within any given calendar month. Members of staff shall not split up private financial transactions in order to circumvent this threshold.

0.4.2.2. *Prohibited private financial transactions*

Members of staff shall not make any of the following private financial transactions:

- (a) transactions relating to or with either a private legal entity or individuals with whom the member of staff has an on-going professional relationship on behalf of the ECB;

- (b) transactions concerning (i) individual marketable bonds and shares issued by financial corporations (except central banks) established or having a branch in the Union; (ii) derivative instruments related to such bonds and shares; (iii) combined instruments if one of the components falls under (i) or (ii); and (iv) units in collective investment schemes whose main purpose is to invest in such bonds, shares or instruments.

0.4.2.3. Private financial transactions subject to prior authorisation

Members of staff shall request the authorisation of the Compliance and Governance Office before making the following financial transactions:

- (a) short-term trading, i.e. the sale or purchase of assets with the same International Securities Identification Number (ISIN) which have been purchased or sold within the previous month. No authorisation is required if the subsequent sale is made in execution of a stop-loss order which the member of staff has given to their broker;
- (b) transactions exceeding EUR 10 000 within any given calendar month in (i) government securities issued by euro area Member States; (ii) derivative instruments related to such government securities; (iii) combined instruments if one of the components falls under (i) or (ii); and (iv) units in collective investment schemes whose main purpose is to invest in such securities or instruments;
- (c) transactions exceeding EUR 10 000 within any given calendar month in (i) gold and gold-related derivative instruments (including gold-indexed securities); (ii) shares, bonds or related derivative instruments issued by companies whose principal business is mining or producing gold; (iii) combined instruments if one of the components falls under (i) or (ii); and (iv) units in collective investment schemes whose main purpose is to invest in such securities and instruments;
- (d) foreign exchange transactions other than those listed in Article 0.4.2.1(c) and exceeding EUR 10 000 within any given calendar month.

0.4.2.4. Private financial transactions subject to *ex-post* reporting

Members of staff shall report to the Compliance and Governance Office any private financial transaction exceeding EUR 10 000 within any given calendar month which does not fall under one of the previous three categories within 30 calendar days after its execution. The Compliance and Governance Office shall define the information to be reported, the reporting format and the procedure.

The obligation to report shall apply in particular to:

- (a) loans other than mortgages (including switching from a fixed to a floating arrangement, or vice-versa, or extending an existing loan). Members of staff shall indicate whether the loan is used for the acquisition of financial instruments;
- (b) interest rate-related derivatives and derivatives based on indices;
- (c) purchases or sales of shares of corporations other than the ones set out in Article 0.4.2.2(b) and bonds issued by such corporations.

0.4.2.5. Existing assets resulting from prohibited transactions

Members of staff may keep assets resulting from transactions within the meaning of Article 0.4.2.2:

- (a) which they hold at the moment when they become subject to the restrictions laid down in Article 0.4;
- (b) which they acquire at a later point in time without action by them, in particular by way of inheritance, gift, change in their family status, or as a result of a change in the capital structure or a change of control of the entity in which the member of staff holds the assets or rights;
- (c) which they acquired at a time when the transaction was not yet prohibited.

Members of staff may dispose of or exercise any rights attached to those assets subject to prior authorisation by the Compliance and Governance Office.

Members of staff shall seek the Compliance and Governance Office's advice if keeping these assets may create a conflict of interest. In such a case, the Compliance and Governance Office may request the member of staff to dispose of such assets within a reasonable period of time, if such disposal is necessary to avoid a conflict of interests.

0.4.2.6. Request for authorisation

Any request for authorisation in accordance with Article 0.4.2.3 or 0.4.2.5 shall be submitted to the Compliance and Governance Office at least five working days prior to the envisaged order date in the format specified by the Compliance and Governance Office. The Compliance and Governance Office shall decide on the request within five working days considering in particular and where relevant: (a) the professional duties of the member of staff and their access to relevant inside information; (b) the speculative/non-speculative nature of the transaction; (c) the amounts involved, if indicated; (d) the reputational risk for the ECB; (e) the timing, in particular the proximity to a meeting of the ECB's decision-making bodies. The Compliance and Governance Office may make an authorisation subject to certain conditions. If the Compliance and Governance Office does not react to a request for authorisation within five working days, the transaction shall be deemed to be authorised.

0.4.2.7. Discretionary asset management by a third party

Financial transactions shall be exempted from the restrictions laid down in Articles 0.4.2.2 to 0.4.2.6 to the extent that they are made by a third party to whose discretion the member of staff has entrusted the management of their private financial transactions under a written asset management agreement. This exemption is subject to the authorisation by the Compliance and Governance Office. The authorisation shall be granted if evidence is provided that the terms and conditions ensure that the member of staff cannot directly or indirectly influence any management decision to be taken by the third party. The member of staff shall inform the Compliance and Governance Office about any change to the terms and conditions of the asset management agreement.

0.4.3. *Compliance monitoring*

0.4.3.1. Members of staff shall provide the Compliance and Governance Office with a current list of:

- (a) their bank accounts, including shared accounts, custody accounts, credit card accounts and accounts with stockbrokers; and
- (b) any powers of attorney which third parties have conferred on them in connection with their bank accounts, including custody accounts. Members of staff may only hold and use powers of attorney for third party bank accounts where they are allowed to make available to the ECB the relevant records in line with Article 0.4.3.2.

Members of staff shall keep this list up-to-date.

- 0.4.3.2. In view of their reporting obligations under Article 0.4.3, members of staff shall keep records for the previous and current calendar years of all of the following:
- (a) account statements for all accounts listed in Article 0.4.3.1;
 - (b) any sale or purchase of financial assets or rights made by members of staff or third parties at the risk and for the account of members of staff or made by members of staff at the risk and for the account of third parties;
 - (c) the conclusion or the amendment of mortgages or other loans at their own risk and for their own account, or by them at the risk and for the account of others;
 - (d) their dealings in relation to retirement plans, including the ECB's Pension Scheme and Retirement Plan;
 - (e) any powers of attorney which third parties have conferred on them in connection with their bank accounts, including custody accounts;
 - (f) the terms and conditions of any written asset management agreement as defined in Article 0.4.2.7 and of amendments to such agreement.

- 0.4.3.3. Subject to the approval of the Executive Board, the Compliance and Governance Office may request an external service provider to carry out:
- (a) regular compliance checks covering a certain percentage of members of staff as determined by the Compliance and Governance Office; and
 - (b) ad hoc compliance checks focusing either on a specific group of members of staff or on specific types of transactions.

For the purpose of such compliance checks, the Compliance and Governance Office may request the members of staff concerned to provide, for a period of time to be specified, the records listed in Article 0.4.3.2 in a sealed envelope for onward transmission to the external service provider. Members of staff shall provide such records within the time limit set by the Compliance and Governance Office.

- 0.4.3.4. Without prejudice to Article 0.4.3.5, the external service provider shall treat all information and documentation received in strictest confidence and shall use it only for the purpose of carrying out compliance checks.

- 0.4.3.5. If the external service provider identifies evidence giving rise to a suspicion of a breach of professional duties by a member of staff or a breach of contractual duties by an external person working for the ECB and subject to the restrictions laid down in Article 0.4 by way of their contract, they shall report such a potential breach together with the supporting documentation to the Compliance and Governance Office. The Compliance and Governance Office shall assess the potential breach and, if the suspicion is substantiated, report it to the competent body or business area(s) for further investigations, if necessary, or disciplinary follow-up. The report of the external service provider, including the supporting documentation submitted in accordance with the rules above, may be part of any subsequent internal and/or external proceedings.

- 0.4.3.6. The obligations of members of staff under Article 0.4.3 shall continue to apply until the end of the calendar year following the year in which their employment ended. The prohibition to use inside information laid down in Article 0.4.1.3 shall continue to apply as long as the information has not been made public.

0.4bis Whistleblowing tool and whistleblower protection**0.4bis.1. Definitions**

For the purpose of this Article, the following definitions apply:

- (a) 'breach' means any illegal activity, including fraud or corruption, affecting the Union's financial interests, or any conduct relating to the discharge of professional duties, by any person involved in the ECB's activities, which constitutes a failure to comply with rules and regulations applicable to them;
- (b) 'identity' means any information that identifies or makes identifiable a natural person or that may result in direct or indirect identification of a natural person, in particular by reference to identifiers referred to in point (1) of Article 3 of Regulation (EU) 2018/1725 of the European Parliament and of the Council (*);
- (c) 'information on breaches' means information, including reasonable suspicions, about possible breaches or about attempts to conceal such breaches;
- (d) 'person involved in the ECB's activities', means a member of staff, a short-term contract employee, a graduate programme participant, a trainee, or one of the high-level ECB officials;
- (e) 'high-level ECB officials', means the officials referred to in Articles 1.1, 1.2 and 1.4 of the Code of conduct for high-level European Central Bank Officials (**);
- (f) 'whistleblower' means a person involved in the ECB's activities who reports information on breaches, through any of the reporting channels provided for in Article 0.4bis.2, in Article 0.5, in Decision (EU) 2016/456 of the European Central Bank (ECB/2016/3) (***) , or in Administrative Circular 01/2006 on internal administrative inquiries;
- (g) 'witness' means a person involved in the ECB's activities, other than the whistleblower, who is required to cooperate in the context of an internal assessment of a possible breach, including by giving testimony pursuant to Administrative Circular 01/2006;
- (h) 'person concerned' means a person involved in the ECB's activities who is referred to in the report as a person to whom the breach is attributed or with whom that person is associated;
- (i) 'retaliation' means any direct or indirect act or omission which occurs in a work-related context, is prompted by the reporting of information on breaches through any of the reporting channels provided for in Article 0.4bis.2, in Article 0.5, in Decision (EU) 2016/456 (ECB/2016/3), or in Administrative Circular 01/2006, or is prompted by any witness statement in relation to such reporting, and which causes or may cause unjustified detriment to the whistleblower or the witness. This should be understood as including threats of retaliation and attempts of retaliation;
- (j) 'competent authority' means the authority designated to assess reports of information on breaches made through the reporting channel provided for in Article 0.4bis.2 and give feedback to the whistleblower, and/or designated to follow up on such reports.

0.4bis.2. Whistleblowing tool

0.4bis.2.1. Without prejudice to the provisions on the reporting of possible illegal activities in Decision (EU) 2016/456 (ECB/2016/3), of possible breaches related to dignity at work in Article 0.5 and of possible breaches of professional duties in Administrative Circular 01/2006, members of staff may report information on breaches through the internal reporting platform set up for this purpose by the ECB ('the whistleblowing tool').

0.4bis.2.2. Members of staff may use the whistleblowing tool as an alternative reporting channel to discharge their obligation to report under Decision (EU) 2016/456 (ECB/2016/3) or to report under Administrative Circular 01/2006.

0.4bis.3. Assessment of and follow-up on information on breaches reported through the whistleblowing tool

0.4bis.3.1. For reports of information on breaches received through the whistleblowing tool, the competent authority shall be:

- (a) the Director Internal Audit, except for reports falling under (b) or (c);
- (b) the President, where the person concerned, or any of the persons concerned, is the Director Internal Audit;

- (c) the competent authority designated by the Governing Council, where the person concerned, or any of the persons concerned, is one of the high-level ECB officials.

0.4bis.3.2. Reports of information on breaches received through the whistleblowing tool that fall within the scope of Decision (EU) 2016/456 (ECB/2016/3) shall be followed up in accordance with that Decision.

0.4bis.3.3. Reports of information on breaches received through the whistleblowing tool that do not fall within the scope of Decision (EU) 2016/456 (ECB/2016/3) shall be followed up in accordance with Administrative Circular 01/2006.

Notwithstanding the first paragraph, the procedure for assessment and follow-up on information on breaches reported through the whistleblowing tool where the person concerned, or any of the persons concerned, is one of the high-level ECB officials is set out in a specific decision of the Governing Council.

0.4bis.4. *Whistleblower protection*

0.4bis.4.1. The ECB shall protect whistleblowers by protecting their identity and protecting them against retaliation.

0.4bis.4.2. Whistleblowers shall qualify for protection under this Article provided that they are considered pursuant to Article 0.4bis.7.4 to have had reasonable grounds to believe, in light of the circumstances and the information available to them at the time of their reporting, that the information on breaches reported by them was true and related to a possible breach.

In application of the first paragraph, whistleblowers shall in particular:

- (a) not benefit from any protection when the information on breaches reported consists of:
 - (i) any of the following which have been deliberately or knowingly reported: false or misleading information, information that is at the time of the reporting available in the public domain, unsubstantiated rumours or hearsay; or
 - (ii) disagreement(s) with legitimate managerial or administrative decisions;
- (b) not lose protection where the information on breaches reported is inaccurate by honest mistake.

0.4bis.5. *Protection of identity*

0.4bis.5.1. The identity of whistleblowers and witnesses shall be protected in compliance with the principles laid down in Part 2 of the Business Rulebook.

Without prejudice to Article 7(5) of Administrative Circular 01/2006, the identity of whistleblowers who have identified themselves shall only be disclosed:

- (a) on a need-to-know basis, but not to the person concerned or any of the persons concerned; or
- (b) if the whistleblower has explicitly consented to the disclosure; or
- (c) in the circumstances described in Article 6(10) of Administrative Circular 01/2006, as well as where necessary for the application of the rights of defence.

0.4bis.5.2. Whistleblowers may report anonymously through the whistleblowing tool. In this case, their identity shall not be disclosed unless and until they choose to identify themselves.

0.4bis.6. *Protection against retaliation*

0.4bis.6.1. Retaliation against whistleblowers and witnesses constitutes a breach of professional duties and shall be subject to appropriate measures including, if necessary, disciplinary measures.

0.4bis.7. *Procedure for requesting protection against retaliation*

0.4bis.7.1. Whistleblowers and witnesses may submit a request for protection from retaliation to the Chief Compliance and Governance Officer together with any relevant documents or information supporting their request. The request shall be submitted within 24 months from the time of the occurrence of the act or omission alleged to be retaliation.

0.4bis.7.2. Such request shall not shield the requester from accountability for their own involvement, where applicable, in the breach that was reported by them or in respect of which they are a witness.

0.4bis.7.3. The Chief Compliance and Governance Officer shall handle such requests in strict confidence and the identity of the requester shall be protected in accordance with 0.4bis.5.1, including when the requester is a witness.

0.4bis.7.4. Upon receipt of the request for protection from retaliation, the Chief Compliance and Governance Officer shall, without undue delay:

- (a) acknowledge receipt, and
- (b) check whether the request for protection fulfils the following conditions:
 - (i) the requester is a whistleblower qualifying for protection under the conditions specified in Article 0.4bis.4.2, or a witness; and
 - (ii) the alleged detrimental act or omission has occurred; and
 - (iii) the alleged detrimental act or omission may have been prompted by the whistleblowing or by any witness statement in relation to the whistleblowing.

0.4bis.7.5. If the Chief Compliance and Governance Officer concludes that:

- (a) the request for protection does not fulfil the conditions specified in Article 0.4bis.7.4 (b), they shall inform the requester in writing accordingly;
- (b) the request for protection fulfils the conditions specified in Article 0.4bis.7.4 (b), they
 - (i) may recommend interim protective measures in accordance with Article 0.4bis.8;
 - (ii) shall perform an assessment as to whether there is a need for protection, including, if necessary, by forwarding the matter to the competent body or business area(s) with responsibility for investigations that should then carry out the investigations in accordance with applicable rules and submit the outcome of the investigations to the Chief Compliance and Governance Officer. In this context, the ECB shall bear the burden of proof for establishing that the reported act or omission did not constitute retaliation;
 - (iii) shall notify the requester in writing accordingly.

0.4bis.7.6. If the Chief Compliance and Governance Officer, after having performed the assessment referred to in Article 0.4bis.7.5(b)(ii), concludes that:

- (a) there is no need for protection, they shall inform the requester in writing accordingly;
- (b) there is a need for protection, they may recommend the following measures as a follow-up:
 - (i) after consulting the requester and in accordance with Article 0.4bis.8, measures correcting detriment suffered as a result of the retaliation ('corrective measures') and measures protecting the requester from any further retaliation ('protective measures'); and
 - (ii) as the case may be, any appropriate measures against the retaliator including, if necessary, disciplinary measures.

0.4bis.7.7. Where the Chief Compliance and Governance Officer is of the opinion that there is a conflict of interest in reviewing a request for protection against retaliation, they shall refer the matter to the Chief Services Officer to designate who shall follow up on such request in accordance with the above procedure.

0.4bis.8. *Interim protective measures and corrective measures*

0.4bis.8.1. The Chief Compliance and Governance Officer may recommend measures that are necessary and appropriate to protect the whistleblower and the witnesses against retaliation including interim protective measures and corrective measures, subject to such measures being in line with the ECB legal framework.

0.4bis.8.2. At any point in time, the Chief Compliance and Governance Officer may recommend, with the consent of the whistleblower or witness, a monitoring of his or her workplace situation by the Directorate-General Human Resources.

0.4bis.8.3. The Chief Compliance and Governance Officer may request addressees of their recommendations to report back on their implementation of the recommendations. If the Chief Compliance and Governance Officer is not satisfied with the follow-up given to their recommendations, they may inform the President accordingly.

0.4bis.9. *Reporting on whistleblowing*

The ECB may report on whistleblowing in abridged or aggregated form, such that individual persons cannot be identified.

0.5. **Dignity at work**

0.5.1. Members of staff shall respect the dignity of their colleagues and refrain from any inappropriate behaviour that demeans others. They shall show sensitivity to and respect for others.

0.5.2. *Definitions*

For the purpose of the ethics framework, the following definitions shall apply:

1. 'Dignity at work' means the absence of inappropriate behaviour. Inappropriate behaviour means any form of direct or indirect discrimination, physical violence, psychological harassment (also referred to as bullying or mobbing) and sexual harassment.
2. 'Direct discrimination' shall be taken to occur where one person, because of their nationality, gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation, is, has been or would be treated less favourably than another person in a comparable situation.
3. 'Indirect discrimination' shall be taken to occur where an apparently neutral provision, criterion or practice would put a person at a particular disadvantage on the grounds of nationality, gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation compared to another person, unless the provision, criterion or practice is objectively justified.
4. 'Physical violence' means the intentional use of physical force or the threat of physical force against another person that results in physical, sexual or psychological harm.
5. 'Psychological harassment' means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other intentional acts that may undermine the personality, dignity or physical or psychological integrity of any person.
6. 'Sexual harassment' means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment.

The inappropriateness of the behaviour shall be assessed objectively from the perspective of a reasonable third party.

0.5.3. Procedures

0.5.3.1. Members of staff that consider themselves to have been the target of inappropriate behaviour may have recourse to both an informal procedure and a formal procedure. Members of staff initiating any such procedure shall not suffer any negative consequences therefor unless in the context of the procedure they are found to have made deliberately false or malicious complaints.

0.5.3.2. Informal procedure

Under the informal procedure, the member of staff concerned may:

- (a) approach the alleged wrongdoer directly;
- (b) involve a trusted person of their choice including a staff representative;
- (c) involve their line manager for immediate management action; or
- (d) involve the Social Counsellor.

0.5.3.3. Formal procedure

If the member of staff concerned considers that the informal procedure is not appropriate or if the informal procedure has not been successful, the member of staff concerned may request the Director-General Human Resources or their Deputy to take appropriate (interim) measures. The Director-General or their Deputy shall treat such requests rapidly, seriously and confidentially. If necessary, the Director-General or their Deputy may report the matter to the competent body to decide whether to initiate an internal administrative inquiry.

0.5.3.4. Managers who become aware of inappropriate behaviour which cannot be addressed properly by immediate management action shall report such behaviour without undue delay to the Director-General Human Resources or their Deputy who shall decide on the follow-up in line with Article 0.5.3.

0.5.3.5. Other members of staff who become aware of inappropriate behaviour may report such behaviour to their line manager or, if need be, directly to the Director-General Human Resources or their Deputy. The rules on the protection of staff reporting breaches of professional duties shall apply accordingly.

0.6. Use of ECB resources

Members of staff shall respect and protect ECB property. All equipment and facilities, whatever their nature, are provided by the ECB for official use only, unless private use is permitted either according to the relevant internal rules in the Business Practice Handbook or under special authorisation by the Director-General Human Resources or their Deputy. Members of staff shall take all reasonable and appropriate measures to limit costs, so that the available resources can be used most efficiently.

0.7. Implementation

0.7.1. Without prejudice to Article 0.4.2, the Compliance and Governance Office, together with the Director-General Human Resources or their Deputy, may issue guidelines on the interpretation and application of the ethics framework.

- 0.7.2. Members of staff may request the Compliance and Governance Office, or the Director-General Human Resources or their Deputy in cases where they are competent to decide, to provide guidance on any matter related to their compliance with the ethics framework. Staff conduct that fully complies with the advice given by the Compliance and Governance Office or the Directorate-General Human Resources shall be presumed to comply with the ethics framework and shall not give rise to any disciplinary procedure. Such advice shall not, however, release staff from any liabilities under national law.

(*) 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).

(**) Code of Conduct for high-level European Central Bank Officials (2019/C 89/03) (OJ C 89, 8.3.2019, p. 2).

(***) Decision (EU) 2016/456 of the European Central Bank of 4 March 2016 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 affecting the financial interests of the Union (ECB/2016/3) (OJ L 79, 30.3.2016, p. 34).'
