

Nr.	Item	Breach of Union Law Complaints and Investigations
1	Name of the Controller	ESMA Executive Director bul@esma.europa.eu
1.1	Address of the Controller	ESMA, 201-203 Rue de Bercy, 75012 Paris, France
1.2	ESMA Parts Entrusted with Processing	ESMA/Legal and Enforcement Department
1.3	Processors (If any)	Not applicable
2	Name and contact details of DPO	ESMA DPO dpo@esma.europa.eu
3	Name and contact details of joint controller (where applicable)	Not applicable
4	Name and contact details of processor (where applicable)	Not applicable
5	Purpose of the processing	Personal data is processed for the purposes of assessing whether a breach of Union law (BUL) investigation under Article 17 of Regulation 1095/2010 as amended by Regulation (EU) 2019/2175 of the European Parliament and of the Council of 18 December 2019 (ESMA Regulation) should be opened against a national competent authority (NCA) for failing to comply with its obligations under one of the EU Acts referred to in Article 1(2) of ESMA Regulation, on the basis of the requirements and tasks laid down in the ESMA Regulation and in accordance with ESMA's rules of procedure on Breach of Union Law investigations (ESMA/2012/BS/87rev) and, where relevant, also to issue a recommendation addressed to the concerned NCA.
6	Description of categories of persons whose data ESMA processes and list of data categories	<p>We process the following data on every complainant that sends an e-mail to BUL@esma.europa.eu or on every complainant that sends an e-mail to any other ESMA e-mail address, in lights of its content, this is considered to be a complaint addressed to ESMA against a NCA or a financial market participant and forwarded to BUL@esma.europa.eu:</p> <ul style="list-style-type: none"> <input type="checkbox"/> name and contact details (name, address, e-mail address, etc.) of the complainants; <input type="checkbox"/> where applicable, the name and contact details of their representative; <input type="checkbox"/> the full text of the complaint may contain other personal data of a very diverse nature. <p>Incidentally, we also process personal data from other data subjects if mentioned in the complaint and deemed relevant for the assessment of the admissibility and the merits of the complaint. This data can also be of very diverse nature.</p>
7	Time limit for keeping the data	<p>When a person sends a complaint to ESMA, the information he/she gives to ESMA, including his/her personal data, is stored in the BUL database for:</p> <ul style="list-style-type: none"> <input type="checkbox"/> 10 years after closure of the case for admissible complaints; <input type="checkbox"/> 5 years after closure of the case for inadmissible complaints. <p>After that period, the information enabling the person to be identified is kept in a form which no longer permits identification of the data subject or deleted, if the information is no longer needed.</p> <p>Nevertheless, if at the end of this period of five years, there are on-going administrative or judicial proceedings, the conservation period is extended for a period which ends one year after these administrative or judicial proceedings have become final.</p>
8	Recipients of the data	<p>Inside ESMA, the information is accessible, strictly on a need-to-know basis, to the following persons:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Case handlers of BUL complaints (Enforcement Team staff) <input type="checkbox"/> Policy officers <input type="checkbox"/> Head of Legal and Enforcement Department <input type="checkbox"/> Head of the Policy Department concerned <input type="checkbox"/> Chair <input type="checkbox"/> Vice-Chair <input type="checkbox"/> Executive Director <input type="checkbox"/> Members of the Board of Supervisors <p>Personal data may be transmitted to the concerned NCA. However, the identity of the complainant would not be disclosed to the NCA unless the complainant has given express consent to it. In addition, personal data which is not relevant or necessary for the assessment of the case will not be shared.</p> <p>The information collected through the BUL e-mail account is not accessible to anyone else outside ESMA. ESMA may discuss the particular of a BUL case with the European Commission. However, in such case, the discussions will take place on an anonymous basis.</p>
9	Are there any transfers of personal data to third countries or international organisations? If so, to which ones and with which safeguards?	<p>ESMA may need to share certain information with the national competent authority (NCA) under investigation. In accordance with Article 17 of ESMA's rules of procedure on BUL investigations (ESMA/2012/BS/87rev), where the complaint involves an EEA national competent authority (Iceland, Liechtenstein and Norway), ESMA may also need to share the information with the EFTA Surveillance Authority.</p> <p>Transfer to other third countries / international organisations is not envisaged. Nevertheless, should the need for such transfers of data arise, all transfers will be assessed on a case-by-case basis. In particular, data will be transferred only when it is necessary for the legitimate performance of tasks covered by the competence of the recipient. Furthermore, all transfer of data will be subject to the requirement of Regulation (EU) 2018/1725 and with the 2019 IOSCO-ESMA Administrative Arrangement for the transfer of personal data between EEA and non EEA Authorities available at https://www.esma.europa.eu/about-esma/data-protection#title-paragrah-9.</p>
10	General description of security measures, where possible.	<p>ESMA keeps an electronic central register on breach of Union law complaints received each year. Only ESMA staff members working in the Enforcement Team of the Legal Department have access to such register and to the folders where the relevant documentation is located.</p> <p>All information (including personal data) processed as part of a BUL investigation/complaint handling would be processed in application of ESMA's "Data Classification Policy" (ESMA/2014/INT/134). According to this policy, data is classified as 'ESMA Restricted', which means the data is protected by statutes, regulations, laws, ESMA's policies or contract language, which: a) must be protected against loss, theft, unauthorised access and / or disclosure; b) Must be stored in a closed container whenever it is not being used; c) cannot be published on ESMA's website; and d) must be destroyed whenever it is not needed anymore.</p> <p>In order to protect personal data, a number of technical and organisational measures have been put in place. ESMA's IT infrastructure is protected by physical and logical security measures: physical access to the servers is controlled, network firewalls protect the logic perimeter of the ESMA IT infrastructure; and the main computer systems holding the data are security hardened. Administrative measures include the obligation for ESMA staff and service providers maintaining the equipment and systems to have signed non-disclosure and confidentiality agreements.</p>

11	For more information, including how to exercise your rights to access, rectification, object and data portability (where applicable), see the privacy statement:	<p>You may exercise your rights by contacting the relevant Data Controller (see contact details above). When you send an email to the BUL e-mail account (bul@esma.europa.eu), you will receive an automatic acknowledgement of receipt that includes a link to ESMA's general privacy statement and a link to this record. Your rights are the following:</p> <ul style="list-style-type: none"><input type="checkbox"/> You are entitled to access your information relating to your personal data processed by ESMA, verify its accuracy and, if necessary, correct it in case the data is inaccurate or incomplete.<input type="checkbox"/> You have the right to request the erasure of your personal data, if your personal data is no longer needed for the purpose of the processing, if you withdraw your consent or if the processing operation is unlawful.<input type="checkbox"/> You can ask the Data Controller to restrict the personal data processing, under certain circumstances, such as if you contest the accuracy of the processed personal data or if you are not sure if your personal data is lawfully processed.<input type="checkbox"/> You may also object, on compelling legitimate grounds, to the processing of your personal data.<input type="checkbox"/> Additionally, you may have the right to data portability which allows you to make a request to obtain the personal data that the Data Controller holds on you and to transfer it from one Data Controller to another, where technically possible. <p>In some cases your rights might be restricted in accordance with Article 25 of the Regulation (EU) 2018/1725. In each case, ESMA will assess whether the restriction is appropriate. The restriction should be necessary and provided by law, and will continue only for as long as the reason for the restriction continues to exist.</p> <p>If you have additional questions or concerns you can also contact: DPO@esma.europa.eu You have the right to lodge a complaint with the European Data Protection Supervisor (edps@edps.europa.eu) if you consider that your rights under the Regulation (EU) 2018/1725 have been infringed as a result of the processing of your personal data by ESMA.</p> <p>For further information, please see www.esma.europa.eu/data-protection.</p>
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