

EBA DC 271

26 April 2019

Decision of the Executive Director of the EBA on the Ethics Guidelines for EBA Staff

The Executive Director

Having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC¹ (hereinafter referred to 'the EBA' and 'the EBA founding Regulation'), in particular Article 68 thereof.

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (CEOS), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 last amended by Council Regulation (EC, EURATOM) No 1558/2007 of 17 December 2007, last amended, and in particular Article 16 thereof.

Having regard to the Commission Decision C(2018) 4048 final of 29.06.2018 on outside activities and assignments and on occupational activities after leaving the service, that the EBA has adopted by analogy.

WHEREAS

- (1) EBA is committed to maintaining high ethical standards of professional conduct by all those involved in the activities of the EBA; and to protecting its interests and reputation, as well as protecting its staff from malicious allegations.
- (2) When performing its tasks, EBA's staff manage private and confidential information and data. To ensure an adequate handling of such data in compliance with applicable legislation, staff should ensure that such information or data is not left unattended thus giving access to anyone who is not their recipient ('clean desk' approach).
- (3) While EBA's working language is English, other languages are also used, in an informal way, for work purposes. This must not lead to the exclusion of staff. Therefore, a section has been included on the use of languages in a working environment.
- (4) Holding of financial instruments and crypto currencies may lead to conflicts of interests. In light of new emerging products, the Ethics Guidelines need further clarifications regarding the applicable measures to manage conflicts of interest, e.g. sale of shares of institutions which fall under EBA's scope of action or the transfer of such shares to investment managers that have the sole discretion for their management.

1. OJ L331, 15.12.2010, p. 12.

- (5) To reduce the administrative burden, the requirement that staff notifies their accounts which can be used for dealings in financial instruments has been removed.
- (6) Template forms used for the notification or declaration of activities foreseen in these Guidelines have been removed from the Annex. This is to avoid to have to amend the Guidelines every time that those forms require any adjustment. Staff will however have easy access to them and will be informed as soon as any changes are introduced.
- (7) The Staff Committee of the EBA has been consulted on the changes introduced in this revamped version of the Guidelines.

Has decided as follows:

Article 1

- 1.1. The document 'Ethics Guidelines for EBA Staff' annexed to this Decision is hereby adopted.
- 1.2. The Executive Director's Decision on the revised Ethics Guidelines for Staff EBA DC 171 rev1 of 24 October 2016 is hereby repealed.

Article 2

This Decision enters into force on the day after that of its adoption

Done at London, 26 April 2019

[signed]

Adam Farkas

Executive Director

Annex 1

ETHICS GUIDELINES FOR EBA STAFF

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1. INTRODUCTION

Maintaining high ethical standards is a priority for the EBA. They support the legitimacy of the EBA's statutory role and protect its interests and reputation; furthermore, they lend credibility to the EBA's work and can protect the organisation and its staff from any malicious allegations.

The observance of appropriate behavioral standards underpins the performance of the EBA's role and responsibility. In this regard, these Ethics Guidelines ('the Guidelines') ensure the integrity, transparency and independence of the EBA and its staff.

Ethical behaviour flourishes in an environment where leadership is provided by example and there is a spirit of encouragement and support amongst staff to meet the highest ethical standards. In most cases, ethical issues are best handled with a mixture of common sense and open communication. The existence of a conflict of interest is not in itself a breach of ethics rules; it may only become so if not handled appropriately.

It is very important that staff are well acquainted with the Guidelines; it is their responsibility to adhere to them when carrying out their tasks and activities. Many of the rules contained in these Guidelines implement the provisions of the Staff Regulations. It is important to remember that any breach of the obligations set out in the Staff Regulations as well as in EBA Decisions implementing the Staff Regulations can be subject to disciplinary action. Staff may also be held personally financially liable for their actions in some instances.

The Guidelines do not intend to create new rules for staff in addition to those in the Staff Regulations and relevant Decisions, but to clarify those provisions, as well as to assist staff in better understanding those rules. These Guidelines thus highlight some aspects of the Staff Regulations and relevant Decisions, setting out some general principles, providing references to the Staff Regulations and some practical advice.

The Guidelines are based on ethics principles and guidelines implemented by the Commission, but amended to take account of EBA's status and its specific responsibilities as set out in Regulation (EU) No. 1093/2010 (the EBA founding Regulation). They take into account accepted practices in the application and interpretation of the Staff Regulations and other texts, as well as the relevant case-law.

The Guidelines apply to all staff, regardless of grade or category.

For the purposes of these Guidelines the expressions 'staff', 'staff member(s)' or 'EBA staff' are intended as comprising temporary agents, contract agents and seconded national experts (SNEs). In case of conflict with the rules applicable in the competent authorities of origin of SNEs, these Guidelines shall prevail. Interim employees, trainees and consultants also fall under the categories of 'staff', 'staff member(s)' or 'EBA staff', where applicable.²

² In the case of interim employees, trainees and consultants, certain aspects of these Guidelines may not be applicable, depending on the nature of their contract with the EBA. In particular the rules governing spouse's gainful employment and outside activities and assignments are not applicable.

There are frequent references in the text to the "Appointing Authority" (hereinafter, the AA). The Executive Director is the AA for these purposes. Where the Executive Director delegates the exercise of some of the powers conferred to the AA, the AA is to be interpreted as per the terms of that delegation. It is not incumbent upon these Guidelines to clarify the terms of such delegations, if they exist.

Staff should use the relevant forms to notify, declare or request authorisation pursuant to these Guidelines. Such forms can be created in MS Word using the relevant template. They are kept up to date, and staff is advised to create always a new form rather than use past forms.

Alongside these Guidelines, a *Decision on the EBA's Policy on Independence and Decision Making Processes for avoiding Conflicts of Interest for Staff and other Contractual Parties* (the Conflict of Interest Policy) and the Anti-Fraud Strategy was adopted in 2014. The definition of interest and of conflict of interests and their handling is governed by the provisions therein contained.³ Staff should refer to this Decision and observe the obligations set out therein, e.g. the obligation to submit an annual declaration of interests.

While it is incumbent upon staff to become familiar with the Guidelines, the EBA also organises annual training on ethics, conflicts of interest and anti-fraud. Staff should attend this training at least once every two years.

For any questions or clarifications concerning these Guidelines and/or the Conflict of Interest Policy, staff should refer to the Ethics Officer. Line managers and HR should also be consulted where necessary.

³ Decision of the Executive Director on the EBA's Policy on Independence and Decision Making Processes for avoiding Conflicts of Interest (Conflict of Interest Policy) for Staff and other Contractual Parties (EBA DC 104 of 10 October 2014).

2. STATEMENT OF PRINCIPLES OF PROFESSIONAL ETHICS

Staff serve the public interest of the European Union (EU). Incumbent with this duty is the obligation to adhere to the principles of the European Civil Service as reflected in the Staff Regulations, the EBA's Code of Good Administrative Behaviour⁴, and in the principles for the EU civil service drawn up by the European Ombudsman.⁵

These principles are:

- Commitment to the EU and its citizens.
- Integrity.
- Objectivity.
- Respect for others; and
- Transparency.

Staff should become familiar with these principles and make them an integral part of their tasks and duties.

2.1 Independence and loyalty

Staff conduct and participation in any decision-making process should be determined by the need to serve the EU public interest, and never by any other interests whether private or otherwise or as a result of pressure of any sort or source.

Any staff members who find themselves subject to pressure from political groups, a national government, a competent authority or other organisation or individual, should report immediately to their line manager, who shall take the necessary measures. Staff members must also declare other conflicts of interest that may arise in line with the Conflict of Interest (CoI) policy.

2.2 Competence, responsibility, objectivity and impartiality

Staff serve the public interest of the EU with competence and responsibility, in accordance with the highest professional standards. They should aim at achieving the EBA's objectives effectively and efficiently.

Staff should give honest and impartial advice and act at all times in an independent and objective manner. Conclusions or decisions should be balanced and based on a thorough analysis of the facts

⁴ Decision of the Management Board on the EBA Code of Good Administrative Behaviour (EBA DC 006 of 12 January 2011).

⁵ These can be consulted on the European Ombudsman's public website:
<http://www.ombudsman.europa.eu/en/resources/publicserviceprinciples.faces>

and the legal background. They must ensure that any conflict of interest which arises between their individual, private interests and the public interest of the EU is handled properly, safeguarding public assets and information.

2.3 General Conduct

Staff should communicate and behave in a way which does not reflect negatively on the EBA.

Staff should in all contexts consider the possible consequences and implications of their potential action; they should conduct themselves at all times with a due sense of proportion and propriety, always bearing in mind the image and the reputation of the EBA.

This means that staff should behave with:

- **Circumspection**, i.e. stopping and reflecting on the possible consequences and implications of potential actions, showing a proper degree of moderation and conducting oneself at all times with a due sense of proportion;
- **A sense of responsibility**, i.e. carrying out those tasks entrusted to them as dutifully as possible and looking for solutions, when difficulties are encountered. They should know and respect the legal obligations and administrative rules and procedures in force; and
- **Transparency and accountability**, i.e. bearing in mind that they must act in a transparent manner and be ready to justify the reasons for particular actions and the context in which they have been taken. Staff should be willing to explain their activities and to give reasons for their actions. They should keep proper records and welcome public scrutiny of their conduct, including their compliance with ethical principles contained in these Guidelines.

Staff should adhere to the following *golden rules of staff conduct*:⁶

- Serve exclusively the **public interest**, by acting with integrity and being objective and impartial in their work.
- Be **loyal to the EBA**.
- Provide citizens and others with the **quality service** they would expect themselves.
- Remember that they are the **human face of the EBA** and that others will judge the EBA on the basis of what they see and experience.
- Carry out the assigned tasks with **responsibility and to the best of their ability**.
- Treat colleagues with **respect** and avoid any form of harassment.⁷

⁶ See the Commission's Practical Guide to Staff Ethics and Conduct in the Commission's IntraComm.

⁷ See EU Agencies Network Joint declaration on harassment:
https://intranet.eba.europa.eu/humanresources/Shared%20Documents/EU_Agencies_anti-harassment-statement-2018-final.pdf#search=zero%20tolerance

- Make sure their **conduct is beyond reproach**, by not knowingly being a party to an activity that could bring the EBA into disrepute or could cause staff impartiality to be questioned.
- Ensure an awareness of the relevant **legal obligations, rules and procedures**.

In case of doubt about whether something staff do or are asked to do is ethical, staff should consult the relevant information and if in doubt, ask their line managers, the Ethics Officer or Human Resources (HR).

3. RELATIONS WITH THE PUBLIC

The relations of staff with the public shall be governed by the principles laid down in this section. Staff should apply them whatever their functions and grade and/or contractual relationship with the EBA.

3.1 Serving the citizen

Staff serve the public interest and EU citizens, and their relations with the public should be based on the following standards:

- **Lawfulness:** staff should act in accordance with the law and apply the rules and procedures laid down in EU legislation and implementing rules.
- **Non-discrimination and equal treatment:** staff should respect the principle of non-discrimination and, in particular, guarantee equal treatment for members of the public irrespective of nationality, gender, racial or ethnic origin, religion or beliefs, disability, age or sexual orientation.
- **Proportionality:** staff should ensure that the measures taken are proportional to the aims pursued.
- **Consistency:** staff should be consistent in their administrative behaviour and follow the EBA's normal practice. Any exceptions should be duly justified.
- **Objectivity and impartiality:** staff should always act objectively and impartially, in the EU interest and for the public good. They should act independently and their conduct should never be guided by personal or national interest or political pressure.

3.2 Be an "ambassador" for the EBA

Staff should act as ambassadors for the EBA and display appropriate behaviour in their professional contacts. They are encouraged to speak in public about their work and the role of the EBA. Presentations should be relevant to the audience, tailored to their needs and degree of knowledge and related, where possible, to their daily lives. Staff should find out if media representatives will be in the audience, so that they can take advice from the Communications team on handling any questions that may arise.

Staff should be aware that when they speak in public on a topic on their work in the EBA, it may not be clear whether they speak on behalf of the EBA or are expressing their personal views. They should therefore avoid creating confusion or uncertainty when making public statements. They should also avoid discussing any issue which is still at the preparation or discussion stage and on which the EBA has not adopted an official position. The duty of confidentiality and professional secrecy has to be respected at all times. When expressing their private views in public, staff should make it absolutely clear that they are expressing personal opinions that may not necessarily reflect the views of the EBA.

3.3 Be helpful but circumspect, if contacted by the media

Contacts with the media are the responsibility of the Communications team. As a general rule, the Communications team should be kept informed of any contacts with the media on the part of staff, whenever these take place, especially as regards matters still under discussion within the EBA.

If staff are asked to provide information concerning a subject that falls within their area of responsibility, they should contact the Communications team and agree the line to take. They should limit their remarks to explaining the facts and technicalities of an issue and should refrain from making political comments and giving personal opinions. It should be made clear at the beginning and end of a conversation with a journalist that any information given is on a background basis only and therefore not for quotation or attribution. Staff should promptly e-mail the Communications team and their line manager on the outcome of their discussions.

Staff are required to become familiar with the media and Public Relations guidelines for staff, as well as other guidance documents issued by the Communications team.⁸

3.4 Confidentiality

Staff are subject to strict professional secrecy obligations under Article 16 of the Staff Regulations and the EBA Regulation, even when their duties have ceased.

Amongst other things, staff are expected to:

- observe absolute confidentiality concerning EBA’s affairs, other than as required to perform their usual duties.
- keep information confidential, even if it is favourable and not adverse to a particular financial institution.
- take particular care in casual, social or other contact with journalists, financial institutions and individuals and other people operating in the financial markets; and
- seek guidance if uncertain as to whether confidential information can be disclosed.

EBA’s affairs include all aspects of EBA’s duties, activities, committees, stakeholder and working groups, whether or not related to particular financial institutions. If you are in doubt, please contact your line manager, the Legal Unit, the Ethics Officer or HR.

3.5 Transparency and right to information

Together with the duty of confidentiality and professional secrecy, the EBA is bound by the principle of transparency, which grants EU citizens the right to have access to documents held by the EBA.⁹

⁸ This can be consulted in the EBA intranet.

⁹ Article 15 of the Treaty on the Functioning of the European Union; Regulation No (EC) 1049/2001 regarding public access to European Parliament, Council and Commission documents; and Decision of the Management Board on Access to Documents (EBA DC 036 of 27 May 2011)

Whenever you receive a request for access to documents held by the EBA, you must redirect such request without delay to the Legal Unit, who will handle it. If it relates to your area of work, you may be required to support the Legal Unit in dealing with such requests.

3.6 Relations with interest groups (lobbies)

The EBA organises numerous meetings (in particular, hearings and public consultations) related to regulatory products. Interest groups are invited to these meetings and have a legitimate interest in getting their voice heard and influence as much as possible the final outcome.

The EBA is therefore a natural target for interest representation, whereas it also has an obligation to listen to all parties as well as citizens, civil society and representative associations.

Interest groups can provide valuable input for the development of those regulatory products, although staff should not forget that they can also represent a risk as the staff involved in those products may, even inadvertently, be exploited for the purposes of a specific interest group with possible detrimental effects to the general interest of the Union.

To ensure that the public interest that the EBA serves is not captured by interest groups as well as to preserve its independence and objectivity, staff must behave with circumspection and discretion in those meetings and in other professional or social contacts with such groups.

It is important that staff keep these potentially conflicting aspects in mind in order to preserve their professional and personal independence. It is recommended to check the credentials of any interest representative with whom they meet. Where meetings are considered appropriate, these should be held in a professionally correct manner, if possible on the EBA premises, and in the presence of another colleague, i.e. in a way which cannot give rise to any reputational issues. Staff should inform their hierarchy in advance and also afterwards about the outcome. A written record of such meetings should be ensured where these contain important information or may involve action by the EBA. Such reports should be circulated to their line managers and registered appropriately.

Staff should document their participation in events and in meetings with externals in the Public Meeting Register (PMR). The PMR is accessible on the intranet and published on the EBA public website (except for the date of entry and the name of the EBA staff). Guidance on how to register your meeting in the PMR is available in the intranet.

4. BEHAVIOUR AT WORK

Staff must refrain from exercising any forms of discrimination. Article 1d of the Staff Regulations requires that “*any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation be prohibited*”. Furthermore, any form of psychological or sexual harassment is also prohibited.¹⁰

Staff have the obligation to assist and tender advice to their superiors and are responsible for the performance of the duties assigned to them.¹¹

Furthermore, staff must follow instructions, unless they are manifestly illegal or constitute a breach of the relevant safety standards. If your superior instructs you to do something which you consider to be irregular or likely to give rise to serious difficulties, you should ask for the instruction to be confirmed in writing by your immediate superior, and then, if necessary, by his or her immediate superior. If the latter confirms the instructions in writing, you must carry them out, unless they are manifestly illegal or breach safety standards.¹²

Colleagues must be treated with respect and impartiality, regardless of their position. In a multi-cultural workplace, mutual respect and tolerance of differences are essential ingredients of any good working relationship. This involves:

- **Teamwork** – working together to achieve common goals;
- **Polite and clear communication** – engaging colleagues by showing respect and encouraging efficiency through clarity of instructions;
- **Conflict resolution** – finding workable solutions through discussions and better mutual understanding.

Staff should always display their access card or have it at hand to identify themselves while on the EBA premises. They should meet external visitors at Reception on floor 46 and accompany them throughout their stay on the EBA premises. Unless otherwise justified the external meeting rooms should be used for meetings with externals.

Staff should report any suspicious activity or packages to building or security staff and/or office management.

4.1 Handling of sensitive information

Staff are responsible for the security of information in their possession or under their responsibility and must comply with the rules on access to documents safeguarding the public interest.

¹⁰ Article 12a of the Staff Regulations

¹¹ Article 21 of the Staff Regulations

¹² Paragraph 2 of Article 21a of the Staff Regulations

In ensuring that information is securely managed and processed, staff have a responsibility to manage documents efficiently. Line managers have a particularly important role to play in ensuring good record management in the EBA. Documents should be appropriately registered in the systems in place to that effect, e.g. eDEN. Staff must observe the relevant policies in place and adhere to them and to the guidelines issued for an appropriate and adequate document management. In particular, the Classification Policy is of relevance when handling EBA information, and staff must abide by it.¹³

All staff should also observe a 'clean desk' approach when handling documents and information. This requires, amongst other things:

- To secure all restricted and confidential information (check the Classification Policy) whenever absent from the workspace, be it either during or at the end of the working day.
- Use cupboards/pedestals to store documents containing restricted or confidential information. This includes USB drives, external hard drives, etc. The cupboards should be locked when unattended or at the end of the working day, and the key stored in a safe place.
- PCs and laptops should be locked (logged out or shut down) when unattended, as well as at the end of the working day.
- If not using the printers' confidential printing option, all printed materials should be removed immediately after printing, with particular attention to those containing restricted or confidential information as well as personal data.

Staff should also limit distribution and copying of sensitive documents to essential copy recipients and avoid, if possible, taking paper copies of sensitive documents outside the EBA premises; staff could use their laptops or ipads for those purposes. They should use the allocated shredding bins to dispose of sensitive documents after use.

Staff must not discuss sensitive information in public places. Furthermore, they must not disclose any sensitive information obtained in their professional capacity at the EBA, except on a 'need to know' basis. Sensitive information, either internal (e.g. administrative data) or external (e.g. market sensitive data) to which staff has access must never be used for private gain. Staff should remember that information that may seem of little relevance to them may be of value to others. They should therefore treat sensitive information with discretion at all times.

In addition to a proper handling of information, staff should ensure proper and efficient use of the resources and public assets trusted to them so as to protect the financial interests of the EU. Computer equipment, e-mail and Internet access, telephones, mobile phones, photocopiers and fax machines have been installed for official use. However, staff may make occasional, limited use of these means of communication for private purposes, provided that they do not use them:

- for illegal or improper purposes.
- in any way that might disrupt the functioning of the service itself, or
- in any manner contrary to the interests and reputation of the EBA or the EU.

Staff should use only official software, protect their computer passwords, follow the specific security rules for each information system they use and put their PC in locked mode whenever they leave their desks. Staff should observe the relevant policies on the use of IT equipment.

¹³ EBA DC 197 of 1 September 2017 on Decision of the Executive Director on the EBA Information Classification Policy

Furthermore, they must observe the relevant data protection rules whenever they need to collect or process personal data (e.g. personal information relating to job applicants or members of working groups). If they need to process personal data, staff should immediately inform the Data Protection Officer (DPO).

4.2 Environmental impact

There are a number of simple steps that staff can take to limit the environmental impact of our work, e.g.:

- switch off the lights when leaving the office.
- refrain from printing documents that can be read online or print them recto-verso.
- use the appropriate waste bins for plastic, paper and cardboard, and other waste.
- turn off your PC/laptop, if any, and monitor when you leave the office.

In addition, staff is invited to use public transport to travel to work.

4.3 Psychological harassment and sexual harassment

Psychological harassment and sexual harassment are both banned under Article 12a of the Staff Regulations.

Paragraphs 3 and 4 of Article 12a define what psychological and sexual harassment is:

(Paragraph 3) - "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 acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.

(Paragraph 4) – "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. Sexual harassment shall be treated as discrimination based on gender.

The EBA has adopted, by Decision of the Management Board of 04 April 2017 (EBA DC 178), a policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment. Staff are advised to become familiar with this policy. In case of doubt, staff should seek advice from HR and avail themselves, where necessary, with the procedures in place to deal with such situations. Furthermore, confidential counsellors have been appointed to support staff, if they wish so, who find themselves in a situation of psychological and/or sexual harassment.

Staff must avoid offending attitudes, inappropriate behaviour and conflicts in the workplace. Isolated incidents and occasional behaviours that do not constitute harassment but are inappropriate have to be avoided.

Staff should also avoid situations of conflict at the workplace. A conflict is not harassment and it usually takes place at just one point in time, it is a disagreement between two persons where neither gives up their stand and each of them tries to defend it and expresses his/her views. Conflict usually ends in solution. In cases of harassment, there is often a relationship of subordination and

power. The victim usually has no way to defend himself/herself and often remains isolated and quiet. Harassment may last for months and in general only gets worse.

4.4 Language Policy

The internal working language at EBA is English.¹⁴ Some legally binding and non-binding documents are translated in all official languages of the EU. Article 13 of the EBA Code of Good Administrative Behaviour requires that every citizen of the Union or any member of the public who writes to EBA in one of the official languages of the EU receive an answer in the same language.

Having English as working language does not preclude that internal discussions be held in a different language as long as all involved staff members agree. This may be the case where all participants feel that conducting a meeting in a language other than English can improve the efficiency of the discussion. However, in case of doubt, meetings should be conducted in English.

Given that staff also interact on a social level, e.g. during breaks or occasional conversations within the office, careful consideration should be given to the use of different languages in conversations of that nature.

Staff using a language different to English should always consider the setting of the conversation, and if other staff members in the vicinity could feel excluded from the conversation. Staff should have in mind that if they exclude others regularly and intentionally, this could amount to psychological harassment. If there is the risk that staff feel excluded, any conversations should be held in a common language enabling all staff present to follow it.

In most cases, bilateral private conversation between staff members are held in any language without the risk that other staff feel excluded. More careful consideration should be given to multilateral conversations between staff in languages other than English. If staff feel excluded from conversations, because they are not speaking a language that the rest of the group understands, they should let their colleagues know that fact, as sometimes people are unaware of the impact that exclusion may have on morale and productivity.

¹⁴ Decision EBA DC 003 of 12 January 2011 of the Management Board on Internal Language Arrangements

5. DEALING WITH CONFLICTS OF INTEREST

Paragraph 1 of Article 11a of the Staff Regulations states explicitly that *an official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.*

Staff should avoid dealing with matters on which they have a personal stake that could impair their independence and, by extension, the EBA's and the EU's interest. They should be especially vigilant in this regard with respect to their contacts with outside parties who may have an interest in EBA's policymaking and supervisory processes.

Situations where a conflict of interest can arise are those where, e.g.:

- there is some link between your work and your private interests, or those of your family, partner or spouse;
- you find yourself in a situation that could reasonably lead to allegations being made of bias or partiality, in light of your personal interests.¹⁵

If you find yourself in such a situation or are in any doubt as to whether your circumstances could give rise to concerns over a conflict of interest, you should notify the AA immediately by filling the form 'specific declaration of conflict of interests'. It is also advisable to inform your line manager. The Ethics Officer is also available for advice and guidance.

With a view to enhancing awareness among staff, and in accordance with the EBA's Conflict of Interest Policy¹⁶, staff including interim employees, trainees and consultants, are required to fill in and sign the form 'Annual Declaration of Interest'. This declaration is without prejudice to the obligation to identify and declare any specific situation of conflict of interest.¹⁷

5.1 The EBA's Conflict of Interest Policy

The EBA's Conflict of Interest Policy applies in addition to these Guidelines and sets out a non-exhaustive list of interests that are considered as a source of conflict of interest, actual or potential.¹⁸

¹⁵ Conflicts of interest that may arise within the framework of a budgetary action are addressed by the Financial Regulation. See Article 57 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the Financial Rules Applicable to the General Budget of the Union and Repealing Council Regulation (EC, Euratom) No 1605/2002.

¹⁶ Decision EBA DC 104rev1 of 10 October 2014.

¹⁷ In this case, the staff member must submit a Specific Declaration of Interest.

¹⁸ See Article 1, paragraphs (3) and (4).

The Ethics Officer will keep a record of all disclosures and will save information provided electronically in a restricted-access folder. The information will not be disclosed except where there is:

1. A requirement for disclosure for the purposes of managing potential or actual conflicts of interest.
2. A requirement for disclosure for the purposes of disciplinary proceedings.
3. Any legal or regulatory obligation to disclose the information.

The Ethics Officer will screen the Declarations of Interests submitted annually by staff and draft an annual report for the AA so he can take the necessary measures in light of the interests identified. Furthermore, and in the context of the Anti-fraud policy, the Ethics Officer will take additional measures with regard to these Declarations of Interests to identify potential risks of fraud.

The following sections provide guidance on conflicts of interest where these concern, in particular and given the EBA's scope of activities, financial dealings. In case of doubt as to the classification of a particular financial product and/or instrument, advice should be sought from the Ethics Officer.

5.2 Dealing in financial instruments

One of the most common causes of conflict of interest is the holding of financial interests. Given the EBA's regulatory and supervisory responsibilities, it is particularly important that any appearance of a conflict of interest is appropriately identified and managed. To avoid conflicts of interest and to protect the reputation of the EBA, staff must not invest in financial products where it might be reasonably assumed that EBA's actions on which they are directly or indirectly involved, or may influence the price of such products.

Staff must not recommend or induce another person, on the basis of inside information, to acquire or dispose of financial instruments to which that information relates. Rules on market abuse and insider trading apply to EBA staff. They aim to avoid any reputational damage as well as to ensure legal compliance. Lack of observance thereof may lead to disciplinary action in accordance with the Staff Regulations.¹⁹

5.2.1 Prohibitions and exceptions thereof

As a general principle, staff should not invest in shares of institutions that fall within the scope of EBA's action or other products that are linked to the value of such shares (e.g. CFDs, options). Article 1 of the EBA founding regulation defines its scope of action, which includes credit institutions, financial conglomerates, investment firms, payment institutions and e-money institutions that have their seat within the Union.

In order to avoid unacceptable conflicts of interest, newcomers are informed by HR before they join about the existence of guidelines on dealings in financial instruments and that they will be required as a general principle to sell shares in institutions that are within the scope of EBA's action before they enter into service or in a time period set by the AA. Alternatively staff is allowed to

¹⁹ To note that the criminal insider-dealing regime applies independently.

transfer such shares to an investment manager, when the investment portfolio would be managed under the full discretion of the investment manager. The below exceptions may be granted.

- For SNEs who are at EBA for a limited time period, the AA may allow on request that an SNE continue to hold shares in institutions, if this is allowed under the framework of the seconding competent authority and depending on the nature of the SNE's position at EBA. If such shares need to be sold, this would require a prior authorisation (please refer to the procedures set out in point 5.2.5. ii). SNEs should be aware that such a prior authorisation may not be granted in certain periods during which the EBA is working on sensitive data (e.g. data related to the stress test or other confidential supervisory information on specific institutions, in particular, if the SNE would have access to such data).
- This requirement does not apply to cooperative banks' shares that must be held as part of the conditions to become a customer of such a bank.
- Where spouses of staff receive shares in institutions as remuneration, deferral and retention periods apply that must be respected. This may also hold true for new joiners coming from institutions who received shares as part of their remuneration. Staff must comply with the provisions and should inform EBA of this fact. At the end of the retention period staff should request a prior authorisation to sell such shares; this includes shares received by spouses, if they are held in a joint account.

Staff must also sell or transfer to an investment manager any shares in institutions they hold or receive e.g. as gift or inheritance. Such dealings require the prior authorisation of the Ethics Officer. When shares in institutions are received, staff should fill in the 'specific declaration of interests form' as required under the Conflict of Interests Policy.

5.2.2 Definition

'Dealing' includes purchases, sales, subscriptions, acceptance of take-over or other offers and all other acquisitions or disposals of financial instruments²⁰, or any rights or interests in financial instruments by staff for their own or a third party account, including dealings by authorised persons. Dealings include also the purchase of virtual currencies (e.g. Bitcoin, Ethereum, Iota, Ripple, etc.) other than their purchase for the immediate use as payment instrument.

Off-market dealings and transfers of financial instruments as gifts or other circumstances are also considered to be dealings. Transfers of financial instruments as gifts to a spouse or minor child are not considered to be dealings.

²⁰ As defined in Article 1(3) of Directive 2003/6/EC: transferable securities as defined in Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field (1), — units in collective investment undertakings — money-market instruments, — financial-futures contracts, including equivalent cash settled instrument, — forward interest-rate agreements, — interest-rate, currency and equity swaps, — options to acquire or dispose of any instrument falling into these categories, including equivalent cash-settled instruments. This category includes in particular options on currency and on interest rates, — derivatives on commodities — any other instrument admitted to trading on a regulated market in a Member State or for which a request for admission to trading on such a market has been made.

5.2.3 Dealings of spouse and children of the staff member

While the following rules cannot be directly applied to the spouse or children of staff, staff need still to be aware that the dealings of their spouse and children may impinge on the EBA's reputation and may lead to questions as to whether market abuse and insider dealing rules have been complied with. In this regard, Article 11a of the Staff Regulations applies. For detailed information, please see Section 6 on spouse's gainful employment and conflict of interests. Staff must inform their spouse and children that are of age on the EBA rules on dealings in financial instruments and ask them to avoid any dealings which might give rise to claims that the dealing was made on the basis of recommendations or information provided by the staff member. For information on rules applied to dealings of spouses, when these are booked in joint accounts, please refer to the guidelines on *dealings booked in joint accounts*, below.

5.2.4 Categories of Dealings

The sections below provide a list of:

- i. Dealings which are generally forbidden
- ii. Dealings which need prior clearance
- iii. Dealings which are to be notified
- iv. Dealings booked in joint accounts
- v. Other Dealings

This is a non-exhaustive list. Therefore, staff must treat any other dealings in which they are involved but not listed below, as dealings that must be notified.

i. Dealings which are generally forbidden

Dealings in shares, other equity instruments and other financial instruments, whose price mainly depends on the value of shares and other equity instruments of credit institutions, investment firms, financial conglomerates, or their group (prudential scope) companies, including derivatives thereof and dealings in convertible, warrant or option linked bonds and equity swaps, if they are linked with shares or other equity instruments of credit institutions, investment firms, financial conglomerates, or their group (prudential consolidation) companies are generally forbidden.

The sale of those financial instruments already owned is subject to prior clearance by the Ethics Officer. Staff must submit the form 'Request for clearance to deal in financial products and/or instruments' to the Ethics Officer and request prior clearance as outlined below.

ii. Dealings which need prior clearance

Dealings which need prior approval are dealings in:

1. Shares in non-listed credit institutions, if it is a requirement of the institution (e.g. cooperative bank) that prospective clients must become shareholders before an account may be opened or a loan taken out. These dealings shall be limited to the required minimum shareholding.

2. Units in collective investment undertakings (UCITS), if more than 40% of the funds is invested in shares of credit institutions, investment firms, financial conglomerates, or their group companies.²¹
3. All dealings in financial instruments which depend on the price of these financial instruments, including contracts for differences.

EBA staff should inform the Ethics Officer before initiating the process of dealing by submitting the form 'Request for clearance to deal in financial products and/or instruments'. They should not begin that process until they have received clearance to do so. In the absence of a reply by the Ethics Officer within three days, it is assumed that prior clearance has been granted although a post notification must be submitted within one month, in all cases, to the Ethics Officer.

Beginning the process of dealing includes calling a broker or setting up a dealing account in these instruments in an online dealing platform or electronic dealing facility, putting a broker on standby to deal in specific instruments, and includes online dealing portals. Once approval has been granted, the staff member is free to deal but must do so within two working days of clearance, otherwise he/she should repeat the process for obtaining clearance. Stop loss orders and other limited orders shall be placed within this timeframe. Changes to the limits are considered as a new order.

iii. Dealings which are to be notified

All dealings not falling under one of the other categories must be notified to the Ethics Officer immediately, but not later than one month after the transaction is booked, using the form 'Notification of dealing in financial products and/or instruments'.

These are, for example, dealings in:

1. shares of non-financial companies.
2. government bonds (dealings other than purchase on the primary market).
3. bonds issued by banks (dealings other than purchase on the primary market).
4. derivatives on foreign currencies and commodities, CFD, including on virtual currencies.
5. interest rate and currency swaps and futures.
6. Warrants, certificates and derivatives on EU stock market indices.
7. ETF on commodities.
8. Virtual Currencies (other than for the immediate use as payment instrument); and
9. All dealings in financial instruments which depend on the price of these financial instruments, including contracts for differences.

²¹ This provision differs from subsection 'Other Dealings' as the discretion for investments is limited by the investment fund's policy.

iv. Dealings booked in joint accounts

Staff must notify all transactions authorised by their spouse, if these are booked in a joint account, apart from dealings which fall in the category 'Other Dealings', for which no prior clearance or subsequent notification is required.

v. Other Dealings

The following dealings do not require prior clearance or subsequent notification. However, if a staff member has a conflict of interest or insider information regarding those instruments, the staff member must not make dealings in such instruments.

1. Units in collective investment undertakings (UCITS), as long as they are not invested in more than 40% of the funds in shares of credit institutions, investment firms, financial conglomerates, or their group companies.
2. Purchase of government bonds on the primary market.
3. Purchase of bank bonds and savings bonds on the primary market.
4. Bonds issued by non-financial companies (corporate bonds).
5. Insurance products, including pensions and life insurance policies where full discretion is given to the insurance company; and
6. Investment portfolios where full discretion is given to the investment manager.

6. SPOUSE'S GAINFUL EMPLOYMENT AND CONFLICT OF INTERESTS

Article 13 of the Staff Regulations provides that *“if the spouse of an official is in gainful employment, the official shall inform the appointing authority of his institution. Should the nature of the employment prove to be incompatible with that of the official and if the official is unable to give an undertaking that it will cease within a specified period, the appointing authority shall, after consulting the Joint Committee, decide whether the official shall continue in his post or be transferred to another post”*.

In light of this provision, staff must inform the AA where their spouses are in gainful employment. While spouse usually means the person to whom you are married, Article 1(d) of the Staff Regulations states that: *“for the purposes of these Staff Regulations, non-marital partnerships shall be treated as marriage provided that all the conditions listed in Article 1(2)(c) of Annex VII are fulfilled”*. This means that the definition of spouse under Article 13 of the Staff Regulations also covers stable non-marital partnerships provided that the Commission has recognised this partnership, taking into account that conditions listed in Article 1(2)(c) of Annex VII to the Staff Regulations are fulfilled (i.e. the couple has no access to legal marriage in a Member State; the partnership is legally recognised by a Member State; neither partner is in a marital relationship or in another non-marital partnership; and the partners are not related in any of the following ways: parent, child, grandparent, grandchild, brother, sister, aunt, uncle, nephew, niece, son-in-law, daughter-in-law).²²

The form ‘Gainful employment of spouse/partner’ must be submitted for these purposes. Staff should fill in the name and describe the professional employment of their spouse, including the area of the activity, the name of the employer (or indicate the spouse's self-employed status) and the responsibilities of their spouse. Staff should also indicate any links between the spouse's employment and the staff member's duties at the EBA or between the EBA and the organisation for which the spouse works.

In accordance with Article 13 of the Staff Regulations, where the nature of the employment of the spouse is incompatible with that of the staff member and if the staff member is unable to give an undertaking that it will cease within a specified period, the AA, after consulting the Joint Committee, decides whether the staff member shall continue in the same post or transferred to another post.

The measures that the AA can take range from requiring staff to abstain from handling certain files or from dealing with the matter in any way, even indirectly. These measures are designed to result in a situation where there is no longer any incompatibility. In a situation where the incompatibility persists, the procedure set out in Article 13 can lead to a decision by the AA to re-assign the staff member to another post.²³

²² See the document FAQ Declaration of the gainful employment of spouse of 04/03/2014 in the IntraComm.

²³ In these cases, staff members can avail themselves of the right to be heard. Furthermore, staff can file a complaint under Article 90(2) of the Staff Regulations against any such measures.

It is important to note that the obligation to declare the spouse's employment only relates to gainful employment, i.e. activities intended to generate income. Should a staff member's spouse not work regularly but be involved from time to time on a voluntary basis in the organisation of charity events or projects for which no remuneration is given, then, depending on the nature of these events or projects, the staff member may however need to fill in an ad hoc declaration under Article 11a.

There is a very important difference between Articles 13 and 11(a) of the Staff Regulations. Article 13 imposes an unconditional obligation to declare the gainful employment of the spouse. The AA will assess whether there is an overall, inherent incompatibility with the staff member's functions, leading to an increased risk that a conflict of interest may materialize. On the other side, Article 11(a) does not impose such an unconditional obligation, but refers to a concrete ad-hoc situation of conflict of interest which might compromise the staff member's independence in a specific case or file. Under Article 11(a) it is for the staff member, who best knows the relevant facts, to declare any potential concrete source of conflict of interest and to allow the AA to assess if any measures are required.

Article 11(a) covers all situations of conflict of interest that can arise and is much wider than the issue of spouse employment, meaning that any possible situation of conflict of interest should be declared, not only those relating to the employment of your spouse. This can arise for example when you are asked to be part of a tender selection panel and discover that one of the companies involved is run by your best friend or in the case of the spouse holding shares or dealing in financial instruments. Changes to the spouse's employment that can give rise to a conflict of interest are also caught under Article 11(a) of the Staff Regulations and must be notified to the AA. Furthermore, the activities of other family members (i.e., parents, siblings, children) do not need to be declared under Article 13. However, if there is a particular situation of conflict of interest arising in the context of such a relationship, staff must declare it under Article 11(a) of the Staff Regulations.

In case of doubt, staff should seek advice either from their line manager, from the Ethics Officer or from HR.

7. GIFTS AND HOSPITALITY

The acceptance of gifts and hospitality offered to staff is an area which can give rise to questions on the appropriate ethical behaviour of an organisation and its staff.

The Staff Regulations set out that *“an official shall not without the permission of the appointing authority accept from any government or from any other source outside the institution to which he belongs any honour, decoration, favour, gift or payment of any kind whatever, except for services rendered either before his appointment or during special leave for military or other national service and in respect of such service”*.²⁴

The principles on gifts and hospitality listed below apply to EBA staff in active employment, on secondment, on leave on personal grounds, on parental or family leave, and on military leave. They do not apply to staff that have left the EBA; however, the staff member continues being bound by the duty to behave with integrity and discretion as regards the acceptance of certain benefits, especially where they are related to their work at the EBA.²⁵

The Commission has issued guidelines on gifts and hospitality which help inform the EBA on how to interpret these provisions under the Staff Regulations. The main principles are set out in the two sections below.²⁶

7.1 Gifts

In accordance with the Commission’s guidelines, a gift is understood to mean:

- A sum of money or any physical object, or
- The possibility to participate for free in events which are open to the public or are private in nature, are only accessible in return for payment and represent a certain value (such as complimentary tickets for sports events, concerts, theatre, conferences, etc.), or
- Any other advantage with a pecuniary value such as transport costs.

Low value items given for purely information purposes (brochures, booklets, catalogues...) are not considered as gifts in this context.

Gifts offered directly or indirectly (i.e. gifts given to a third party that is close to a staff member) by a third party should not be accepted by staff. Exceptionally, they can be accepted, or authorised by the AA on condition that they do not go beyond the monetary limits indicated in this section and where it is clear that those gifts do not compromise or reasonably be perceived to compromise the staff member’s objectivity and independence and will not damage the EBA’s public image. In this

²⁴ Article 11, paragraph 2 of the Staff Regulations.

²⁵ Article 16 of the Staff Regulations.

²⁶ Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts and Hospitality for the staff members. Brussels, 7.3.2012. SEC(2012) 167 final.

regard, it is incumbent upon the staff member to judge whether the gift can be accepted, a decision which, where relevant, is to be adopted ultimately by the AA.

The form 'Application for authorisation to accept a gift, favour or donation' must be used to request authorisation. Such forms will be kept by the Ethics Officer for a period of 5 years.

Monetary limits of gifts

Small gifts of marginal value from sources outside the banking/financial services industry may be accepted where the nature of the gift allows it to be shared openly with colleagues, e.g. chocolates, cakes, etc. Equally, gifts of marginal or symbolic value offered by competent authorities, or of low value and addressed to a large number of persons, may be accepted; also, where acceptance would be in accordance with diplomatic and courtesy usage.²⁷

On the contrary, gifts addressed to a single staff member, or which is of a personal nature must be refused or returned and declared to the AA. A gift sent to a home address should not be accepted: in this case, the staff member must return it and notify the AA.

To help inform this judgement with regard to gifts, the following factors should be considered:

- the context, the nature of the source offering the gift (private/public);
- the apparent motive behind the offer of the gift;
- the link between the entity offering the gift and the EBA (e.g., procurement procedures, cases under investigation, financial interests in a special EU policy, etc.);
- the nature and estimated value of the gift, including whether there have been one or several offers from the same source;
- the individual or collective destination of the offer;
- the functions of the staff member;
- the benefits for the service expected from the participation of the staff member at the event in question.

Gifts motivated solely by a family relationship or personal friendship, or in a context not related in any way to the staff member's duties do not, in principle, fall under the provisions of Article 11 of the Staff Regulations. However, even here situations may arise when acceptance can be perceived as compromising the staff member's independence.

It is presumed that authorisation is granted by the AA where the combined value of a gift or gifts in a given year by the same source is up to EUR 50.

For gifts of a value between EUR 50 and EUR 150 from the same source and in a given year, the staff member must seek the explicit authorisation from the AA by submitting the form 'Application for authorisation to accept a gift, favour or donation'. The AA, in deciding whether the staff member

²⁷ Staff members should avoid, to the extent possible, using items with the logo of private companies from the banking/financial services industry in the course of their work and especially in meetings with external stakeholders.

can retain any such gift, will assess the request taking into account, amongst other, the factors listed above. The AA will also consider the possible consequences for the EBA's public image, and the number of gifts, favours and/or donations given by the same source to staff members, and the total number of gifts that the concerned staff member has received during the course of a year.

No permission will be given under any circumstances for gifts whose value is in excess of 150 EUR.

Any sum of money must always be refused by the staff member.

Where a gift is refused, it must be returned by the staff member to the source as soon as possible, keeping documentary evidence of such return. Where it is not possible, or the cost of postage is too high, the gift will be handed to the AA, which will in turn donate it anonymously to a charitable organisation. In this case, the source of the gift will be informed immediately unless this would be diplomatically inappropriate.

Where there is any doubt regarding a gift, the staff member concerned should seek the advice of the Ethics Officer or the line manager.

7.2 Hospitality

Hospitality is a particular type of favour that falls under Article 11 of the Staff Regulations. It can be defined as an offer of food, drink, accommodation and/or entertainment from any source outside the EBA.

As a general rule staff members should keep in mind that there is no such a thing as a free lunch. As a general principle, staff should not accept any hospitality offered by third parties; in specific cases explained below hospitality can be accepted within reason. As in the case with gifts, the AA can approve any offers for hospitality from third parties where it is clear that this will not compromise or reasonably be perceived to compromise the staff member's objectivity and independence and will not damage the EBA's public image. The staff member, and ultimately the AA, are to decide if it is the case.

The same factors as in the case of gifts should be applied for the assessment of whether hospitality offered by third parties should be accepted by a staff member.

Hospitality can be accepted where provided in the context of the EBA's scope of activities if in line with or if required by social, courtesy or diplomatic usage. In that case, the following arrangements shall apply:

7.2.1 Prior permission by the Appointing Authority is presumed to be granted, in accordance with Article 11 of the Staff Regulations:

- of hospitality in the form of lunches or dinners strictly linked to the function of the staff member, and as such not prejudicial to the EBA's interests and public image, and in which the staff member participates in agreement with his line manager and in the interest of the service;
- of occasional offers of simple meals.

Even if such hospitality offers can be accepted without prior authorisation, staff should inform their line manager in writing of the acceptance of an offer, unless it is of immaterial value (e.g. occasional offers of simple refreshments like snacks, coffee, water, etc.).²⁸

7.2.2 Explicit prior permission by the Appointing Authority should be sought:

In cases not covered by the previous section, or if staff judge that there is a doubt as to the appropriateness of accepting or refusing a hospitality offer, prior authorisation should be requested from the AA. In that case, staff must submit the form 'Application for authorisation to accept a gift, favour or donation'.

If prior authorisation from the AA is not feasible (e.g. if situations require a timely response), the relevant line manager should be informed where possible before the event by e-mail and the AA should be informed as soon as possible subsequent to the event. This should however occur only exceptionally and the impossibility of seeking prior authorisation should be duly justified.

7.2.3 Frequent offers of hospitality

Similar to gifts, the presumption of authorisation or the actual authorisation of single requests does not mean that staff may consider themselves at liberty to accumulate a number of hospitality offers, bearing in mind that an accumulation may be seen to compromise the staff member's objectivity and independence, or may damage the EBA's public image.

However, the AA can decide that the number of offers may not be a relevant factor if the position of the staff member requires attending frequent business invitations which are not performed during a mission (e.g. multiple meetings in London).

In case of doubt, staff should seek advice from their line manager or the Ethics Officer.

7.2.4 Specific cases of hospitality

Invitations to events where leisure is associated or predominant (e.g. sports, concerts, theatre, holidays, weekends, etc.) must not be accepted from any source whose work is related to the EBA.

Invitation to participate in an event organised by a private body related to the banking/financial services industry or similar which aims mainly at gaining influence on EBA staff, e.g. invitations to summer parties, should only be approved in exceptional cases where the staff member can provide a well-reasoned explanation why his or her participation is necessary and in the interest of the service. Such requests should always be duly documented using the form 'Application for authorisation to accept a gift, favour or donation'.

Where permission is refused to participate in any such event, it would not be acceptable that staff attend during a weekend or by taking leave, nor should staff take leave in order to avoid the application procedure.

²⁸ In the case of missions, this should be recorded in the mission request – see the Guidelines on Missions in the intranet.

7.2.5 Participation in academic and educational events organised by third parties

Where staff is invited to participate or speak in an academic or educational event or an event that can otherwise promote the EBA's activities and it is in the EBA's interest that a staff member participates, prior authorisation to participate is needed. Prior authorisation can be requested in different ways, depending on the place where the event is held and whether or not the participation is in the context of a mission.

Where such event takes place outside the context of a mission, approval can be requested:

- using the form 'Application for authorisation to accept a gift, favour or donation', in particular where the event does not involve speaking at or contributing to the event (e.g. as a panelist);
- by entering the event into the speaking request data base and receiving approval to accept the request by email from the line manager after consulting EBA's Communications team.

Where such event is part of a mission, approval has to be requested as part of the mission request.

In any case attendance should only be confirmed after the participation is approved by the line manager.

When deciding on the acceptance of such an invitation the value of participating in the event, any costs carried by the organizer and the manner of participation of EBA staff should be considered. The decision to participate should not depend on the fact that costs are carried by the organizer, but that it is in the interest of the service to participate in the event.

Where EBA staff are speaking or contributing to an event, it is acceptable that staff participate in other parts of the event, even if other participants have to pay a contribution/fee. In any case the commitment of time, participation in such an event and any mission request need to be approved by the line manager.

The following should be taken into account with regard to the approval of accepting hospitality and regarding cost coverage offered by the organiser. When in doubt, staff should discuss cases with the line manager or Ethics Officer. Staff must declare the costs covered or any tickets and accommodation offered on the mission request. The following criteria, that are based on the nature of the event's organiser, should be considered:

- Where the event is organised by a public body (e.g. competent authority, BCBS, FSB, etc.) or a not-for profit organisation (e.g. Universities without a link of the event to the banking/financial industry by e.g. sponsorship) and there is no conflict of interests (actual or potential), the acceptance of hospitality does not require an express prior authorisation. However, the relevant provisions on gifts and hospitality must be observed without exception. Reimbursements of costs or provided accommodation and tickets by the body organising the event can be accepted where staff renders a service connected with their work at the EBA and this activity is in the interest of the EBA. In this case, no ceiling per event or given year is applicable.
- Where the event is organised by another body (e.g. institutions, university events sponsored by banks, consultants, law firms, commercial event organiser) than the ones listed above, the hospitality should only be accepted when there is no actual or potential conflict of interests. In

particular the relations of the organizer to the banking/financial services industry shall be taken into account. The following consideration must be taken into account:

- The EBA will bear the costs of participation in such events, in accordance with the rules on missions.
- Where the organiser or sponsor of an event is an institution or banking association (e.g. events organised directly by an institution or university events sponsored by institutions) and the coverage of transport or accommodation costs was offered, it shall not be accepted.
- Where another organiser (e.g. law firm, professional event organizer) is offering to pay for transport, and/or accommodation, it can be accepted on the condition that these costs are also paid to other participants with exactly the same conditions, and the treatment given to the staff member cannot be regarded as favorable such as to put the EBA's public image in question. The cost of such hospitality cannot exceed 500 EUR per event. Furthermore, it is highly advisable that those costs are directly borne by the event's organiser.

Staff must not accept any remuneration offered in the context of such activities.

7.2.6 Hospitality in the context of missions

When staff participate in a mission, they should include in the mission request all expected offers of hospitality (meals, accommodation and transport) based on the mission agenda/programme. Later on, the acceptance of these offers and any accepted invitations that were not already included in the programme have to be declared in the mission expense statement.

Where for social, courtesy or diplomatic usage reasons, it proves difficult to turn down invitations to meals, refreshments, etc. in the course of a mission, the staff member concerned must deal with such situations with special care and taking into account the main principles applicable to hospitality, making sure that his/her independence is not put at risk or that the EBA's public image can be put in question.

8. OUTSIDE ACTIVITIES AND ASSIGNMENTS

Article 12b of the Staff Regulation establishes the following:

1. Subject to Article 15, an official wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside the Union, shall first obtain the permission of the Appointing Authority. Permission shall be refused only if the activity or assignment in question is such as to interfere with the performance of the official's duties or is incompatible with the interests of the institution.

2. An official shall notify the Appointing Authority of any changes in a permitted outside activity or assignment, which occur after the official has sought the permission of the Appointing Authority under paragraph 1. Permission may be withdrawn if the activity or assignment no longer meets the conditions referred to in the last sentence of paragraph 1.

Staff is encouraged to familiarise themselves with the separate decision on outside activities and assignments and on occupational activities after leaving the service, available in the Ethics section of the EBA intranet, and which provides detailed rules on outside activities and assignments. Where staff is required to seek authorisation from the AA to engage in an outside activity or assignment, they must use the form 'Application for outside activity and assignments'.

Normally, outside activities cannot be performed either at the EBA premises or during normal working hours.

In the case of staff returning to the EBA after a period of unpaid leave, they should notify the AA by using the form 'Returning to work at EBA after unpaid leave'. The AA will examine whether, as a consequence of their activities during leave, they have any personal interest such as to impair their independence or any other conflict of interest. The AA will thus take a reasoned decision, which in any case cannot prevent the reinstatement of the staff member. Such an assessment considers the situation of the staff member after his reinstatement.

9. LEAVING THE EBA

Staff continue to be bound by the duty to behave with integrity and discretion, and the duty of lifelong professional secrecy when they leave the EBA.²⁹

Furthermore, for a period of two years following departure staff is required to inform the AA if they wish to take up a professional activity related to the EBA's activities. Staff must notify the AA the proposed activity such that the AA can take a decision on whether such activity could lead to a conflict with the legitimate interests of the EBA. The AA will take into account the factors listed in Article 21 of the Commission Decision on outside activities and assignments and on occupational activities after leaving the service, applied by analogy to the EBA. During that two-year period, the AA can either prohibit the former staff member from dealing with files, cases or matters related to the work carried out by him or her during his or her last three years of service, including related or subsequent cases and/or court proceedings; and/or impose a 'cooling off period' excluding the former staff member from, for example, professional contacts with former colleagues or from representing opposing parties.

If the AA imposes any such measures, they must be proportionate and for a reasonable period, taking into account the grade and responsibilities of the staff member during the last three years. No such measure will be imposed when the former staff member moves to a national competent authority, national resolution authority, or to another EU institution or agency.

²⁹ Article 70 of the EBA founding Regulation and Article 16 of the Staff Regulations.

10. FREEDOM OF EXPRESSION

The Staff Regulation grants the right to freedom of expression to staff "with due respect to the principles of loyalty and impartiality".³⁰

If staff want to publish or to have published, either on their own or with other parties, a document, such as an article or a book, on anything dealing with their work at the EBA or on EU matters generally, they must inform the AA in advance via the line manager.³¹ They must submit a copy, in electronic form, of the document they intend to publish. If the original document is in a language other than English, the information should be accompanied by a summary, in electronic form, in English.

If the publication has been mandated under the "EBA staff paper series", please refer to the note of the EBA Management meeting of 16 October 2017 on the EBA staff paper series published in the intranet. The EBA Staff Papers series has been designed to make available, to the wider public, selected studies on prudential regulation and supervision policy and legal issues of current interest and require a specific approval process as set out in the aforementioned note. EBA staff papers are published by EBA on its website, but under the names of the staff members concerned. The writing of approved staff papers is not considered an outside activity, but a regular staff activity.

Where the AA can demonstrate that the matter is liable to prejudice seriously the legitimate interests of the EU or the EBA, it will inform the staff member of its decision within 30 working days of receipt of the information. In the absence of reply within this time limit, it is assumed that the AA had no objections. However, the lack of a reaction does not prejudice the possible application of Article 12 of the Staff Regulations, if the publication turns out to contain material which is, for example, defamatory or insulting, nor the possible application of Article 24 of the Staff Regulations, if other staff members request assistance against what they may see as defamatory statements in the work. The author remains personally responsible for the published material.

These rules and procedures also apply to speeches and any form of public or private communication outside the scope of their duties, where they relate to EU matters and are or may be published. Blogs are subject to the same rules as publications.

The freedom of expression of staff is subject to the following conditions:

- Staff must show restraint and caution in expressing differing opinions, in particular when the latter are closely linked to the subject and nature of their duties in the two preceding years.
- Such opinions or any others regarding EBA/EU policies must be expressed with moderation and under their sole responsibility (i.e. with a disclaimer). In this respect, the duty of loyalty requires that the staff member clearly indicates in the article that he/she is writing it under his/her own name and that it is not the responsibility of the EBA.

³⁰ See Article 17a(1) of the Staff Regulations.

³¹ See Article 17a(2)) of the Staff Regulations.

Staff should remember that, when making use of their freedom of expression, they continue to be bound by the rules on non-disclosure of information and the confidentiality requirement.³² Where they request to make use of any such information, the AA must take account of the following in particular:

- The implications, if any, as far as the interests of the EBA are concerned.
- The implications, if any, as far as the interests of the Member States are concerned.
- The need to respect the privacy of third parties.

If the publication (including its writing/preparation) or speech would entitle staff to any financial payment, they must ask the AA for prior authorisation. The provisions of Section 8 on outside activities apply.

Where remuneration is involved, the procedure is different depending on the circumstances applicable to their publication or speech:

- If the publication or speech is not part of their work for the EBA, staff must inform the AA with the form ‘Application for outside activity and assignments’.
- If the publication or speech form part of their work during a mission, staff cannot accept any remuneration. Any sums paid by the organisation must be returned and the AA must be informed immediately.

For publications or speeches not related to their professional activity or non-EU or EBA-related, staff do not need to seek authorisation. However, if the publication or speech (including its writing/preparation) could be considered an external activity, notably, if under contract, and/or would entitle them to any financial payment, they must seek the AA’s prior authorisation. See Section 8 on outside activities in this regard. Blogs are submitted to the same rules.

Staff should use social media (Twitter, Facebook, Youtube, etc.) only in their personal capacity. This should be clarified in an appropriate way (for instance in the “profile”). Statements and opinions are personal and do not represent the EBA’s position, and they should not give the impression of doing so. When using social media, staff should act responsibly and refrain from any actions or statements which might reflect adversely upon their position and the EBA.³³

When activities in social media amount to actual publications on EU/EBA-related matters, prior notification is required.

³² See Article 17 of the Staff Regulations.

³³ See Article 12 of the Staff Regulations.

11. REPORTING SERIOUS WRONGDOING (WHISTLEBLOWING)

To help tackle cases of wrongdoing, the Staff Regulations requires staff to report any possible serious wrongdoing. Article 22a of the Staff Regulations so require:

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the Union, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Union, shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct.

Information mentioned in the first subparagraph shall be given in writing.

The Staff Regulations also protect staff who report such cases on condition that the requirements set out therein are met.³⁴

Under Article 22c of the Staff Regulations, you can submit a request for assistance or a complaint if you consider that you have been unfairly treated after reporting a serious irregularity (whistleblowing).

Articles 22a and b of the Staff Regulations apply to temporary agents and contract agents and also cover seconded national experts, trainees, interim staff and local agents.

The EBA Management Board has adopted guidelines on whistleblowing (Decision 236 of 12 September 2018). They include procedures and whistleblower protection, which aim to ensure sound fraud risk identification, reporting and management. The guidelines on whistleblowing are available in the Anti-fraud section of the EBA intranet.

³⁴ See Article 22b of the Staff Regulations.

12. ADMINISTRATIVE INQUIRIES AND DISCIPLINARY PROCEDURES

The disciplinary system, which involves both administrative inquiries and disciplinary procedures, applies to any failure by a staff member or former staff member to comply with his or her obligations under the Staff Regulations, whether intentionally or through negligence. This can include conduct in private life, such as offences under national criminal law.

Annex IX of the Staff Regulations on disciplinary proceedings contain the main provisions on disciplinary procedures applicable to EBA staff.

12.1 Financial liability

In accordance with Article 22 of the Staff Regulations, a member of staff may be required to make good, in whole or in part, any financial damage suffered by the Communities as a result of serious misconduct on his/her part in connection with the performance of his/her duties.

Only serious personal misconduct, either deliberate or through gross negligence, can lead to the staff member being held financially responsible.

The AA has the power to decide whether a staff member has to make good the damage suffered by the EBA following serious personal misconduct, and the power to fix the extent of the repair.

12.2 Giving evidence in legal proceedings

In light of Article 19 of the Staff Regulations, any staff member called on to give evidence in legal proceedings to do with their work must request prior authorisation from the AA. This obligation continues after leaving the service.

Even if the interests of the EU would require authorisation to be refused, it would nevertheless be granted if refusal could result in the prosecution of the staff member concerned.

By way of derogation of the first paragraph of Article 19, those provisions shall not apply to a staff member or former staff member giving evidence before the Court of Justice of the European Union or before the Disciplinary Board of an institution on a matter concerning a servant or former servant of the European Union.

In the interests of confidentiality of the staff member concerned, a request for authorisation may be submitted to the AA in a sealed envelope.

On the other side, Article 12(a) of the Protocol (No 7) on the Privileges and Immunities (PPI) of the European Union stipulates that staff members shall *be immune from legal proceedings in respect of acts performed by them in their official capacity, including their words spoken or written [...]*. They continue to enjoy this immunity after they have ceased to hold office.

Immunity from legal proceedings is to be accorded solely in the interests of the European Union (Article 18 of the PPI). The protection granted against proceedings before national courts (civil or

criminal) covers only acts relating to professional life. In practice, when national judicial authorities request it, such immunity is systematically lifted.

For matters relating to private life, the staff member is subject to national civil and criminal law, as confirmed by the European Court of Justice. Article 23 of the Staff Regulations stipulates that staff members *shall not be exempt from fulfilling their private obligations or from complying with the laws and police regulations in force.*

ANNEX A

1. List of Main Reference Documents on Ethics

General	<ul style="list-style-type: none"> – The Staff Regulations of Officials and Conditions of Employment of Other Servants of the European Union – Decision of the Management Board on EBA Code of Good Administrative Behaviour (Decision EBA DC 006 of 12 January 2011) – European Ombudsman’s Public Service Principles for the EU civil service – Decision of the European Banking Authority adopting the Anti-Fraud Strategy 2015-2017 (EBA/DC/2015/120 of 29 April 2015) – EBA Anti-Fraud Strategy 2015-2017 (Annex to EBA/DC/2015/120) – EBA Decision on Secondment of National Experts (EBA/DC/2016/135 of 9 February 2016)
Principles of Professional Ethics	<ul style="list-style-type: none"> – Decision EBA/DC/2017/199 of the European Banking Authority adopting rules of Procedure on Professional Secrecy for Non-Staff, and repealing the Decision of the Management Board of 12 January 2011 on Professional Secrecy (EBA DC 004) – Article 15 of the Treaty on the Functioning of the European Union; Regulation No (EC) 1049/2001 regarding public access to European Parliament, Council and Commission documents – Decision of the Management Board on Access to Documents (EBA DC 036 of 27 May 2011)
Relations with the Public	<ul style="list-style-type: none"> – Media and PR guidelines for EBA Staff (EBA intranet) – Decision of the Management Board on EBA Code of Good Administrative Behaviour (Decision EBA DC 006 of 12 January 2011)
Behaviour at Work	<ul style="list-style-type: none"> – Articles 1, 12a, 21 and 21a of the Staff Regulations – Decision of the Executive Director on the EBA Information Classification Policy (EBA DC 197 of 1 September 2017) – Decision of the Management Board of 04 April 2017 (EBA DC 178) – Decision of the Management Board on the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment
Dealing with Conflicts of Interest	<ul style="list-style-type: none"> – Articles 11 and 16 of the Staff Regulations – Article 57 of the Financial Regulation (Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the Financial Rules Applicable to the General Budget of the Union and Repealing Council Regulation (EC, Euratom) No 1605/2002) – Decision of the Executive Director on the EBA’s Policy on Independence and Decision Making Processes for avoiding Conflicts of Interest (Conflict of Interest Policy) for Staff and other Contractual Parties (EBA DC 104rev1 of 10 May 2017)

Spouse's Gainful Employment and Conflicts of Interest	<ul style="list-style-type: none"> – Articles 11a and 13 of the Staff Regulations – Commission's FAQ on declaration of the gainful employment of spouse (dated 04 March 2014)
Gifts and Hospitality	<ul style="list-style-type: none"> – Article 11 of the Staff Regulations and Article 11 of the CEOS – General Implementing Provisions adopting the Guide to Missions for Officials and other Servants (EBA DC 022 of 6 January 2011) – Communication from Vice-President Šefčovič to the Commission on Guidelines on Gifts and Hospitality for the staff members (Brussels, 7.3.2012 (SEC(2012) 167 final) – EBA Travel Policy³⁵
Outside Activities	<ul style="list-style-type: none"> – Commission Decision C(2018) 4048 final of 29.06.2018 on outside activities and assignments and on occupational activities after leaving the service
Leaving the Services	<ul style="list-style-type: none"> – Article 16 of the Staff Regulations – Commission Decision C(2018) 4048 final of 29.06.2018 on outside activities and assignments and on occupational activities after leaving the service
Freedom of Expression	<ul style="list-style-type: none"> – Articles 17 and 17a of Staff Regulations and Articles 11 and 81 of CEOS
Reporting Serious Wrongdoing	<ul style="list-style-type: none"> – Articles 22a and 22b of the Staff Regulations – Decision of the European Banking Authority adopting the Anti-Fraud Strategy 2015-2017 (EBA/DC/2015/120 of 29 April 2015) – Communication from Vice-President Šefčovič to the Commission on Guidelines on Whistleblowing (Brussels, 6.12.2012, SEC(2012) 679 final) – Commission's Q&A – Guidelines on whistleblowing – Decision of the Management Board of 12 September 2018 adopting guidelines on whistleblowing
Administrative Inquires and Disciplinary Procedures	<ul style="list-style-type: none"> – Annex IX of the Staff Regulations – Articles 19 and 23 of the Staff Regulations – Article 12(a) of the Protocol (No 7) on the Privileges and Immunities of the European Union

³⁵ All relevant information can be found in the intranet:
<https://intranet.eba.europa.eu/inhouseservices/corporateservices/missions/Pages/default.aspx>

2. Overview of declarations/notifications/authorisations *

Action	Who	What	Submit to	When	Form
Annual Declaration of Interest	EBA staff	Declaration	Ethics Officer	Annually (upon request by the Ethics Officer)	Annual Declaration of Interest
Specific Declaration of Interests not declared in the Annual Declaration of Interest	EBA staff	Declaration	Ethics Officer	Any time an actual or potential conflict of interest arises	Specific Declaration of interests (SDoI)
Request clearance to sell financial instruments whose dealing is generally forbidden	EBA staff	Authorisation	Ethics Officer	Prior to selling financial instruments	Request for clearance to deal in financial products and/or instruments
Request clearance to deal in financial instruments	EBA staff	Authorisation	Ethics Officer	Prior to dealing in financial instruments	Request for clearance to deal in financial products and/or instruments
Other dealings in financial instruments which are neither forbidden nor require prior clearance	EBA staff	Notification	Ethics Officer	Not later than 1 month after booking the transaction	Notification of dealing in financial products and/or instruments
Spouses' gainful employment	Temporary agents and contract agents	Notification	HR	Prior to joining the EBA	Gainful employment of spouse/partner
Change to the spouses' gainful employment	Temporary agents and contract agents	Notification	HR	Immediately where there is a change in the spouse's situation	Gainful employment of spouse/partner

Gifts offered by external party	EBA staff	Authorisation	Appointing Authority	Immediately after receiving a gift; see monetary limits in Ethics Guidelines	Application for authorisation to accept a gift, favour or donation
Hospitality offered by external party	EBA staff	Authorisation	Appointing Authority	Prior to accepting hospitality offer; see limits in Ethics Guidelines	Application for authorisation to accept a gift, favour or donation
Lunches and dinners strictly linked to the function of the staff member offered by external party	EBA staff	Authorisation	Line Manager	Prior to accepting hospitality offer	As part of a mission request, or outside a mission by email
Participation in academic and educational events by external party outside a mission	EBA staff	Authorisation	Appointing Authority	Prior to accepting the offer/to confirming participation in the event	Application for authorisation to accept a gift, favour or donation
Outside activities and assignments	Temporary agents and contract agents	Authorisation	Appointing Authority	Two months before undertaking any work outside the EBA	Application for outside activity and assignments
Public office	Temporary agents and contract agents	Notification	Appointing Authority	Before standing for public office	Application for outside activity and assignments
Outside activities while on unpaid leave	Temporary agents and contract agents	Authorisation	Appointing Authority via the line manager	Two months before starting the activity or assignment	Application for outside activity and assignments
Re-starting at the EBA after a period of unpaid leave	Temporary agents and contract agents	Notification	HR	Before the intended date of re-starting duties at the EBA	Returning to work at EBA after unpaid leave

Occupational activities of former staff	Temporary agents and contract agents	Notification	Appointing Authority	During a period of two years following departure of the EBA, and before starting the activity or assignments.	<u>Notification on Engagement in an Occupation after Leaving the European Banking Authority (Article 16 of the Staff Regulations)</u>
Publications	EBA staff	Information	Appointing Authority	Before publication of any article, book, etc. on EBA or EU matters	Electronic copy of the paper Form 'Application for outside activity and assignments' if the paper is not part of the staff's work at the EBA

*EBA staff must be interpreted as including temporary agents, contract agents, interim employees, trainees and consultants