

## EUROPEAN STABILITY MECHANISM

### CODE OF CONDUCT

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#### **Article 1**

##### *Hierarchy of Rules*

1. This is the Code of Conduct (the “Code”) of the European Stability Mechanism (the “ESM”) adopted by the Board of Directors pursuant to Article 19 of the ESM By-Laws (the “By-Laws”).
2. In the event of a conflict between any provision of this Code and any provision of the Treaty establishing the European Stability Mechanism (the “Treaty”) or the By-Laws, the provision of the Treaty or of the By-Laws, as the case may be, shall prevail.
3. Unless otherwise specified in this Code, terms not separately defined in the Annex to the Code and capitalised herein shall have the same meanings as ascribed to them in the Treaty and in the By-Laws.

#### **Article 2**

##### *Scope of Application*

1. This Code shall apply to and shall be binding on any person serving in the capacity referred to in the following paragraphs of this Article, either upon acceptance of their mandate or start of employment or engagement and, where especially provided for, to persons having formerly served in such capacity.
2. Article 1, Article 2, Articles 4 through 6 (1), Articles 6 (3) through 9, and Articles 10 (2) through 17 of this Code shall apply to:
  - a) the Managing Director, it being understood that whenever in the referred provisions approval might be given by the Managing Director or the Compliance and Data Protection Office, respectively, the Budget Review and Compensation Committee of the Board of Directors will be competent to give such approval when the Managing Director is concerned; and
  - b) all members of staff as defined in Article 1 (2) of the Staff Rules of the ESM (the “Staff Rules”).
3. Article 3, Article 6 (2) and Article 10 (1) of this Code shall apply to all Directors and alternate Directors. Article 1, Article 2, Article 4, Article 6 (5), Article 9 (1), Article 12, and Articles 15 through 17 of this Code shall apply *mutatis mutandis* to all Directors and alternate Directors.
4. Article 10(1) of this Code shall apply *mutatis mutandis* to:
  - a) the observers referred to in Article 3 (1) (b) (i), and their respective alternates, and to the observers referred to in Article 3 (1) (b) (ii) and (iii) of the Rules of

Procedure of the Board of Directors;

- b) the aids referred to in Article 3 (2) of the Rules of Procedure of the Board of Directors;
  - c) the experts and other persons referred to in Article 3 (3) of the Rules of Procedure of the Board of Directors.
5. Unless and to the extent the relevant contracts with the ESM contradict or provide otherwise, the provisions of this Code applicable to members of staff shall apply *mutatis mutandis* also to secondees, trainees, interim workers, external consultants and other service providers with the following exceptions:
- a) Article 4 (1) to the extent it refers to the Staff Rules and Supplemental Rules and sentence 1 of Article 4 (2) of this Code shall not apply to secondees at the ESM.
  - b) Sentence 1 of Article 4 (2) of this Code shall not apply to secondees by the ESM to other organisations or entities.
  - c) Article 4 (1) to the extent it refers to the Staff Rules and Supplemental Rules, Article 5 (4), Article 14 (2), and Article 14 (3) of this Code to the extent it refers to disclosures of Financial and Business Interests shall not apply to trainees at the ESM.
  - d) Article 4 (1) to the extent it refers to the Staff Rules and Supplemental Rules, sentence 1 of Article (4) (2), and Article 5 (4) of this Code shall not apply to interim workers at the ESM.
  - e) Article 4 (1) and (2), Article 5 (4), Article 7, Article 8, Article 9 (8), (9) and (10), Article 13 and Article 14 of this Code shall not apply to external consultants and other service providers at the ESM.
6. Sentence 1 of Article 4 (2), Article 4 (4) and (6), Article 7, and Article 8, of this Code shall not apply to members of staff on unpaid leave from the ESM.

### **Article 2 bis**

#### *Implementation and Delegation*

- 1. The Managing Director may issue decisions on such matters as are necessary to ensure the practical or administrative implementation of the provisions of this Code.
- 2. The Managing Director may delegate specific powers assigned to the Managing Director under this Code to any member of staff, taking into account their role and responsibilities.

### **Article 3**

#### *Duties of Directors*

- 1. Each Director and alternate Director shall devote to the activities of the ESM such time and attention as the interest of the institution may require.
- 2. While holding office at the ESM, a Director or alternate Director may not engage in such activities as may be determined from time to time by the Board of Governors, acting by qualified majority, pursuant to Articles 5 (7) (d) and 6 (8) of the Treaty.

**Article 4**  
*Standard of Conduct*

1. In accordance with the mutual trust and reciprocal loyalty expected to govern relations between the ESM and its members of staff, members of staff shall perform their duties in full compliance with the Treaty, the By-Laws, this Code, the Staff Rules and Supplemental Rules, and all policies and guidelines established by the Board of Governors and Board of Directors, as well as any other internal law of the ESM.
2. Members of staff owe their professional duty to the ESM and to no other authority. They shall conduct themselves, both in the discharge of their duties and outside working hours, in a manner befitting the purpose, role, and values of the ESM and their duties. Members of staff must avoid actions which constitute an abuse of the privileges and immunities accorded to the ESM or to its staff.
3. Members of staff shall perform their duties in a manner that safeguards and enhances public confidence in their integrity and in the integrity of the ESM.
4. Members of staff shall perform their duties objectively and impartially, without allowing themselves to be influenced by personal or political considerations, relationships, or affiliations.
5. Members of staff shall strictly observe their duty of confidentiality.
6. Members of staff shall perform their professional duties honestly, fairly, diligently, efficiently, and to the best of their ability.
7. Members of staff shall protect the ESM's name and reputation and, consequently, shall avoid any actions or statements outside the ESM which could reasonably be expected to damage the ESM's name or reputation.

**Article 5**  
*Values and Work Environment*

1. The ESM is committed to and supports a culture of integrity, respect, accountability, and non-discrimination, and to fostering and maintaining a work environment characterised by these values.
2. The ESM does not tolerate Misconduct, including Integrity Violations, such as Corruption Fraud, Coercion, Collusion, Abuse, Obstruction and Conflict of Interest, and Behavioural Misconduct such as Discrimination, Physical Violence, Harassment, and Retaliation, and is committed to and supports the right of members of staff to work in an environment free from such Misconduct. Victims of Integrity Violations and Behavioural Misconduct are encouraged to bring this to the attention of the Compliance and Data Protection Office without fear of reprisal.
3. The ESM is committed to providing a safe and healthy work environment in compliance with applicable laws, regulations, and best practice.
4. The general interests of members of staff are represented by staff representatives elected among and by members of staff. The staff representatives facilitate the communication between ESM management and members of staff and ensure that the collective voice of members of staff can be heard and taken into account, as and when relevant.

**Article 6**  
*Conflict of Interest*

1. Members of staff must avoid any situation involving Conflict of Interest or the appearance thereof. In the event of doubt or difficulty in determining whether there is a Conflict of Interest, members of staff should refer to the Compliance and Data Protection Office for guidance.
2. A Director or alternate Director having a Conflict of Interest concerning a decision to be taken by the Board of Directors or a Board committee shall declare it to the Chairperson of the Board meeting prior to the start of the relevant meeting, shall not communicate with other Board members about the decision at hand, and shall recuse himself/herself. Any such declaration shall be included in the minutes of the meeting.

A Director or alternate Director having a Conflict of Interest concerning a decision to be adopted by written procedure shall not communicate with other Board members about the decision and shall abstain from voting on such decision. Such Director or alternate Director shall ask the Secretary General in writing that their abstention on grounds of Conflict of Interest be recorded.

3. Whenever a member of staff has a direct or indirect private interest in a person or entity that is a counterparty of the ESM in any borrowing, investment, stability support operation or other activity, of which the member of staff is aware or should reasonably be aware, they shall declare so immediately in writing to the Compliance and Data Protection Office.
4. If a member of staff participating in an ESM procurement procedure, or in awarding a contract without an ESM procurement procedure, or their immediate family, have been an employee of any of the candidates participating in such procedure, or the counterparty to the contract, in the last three years and/or are currently the subject of an offer of employment from any such candidates, or any such suppliers, or if there are any other reasons which may call the independent and impartial performance of their duties into question, they shall declare so immediately in writing to the Compliance and Data Protection Office and the member of the Legal and Procurement Division supporting the relevant ESM procurement procedure or the award of a contract without an ESM procurement procedure.
5. Members of staff shall not avail themselves of professional ESM contacts in order to manage their personal affairs.
6. Members of staff are not barred from having friendly or even personal relationships with other members of staff. However, intimate personal relationships between supervisor and supervisee are inappropriate as they may unduly influence work as well as create (potential or perceived) Conflicts of Interest and appearance of impropriety.
7. Members of staff who have a formalised partnership with each other, or who are related in the first degree, are required in all circumstances to disclose this to the Compliance and Data Protection Office. Members of staff who have established an intimate personal relationship with each other are required to disclose this to the Compliance and Data Protection Office where it could reasonably be expected to cause an actual or potential Conflict of Interest. This will always be the case where the members of staff concerned are in the same reporting line. In the event of doubt or difficulty in determining whether disclosure is required, members of staff should refer to the Compliance and Data Protection Office for guidance. Failure to make a timely report, where this was clearly required by the circumstances described above, may result in a finding of Misconduct. Upon receiving such report, the Compliance and Data Protection Office, where relevant,

in consultation with the member(s) of the Management Board concerned, will propose measures to resolve or mitigate the (potential or perceived) Conflict of Interest.

8. Paragraphs (6) and (7) also apply to relationships of members of staff with secondees, trainees, interim workers, external consultants and other service providers.

### **Article 7** *External Activities*

1. Members of staff, after having consulted with their member of the Management Board and the Compliance and Data Protection Office, and subject to prior written approval of the Managing Director, may perform the following external activities, i.e. activities outside their working relationship with the ESM, provided the requirements set out in paragraphs (3) to (7), as applicable, are met:
  - a) engage in an external professional activity (hold other employment or engage in any occupation or profession, or in any business) or act in an advisory capacity, outside the ESM, whether on a permanent, temporary or occasional basis; or
  - b) serve on the governing or management body of any company, including any family related company and trust, regardless of whether such activity is remunerated or not.
2. In exception to paragraph (1), members of staff may perform the following external activities without prior approval of the Managing Director provided the requirements set out below regarding sub-paragraph (a), and the requirements in paragraphs (3) to (6) are met:
  - a) serve on the governing bodies or accept positions of responsibility in up to two charities or other not-for-profit organisations with laudable cause, professional associations or educational institutions, on a non-remunerated basis;
  - b) perform voluntary or community-based work during their leisure time for a charitable, religious, educational or professional association or for any other not-for-profit organisation;
  - c) without prejudice to paragraph (1), any other external activity.

The external activities mentioned in sub-paragraph (a) shall, however, be reported to the Compliance and Data Protection Office.

3. Any external activities must be compatible with the proper performance of the professional duties of the member of staff, do not give rise to a Conflict of Interest, befit the purpose, role, and values of the ESM, do not negatively impact the reputation or interests of the ESM, and are not in breach of the ESM's internal law.
4. Members of staff may accept remuneration and reimbursement of expenses for external activities pursued on a private basis, provided that such remuneration and expenses are commensurate with the work performed and are reasonable and customary.
5. Members of staff may not draw on ESM resources when pursuing an external activity on a private basis.
6. Members of staff shall ensure that the opinions, writing and images presented during their external activities are expressly made as their own and in no way engage the ESM or other members of staff.

7. If this is in the interest of the service, the Managing Director may decide that an external activity constitutes an official activity. In such cases, the members of staff may draw on ESM resources, but may not accept any form of outside remuneration<sup>1</sup>. The Managing Director may, nonetheless, allow members of staff to have their travel and/or accommodation expenses borne by an inviting party, if applicable.
8. The Managing Director may decline to give approval pursuant to paragraph (1) or may instruct the members of staff to refrain from, or cease an activity pursuant to paragraph (2), whenever the Managing Director considers that the external activity in question does not meet the requirements set out in these paragraphs.
9. This Article shall not apply to external activities which have been set as personal development goals of members of staff.

### **Article 8** *Political Activities*

1. Members of staff must inform the Managing Director in writing usually at least three months before formally standing for election or being appointed to a public office of a political character.
2. Depending on the nature of the political campaign and their level of involvement in it, the implications for and the Conflicts of Interest related to ESM activities, the Managing Director may, considering the interest of the service, as well as the importance of the office concerned and the obligations the latter entails, decide that the member of staff concerned:
  - a) must take unpaid leave;
  - b) may continue to discharge their duties at the ESM;
  - c) may be authorised to discharge their duties at the ESM on a part-time basis, if the nature of their post within the ESM so permits; or
  - d) must resign prior to accepting the public office.
3. Paragraph (2) shall apply also once members of staff decide to accept the public office of a political character to which they have been elected or appointed.
4. When engaging in political activities, members of staff shall clearly express that their involvement is solely in a private capacity. They shall not engage in any political activity during work time or use any ESM resources for such purpose, including for making political statements.
5. Membership in or association with a political party or organisation itself shall not be considered an external professional activity.
6. Any remunerated position within a political party or organisation shall be treated as an external professional activity. For non-remunerated positions within political parties or organisations prior approval is only required if Conflicts of Interest may arise.

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<sup>1</sup> For the avoidance of doubt, professional awards including monetary elements are not considered remuneration.

## **Article 9**

### *Gifts, Favours, and Other Advantages*

1. Members of staff shall not solicit, receive or accept any gift, favour, entertainment, award or tangible or intangible advantage, direct or indirect, real or perceived, which is in any way related to their employment with the ESM, and whose value, nature or repeated occurrence may be perceived as an attempt to influence the member of staff's actions.
2. Therefore, members of staff should discourage a priori the offer of any gift having more than a token value as defined by the Managing Director.
3. In cases where the refusal of gifts may prove embarrassing or offensive to the donor given differences in business cultures or particular circumstances, or where the acceptance of gifts or offers may be deemed of benefit to the ESM, members of staff should, without undue delay, notify the Compliance and Data Protection Office in writing. After having considered all the circumstances of the case, the Compliance and Data Protection Office may agree that such a gift can be accepted on behalf of the ESM, may ask staff members to refuse the gift (or send it back to the donor), or may ask for it to be turned over to the ESM.
4. Any gifts offered to members of staff in connection with their employment with the ESM shall be declared by such members of staff to the Compliance and Data Protection Office, except for gifts with merely token value, which do not need to be declared.
5. No cash or cash equivalents (e.g., vouchers or gift certificates) irrespective of their value may be accepted or received as gifts from anyone. In addition, no gifts may be solicited, and no gifts may be accepted or received by members of staff participating in an ESM procurement procedure, or in awarding a contract without an ESM procurement procedure, from any of the candidates participating in such procedure, or the counterparty to the contract, irrespective of their value.
6. The giving of gifts on behalf of the ESM to third parties is only allowed within the token value defined by the Managing Director and requires prior approval by the relevant line manager to confirm business needs and budget availability. This provision does not apply to gifts presented by the Managing Director and the members of the Management Board provided that the giving of such gifts is directly related to their duties, the frequency of gift-giving is not excessive, and the level of expense is reasonable and customary in the particular circumstances.
7. Limited hospitality in connection with their employment with the ESM, such as meals, refreshments, receptions or other forms of hospitality may normally be accepted, provided that they are unsolicited, the attendance is related to the duties of the member of staff and the third party, the frequency of such invitations from the third party is not excessive, the level of expense is reasonable and customary in the particular circumstances, and the hospitality is not offered to members of staff participating in an ESM procurement procedure, or in awarding a contract without an ESM procurement procedure, by any of the candidates participating in such procedure, or the counterparty to the contract. This rule applies equally to hospitality offered by members of staff of the ESM. Guidance may be given by the Compliance and Data Protection Office, from time to time, on what is acceptable as "reasonable and customary" under this paragraph.
8. Members of staff attending professional seminars, conferences or similar events in connection with their employment with the ESM may accept payment of their accommodation and/or travel expenses by the organiser only after obtaining prior guidance from the Compliance and Data Protection Office.

9. Members of staff shall not apply for, solicit, receive, or accept any honour, distinction, decoration or award from any government or other public authority without obtaining prior guidance from the Compliance and Data Protection Office, where relevant in consultation with the General Counsel.
10. Paragraph (9) shall not apply to honours, distinctions, decorations, or awards conferred for services rendered by members of staff before the start of their employment at the ESM.

### **Article 10**

#### *Duty of Confidentiality*

1. Directors and alternate Directors shall not disclose information that is subject to professional secrecy pursuant to Article 34 of the Treaty, even after their duties have ceased. Without prejudice to Article 17 of the By-Laws, they are required to ensure the same level of confidentiality, as indicated by the ESM sensitivity label framework, when sharing ESM information and documents with their secretariat, national administration, or parliament.

The duty of confidentiality does not prevent Directors and alternate Directors from providing comprehensive information to national parliaments, in case this is foreseen at national level.

2. Members of staff shall not disclose information that is subject to professional secrecy pursuant to Article 34 of the Treaty, even after their duties have ceased. Without prejudice to Article 17 of the By-Laws, any non-public information available to members of staff in connection with their professional duties at the ESM is subject to professional secrecy pursuant to Article 34 of the Treaty.
3. The conditions under which members of staff may communicate documents drawn up or held by the ESM to other persons or entities or otherwise disclose such documents externally are set forth in Article 17 of the By-Laws.
4. Members of staff shall actively prevent the unintended disclosure of information subject to professional secrecy by reminding colleagues of their duty pursuant to Article 34 of the Treaty.

### **Article 11**

#### *Public Statements and Contacts with the Media*

1. Members of staff shall not make any public statements or have any contacts with the media related to the ESM or its activities without prior approval of the Chief Spokesperson/Head of Communication or their designate.
2. The Managing Director, the members of the Management Board, and designated spokespersons are the official spokespersons of the ESM and do not require prior approval before answering media inquiries or presenting information to the wider public.

### **Article 12**

#### *Inside Information*

1. Members of staff shall strictly observe all applicable laws and regulations on insider trading as well as the rules set forth in this Article. The Legal and Procurement Division shall be consulted in case of doubt.
2. Members of staff who, in the context or course of their duties, have direct or indirect access to or are in possession of Inside Information shall not disclose such Inside Information to any other person unless such disclosure is made in the normal course of



the exercise of their employment, profession, or duties, and may not make use, either directly or indirectly, of such Inside Information in order to carry out, recommend, or advise against transactions involving the securities in question, for their own account or for that of third parties.

3. For the purposes of this Code, “Inside Information” refers to inside information as defined in the Market Abuse Regulation from time to time.
4. Any member of staff who reasonably suspects that a transaction might constitute insider trading shall notify the Compliance and Data Protection Office without delay.
5. The ESM maintains appropriate measures designed to limit the flow of Inside Information from areas that own such information and those areas that trade in securities (Investment and Treasury Division).

### **Article 13**

#### *Private Investments*

1. Members of staff shall at all times manage their private financial affairs with full respect for and in compliance with this Code. They shall consider the interests of the ESM and shall ensure that the ESM does not incur reputational risk as a result of the management of their private financial affairs.
2. The Managing Director, in consultation with the Legal and Procurement Division and the Compliance and Data Protection Office, may decide from time to time to prohibit all or some members of staff from conducting private transactions in specific instruments for a specified time in order to avoid possible reputational damage.
3. Outside the scope of their duties towards the ESM, members of staff shall not, knowingly invest, sell or trade, for their own account or for the account of others, in debt securities of the ESM or the EFSF. Furthermore, they shall not, except if the Compliance and Data Protection Office is satisfied about the non-speculative nature of the transactions and the lack of circumstances contraindicating such transactions, knowingly invest, sell or trade, for their own account or for the account of others, in the following financial instruments for a total amount that exceeds EUR 10,000 per annum:
  - a) euro area government and supranational debt securities (e.g., bills, notes and bonds);
  - b) euro-related foreign exchange instruments;
  - c) shares in euro area banks;
  - d) any derivatives or structured products directly related to the products above.

The prohibition under point b) does not apply to one-way transactions, such as the selling or buying of foreign exchange for private expenses, household expenses, education or travel expenses.

4. The prohibitions under paragraph (3) shall not apply when members of staff indirectly acquire any of the financial instruments as per paragraph (3) through their ownership of shares in trusts, estates, investment funds, pension funds or similar investment vehicles, provided that neither the member of staff nor their immediate family has discretion over investments made by such investment vehicles.
5. Members of staff holding any of the financial instruments as per paragraph (3) prior to

their employment with the ESM or inheriting such financial instruments during their employment with the ESM, may keep hold of such financial instruments. Members of staff who decide to dispose of such financial instruments, shall follow the requirements pursuant to paragraph (1) and (3).<sup>2</sup>

6. Members of staff shall immediately report to the Compliance and Data Protection Office any private financial activity that might not be in accordance with this Code or that might be, or appears to be, in conflict with their ESM duties.

#### **Article 14**

##### *Compliance Declaration and Disclosure of Financial and Business Interests*

1. Members of staff are required to provide a compliance declaration to confirm that they are aware of the provisions of this Code and that they are and have been in compliance therewith.
2. In addition, notwithstanding the provision of Article 13, the Managing Director, the members of the Management Board and such other members of staff, as designated by the Managing Director from time to time, shall provide a confidential disclosure of their Financial and Business Interests. All disclosures shall be filed with the Compliance and Data Protection Office. For the purposes of this Code, "Financial and Business Interests" mean any right to receive a benefit from a financial instrument mentioned in Article 13 (3). Article 13, in particular Article 13 (4), applies *mutatis mutandis*.
3. Unless otherwise communicated by the Compliance and Data Protection Office, the compliance declaration and the disclosure of Financial and Business Interests shall be provided no later than 60 days following the start of employment at the ESM or the date of appointment according to which the member of staff becomes designated, and must be updated annually, no later than the last day of February each year. Members of staff who are absent from work during the first two months of the year must provide the declaration and disclosure no later than 60 days after their return to work.
4. The Managing Director shall also publish a declaration of interest on the ESM's website.

#### **Article 15**

##### *ESM Property, Assets and Environmental Impact*

1. Members of staff shall protect and preserve the ESM's property and assets, including intellectual property rights, and shall use its resources as efficiently as possible, guarding against Abuse.
2. It is expressly prohibited to use the ESM's logo and headed notepaper for personal correspondence in order to avoid any risk of confusion between professional and private transactions.
3. All rights to any intellectual property created by members of staff in the course of their ESM duties belong to the ESM, unless the ESM authorises otherwise. In addition, in the course of their ESM duties, members of staff must not use their own intellectual property, or intellectual property which they claim as their own, on the basis that it was created before joining the ESM or other than in the course of their ESM duties, without first agreeing with the ESM in writing the basis on which they will do so. In the absence of any such prior agreement, all intellectual property of the relevant member of staff

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<sup>2</sup> This paragraph also applies to members of staff who were holding any of the financial instruments as per paragraph (3) prior to this update of the Code of Conduct coming into force in accordance with the then applicable Code of Conduct.

which is used in the course of their ESM duties will become the property of the ESM. Intellectual property belonging to the ESM may not be used for private benefit or for the benefit of others, except with appropriate authorisation by the ESM.

4. The ESM is committed to protecting the environment and seeks to follow a prudent approach on environmental matters. The ESM strives to continuously monitor, communicate, and limit further its environmental impact. In this context, the ESM is committed to implementing measures for reducing its use of natural resources and energy and for limiting the generation of emissions, releases, and waste.

#### **Article 16**

##### *Reporting of Misconduct*

1. Any member of staff who becomes aware of or suspects an Integrity Violation, must, in good faith, report this to the Compliance and Data Protection Office.
2. Any member of staff who becomes aware of or suspects Serious Misconduct, other than an Integrity Violation, including Behavioural Misconduct, is encouraged to offer immediate assistance to the victim (where applicable and appropriate) and to report the matter, in good faith, to the Compliance and Data Protection Office as soon as reasonably possible. Any member of staff in a supervisory position is required to do the same in the same circumstances.

For the avoidance of doubt, seeking guidance from the Head of Human Resources and Organisation does not create an obligation for them to report suspected Behavioural Misconduct.

3. The reporting of suspected Misconduct can be made confidentially or anonymously in accordance with the whistleblowing and dignity at work policies of the ESM. The ESM and members of staff shall refrain from any Retaliation or reprisal against any member of staff who, in good faith, reports Misconduct as set out above. Reporting of Misconduct in bad faith constitutes Serious Misconduct.

#### **Article 17**

##### *Entry into Force and Review*

1. This Code shall enter into force on such day as determined by the Board of Directors of the ESM, acting by qualified majority.
2. This Code shall be subject to revision as and when it is deemed necessary by the Board of Directors, and usually once every three years.

## **Annex**

### **DEFINITIONS**

**Misconduct** is the violation of this Code or any ESM policy, procedure or other internal law whether intentional or not.

**Serious Misconduct** includes but is not limited to Integrity Violations and Behavioural Misconduct. Whether misconduct is serious, depends on facts and circumstances, including but not limited to the extent to which the misconduct could adversely affect the integrity, reputation or interests of the ESM, the extent to which the misconduct involves intentional actions or negligence and the duties and responsibilities of the member of staff.

**Integrity Violation** constitutes Serious Misconduct and is any act or omission which constitutes a failure to adhere to the highest standard of integrity. It includes corruption, fraud, coercion, collusion, abuse, obstruction and conflict of interest:

**Corruption** is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party.

**Fraud** is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation.

**Coercion** is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

**Collusion** is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.

**Abuse** is theft, waste, damaging, or improper use of ESM assets and property, either committed intentionally or through gross negligence.

**Obstruction** includes deliberately destroying, falsifying, altering, or concealing of evidence material to an investigation, making false statements with the aim to impede such investigation, failure to comply with requests to provide information, documents or records in connection with such investigation, threatening, harassing or intimidating any party to prevent it from disclosing knowledge of matters relevant to the investigation or from pursuing the investigation.

**Conflict of Interest** means a situation or circumstances in which private interests of members of staff influence or may influence the objective and impartial performance of their duties. Private interests include any advantages for members of staff, their families or personal acquaintances.

**Behavioural Misconduct** constitutes Serious Misconduct and includes any form of direct or indirect discrimination, physical violence, harassment and retaliation:

**Discrimination** shall be taken to occur where one person, because of their nationality, gender, racial or ethnic origin, religion or belief, health status, age or sexual orientation, is, has been or would be treated less favourably than another person in a comparable situation.

**Physical Violence** means the use of physical force or the threat of physical force against another person that may result in physical, sexual or psychological harm.

**Harassment** is psychological harassment or sexual harassment as defined below:

**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 may undermine the personality, dignity or physical or psychological integrity of any person.

**Sexual Harassment** consists of any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment. Sexual blackmail is a particularly serious form of sexual harassment consisting of any situation in which individuals are explicitly or implicitly intimidated or threatened, with a view to obtaining sexual favours, by someone in a position of authority in the workplace or by someone with influence over their recruitment, professional status or career development. Sexual blackmail could also manifest itself through a situation presented as causing professional advantages or disadvantages for the victim, depending on whether they accept or reject it.

A behaviour may qualify as Harassment even if it was not deliberately intended to cause harm.

**Retaliation** is any detrimental act or omission, direct or indirect, recommended, threatened, attempted or taken by another individual or individuals against anyone who has reported Misconduct pursuant to Article 16 of this Code or challenged a decision pursuant to Article 24 of the Staff Rules, or who has supported such a person, and which act is prompted by the reporting or challenge. Retaliation does not include any actions that are based on the appropriate application of any ESM policy, procedure or other internal law.

Retaliation can include, but is not limited to, Harassment, discriminatory treatment, non-substantiated adverse evaluation of performance or determination of merit pay, or the withholding of an entitlement.