

EBA/DC/2020/349

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EBA Regular Use

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# Decision of the European Banking Authority

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of Aug 13, 2020

concerning access to confidential information for staff moving to another job outside the EBA

## The Acting 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/EC<sup>1</sup>, 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, and in particular Article 11a thereof

### Whereas:

- (1) In order to ensure consistent treatment of staff who are known to be moving to a job outside the EBA which may give rise to conflicts of interest, it is necessary to set out the process which the EBA applies to ensure that access to confidential information is suspended pending a swift assessment of any conflicts of interest and a decision on how to address them pending until the staff member leaves the EBA's service.
- (2) To avoid unnecessarily suspending access, it is appropriate in the interests of the service to establish a list of positions in which no conflicts of interest are likely to occur.
- (3) In order to ensure that EBA staff are aware of the process it should be published on the intranet and incorporated into the Ethics Guide when it is next updated.
- (4) The Staff Committee of the EBA has been consulted on the changes

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1. OJ L331, 15.12.2010, p. 12.

**Has decided as follows:**

**Article 1**

The document “Conflicts of interest: Access to confidential information for staff moving to another job outside the EBA” annexed to this decision is adopted.

**Article 2**

This Decision enters into force the day following its adoption.

Done at Paris, **Aug 13, 2020**

[signed]

Peter Mihalik

Acting Executive Director

# Conflicts of interest: Access to confidential information for staff moving to another job outside the EBA

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## Background

1. This note sets out the processes that EBA staff (including SNEs) should follow in order to ensure that, once it is known that a member of staff is moving to another job outside the EBA, their access to confidential information is cut off with immediate effect.
2. The contents of this note will be incorporated into the Ethics Guide when it is next updated.

## Leaving the EBA and conflicts of interest

3. Conflict of interest requirements apply when an EBA staff member or an SNE are in the process of leaving, or have left, the service following the end of their contract or secondment, resignation, retirement, dismissal or removal from the post and those who have been retired in the interests of the service pursuant to Article 50 of the Staff Regulations.
4. Conflicts of interest may arise when staff deal with a matter in which, directly or indirectly, a staff member has any personal interest such as to impair their independence<sup>2</sup>.
5. It is therefore important that you inform your line manager immediately that you will be moving to another job, including the nature of the future occupational activities. Staff who are leaving the EBA must comply with the following continuing duties and sign a declaration that they are aware of the duties:
  - a. to behave with integrity and discretion as regards the acceptance of certain appointments or benefits;
  - b. not to perform any duties or professional activities that would be incompatible with the interests of the EBA;
  - c. to refrain from any unauthorised disclosure of information received in the line of duty, unless it has already been made public or is accessible to the public.
6. You should also behave with integrity and discretion in any negotiations concerning post-employment occupational activities, and inform your line manager if you are in negotiations to carry out post-employment activities which could be perceived to affect your independence in carrying out your duties, endangering trust in the EBA's performance of its tasks. In making this

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<sup>2</sup> Article 11a(1) of the Staff Regulations.

assessment you should take into account the nature of your current role including your seniority, the nature of the potential future employer and role, and whether the organisation is one which is subject or affected by EBA decisions, guidelines, recommendations or opinions, or represents such organisations.

7. When you inform the EBA of your intention to move to another job, three different, but related process will take place:



### Suspending access to confidential information

8. First, the EBA will consider whether it is necessary to temporarily suspend your access to confidential information.
- Your line manager will inform HR of your intention to leave the EBA and, unless you fall into one of the categories set out below, will ask IT to suspend access to central EBA systems and arrange for access rights not controlled by IT to be suspended:
    - you will remain in the service of the EU; or
    - you will remain in public sector in the EEA or in an international organisation; or
    - your activities will not in any way be directly related to their current role (e.g. staff member's future role will not be in, or principally providing services to, the financial services sector, or with an EBA service provider connected to the staff member's EBA role); or
    - you do not have access to relevant non-public information (including on individual institutions, on policy development, or on EBA service providers).
  - Suspending access to confidential information involves suspending access to or use of the following:

## System

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EBA internal applications and systems (e.g. file shares, email, eDEN)

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EBA business applications (e.g. Colleges platform, ESP/EUCLID, eGate, Extranet)

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Non-EBA business applications and systems (e.g. Darwin, eBIS)

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EBA IronKey

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## In-service conflicts of interest

9. If the EBA suspends your access to confidential information, a full assessment of potential conflicts of interest will promptly be carried out to assess whether the intended new job could affect your independence in carrying out your role at the EBA – see further section 5 of the Ethics Guide. This assessment will determine what access to confidential information should be provided. The Executive Director <sup>3</sup> as Appointing Authority adopts appropriate measures in accordance with the EBA policy on conflicts of interest. This might include, for example, partially or fully reinstating access to confidential information, making the suspension permanent, reallocation of tasks, or reassignment to another unit.

## Post-employment conflicts of interest

The EBA will also assess whether there are potential post-employment conflicts of interest arising from the proposed new job – see further section 9 of the Ethics Guide.

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<sup>3</sup> Separate decision-making arrangements apply in relation to the Executive Director or Chairperson.