

(To be filled out in the EDPS' office)

REGISTER NUMBER: 1223

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 02/04/2014

CASE NUMBER: 2014-0394

INSTITUTION: ECB - EUROPEAN CENTRAL BANK

LEGAL BASIS: ARTICLE 27-5 OF THE REGULATION CE N° 45/2001⁽¹⁾

INFORMATION TO BE GIVEN²

1/ NAME AND ADDRESS OF THE CONTROLLER

European Central Bank
Director General Legal Services
Directorate General Legal Services
Kaiserstraße 29
60311 FRANKFURT AM MAIN, GERMANY

2/ ORGANISATIONAL PARTS OF THE INSTITUTION OR BODY ENTRUSTED WITH THE PROCESSING OF PERSONAL DATA

Directorate General Legal Services

3/ NAME OF THE PROCESSING

Selection of the members and alternates of the Administrative Board of Review to be established as part of the Single Supervisory Mechanism (SSM).

4/ PURPOSE OR PURPOSES OF THE PROCESSING

Pursuant to Article 24(1) of Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions³, (the '**Regulation**'), the ECB will establish an Administrative Board of Review ("ABoR") for the purposes of carrying out an internal administrative review of decisions taken by

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

³ OJ L 287, 29.10.2013.

the ECB in the exercise of the powers conferred on it by the Regulation after a request for review.

The data processing operations relate to the evaluation of the suitability of candidates to become members or alternates of the ABoR.

The ABoR members and alternates will be chosen on the basis of their high repute and of their proven record of relevant knowledge and professional experience, including supervisory experience, to a sufficiently high level in the fields of banking or other financial services.

The selection and appointment procedure will respect the principles of gender balance, experience and qualification.

The procedure for the selection and appointment of the members and alternates of the ABoR will be conducted in accordance with the requirements laid down in Article 24 of the Regulation.

The procedure includes the following steps:

- **Selection** by the Selection Committee;
- **Adoption of the list** of suitable candidates by the Executive Board;
- **Hearing of the Supervisory Board** by the Executive Board on the proposal of the ABoR members and alternates;
- **Submission of nominations by the Executive Board to the Governing Council;**
- **Appointment by the Governing Council** of the members and alternates of the ABoR.

The detailed procedure is described below:

Selection:

The Governing Council will adopt the Decision concerning the establishment of the Administrative Board of Review and its Operating Rules. The Executive Board, in charge of nominating the candidates for the ABoR members and alternates to the Governing Council, will set up a Selection Committee. The Selection Committee will be composed of members of the ECB Governing Council, the ECB Supervisory Board and Directors General of the ECB. A staff member of the Directorate General Legal Services, appointed by its Director General, will act as the Committee secretary.

Based on the assessment of the applications, the Selection Committee will establish a list of suitable candidates for the positions of members and alternates of the ABoR and will submit it to the Executive Board.

Consultation of the Supervisory Board:

Pursuant to Article 4(2) of the Draft Decision on the Operating Rules of the ABoR⁴ (**Appendix 1**), the Supervisory Board is to be heard by the Executive Board on the latter's proposal of the ABoR members and alternates, before the Executive Board submits the nominated candidates to the Governing Council. Such hearing could be done by written procedure.

Submission of nominations by the Executive Board to the Governing Council:

According to Article 4(2) of the Draft Decision on the Operating Rules of the ABoR, the Executive Board, after hearing the Supervisory Board, will submit nominations for the ABoR members and the two alternates to the Governing Council no later than one month before the start of the Governing Council meeting at which the appointment is scheduled to take place.

⁴ The Decision is expected to be adopted by the Governing Council of the ECB in the course of April 2014. OJ L [•].

Appointment by the Governing Council:

The Governing Council will appoint the members and alternates of the ABoR.

The names of the ABoR members and alternates will be published on the ECB website.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

The ABoR will be “composed of five individuals of high repute, from Member States and having a proven record of relevant knowledge and professional experience, including supervisory experience, to a sufficiently high level in the fields of banking or other financial services, excluding current staff of the ECB, as well as current staff of competent authorities or other national or Union institutions, bodies, offices and agencies who are involved in the carrying out of the tasks conferred on the ECB by the Regulation” (Art. 24 (2) of the Regulation).

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA

(including, if applicable, special categories of data (Article 10) and/or origin of data)

The personal data processed by the ECB may include the following:

- personal generic data (name, address, date of birth, gender, nationality);
- personal data provided by candidates potentially in the form of a CV, in particular demonstrating the candidate’s compliance with the eligibility and selection criteria as laid down in the Draft Call for Expression of Interest (**Appendix 2**)⁵;
- data relating to the candidate’s motivation for the position;
- assessment by the Selection Committee as regards eligibility of candidates, the matching of the candidates’ profile with the selection criteria and their suitability;
- relevant input provided by the Supervisory Board in relation to the proposed candidates by the Executive Board;
- assessment and selection of the candidates at the respective stages of the procedure.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

The Draft Call for Expression of Interest contains the provision of information pursuant to Article 11 and 12 of EC Regulation 45/2001 (such as identity of controller, purpose, categories of the data, recipients of the data, existence of the right of access and the right to rectify the data, legal basis of the processing operation) (Section 9 in particular).

The Privacy Notice (Section 9) included in the Draft Call for Expression of Interest reads as follows:

The ECB will process all personal information on candidates pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council⁶ and Decision ECB/2007/1⁷. This applies, in particular, to the confidentiality and security of such data.

The ECB’s Director General Legal Services will be identified as controller for the processing of

⁵ The Call for Expression of Interest is expected to be adopted by the Executive Board of the ECB in the course of April 2014.

⁶ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

⁷ Decision ECB/2007/1 of 17 April 2007 adopting implementing rules concerning data protection at the European Central Bank (OJ L 116, 4.5.2007, p. 64).

personal data related to the ECB's involvement in the selection procedure on the basis of this vacancy notice.

The purpose of the data processing is to organise the selection and appointment of the members of the Administrative Board. All personal data will be processed solely for this purpose.

The recipients of the candidates' personal data will be the members of the Selection Committee, the ECB's Executive Board and the ECB's Supervisory Board and the members of the ECB's Governing Council.

The ECB may keep successful candidates' data for a period of five years from the end of the term of office. In the case of unsuccessful candidates, the data will be kept for two years following the completion of the selection procedure. In the case of legal disputes, the above retention periods will be extended for two years after completion of all relevant proceedings.

Candidates have the right to access their data and to update or correct their identification data. Data demonstrating compliance with the eligibility criteria and selection criteria may, however, not be updated or corrected after the closing date of this vacancy in order to ensure compliance with the principles of equal access and non-discrimination and to ensure that the selection procedure is robust, transparent and fair for all candidates.

Candidates have the right to access their evaluation data throughout the procedure. To safeguard the confidentiality of the deliberations and decision-making of the Selection Committee, the ECB's Executive Board and the ECB's Supervisory Board and the Governing Council and to protect the rights and freedoms of the other candidates, the candidates' access shall be restricted to their own submissions and to the parts of the assessment that relate to them.

Candidates are entitled to have recourse to the European Data Protection Supervisor at any time. Once appointed, the names of Administrative Board members and alternates will be published on the ECB's website.

8/ PROCEDURES TO GRANT RIGHTS OF DATA SUBJECTS (Rights of access, to rectify, to block, to erase, to object)

Article 9 of the ECB Decision of 17 April 2007 adopting implementing rules concerning data protection at the ECB (ECB/2007/1) applies.

"1. Further to their right to be appropriately informed about any processing of their personal data, data subjects may approach the relevant controller to exercise their rights pursuant to Articles 13 to 19 of Regulation (EC) No 45/2001, as specified below.

(a) These rights may only be exercised by the data subject or their duly authorised representative. Such persons may exercise any of these rights free of charge.

(b) Requests to exercise these rights shall be addressed in writing to the relevant controller. The controller shall only grant the request if the requester's identity and, if relevant, their entitlement to represent the data subject have been appropriately verified. The controller shall without delay inform the data subject in writing of whether or not the request has been accepted. If the request has been rejected, the controller shall include the grounds for the rejection.

(c) The controller shall, at any time within three calendar months of receipt of the request, grant access pursuant to Article 13 of Regulation (EC) No 45/2001 by enabling the data subject to consult these data on-site or to receive a copy thereof, according to the applicant's preference.

(d) Data subjects may contact the DPO in the event that the controller does not respect either of the time limits in paragraphs (b) or (c). In the event of obvious abuse by a data subject in exercising their rights, the controller may refer the data subject to the DPO. If the case is referred to the DPO,

the DPO will decide on the merits of the request and the appropriate follow-up. In the event of disagreement between the data subject and the controller, both parties shall have the right to consult the DPO”.

In relation to the **publication of the names of the appointed alternates and members** of the ABoR on the ECB Website, the data subjects have the right to object to such disclosure on compelling legitimate grounds pursuant to Article 18 of Regulation (EC) No 45/2001.

“The data subject shall have the right:

(a) to object at any time, on compelling legitimate grounds relating to his or her particular situation, to the processing of data relating to him or her, except in the cases covered by Article 5(b), (c) and (d). Where there is a justified objection, the processing in question may no longer involve those data;

(b) to be informed before personal data are disclosed for the first time to third parties or before they are used on their behalf for the purposes of direct marketing, and to be expressly offered the right to object free of charge to such disclosure or use”.

9/ AUTOMATED / MANUAL PROCESSING OPERATION

Data are processed by both automated and manual means.

Applications will be submitted by courier/post to the ECB.

10/ STORAGE MEDIA OF DATA

The documents submitted by the applicants will consist of hard copies (i.e. paper files). The hard copies will be held in a secure and lockable filing cabinet in a secured area.

Documentation relating to the on-going selection procedure, e.g. the assessment report and short-list, will also be saved in a dedicated and restricted electronic workspace.

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

- Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, in particular Article 24, (**Appendix 3**);
- The Draft Call for Expression of Interest to be approved by the ECB Executive Board;
- Draft Decision concerning the establishment of the Administrative Board of Review and its Operating Rules.

12/ THE RECIPIENTS OR CATEGORIES OF RECIPIENT TO WHOM THE DATA MIGHT BE DISCLOSED

The recipients of the applicants’ personal data will be the members of the Selection Committee, the ECB’s Executive Board and the ECB’s Supervisory Board and the members of the ECB’s Governing Council.

The involvement of the Selection Committee and its secretary, the Supervisory Board, the ECB Governing Council, constitutes a transfer of data which is in line with Article 7 of the Regulation 45/2001. The selection of the members and alternates of the ABoR represents a legitimate task to be carried out by the ECB and the participation of the aforementioned ECB internal bodies is necessary to comply with this task.

Furthermore, a very limited number of ECB staff members will provide support and perform administrative tasks in relation to the applications.

In line with the different steps of the selection procedure, the data might be disclosed to the abovementioned recipients in the method described in section 4 of this notification.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

Five years after the end of the term of office of the successful candidates.

Two years following the completion of the selection procedure for unsuccessful candidates.

In the case of legal disputes, the above retention periods will be extended for two years after completion of all relevant proceedings.

13 A/ TIME LIMIT TO BLOCK/ERASE ON JUSTIFIED LEGITIMATE REQUEST FROM THE DATA SUBJECTS (Please, specify the time limits for every category, if applicable)

No specific time limits apply to the blocking or erasure of data on justified legitimate requests from the data subjects.

14/ HISTORICAL, STATISTICAL OR SCIENTIFIC PURPOSES

(If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification)

Not applicable.

15/ PROPOSED TRANSFERS OF DATA TO THIRD COUNTRIES OR INTERNATIONAL ORGANISATIONS

Not applicable.

16/ THE PROCESSING OPERATION PRESENTS SPECIFIC RISK WHICH JUSTIFIES PRIOR CHECKING *(Please describe)*

AS FORESEEN IN:

Article 27.2.(a)

(Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,)

Article 27.2.(b)

(Processing operations intended to evaluate personal aspects relating to the data subject,)

Article 27.2.(c)

(Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,)

Article 27.2.(d)

(Processing operations for the purpose of excluding individuals from a right, benefit or contract)

Other (general concept in Article 27.1)

17/ COMMENTS

PLACE AND DATE: FRANKFURT AM MAIN, GERMANY, 02/04/2014

DATA PROTECTION OFFICER: FREDERIK MALFRÈRE

INSTITUTION OR BODY: ECB - EUROPEAN CENTRAL BANK