

(To be filled out in the EDPS' office)

REGISTER NUMBER: 1261

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NOTIFICATION FOR PRIOR CHECKING

DATE OF SUBMISSION: 28/07/2014

CASE NUMBER: 2014-0774

INSTITUTION: ECB

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
Kaiserstrasse 29
60311 Frankfurt am Main
GERMANY

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

Directorate General Human Resources, Budget and Organisation (further 'DG-H')
Recruitment and Compensation Division (further 'RCO Division')

3/ NAME OF THE PROCESSING

Handling of data within the Annual Salary and Bonus Review (**ASBR**)

4/ PURPOSE OR PURPOSES OF THE PROCESSING

The purpose of the processing of personal data in the context of the ASBR procedure is to assess the growth of a staff member's contribution to the tasks of the ECB relative to that of other staff members who perform their duties within the same business area.

A detailed description of the ASBR objectives and awards can be found in the ASBR Guidelines attached as **Appendix 1** to this notification. The procedural aspects are explained in the Cover Letter and the ISIS User Guide provided in **Appendix 4**.

¹ OJ L 8, 12.01.2001.

² **Please attach all necessary backup documents**

The ASBR is linked to the Additional Salary Adjustment Procedure (ASA) insofar as only those staff members are eligible for an ASA who have displayed an outstanding performance over a longer period of time (entailing amongst others an award of at least 9 salary steps in the last ASBR, and an award of 9 steps in the ASBR of one of the two previous years. The prior checking notification on the ASA procedure was submitted to the EDPS on 29 November 2011.

5/ DESCRIPTION OF THE CATEGORY OR CATEGORIES OF DATA SUBJECTS

The personal scope of application of the ASBR is limited to ECB staff members holding a permanent or fixed term contract, verifying the eligibility criteria defined in the ASBR Guidelines (i.e. being on active status for at least 3 months in the reference ASBR period, i.e., 1 September YYYY to 31 August YYYY+1).

Staff members who have been in total absent for more than 9 months are not eligible, unless these absences relate to secondments, sick leave, maternity or adoptive leave, special leave, or the unpaid leave taken in relation to the sickness of a sick child or relative (as defined in Article 5.10.2 and 5.10.3 of the Staff Rules). Staff members promoted during the year are eligible as well as members of the Staff Committee, the International and European Public Services Organisation (IPSO) and the Oversight Committee.

6/ DESCRIPTION OF THE DATA OR CATEGORIES OF DATA

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

In respect of the ASBR, the exercise is conducted on the basis of direct input by local managers and approval by senior managers in the ASBR module in ISIS (SAP application used by the ECB) via a specific portal.

Categories of data processed are:

- Employee name
- Status
- Current band
- Current point in the band
- Yearly salary
- Current position in the band (i.e. start, middle, top or end)
- Remaining steps until the end of the band is reached

Personal data as displayed on the portal:

Employee	Status	Current Band	Current Point	Calculation Base	Pos.in Band	Rem. Steps
Michal Rudi	New	J_0	63	132,528.00	MIDDLE	081
Fria Maserati	New	C	56	44,868.00	MIDDLE	033
Laurence Lei	New	C	76	47,268.00	END	013
Daniele Isa	New	I	23	108,504.00	START	068
Loris Kostan	New	H	91	117,948.00	TOP	000

The individual staff member concerned is informed of the result of the ASBR exercise via a system generated letter, a copy of which is stored in the personal file. A set of statistics based on the ASBR results by salary bands and business areas is published on the ECB intranet including the distribution of the percentage of steps granted (from 0 to 14) for each business area.

Since the data is not processed on the basis of direct input in the ASBR system, information on the ASA and the special bonus is processed via confidential Excel files, which are disposed of at the end of the exercise.

The information collected in relation to the missions refers to the number of days of travel (during 1 June YYYY to 31 May YYYY+1). The individual staff member concerned is informed of the result of the special bonus via a separate letter (not automatically generated), a copy of which is stored in the personal file.

7/ INFORMATION TO BE GIVEN TO DATA SUBJECTS

ASBR results are communicated by individualised letter as mentioned above.

The following information is available on the ECB's intranet:

The Year T Annual Salary and Bonus Review (ASBR) starts in early November Year T. It assesses the performance during the period of 1 September Year T-1 until 31 August Year T, in line with the annual cycle for the appraisal exercise. The objectives, timetable, procedures and further technicalities underlying the ASBR exercise are described in a set of documents as the ones below (for the 2013 ASBR exercise). The changes compared to the previous year are published through HR News.

The following background material is available via the ECB intranet:

- ASBR 2013 Guidelines (**Appendix 1**)
- ASBR 2013 FAQs (**Appendix 2**)
- ASBR 2013 timetable (**Appendix 3**)
- ASBR 2013 ISIS User Guide (**Appendix 4**)
- ASBR 2013 Statistics (**Appendix 5**)

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”.*

9/ AUTOMATED / MANUAL PROCESSING OPERATION

The processing operation encompasses both automated and manual components.

The direct transfer of the allocation of steps and bonuses in the payroll system for the January salary and the generation of system related letters or aggregated statistics constitute automated processing. The senior management's decision on ASAs and the allocation of steps and bonuses in the ASBR system, the upload of the letter in the electronic personal file and the collection/processing of information on the ad hoc bonuses related to the financial crisis are manual steps.

10/ STORAGE MEDIA OF DATA

All data entered in connection with the ASBR is entered in the relevant ASBR module of the ISIS system and transferred to the payroll system. The ASBR letter as such is handed out in paper form. An (electronic) copy is held in the staff member's personal file in ISIS.

The information related to special bonuses and the ASA is collected in Excel sheets stored in the Electronic Documents and Records Management of the ECB (DARWIN).

11/ LEGAL BASIS AND LAWFULNESS OF THE PROCESSING OPERATION

- Article 5 of Annex I to the Conditions of Employment (**Appendix 6**)
- Article 6 of Annex I to the Conditions of Employment (**Appendix 6**)
- ASBR Guidelines attached, as approved by the ECB's Executive Board from time to time, setting out the ASBR procedure in detail (**Appendix 1**)
- Administrative circular 01/2011 on Additional Salary Advancements (**Appendix 7**)

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

Recipients of the personal data are the local managers having proposed the ASBR/ASA as well as the Area Head of the respective business area, the member of staff (via the individualised letter) and a limited number of HR assistants/experts dealing with the ASBR exercise and payroll.

All senior management are informed about ASA nominations since the selected staff members (around 1% of all staff) are chosen in a meeting of senior managers.

13/ RETENTION POLICY OF (CATEGORIES OF) PERSONAL DATA

The ASBR letters, being pension relevant as they refer to the salary level of the person, are kept for 10 years after all rights of the staff member or dependents are extinguished. The paper copy sent to the manager for the distribution of the letter to the staff member is destroyed immediately after the ASBR letter has been handed over.

The Excel files in preparation of the ASA and the special bonus as well as other background documentation are destroyed immediately after completion of the exercise.

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)

N/A

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)

The ASBR data (numeric steps) is transferred to the payroll system and added to the basic salary of the member of staff. It is therefore kept in the system subject to the general retention period applicable to the personal file. Aggregated statistical data is kept for 10 years.

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

N/A

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

N/A

PLACE AND DATE: FRANKFURT AM MAIN, 25 JULY 2014

DATA PROTECTION OFFICER: FREDERIK MALFRÈRE

INSTITUTION OR BODY: EUROPEAN CENTRAL BANK

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