

EUROPEAN STABILITY MECHANISM

CODE OF CONDUCT

of

THE BOARD OF AUDITORS

Article 1

Hierarchy of Rules

1. This is the Code of Conduct (the “Code”) of the Board of Auditors of the European Stability Mechanism (the “ESM”) adopted by said Board of Auditors.
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 ESM By-Laws (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 Board of Auditors’ Code of Conduct 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 of member of the Board of Auditors, upon appointment by the Board of Governors of the ESM and, where explicitly provided for, to persons having formerly served in such capacity.
2. The duty of confidentiality, specified in Article 11 of this Code, shall also apply *mutatis mutandis* to all persons who attend meetings of the Board of Auditors as foreseen in Article 3 of the Rules of Procedure of the Board of Auditors as well as external experts used by the Board of Auditors, if any.

Article 3

Duties of Board of Auditors Members

1. Members of the Board of Auditors shall conduct their work in a spirit of collegiality and mutual cooperation. Each Member shall devote to the activities of the Board of Auditors such time and attention as the performance of its tasks may require.
2. For the duration of their mandates at the Board of Auditors, a member of the Board of Auditors may not engage in such activities as may be determined by the Board of Auditors to be incompatible with the duties of a Board of Auditors member, the Treaty, the By-Laws and the Rules of Procedure of the Board of Auditors.

Article 4
Standard of Conduct

1. Members of the Board of Auditors shall perform their duties in full compliance with the Treaty, the By-Laws, this Code and Rules of Procedure as well as other guidelines of the Board of Auditors.
2. Members of the Board of Auditors shall conduct themselves, and perform their duties in a manner that safeguards and enhances public confidence in their integrity and in the integrity of the ESM. As laid down in Article 24 (9) of the By-Laws, the members of the Board of Auditors shall refrain from any action incompatible with their duties, at the time of their appointment and both during and after their term of office.
3. Members of the Board of Auditors shall perform their duties objectively and impartially, without allowing themselves to be influenced by personal or political considerations, relationships or affiliations. As laid down in Article 30 (2) of the Treaty and Article 24 (9) of the By-Laws, the members of the Board of Auditors shall be independent. Their independence must be beyond doubt. In the performance of their duties, they shall neither seek nor take instructions from the ESM governing bodies, the ESM Members, any government or any other public or private body.
4. Members of the Board of Auditors shall perform their duties diligently, efficiently and to the best of their ability.
5. Members of the Board of Auditors may not misuse the ESM resources or make improper use of the ESM name or reputation.

Article 5
Values and Work Environment

1. The members of the Board of Auditors shall respect the ESM's values of integrity, respect, accountability, and non-discrimination.
2. Any member of the Board of Auditors who witnesses behaviour constituting any form Integrity Violations and Behavioural Misconduct such as such as Discrimination, Physical violence, Psychological or Sexual harassment, and Retaliation is encouraged to offer their assistance to the victim and report the matter in line with Article 16.

Article 6
Conflict of Interest

1. As laid down in Article 24 (9) of the By-Laws, the members of the Board of Auditors shall, in accordance with international standards on auditing and the International Code of Ethics for Professional Accountants, take care to avoid all conflicts of interest, at the time of their appointment as well as both during and after their term of office. The same applies to the appearance of conflicts of interest.

For the avoidance of doubt, a "Conflict of Interest" is defined as prescribed in the Annex to this Code.

2. Should a Conflict of Interest concerning an agenda item for consideration by the Board of Auditors arise, a declaration is to be made by the respective members of the Board of Auditors under a standing agenda item at each meeting of the Board of Auditors. In such instances, the respective Board of Auditors member shall recuse her/himself from the respective agenda item. Any such declaration shall be included in the minutes of the meeting.
3. Whenever a member of the Board of Auditors 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, he/she shall declare so immediately in writing to the Board of Auditors Chairperson for further guidance on the actions to take and the Secretary General. Such a declaration shall also be required if the private interest arises subsequently to the relevant operation. In the event of doubt or difficulty in determining whether there is a Conflict of Interest, members of the Board of Auditors should refer to the Chairperson of the Board of Auditors for guidance.
4. Members of the Board of Auditors shall not avail themselves of professional ESM contacts in order to manage their personal affairs.

Article 7

External Activities

1. Members of the Board of Auditors shall notify the Board of Auditors as well as the Secretary General in writing of any changes in their professional activities during their term of office without delay.
2. Members of the Board of Auditors shall not engage in any professional activity (hold other employment or engage in any occupation or profession, or in any business) which is incompatible with the proper performance of their ESM duties or that might create a conflict of interest.

Article 8

Public Office

Members of the Board of Auditors intending to stand for election to public office shall inform in advance the Board of Auditors as well as the Secretary General in writing well before formally standing, usually at least three months ahead of doing so. Depending on the extent of the functions under the said public office, the Secretary General will provide guidance on the actions to take in this regard.

Article 9

Gifts and Other Inducements

1. The Board of Auditors shall not tolerate any Integrity Violations, whether in the form of bribery, corruption, collusion or facilitation payments, including the offering, giving, receiving or soliciting directly or indirectly anything of value to influence improperly the actions of Board of Auditors members, members of staff or other parties.
2. Members of the Board of Auditors may not apply for, solicit, receive, or accept from any source inside or outside the ESM any advantage or inducement, direct or indirect,

which is in any way connected with their mandate or which otherwise might call into question their integrity or the objective and impartial discharge of their duties. Any gifts and other inducements offered in connection with their mandate with the ESM must be declared to the Chairperson of the Board of Auditors and the Secretary General except for gifts with merely token value, which do not need to be declared.

3. Members of the Board of Auditors may not accept or receive gifts exceeding a token value of EUR 50, as determined by the Board of Auditors, from any person, organisation, or company with which the ESM does or seeks to do business. This rule shall not be circumvented by the acceptance or receipt of such gifts by family members of the member of the Board of Auditors, instead of by the latter.
4. In exceptional circumstances, when refusing to accept a gift may cause offence or embarrassment to the gift-giver or to the ESM, members of the Board of Auditors may accept gifts with a value in excess of the token value determined by the Board of Auditors in consultation with the Secretary General pursuant to paragraph (3) above. However, such gifts shall be declared immediately to the Chairperson of the Board of Auditors and the Secretary General who will provide guidance on how the gift is to be disposed of in order to preserve the highest standards of integrity of the member of the Board of Auditors and the ESM. The Secretary General will keep a register of such gifts.
5. Limited hospitality, such as meals, refreshments and receptions may normally be accepted, provided that they are unsolicited, the attendance is related to the duties of the member of the Board of Auditors and the third party, the frequency of such invitations from the third party is not excessive, and the level of expense is reasonable and customary in the particular circumstances. Guidance may be given by the Secretary General in consultation with the Board of Auditors Chairperson, from time to time, on what is acceptable as “reasonable and customary” under this Article.
6. Members of the Board of Auditors shall not in the context of their mandate apply for, solicit, receive, or accept any honour, distinction, decoration or award from any government or other public authority without the prior guidance of the Secretary General and consent of the Board of Auditors.

Article 10

Duty of Confidentiality

1. Members of the Board of Auditors shall not disclose information that is subject to professional secrecy pursuant to Article 34 of the Treaty. Without prejudice to Article 17 of the By-Laws, they are required to ensure the same level of confidentiality, as indicated by the ESM confidentiality-marking framework when sharing ESM information and documents with their secretariat.
2. As laid down in Article 24 (10) of the By-Laws, the members of the Board of Auditors and the experts appointed by it shall keep all non-public information obtained in the performance of their duties in the strictest confidence, both during and after their term of office or appointment.
3. The conditions under which documents drawn up or held by the ESM may be communicated to other persons or entities or otherwise disclosed externally are set forth in Article 17 of the By-Laws.

4. Members of the Board of Auditors 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.
5. Members of the Board of Auditors have the right to intimacy of private life and confidentiality and protection of personal data. The ESM shall not disclose documents or parts of documents that contain personal data of the Board of Auditors members, except when this is permitted under the By-Laws and ESM personal data protection policy, as applicable to the Board of Auditors members.

Article 11

Public Statements and Contacts with the Media

Except as foreseen in Article 30 (5) of the Treaty and Article 24 (6) of the By-Laws for the publication of its reports, neither the Board of Auditors nor its members shall make any public statements or have any contacts with the media related to the ESM or its activities.

Article 12

Inside Information

1. Members of the Board of Auditors shall strictly observe all applicable laws and regulations on insider trading as well as the rules set forth in this Article. The Secretary General may be consulted in case of doubt.
2. Members of the Board of Auditors 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 duties as member of the Board of Auditors 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.

For the purposes of this Code, “Inside Information” refers to inside information as defined in the Market Abuse Regulation from time to time.

3. Members of the Board of Auditors who reasonably suspect that a transaction might constitute insider trading shall notify the Board of Auditors and the Secretary General without delay.

Article 13

Private Investments

1. Members of the Board of Auditors 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. Members of the Board of Auditors shall immediately report to the Board of Auditors and the Secretary General 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

ESM Property, Assets and Assets and Environmental Impact

1. Members of the Board of Auditors shall protect and preserve the ESM's property and assets and shall use its resources as efficiently as possible, guarding against waste and 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 the Board of Auditors or their subject matter experts 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 the Board of Auditors 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 members of the Board of Auditors 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 Board of Auditors is committed to protecting the environment and seeks to follow a prudent approach on environmental matters in the implementation of its mandate.

Article 15

Expenses and allowances

1. In line with Article 24 (5) of the By-Laws, members of the Board of Auditors are entitled, at the ESM's expense, to the reimbursement of, or the payment of allowances for travel and office expenses incurred by them in the performance of their duties, in the amounts determined, and adjusted from time to time, by the Board of Directors. The Members of the Board of Auditors shall submit any claim for reimbursement of, or the payment of allowances to the Secretary General in line with Article 7 (2) of the Rules of Procedure of the Board of Auditors.
2. Expenses not justified by the mandate of the Board of Auditors or not in line with the general principles of the ESM Expenses and Travel policies shall be avoided.

Article 16

Reporting of Misconduct

1. Any member of the Board of Auditors who becomes aware of or suspects an infringement of this Code, including a Serious Misconduct by a Member of the Board of Auditors, is encouraged to report the matter to the Secretary General and the

Chairperson of the Board of Auditors. All members of the Board of Auditors shall cooperate fully in any official investigation.

2. Any member of the Board of Auditors who becomes aware of or suspects a Serious Misconduct on ESM internal matters, is encouraged to report the matter, in good faith to the ESM Compliance Officer. All members of the Board of Auditors shall cooperate fully in any internal investigation of the reported misconduct.
3. The ESM protects the identities of Whistleblowers and Witnesses in accordance with the Whistleblower and Witness Protection Policy both during and after investigations. The ESM shall refrain from any Retaliation or reprisal against any members of the Board of Auditors who in good faith reports Misconduct as set out in paragraphs (1) and (2) above.

Article 17

Entry into Force and Review

1. The Chairperson of the Board of Auditors shall supervise the adherence to this Code of Conduct.
2. This Code shall enter into force on the day it is adopted by the Board of Auditors in line with Article 24 (3).
3. This Code shall be subject to revision as and when it is deemed necessary by the Board of Auditors, 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.

An **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 corrupt, fraudulent, coercive, and collusive practice, abuse, obstructive practice and conflict of interest, as defined below;

Corrupt practice is the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;

Fraudulent practice 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;

Coercive practice 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;

Collusive practice is an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;

Obstructive practice includes deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation of an integrity violation, 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 Board of Auditors influence or may influence the objective and impartial performance of their duties. Private interests include any advantages for members of Board of Auditors, their families or personal acquaintances.

Behavioural Misconduct constitutes Serious Misconduct and includes any form of direct or indirect discrimination, physical violence, psychological harassment (also referred to as bullying or mobbing), sexual 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. **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 he/she accepts or rejects it. A behaviour may qualify as Harassment under the Code of Conduct even if it was not deliberately intended to cause harm.

Retaliation is any detrimental act, direct or indirect, recommended, threatened or taken against anyone who has raised or is considering raising a complaint of misconduct or cooperating with an ESM investigation into any form of (alleged) misconduct. Retaliation can include, but is not limited to, harassment, discriminatory treatment, inappropriate performance appraisals or salary adjustments, or the withholding of an entitlement.

A **Whistleblower** is any person or party who, in good faith and voluntarily, conveys or is proven to be about to convey any information indicating misconduct, including integrity violations or behavioural misconduct as set out in the ESM Code of Conduct.

A **Witness** is any person, who is not the subject of an investigation, but who is named in a whistleblower report as a witness and/or requested by the ESM to provide information regarding a matter under investigation.