

TRANSPARENCY REGISTER NEGOTIATIONS

COMPROMISE PACKAGE AT TECHNICAL LEVEL FOR THE ATTENTION OF THE  
POLITICAL NEGOTIATORS

AGREEMENT ON A MANDATORY TRANSPARENCY REGISTER

**Agreement between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register**

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE EUROPEAN COMMISSION

Having regard to the Treaty on the Functioning of the European Union, in particular Article 295 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community (EURATOM), in particular Article 106a thereof,

Whereas:

- (1) The European Parliament, the Council of the European Union and the European Commission ('the signatory institutions') maintain an open, transparent and regular dialogue with representative associations and civil society in accordance with the Treaty on European Union (TEU), in particular Article 11(1) and (2) thereof.
- (2) That dialogue enables all stakeholders to present their views on decisions that may affect them and hence to contribute effectively to the evidence base on which policy proposals are made. Engaging with stakeholders enhances the quality of decision-making by providing channels for the input of external views and expertise.
- (3) Transparency and accountability are essential to maintain the trust of Union citizens in the legitimacy of the political, legislative and administrative processes of the Union.
- (4) The signatory institutions recognise the importance of coordinating their approach in order to further promote interest representation that is transparent and ethical through the adoption of a joint framework for their cooperation.
- (5) Transparency of interest representation is especially important in order to allow citizens to follow the activities and potential influence of interest representatives, including influence through financial support and sponsorship. Such transparency is best ensured by means of a code of conduct which contains the rules and principles to be observed by interest representatives that sign up to a transparency register ('register').
- (6) In view of the positive experience with the Transparency Register for organisations and self-employed individuals engaged in EU policy-making and policy implementation established by the agreement between the European Parliament and the European Commission of 16 April 2014<sup>1</sup> ('the 2014 Agreement'), the signatory institutions consider that that Agreement should be extended.
- (7) It is necessary to make the register mandatory by putting in place, by means of individual decisions adopted by each of the signatory institutions, measures of

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<sup>1</sup> Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation (OJ L 277, 19.9.2014, p. 11.).

equivalent effect that make registration of interest representatives in the register a necessary precondition for carrying out certain types of interest representation activities.

- (8) In order to further strengthen the joint framework and build on the progress made in establishing a common transparency culture, the signatory institutions should publish on the website of the register conditionality and complementary transparency measures that they put in place to encourage registration, such as dedicated mailing lists, the recommendation that certain decision-makers meet only registered interest representatives or the publication of information on meetings between certain decision-makers and interest representatives.
- (9) In order to promote this Agreement beyond the signatory institutions, it should provide for arrangements that allow Union institutions, bodies, offices and agencies other than the signatory institutions, and Member States' permanent representations, that voluntarily wish to apply the operating principles of the joint framework to benefit from the assistance of the Secretariat of the register and its help-desk supports.
- (10) In order to avoid an unnecessary administrative burden and in line with current practice as regards registration, activities carried out by interest representatives exclusively on behalf of an association or network of which they are a part should be considered to be activities of that network or association.
- (11) Activities of public authorities of the Member States, as well as of any association or network of public authorities acting on their behalf at Union, national or subnational level, should not be covered by this Agreement, although associations and networks of public authorities at Union, national or subnational level engaging in interest representation activities should be allowed to register.
- (12) The practice of adopting an annual report on the operations of the register should be maintained as a tool to ensure appropriate visibility for the coordinated approach and to bolster citizens' trust. The content of the annual report should be expanded to cover conditionality and complementary transparency measures put in place by the signatory institutions.
- (13) The operation of the register should not impinge on the competences of any of the signatory institutions or affect their respective powers of internal organisation.
- (14) In the exercise of their respective powers of internal organisation, the signatory institutions should delegate to the Secretariat and the Management Board of the register the power to act on their behalf for the adoption of individual decisions concerning applicants and registrants, in accordance with this Agreement. The signatory institutions should be co-defendants in any legal action brought before the Court of Justice of the European Union against final decisions of the Management Board that adversely affect applicants or registrants.
- (15) The signatory institutions should act in mutual sincere cooperation in implementing this Agreement.
- (16) Any of the signatory institutions should be able to pursue other good governance and transparency policies outside the framework of this Agreement to the extent that such

policies do not interfere with the implementation and the objectives pursued by this Agreement.

- (17) This agreement should be without prejudice to the exercise of rights under Article 11(4) TEU, concerning the European citizens' initiative, and Article 227 of the Treaty on the functioning of the European Union (TFEU), concerning the right to petition the European Parliament.

AGREE AS FOLLOWS:

## Article 1

### **Purpose and scope**

1. This Agreement establishes a framework and operating principles for a coordinated approach on the part of the signatory institutions as regards transparent and ethical interest representation.
2. By means of individual decisions taken on the basis of their powers of internal organisation, the signatory institutions agree to implement the coordinated approach, referred to in the first paragraph, with regard to the activities covered by this Agreement ('covered activities') and to set out the activities that they decide to make conditional upon registration in the register.

## Article 2

### **Definitions**

For the purposes of this Agreement, the following definitions apply:

- (a) 'interest representative' means any natural or legal person, or formal or informal group, association or network thereof, that engages in covered activities;
- (b) 'applicant' means any interest representative that applies to join the register;
- (c) 'registrant' means any interest representative with an entry in the register;
- (d) 'client' means any interest representative that has entered into a contractual relationship with an intermediary for the purpose of advancing that interest representative's interests by carrying out covered activities;
- (e) 'intermediary' means any interest representative that represents the interests of a client in relation to the carrying out of covered activities;
- (f) 'client intermediary relationship' means any contractual relationship between a client and an intermediary concerning the carrying out of covered activities;
- (g) 'staff' means all categories of staff subject to the Staff regulations of Officials of the European Union and the Conditions of Employment of other Servants of the Union,

laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>2</sup>, employed by any of the signatory institutions;

- (h) ‘conditionality’ means the principle whereby registration in the register is a necessary precondition for interest representatives to be able to carry out certain covered activities.

### Article 3

#### **Covered activities**

1. This Agreement shall cover activities carried out by interest representatives with the objective of influencing the formulation or implementation of policy or legislation, or the decision-making processes of the signatory institutions or other Union institutions, bodies, offices and agencies (‘Union institutions’), without prejudice to Article 4.
2. In particular, covered activities may include:
  - organising or participating in meetings, conferences or events as well as engaging in any similar contacts with Union institutions;
  - contributing to or participating in consultations, hearings or other similar initiatives;
  - organising communication campaigns, platforms, networks and grassroots initiatives;
  - preparing or commissioning of policy and position papers, amendments, opinion polls and surveys, open letters and other communication or information material, and commissioning and carrying out of research.

### Article 4

#### **Activities not covered**

1. This Agreement shall not cover the following activities:
  - (a) the provision of legal and other professional advice in the context of a client-intermediary relationship, where:
    - (i) it consists of representing clients in the context of a conciliation or mediation procedure aimed at preventing a dispute from being brought before a judicial or administrative body;
    - (ii) the advice is given to clients to help them ensure that their activities comply with the existing legal framework; or
    - (iii) it consists of representing clients and safeguarding their fundamental or procedural rights, such as the right to be heard, the right to a fair trial, and the right of defence in administrative proceedings, and includes activities

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<sup>2</sup> OJ L 56, 4.3.1968, p. 1.

carried out by lawyers or by any other professionals involved in representing clients and safeguarding their fundamental or procedural rights;

- (b) making submissions as a party or a third party in the framework of a legal or administrative procedure established by Union law or by international law applicable to the Union, and submissions based on a contractual relationship with any of the signatory institutions or based on a grant agreement financed by Union funds;
- (c) activities of the social partners acting as participants in the social dialogue pursuant to Article 152 TFEU;
- (d) making submissions in response to direct and specific requests from any of the Union institutions, their representatives or staff, for factual information, data or expertise;
- (e) activities carried out by natural persons in a strictly personal capacity and not acting in association with others;
- (f) spontaneous meetings, meetings of a purely private or social character and meetings taking place in the context of an administrative procedure established by TEU or TFEU or Union acts.

2. This Agreement shall not cover the activities carried out by the following bodies:

- (a) public authorities of Member States, including their permanent representations and embassies, at national and subnational level;
- (b) associations and networks of public authorities, at Union, national or subnational level, on condition that they act exclusively on behalf of the relevant public bodies;
- (c) intergovernmental organisations, including agencies and bodies emanating from them;
- (d) public authorities of third countries, including their diplomatic missions and embassies; with the exception of legal entities, offices and networks representing such authorities without diplomatic status or through an intermediary;
- (e) political parties; with the exception of any organisations created by or affiliated with political parties;
- (f) churches and religious associations or communities as well as philosophical and non-confessional organisations referred to in Article 17 TFEU; with the exception of offices, legal entities, or networks created to represent churches, religious communities or philosophical and non-confessional organisations in their relations with the Union institutions, as well as their associations.

## Article 5

### **Conditionality and complementary transparency measures**

1. The signatory institutions commit to the principle of conditionality, which they shall implement by means of individual decisions on the basis of their powers of internal organisation.
2. When adopting conditionality or complementary transparency measures to encourage registration and strengthen the joint framework, the signatory institutions shall ensure that such measures are consistent with this Agreement and that they reinforce the objective of the coordinated approach, namely to set a high standard of transparent and ethical interest representation at Union level.
3. Conditionality and complementary transparency measures adopted by the signatory institutions shall be made public on the website of the register, which shall be regularly updated.

## Article 6

### **Eligibility and code of conduct**

1. Applicants that submit a complete registration shall be eligible to join the register in the event they carry out covered activities and observe the code of conduct set out in Annex II ('code of conduct').
2. When submitting an application for registration, applicants shall provide the information listed in Annex I. Applicants shall agree to that information being made available in the public domain.
3. Applicants may be requested to substantiate their eligibility to join the register and the accuracy of the information submitted by them.
4. The Secretariat of the register ('the Secretariat') shall activate an applicant's registration once the applicant's eligibility has been established and the registration is considered to satisfy the requirements set out in Annex I.
5. Once an applicant's registration has been activated, the applicant shall become a registrant.
6. The Secretariat shall monitor registrations and evaluate registrants' ongoing eligibility and observance of the code of conduct, in accordance with the procedures set out in Annex III.
7. The Secretariat may carry out investigations on the basis of a complaint alleging that a registrant has not observed the code of conduct, as well as on its own initiative in the light of information that the registrant may no longer satisfy the requirements for eligibility under paragraph 1.
8. In the context of monitoring or of an investigation by the Secretariat, registrants shall in particular:

- (a) present, if requested, supporting material demonstrating that the information relating to their registration continues to be accurate; and
- (b) cooperate sincerely and constructively in accordance with the procedures laid down in Annex III.

## Article 7

### **Management Board**

1. The Management Board of the register ('Management Board') shall consist of the Secretaries-General of the signatory institutions who shall chair it on a rotating basis for a term of one year.
2. The Management Board shall:
  - (a) oversee the overall implementation of this Agreement,
  - (b) determine the annual priorities for the register as well as the budget estimates and share required for the implementation of those priorities,
  - (c) issue general instructions to the Secretariat;
  - (d) adopt the annual report referred to in Article 13;
  - (e) examine and decide upon reasoned requests for review of the Secretariat's decisions in accordance with Annex III.
3. The Management Board shall meet at least annually at the initiative of its Chair. It may also meet upon request of one of its members.
4. The Management Board shall decide by consensus.

## Article 8

### **Secretariat**

1. The Secretariat shall be a joint operational structure set up to manage the functioning of the register. It shall be made up of the heads of unit, or equivalent, responsible for transparency issues in each signatory institution ('heads of unit') and the respective staff. .
2. One of the heads of unit shall be designated to act as 'Coordinator' by the Management Board for a renewable term of one year. The Secretariat shall operate under the coordination of the Coordinator.

The Coordinator shall represent the Secretariat and oversee its day-to-day work, in the common interest of the signatory institutions.

3. The Secretariat shall:
  - (a) report to the Management Board, prepare its meetings and assist it in its tasks;

- (b) establish guidelines for registrants, to ensure the consistent application of this Agreement;
  - (c) monitor the content of the register and decide upon the eligibility of applicants, with the aim of achieving an optimal level of data quality in the register, on the understanding that registrants are ultimately responsible for the accuracy of the information they have provided;
  - (d) provide helpdesk support to applicants and registrants;
  - (e) carry out investigations and apply measures in accordance with Annex III;
  - (f) undertake communication and awareness-raising actions aimed at stakeholders;
  - (g) draft the annual report referred to in Article 13;
  - (h) be responsible for IT development and maintenance of the register;
  - (i) exchange best practice and experience concerning the transparency of interest representation with similar bodies;
  - (j) carry out any other activities necessary for the implementation of this Agreement.
4. The Secretariat shall decide by consensus of the heads of unit.

#### Article 9

#### **Empowerment**

The Management Board and the Secretariat shall carry out the tasks assigned to them pursuant to Articles 7 and 8 and, in carrying out those tasks, shall be empowered to adopt decisions on behalf of the signatory institutions.

#### Article 10

#### **Resources**

1. The signatory institutions shall ensure that the necessary human, administrative, technical and financial resources are made available, including adequate staffing for the Secretariat, so as to ensure that implementation of this Agreement is effective.
2. Without prejudice to point (b) of Article 7(2) and taking into due consideration the different size of the institutions' establishment plans, the signatory institutions shall take the necessary steps to finance the maintenance, development and promotion of the register.

#### Article 11

#### **Voluntary involvement of Union institutions, bodies, offices and agencies, other than the signatory institutions**

1. Union institutions, bodies, offices and agencies, other than the signatory institutions, may notify the Management Board of measures through which they decide to make certain activities conditional upon registration in the register, or of any complementary transparency measures.
2. Where the Management Board considers that the measures referred to in paragraph 1 are consistent with the objectives pursued by this Agreement, it may agree with the Union institution, body, office or agency concerned conditions under which that institution, body, office or agency may benefit from the Secretariat's assistance and helpdesk support. Any measures so notified shall be published on the website of the register.

#### Article 12

##### **Voluntary involvement of Member States' permanent representations**

Member States may notify the Management Board of measures taken, in accordance with their national law, through which they decide to make certain activities targeting their permanent representations conditional upon registration in the register or of complementary transparency measures. Any measures so notified shall be published on the website of the register.

#### Article 13

##### **Annual Report**

1. The Management Board shall adopt an annual report on the operations of the register during the preceding year.
2. The annual report shall include:
  - (a) a chapter on factual information on the register, its content and any changes concerning the register;
  - (b) a chapter on the conditionality and complementary transparency measures, referred to in Article 5, in force.
3. The Management Board shall submit the annual report to the signatory institutions and shall ensure that it is published on the website of the register.

#### Article 14

##### **Review**

1. The signatory institutions shall assess the implementation of measures taken pursuant to Article 5 one year after [OJ: please insert the date of entry into force of this Agreement], and regularly thereafter, with a view, where appropriate, to making recommendations on the improvement and reinforcement of such measures.
2. This Agreement shall be subject to a review no later than [OJ: please insert the date four years after entry into force].

## Article 15

### **Final and transitional provisions**

1. This Agreement shall be of a binding nature for the signatory institutions.
2. For the purposes of Article 9, each signatory institution commits to adopting a decision which shall read as follows:  
  
“The Management Board and the Secretariat shall be empowered to adopt on behalf of the [insert: name of the institution] individual decisions concerning applicants and registrants, in accordance with the Interinstitutional Agreement of [insert: date and reference] on a mandatory transparency register.”  
  
Those decisions shall enter into force on the same day as this Agreement.
3. This Agreement shall replace the 2014 Agreement the effects of which shall cease to apply on the date of entry into force of this Agreement.
4. This Agreement shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
5. Registrants at the date of entry into force of this Agreement shall, for a period of six months from that date, be entitled to amend their registration to satisfy the new requirements resulting from this Agreement in order to remain in the register.
6. Any investigations opened following alerts or complaints and carried out under the 2014 Agreement shall be carried out in accordance with the procedure laid down in that Agreement.

Done at [place], [date].

## ANNEX I

### INFORMATION TO BE ENTERED IN THE REGISTER

This Annex sets out the information that shall be available in the register. That information shall be provided by registrants, except where it is entered automatically.

#### I. GENERAL INFORMATION

- (a) name of the entity; address of head office and Union office, if different from head office; phone number; e-mail address;<sup>3</sup> website;
- (b) form of the entity;
- (c) interests represented;
- (d) confirmation that the applicant operates in accordance with the code of conduct;
- (e) name of the person legally responsible for the entity and person in charge of Union relations;
- (f) an annual estimate of the full-time equivalents for all persons involved in covered activities according to the following percentages of a full-time activity: 10 %, 25 %, 50 %, 75 % or 100 %;
- (g) goals, remit, fields of interest and geographical level of engagement;
- (h) organisations of which the registrant is a member and entities with which the registrant is affiliated;
- (i) registrant's membership of or affiliation with relevant networks and associations.

#### II. LINKS TO UNION INSTITUTIONS

- (a) Union legislative proposals, policies or initiatives targeted by the covered activities;
- (b) membership of Commission expert groups<sup>4</sup> and other Union supported forums and platforms;
- (c) membership or support of, or participation in intergroups and other unofficial grouping activities organised on the European Parliament's premises;
- (d) names of the persons with authorisation to access the European Parliament's premises<sup>5</sup>.

#### III. FINANCIAL INFORMATION

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<sup>3</sup> E-mail address provided will not be published.

<sup>4</sup> Membership of expert groups shall be inserted in the register automatically. Registration shall not confer an automatic entitlement to such membership.

<sup>5</sup> Registrants can request authorisation for access to the European Parliament's premises at the end of the registration process. The names of individuals who receive access passes to the European Parliament's premises shall be automatically inserted in the register. Registration shall not confer an automatic entitlement to such an access pass.

All registrants, including intermediaries, shall declare the amount and source of any Union grants contributing to their operating costs. All amounts declared shall be in euros.

- (a) All registrants promoting their own interests or those of their collective members vis-à-vis any of the signatory institutions shall provide an up to date estimate of the annual costs related to covered activities according to the below grid. The estimate of annual costs shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or the date of the annual update of the registration.

Bracket size of annual costs in euros:

< 10 000

10 000 – 24 999

25 000 – 49 999

50 000 – 99 999

100 000 – 199 999

200 000 – 299 999

300 000 – 399 999

400 000 – 499 999

500 000 – 599 999

600 000 – 699 999

700 000 – 799 999

800 000 – 899 999

900 000 – 999 999

1 000 000 – 1 249 999

1 250 000 – 1 499 999

1 500 000 – 1 749 000

1 750 000 – 1 999 999

2 000 000 – 2 249 999

2 250 000 – 2 499 999

2 500 000 – 2 749 000

2 750 000 – 2 999 999

3 000 000 – 3 499 999  
3 500 000 – 3 999 999  
4 000 000 – 4 499 999  
4 500 000 – 4 999 999  
5 000 000 – 5 499 999  
5 500 000 – 5 999 999  
6 000 000 – 6 499 999  
6 500 000 – 6 999 999  
7 000 000 – 7 999 999  
8 000 000 – 8 999 999  
9 000 000 – 9 999 999  
> 10 000 000

Clients shall declare all intermediaries carrying out covered activities on their behalf and the cost for each individual intermediary according to the below grid. The estimate of annual costs shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or the date of the annual update of the registration.

Any current intermediaries that are not covered by the most recent financial year closed shall be declared separately by name.

Bracket size of representation costs per intermediary in euros:

< 10 000  
10 000 – 24 999  
25 000 – 49 999  
50 000 – 99 999  
100 000 – 199 999  
200 000 – 299 999  
300 000 – 399 999  
400 000 – 499 999  
500 000 – 599 999

600 000 – 699 999  
700 000 – 799 999  
800 000 – 899 999  
900 000 – 1 000 000  
> 1 000 000

- (b) Intermediaries shall declare the estimated total annual revenue generated attributable to covered activities according to the below grid. The estimated total annual revenue generated shall cover a full year of operations and refer to the most recent financial year closed, as of the date of registration or the date of the annual update of the registration.

Revenue from individual clients for covered activities shall also be listed according to the below grid, accompanied by an indication of the Union legislative proposals, policies or initiatives targeted by the covered activities:

Bracket size of revenue generated per client in euros:

< 10 000  
10 000 – 24 999  
25 000 – 49 999  
50 000 – 99 999  
100 000 – 199 999  
200 000 – 299 999  
300 000 – 399 999  
400 000 – 499 999  
500 000 – 599 999  
600 000 – 699 999  
700 000 – 799 999  
800 000 – 899 999  
900 000 – 999 999  
> 1 000 000

The estimated total annual revenue generated for covered activities shall be calculated automatically by the register's system based on the aggregate of the estimated revenue generated per client.

Intermediaries shall declare on the register all clients on behalf of whom covered activities are carried out.

Any current clients that are not covered by the most recent financial year closed shall be declared on the register separately by name.

- (c) Registrants that do not represent commercial interests shall provide the following financial information:
  - (i) their total budget for the most recent financial year closed;
  - (ii) their main sources of funding by category: Union funding, public financing, grants, donations, members' contributions etc.;
  - (iii) the amount of each contribution they received exceeding 10 % of their total budget, if the contributions are above EUR 10 000, and the name of the contributor.

## ANNEX II

### CODE OF CONDUCT

Registrants shall operate in line with the rules and principles set out in this Annex. In particular, registrants shall:

- (a) in their relations with any of the signatory institutions and other Union institutions, bodies, offices or agencies ('Union institutions'), always identify themselves by name, registration number, and the entity or entities they work for or represent;
- (b) declare the interests and objectives they promote, and specify the clients or members whom they represent as well as, where applicable, the registration number of those clients or members;
- (c) not obtain or try to obtain information or decisions dishonestly, by use of undue pressure, improper behaviour or offensive language;
- (d) not abuse their registration for commercial gain or distort or misrepresent the effect of registration;
- (e) not cause prejudice to the reputation of the register or to any of the Union institutions, or use their logos without express authorisation;
- (f) ensure that the information that they provide upon registration, and subsequently administer in the framework of their covered activities, is complete, up-to-date, accurate and not misleading, and agree to this information being made available in the public domain;
- (g) respect, and avoid any obstruction to, the implementation and application of all relevant publicly available rules, codes and guidelines established by the Union institutions;
- (h) not induce Members of the European Parliament, members of the Commission or staff of any of the Union institutions to contravene the rules and standards of behaviour applicable to them;
- (i) if employing former Members of the European Parliament, members of the Commission or staff of any of the Union institutions, take the confidentiality requirements and rules applicable to those individuals after leaving the respective institution duly into account, with a view to preventing conflicts of interest;
- (j) where engaged in a client-intermediary relationship: (i) ensure that all parties in such a relationship are registered in the register, and (ii) as clients or intermediaries, ensure that the relevant information concerning the relationship entered on the register pursuant to Annex I is published;
- (k) when, for the purpose of carrying out covered activities, they outsource certain tasks to third parties that are not themselves registered, ensure that such entities adhere to ethical standards that are at least equivalent to those that apply to them;

- (l) present to the Secretariat, if requested, supporting material demonstrating their eligibility and the accuracy of the information submitted, and cooperate sincerely and constructively with the Secretariat;
- (m) acknowledge that they may be subject to the investigation procedures and, where applicable, measures provided for in Annex III;
- (n) take appropriate steps to ensure that any of their employees engaged in covered activities are informed about their commitment as registrants to observe this code of conduct;
- (o) inform whomever they represent in the framework of covered activities of their commitment to observe this code of conduct;
- (p) respect, and avoid any obstruction to, the specific access and security rules and arrangements, established by the signatory institutions.

## ANNEX III

### MONITORING, INVESTIGATIONS AND MEASURES

#### 1. General principles

- 1.1. The Secretariat may open an investigation on the basis of a complaint alleging that a registrant has not observed the code of conduct ('non-observance') as well as on its own initiative in the light of information that the registrant is ineligible.
- 1.2. An investigation is an administrative procedure involving the Secretariat and the registrants concerned, as well as, where the investigation was not opened on the Secretariat's own initiative, the third party that lodged the complaint ('complainant').
- 1.3. When an investigation has been opened, the Secretariat may suspend the registration concerned as a precaution. The Secretariat shall immediately inform the registrant concerned, providing a reasoned explanation for its decision.

#### 2. Admissibility of complaints

- 2.1. Any natural or legal person may lodge a complaint with the Secretariat concerning a registrant's alleged non-observance. Complaints shall be submitted in writing. In order to be admissible, the complaint shall:
  - (a) identify the registrant concerned and clearly set out the content of the complaint;
  - (b) provide the name and contact details of the complainant;
  - (c) be lodged within one year of the alleged non-observance;
  - (d) be supported by evidence demonstrating a reasonable probability of non-observance.
- 2.2. Where a complaint is inadmissible, the Secretariat shall notify the complainant, providing a reasoned explanation for its decision.

#### 3. Complaints procedure

- 3.1. Following receipt of an admissible complaint, the Secretariat shall open an investigation and notify the complainant and the registrant concerned.
- 3.2. The registrant concerned shall receive a copy of the complaint, including any annexes, and be asked to provide a reasoned response within 20 working days.
- 3.3. Following receipt of the reasoned response, the Secretariat shall gather any relevant information and draft a report containing its findings.
- 3.4. Where the report finds that the registrant concerned has not observed the code of conduct, the Secretariat shall notify the registrant accordingly. That notification may also contain:
  - (a) instructions to remedy the non-observance within 20 working days; and

- (b) a formal warning that measures may be taken if the non-observance is not remedied or recurs.
- 3.5. The Secretariat shall declare the registrants concerned eligible to remain on the register and close the investigation, where:
  - (a) the alleged non-observance primarily concerns point (d) of the code of conduct and is remedied within 20 working days of the registrant being notified under point 3.1;
  - (b) the report finds that the registrant has observed the code of conduct;
  - (c) the registrant remedies the non-observance after being notified under point 3.4; or
  - (d) a formal warning under point 3.4 is deemed sufficient.
- 3.6. The Secretariat shall declare the registrant concerned ineligible and close the investigation, where the report finds that the registrant has not observed the code of conduct and:
  - (a) the registrant has not remedied the non-observance after being notified under point 3.4; or
  - (b) a formal warning under point 3.4 is deemed insufficient.
- 3.7. Where the Secretariat has drafted a report, it shall provide the registrant concerned with a copy of that report upon request.

#### **4. Monitoring and own-initiative investigations**

- 4.1. The Secretariat may request that registrants amend their registrations where it has reason to believe that those registrations do not accurately provide the information specified in Annex I.
- 4.2. Where a request under point 4.1 is made, the Secretariat may suspend the registration concerned as a precaution.
- 4.3. Where the registrant concerned does not cooperate sincerely and constructively, the Secretariat may remove from the register a registration that is subject to a request under point 4.1.
- 4.4. The Secretariat may open an investigation on its own initiative where it has reason to believe that a registrant may be ineligible.
- 4.5. Where the Secretariat opens an investigation on its own initiative, it shall notify the registrant concerned and ask the registrant to provide a reasoned response within 20 working days.
- 4.6. After receipt of the reasoned response, the Secretariat shall gather any relevant information and draft a report containing its findings.

- 4.7. Where the report finds that the registrant concerned is ineligible, the Secretariat shall notify the registrant accordingly. That notification may also contain:
- (a) instructions to remedy the ineligibility within 20 working days; and
  - (b) a formal warning that measures may be imposed if the ineligibility is not remedied or recurs.
- 4.8. The Secretariat shall declare the registrant concerned eligible and close the investigation, where:
- (a) the investigation primarily concerned a suspected absence of covered activities and the registrant concerned demonstrates that they carry out covered activities within 20 working days of being notified under point 4.5;
  - (b) the report finds that the registrant is eligible;
  - (c) the registrant remedies the ineligibility after being notified under point 4.7; or
  - (d) a formal warning under point 4.7 is deemed sufficient.
- 4.9. The Secretariat shall declare the registrant concerned ineligible and close the investigation where the investigation primarily concerned a suspected absence of covered activities and the registrant concerned does not demonstrate that they carry out covered activities within 20 working days of being notified under point 4.5.
- 4.10. The Secretariat shall declare the registrant concerned ineligible and close the investigation where the report referred to in point 4.6 finds that the registrant is ineligible and:
- (a) the registrant does not remedy the ineligibility after being notified under point 4.7; or
  - (b) a formal warning under point 4.7 is deemed insufficient.
- 4.11. Where the Secretariat has drafted a report, it shall provide the registrants concerned with a copy of that report upon request.

## **5. Cooperation with the Secretariat during investigations**

- 5.1. The Secretariat shall, where necessary, request the parties concerned to provide information relevant to an investigation within 20 working days. The parties concerned may indicate which information provided by them should be considered sensitive.
- 5.2. The Secretariat may decide to hear the parties to an investigation.
- 5.3. The Secretariat may decide to extend the deadlines set in accordance with this Annex, where requested by registrants and justified by reasonable grounds. That decision may also involve suspending the registration concerned for the duration of the investigation.
- 5.4. If the Secretariat considers that the registrant concerned is not cooperating sincerely and constructively in an investigation, it may, after having given the registrant the

possibility to make their views known in writing, close the investigation and remove the registration concerned from the register.

## **6. Right to be heard**

The registrant shall have the possibility to make known their own views in writing before any decision establishing ineligibility is taken.

## **7. Decision**

7.1. The Secretariat shall close an investigation with a reasoned decision. The Secretariat shall notify the parties concerned in writing of that decision. That decision shall specify whether, and what form of, ineligibility was established, and, if applicable, what measure was taken by the Secretariat as well as the relevant remedies.

7.2. Where the Secretariat establishes that a registrant is ineligible in accordance with point 7.1., it shall remove the registration concerned from the register.

7.3. The Secretariat may consider a request to reopen an investigation up to 20 working days after the parties concerned have been informed of its decision.

7.4. An investigation may only be reopened where information that was available before the Secretariat made its decision was, through no fault or oversight of the party making the request under point 7.3., not considered by the Secretariat when it made its decision.

## **8. Measures**

8.1. Where the Secretariat removes a registration under point 7.2 due to it having established that the ineligibility relates to non-observance, it may also, where appropriate in the light of the seriousness of the non-observance:

- (a) prohibit the interest representative concerned from registering again for a period of between 20 working days and two years, and
- (b) publish any measures taken on the website of the register.

8.2. When deciding on the severity of the measure taken pursuant to point 8.1, the Secretariat shall duly take into account all relevant circumstances of an investigation, in the light of the objectives pursued by this Agreement.

8.3. Interest representatives subject to measures under point (a) of point 8.1 may not register again until the period of removal has expired and the registrant has satisfactorily remedied the grounds that led to the removal.

## **9. Review**

9.1. Registrants that were subject to measures taken under point 8.1 may lodge a reasoned request for review by the Management Board.

9.2. The request for review shall be sent to the Secretariat within 20 working days of receipt of the notification of the measure.

- 9.3. Requests for review submitted in accordance with points 9.1 and 9.2 shall be forwarded to the Chair of the Management Board, who may refer the case to the full Management Board where appropriate or where requested by one of the other members of the Management Board.
- 9.4. A request for review shall not suspend the measure taken by the Secretariat, unless the Management Board decides otherwise on the basis of specific grounds set out in request for review.
- 9.5. The Chair of the Management Board shall notify the registrants concerned of the Management Board's decision on the review within 40 working days of receipt of the request for review.

## **10. Remedies**

Registrants that are not satisfied with the decision by the Management Board may appeal to the Court of Justice in accordance with Article 263 TFEU or submit a complaint to the European Ombudsman in accordance with Article 228 TFEU.