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| **REGISTER NUMBER:** |
| **NOTIFICATION FOR PRIOR CHECKING** |
| Date of submission:    Case number:   Institution:   Legal basis: article 25 of the regulation CE 45/2001(1) |
| *(1) OJ L 8, 12.01.2001* |

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| **INFORMATION TO BE GIVEN**(2) |
| *(2) Please attach all necessary backup documents* |

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| **1/ Name and address of the controller**  Agency for the Cooperation of Energy Regulators (the ‘**Agency**’)  Trg republike 3  1000 – Ljubljana  Slovenia |
| **2/ Organisational parts of the institution or body entrusted with the processing of personal data**  The Agency’s department in charge of processing of the personal data is the Director’s Office.  Mr. Alberto Pototschnig, Director of the Agency  Postal address:  Trg republike 3  1000 – Ljubljana  Slovenia  Phone number: 082053409  Email: alberto.pototschnig@acer.europa.eu |
| **3/ Name of the processing**  Agency’s Register of Declarations of Interests (hereinafter referred to as “DoI Register”) of the members and alternates of the Board of Regulators (hereinafter referred to as “BoR members”) and Publication of the Register on the website of the Agency. |
| **4/ Purpose or purposes of the processing**  The purposes of the processing is the following:   * Data collection purpose under Article 14 (5) of Regulation (EC) No 713/2009; * Establishment and operation of a register of declaration of interests of BoR members (“hereinafter referred to as the “Register”) pursuant to Article 14(5)of Regulation (EC) No 713/2009 and the European Parliament Decision of 3 April 2014 C7-0328/2013 – 2013/2240(DEC)); * Publication of yearly extracts of the Register on the Agency’s Website in line with Article 14 (5) of Regulation (EC) No 713/2009 and the European Parliament Decision of 3 April 2014 C7-0328/2013 – 2013/2240(DEC)) and the AB Decision n˚ 02/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 31 January 2015 laying down a policy for the prevention and management of conflicts of interest;; * Provision of information to the BoR member and the Director of the Agency in order to ensure transparency of decision-making process and prior and/or ex-post detection of conflict of interests; * Provision of information to the public in order to ensure transparency of decision-making process and ensure detectability of conflict of interests by the public itself; * Improvement of transparency of decision-making process.   Pursuant to Articles 14 (5) of Regulation (EC) No 713/2009, the BoR, when carrying out the tasks conferred upon it by this Regulation and without prejudice to its members acting on behalf of their respective regulatory authority, the Board of Regulators shall act independently and shall not seek or follow instructions from any government of a Member State, from the Commission, or from another public or private entity.  In addition, the European Parliament, in its Decision of 3 April 2014 on discharge in respect of the implementation of the budget of the European Agency for the Cooperation of Energy Regulators for the financial year 2012 (C7-0328/2013 – 2013/2240(DEC)) observed that the CVs of the BoR members are not publicly available, and called on the Agency to remedy the situation as a matter of urgency.  In particular, the European Parliament, at point 11 of the above mentioned Decision, observed that “*the CVs and declarations of interests of the Board of Regulators' members, the Director, senior management and the experts participating in the Agency's expert groups, as well as the CVs of the Administrative Board and Board of Appeal's members are not publicly available; calls on the Agency to remedy the situation as a matter of urgency*.”  For that purpose, each member shall make a written Declaration of Interests (DoI) indicating any direct or indirect interest which might be considered prejudicial to his/her independence, and provide a Curriculum Vitae (the processing of the latter forms the subject of a separate notification form).  The fact that the members/alternates of the Board of Regulators represent their national authority and any accompanying national interest does not, as such, constitute a conflict-of-interest situation, as the Agency’s Regulation explicitly recognises this interest. However, interests which are relevant with respect to the members;/alternates’ role in the Board of Regulators may be wider than those declared and taken into account by national provisions on the independence of National Regulatory Authorities pursuant to Article 35(4) and (5) of Directive 2009/72/EC and Article 39(4) and (5) of Directive 2009/73/EC.  These declarations shall be made public annually.  On 31 January 2015 the Administrative Board of the Agency for the Cooperation of Energy Regulators adopted a decision laying down a policy for the prevention and management of conflicts of interest, reiterating and further formalizing the procedures related to the annual submission of the DoI of BoR members.  The purpose of establishing the Register is to collect within one system all declaration of interests of BoR members for the entire length of their mandate. The Register aims to enhance the overall transparency and integrity of the decision-making process, enabling also ex-post review of conflicts of interest. By providing access to the Register in line with Regulation (EC) No. 1049/2001, the Register facilitates overall transparency and integrity of the decision-making process. Similarly, the public can also act in a timely manner and raise potential conflict of interests, increasing the overall accountability of the BoR. |
| **5/ Description of the category or categories of data subjects**  The following categories of data subjects can be identified:   1. BoR members and alternates. |
| **6/ Description of the data or categories of data**  Declarations of interests (“DoI”) contain:   * Name and Surname; * Position/involvement in the Board or Agency; * Any interest that the data subject considers prejudicial to his/her independence in the performance of his/her duties as a member of the Board of Regulators, such as: * Private interests, including interests held by their close family members (spouse, partner and/or dependent children) such as: * Employment held or any other professional relationship entered into in the recent past (it is suggested that this covers current interests as well as those held over at least the last five years), including consultancy, legal representation or advice with natural or legal entities or organizations with an interest in the field of activity of the Agency; * Membership of managing bodies, advisory body or equivalent structure in entities or organisations active in a field of activity of the Agency or having voting rights in such organisations; * Membership or affiliations creating a potential conflict of interests; * Research funding in the forms of grants, rents, sponsorships, fellowships, non-monetary support received from entities or organisations active in a field of activity of the Agency; * Investments in a commercial entity with an interests in the field of activity of the Agency, including holding of stocks and shares, stock options, equity, bonds, partnership interest in the capital of such undertaking, one of its subsidiaries or a company in the capital of which it has a holding and which amounts to more than 10,000 EUR per commercial entity or entitling to a voting right of 5% or more in such commercial entity. * Any other interest that the data subject considers prejudicial to his/her independence in the performance of his/her duties as member of the Board of Regulators. * Signature. |
| **7/ Information to be given to data subjects**  Data subjects will be informed that their data contained in a Declaration of Interest form (attached to this Notification Form, as Annex 1) will be publicly available in line with Article 14(5) of Regulation (EC) No 713/2009 and the European Parliament Decision of 3 April 2014 C7-0328/2013 – 2013/2240(DEC)) during the calendar year and afterwards, for additional 5 years after the discharge for the budgetary year to which the declaration relates, in line with Regulation (EC) No. 1049/2001.  The controller provides the data subject with a *privacy statement* (attached to this Notification Form, as Annex 2, containing the following information:   1. the identification data (categories of data collected and processed); 2. the legal basis of the processing operation; 3. the purposes of the processing operation for which the data are intended; 4. the recipients of the data processed; 5. the measures to protect and safeguard the data; 6. data subject rights (including the existence of the right of access to, and the right to rectify, the data concerning him or her); 7. the data storage and data retention policy; 8. the identity and contact details of the data controller; 9. the right to have recourse at any time to the Data Protection Officer and the European Data Protection Supervisor. |
| **8/ Procedures to grant rights of data subjects**  The rights of data subjects are defined by Regulation (EC) No 45/2001. In particular, data subjects have the right of access, rectification, blocking of data, erasure, if such needs arise and are duly supported by evidence.  Any modification of data collected by the Agency in the DoI will be automatically updated in the Register, together with the evidence provided or the connected request.  Upon request, the signature will be erased from the version of the DoI form published on the website of the Agency, to ensure the security of the signature of the BoR members and reduce the possibility of frauds.  Further, in relation to personal data within the Register, data subjects can directly request the Agency (using contact email address: [dpo@acer.europa.eu](mailto:remit@acer.europa.eu)) to:   1. clarify their rights; and 2. delete or amend such data, if such need arises and is supported by evidence.   Finally, the data subjects may, at any time, consult the data controller, processing the personal data, or have recourse to the Data Protection Officer of the Agency and to the European Data Protection Supervisor (contact details for DPO and EDPS will be part of the data privacy disclaimer, please see Annex 2 to this Notification). |
| **9/ Automated / Manual processing operation**   |  | | --- | | Personal data are subject to manual and automated processing operations for the registration, updating, access to and erasure of files contained in the registry. | |  | |
| **10/ Storage media of data**  Data will be physically stored and locked in a Register at the Secretariat of the Board, and electronically within the Register on a restricted domain accessible only to authorised staff members.  Data will be also stored for the relevant calendar year on the Agency website at the following address: <http://acer.europa.eu/The_agency/Organisation/Board_of_Regulators/Pages/BoR-Members.aspx> |
| **11/ Legal basis and lawfulness of the processing operation**  *Legal basis*:  Article 14(5) of the Regulation (EC) No 713/2009 and the Decision of the European Parliament of 3 April 2014 on discharge in respect of the implementation of the budget of the European Agency for the Cooperation of Energy Regulators for the financial year 2012 (C7-0328/2013 – 2013/2240(DEC)).  AB Decision n˚ 02/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 31 January 2015 laying down a policy for the prevention and management of conflicts of interest.    *Lawfulness of the processing*:  The processing is carried out in line with 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.  In line with Article 5(a) of Regulation (EC) No. 45/2001, processing is necessary for the performance of a task carried out in the public interest on the basis of Article 14(5) of the Regulation (EC) No 713/2009 and the Treaties establishing the European Communities or other legal instruments adopted on the basis thereof and in the legitimate exercise of official authority vested in the Agency to whom the data are disclosed.  In addition, in line with Article 5(b) of Regulation (EC) No. 45/2001, the processing of personal data is necessary for compliance with the legal obligations to which the controller is subject.  Furthermore, processing is adequate, relevant and not excessive in relation to the purpose for which data are collected and further processed. |
| **12/ The recipients or categories of recipient to whom the data might be disclosed**  In line with the purposes of data processing, the data is disclosed to the following recipients or categories of recipients:   1. For the current year: 2. Staff of the Agency working in Secretariat of the Board of Regulators; 3. The BoR review panel[[1]](#footnote-1); 4. Director of the Agency; 5. the general public; 6. For the precedent years up to 5 years after the discharge for the budgetary year to which the declaration relates: 7. Staff of the Agency working in Secretariat of the Board; 8. Director of the Agency; 9. Other entities entitled to access the data pursuant to Regulation (EC) No. 1049/2001.   If appropriate, access will be given to the European Court of Auditors, the European Ombudsman, the European Data Protection Supervisor, the European Court of Justice. If requested, personal data can also be disclosed to the European Anti-Fraud Office (OLAF). |
| **13/ Retention policy of (categories of) personal data**    The data retention period is foreseen for 5 years after the discharge for the budgetary year to which the declaration relates. |
| **13 a/ time limits for blocking and erasure of the different categories of data  (on justified legitimate request from the data subject)**  In line with the Agency’s policy for the prevention and management of conflicts of interest (AB Decision n˚02/2015) by 31 January of every year (by 30 April in 2015, the first year of application of the new Policy), BoR members are requested to submit an updated CV, which will then form part of the supporting document for the examination of the declaration of interest forms.  The (updated) Declarations of Interests are to be examined by a review panel, which shall consist of the Chair, the Vice-Chair and a Member of the Board of Regulators appointed by the Board, with the Director of the Agency as observer and a legal expert of the Agency as secretary.  For the Chair, the panel shall consist of the Vice-Chair and two appointed Board members, with the Director of the Agency as observer and a legal expert of the Agency as secretary.  For the Vice-Chair, the panel shall consist of the Chair and two appointed Board members, with the Director of the Agency as observer and a legal expert of the Agency as secretary.  After their screening, the Declarations of Interest and the Curriculum Vitae are stored in an electronic register, managed by the Secretary of the Board within the Director’s Office, and to which the process owners (and possible delegates) have access.  Any change in the situation included in the DoI, which may be of relevance for the appraisal of the conflict of interest, should be directly communicated to the Chair, Vice-Chair and to the Director of the Agency.  The DoI is published on the dedicated area of the Agency website.  Personal data will be erased after 5 years of the discharge for the budgetary year to which the declaration relates.  Such period can be extended if necessary for the purpose of investigation including personal data.  DoI are substituted every year by an updated DoI, applicable for the year in course. Access to publicly available data is, therefore, blocked after each calendar year, subsequent to the substitution of the DoI form applicable for the year in course. Data for previous years are available upon request in line with Regulation (EC) No. 1049/2001. |
| **14/ Historical, statistical or scientific purposes**  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**  Not Applicable |
| **17/ Comments**  Not Applicable |
| **18/ Measures to ensure security of processing *(3)* *these measures are described in Article 22 of Regulation 45/2001.***  Prior to publication, processing of personal data within the Register, will be protected by:   * Limited access only to Authorised Staff Members of the Agency and to the review panel; * Verification that the DoI and DoC forms do not contain unsolicited data, not necessary for the purpose of the processing; * Erasure of Signature upon request on the version to be published on the website for security reasons.   Further to publication, there cannot be any unauthorised access, however, no modifications of such data will be possible unless duly requested according to Regulation 45/2001. |

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| PLACE AND DATE: Ljubljana, Slovenia; 13.3.2015  For the DATA PROTECTION OFFICE: Paul Martinet  INSTITUTION OR BODY: Agency for the Cooperation of Energy Regulators |

**Annex 1 – Declaration of Interests Form**

This Form should be used for the Declaration of Interests, as referred to in the Decision of the Administrative Board of the Agency for the Cooperation of Energy Regulators AB n° 02/2015 of 31 January 2015 (hereinafter “AB Decision 02/2015”) and, where relevant, reflecting the legislative background (Directive 2009/72/EC, Directive 2009/73/EC and Regulation (EC) No 713/2009).

Broadly speaking, there is a conflict of interest where the impartiality and objectivity of a decision, opinion or recommendation of the Agency and/or its bodies, is or might in the public perception be compromised by an interest held by, or entrusted to, an individual working for the Agency. However, having an interest does not necessarily mean having a conflict of interest. In particular, high quality of expertise is by nature based on prior experience. Declaring an interest does therefore not automatically disqualify someone or limit their participation in the activities of the Agency.

The Declaration of Interests form is not intended to provide an exhaustive list of potential interests: other elements that might jeopardise the independence of those involved when working in or with the Agency should also be indicated in the Declaration.

The completed Declarations will be reviewed in accordance with the Agency’s Policy for the prevention and management of conflicts of interest.

**Name:**

**Position / Involvement in the Board or Agency[[2]](#footnote-2):**

**⁪I hereby declare the following interests that could be prejudicial to my independence (please specify the interest that you or your close family members****[[3]](#footnote-3) currently have or have had in the recent past****[[4]](#footnote-4)).**

**I. Employment, consultancy, legal representation or advice**

*In order to assess the possibility of a conflict of interest, please provide details of any employment held or any other professional relationship entered into in the recent past[[5]](#footnote-5) by you or your close family members[[6]](#footnote-6) with a natural or legal entity[[7]](#footnote-7) or other organisation[[8]](#footnote-8) with an interest in the field of activity of the Agency.*

□ I have nothing to declare in this respect

□ I declare the following interests:

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| --- | --- | --- | --- |
| **Activity** | **Time period**  **(from…until month/year)** | **Name of**  **commercial entity or**  **organisation** | **Description** |
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**II. Membership of Managing Body, Advisory Body or equivalent structure**

*In order to assess the possibility of a conflict of interest, please provide details of any participation by you or your close family members[[9]](#footnote-9) in the recent past[[10]](#footnote-10) in the internal decision-making of a commercial entity or other organisation or in the works of an Advisory Body with voting rights on the outputs of such an entity, when there may be an interest in the field of activity of the Agency.*

□ I have nothing to declare in this respect

□ I declare the following interests:

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| --- | --- | --- | --- |
| **Activity** | **Time period**  **(from…until month/year)** | **Name of**  **commercial entity or organisation** | **Description** |
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**III. Other membership or affiliation**

*In order to assess the possibility of a conflict of interest, please provide details of any membership or affiliation either of yourself or of your close family members[[11]](#footnote-11) in the recent past[[12]](#footnote-12). For completeness, please also provide details of any other arrangements, other than those declared in Sections I and II above, which can be perceived as creating a potential conflict of interest.*

□ I have nothing to declare in this respect

□ I declare the following interests:

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| --- | --- | --- | --- |
| **Activity** | **Time period**  **(from…until month/year)** | **Name of**  **commercial entity or**  **organisation** | **Description** |
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**IV. Research funding**

*In order to assess the possibility of a conflict of interest, please provide details of any support (including grants, rents, sponsorships, fellowships, non-monetary support) that you, your close family members[[13]](#footnote-13) or any research entity to which you or your close family members belong(ed) has received in the recent past[[14]](#footnote-14), from a commercial entity or other organisation with an interest in the field of activity of the Agency.*

□ I have nothing to declare in this respect

□ I declare the following interests:

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| --- | --- | --- | --- |
| **Activity** | **Time period**  **(from…until month/year)** | **Name of**  **commercial entity or**  **organisation** | **Description** |
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**V. Investments**

*In order to assess the possibility of a conflict of interest, please provide details of any current investment that you or your close family members[[15]](#footnote-15) have in a commercial entity with an interest in the field of activity of the Agency (including holding of stocks and shares, stock options, equity, bonds, partnership interest in the capital of such undertaking) or in one of its subsidiaries. Investment should generally be declared only if they exceed 10,000 EUR per commercial entity or if they entitle to a voting right of 5% or more in a commercial entity[[16]](#footnote-16).*

□ I have nothing to declare in this respect

□ I declare the following interests:

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| **Investment** | **Name of commercial entity or**  **organisation** |
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**VI. Other relevant information**

*In order to assess the possibility of a conflict of interest, please indicate any other elements that could be seen as jeopardising your independence when working for the Agency.*

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**I hereby declare that I have read AB Decision 02/2015 containing the Agency’s Policy for the prevention and management of conflicts of interest and that the above Declaration of Interests is to my best knowledge complete and in compliance with such AB Decision 02/2015 and, where relevant, the legislative background.**

**I understand that the Declarations of Interest will be processed according to the Policy for the prevention and management of conflicts of interest and entered in a register held by the Agency.**

**The Declaration of Interest of Agency’s board members, of Agency’s Working Group’s Chairs and Vice-Chairs, of Task Force’s Conveners, of the Agency’s Director and Senior Management will also be published on the Agency’s website.**

**Please note that the Agency will ensure that your personal data hereby submitted is processed in line with Regulation (EC) No 45/2001 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[[17]](#footnote-17). For more details on the processing of your personal data, see the privacy statement applicable to your situation.[[18]](#footnote-18)**

**If you include information on close family members, please inform them that the Agency will be processing data related to them.**

**Done at\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ On\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Signature:**

1. See for its composition section 4.2.3.2 of the Annex to Decision AB No 02/2015 of 31 January 2015. [↑](#footnote-ref-1)
2. If you are both a member of the Board of Regulators and of an Agency Working Group, please indicate both functions. [↑](#footnote-ref-2)
3. **‘Close family members’** are considered to be the persons forming a household with the person making this declaration (spouse, partner, and/or dependent children). In case you add information on your close family members, please inform them that the Agency will be processing these data about them and that further information is available on the Agency’s website. [↑](#footnote-ref-3)
4. It is suggested that the Declaration covers current interest as well as those held over at least the last 5 years. [↑](#footnote-ref-4)
5. See footnote 3. [↑](#footnote-ref-5)
6. See footnote 2. [↑](#footnote-ref-6)
7. This includes any commercial business, industry association, consultancy, research institution or other enterprise whose funding is significantly derived from commercial sources. It also includes independent own commercial businesses, law offices, consultancies or similar. [↑](#footnote-ref-7)
8. This includes governmental, international or non-profit organisations. [↑](#footnote-ref-8)
9. See footnote 2. [↑](#footnote-ref-9)
10. See footnote 3. [↑](#footnote-ref-10)
11. See footnote 2. [↑](#footnote-ref-11)
12. See footnote 3. [↑](#footnote-ref-12)
13. See footnote 2. [↑](#footnote-ref-13)
14. See footnote 3. [↑](#footnote-ref-14)
15. See footnote 2. [↑](#footnote-ref-15)
16. You may exclude financial interests held through an investment fund, pension fund and/or interests in non- nominal unit trusts or similar arrangements, provided that these investments are broadly diversified and you have no influence on their financial management. [↑](#footnote-ref-16)
17. OJ L8, 12.01.2001, p.1. [↑](#footnote-ref-17)
18. <http://www.acer.europa.eu/The_agency/Pages/Data-Protection.aspx> [↑](#footnote-ref-18)