

**DECISION AB 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**

THE ADMINISTRATIVE BOARD OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

HAVING REGARD to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators<sup>1</sup>, and, in particular, to Articles 12(7), 13(4), 14(5), 16(1), 18(7) and 28 thereof,

HAVING REGARD to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68<sup>2</sup> (hereinafter respectively the “Staff Regulations” and “CEOS”), and, in particular, to Articles 11, 11a, 12b, 13 and 16 of the Staff Regulations and Articles 11 and 81 of the CEOS,

HAVING REGARD to the Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council<sup>3</sup>, and, in particular, to Article 41 thereof,

HAVING REGARD to the Decision of the Administrative Board of the Agency for the Cooperation of Energy Regulators No 03/2010 of 6 May 2010 on the Rules of Procedure of the Administrative Board of the Agency for the Cooperation of Energy Regulators, and, in particular, Article 9(2) thereof,

The Staff Committee of the Agency, the Board of Regulators and the Board of Appeal having been consulted,

Whereas:

- (1) The prevention and management of conflict of interests is a vital part of good administrative behaviour of the European institutions, bodies and Agencies. It is crucial to ensure the Agency’s independence and transparency, and to maintain

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<sup>1</sup> OJ L211, 14.8.2009, p.1.

<sup>2</sup> OJ L56, 4.3.1968, p. 1.

<sup>3</sup> OJ L328, 7.12.2013, p.42.

the trust of stakeholders and citizens in the Agency's integrity. In the regulatory practice, the highest level of integrity is required to ensure the quality and credibility of regulatory measures. Conflicts of interest, actual or perceived, may put integrity of the decision-making process into question and also represent a reputational risk.

- (2) The risks of actual or perceived conflicts of interests should therefore be identified and correctly managed, on the basis of a coherent and comprehensive Agency policy for the management or prevention of conflicts of interest.
- (3) For this reason, the Administrative Board adopted in December 2012 its Guidelines on Preventing and Managing Potential or Actual Conflicts of Interest in the Agency.
- (4) On 19 July 2012, the European Parliament, the Council of the EU and the European Commission issued a Joint Statement on decentralized agencies (hereinafter "Joint Statement"), which recognised the particular role of decentralised agencies in the implementation of Union policies and in supporting its decision-making process, but indicated that, amongst other things, the structure and operation of the agencies needed to be more systematically brought into the EU's institutional landscape, in view of the coherence, effectiveness, accountability and transparency of these agencies.
- (5) The Joint Statement contained in annex a Common Approach defining several initiatives to achieve this goal, which mentions explicitly the need for a coherent policy on preventing and managing conflict of interests.
- (6) On 10 December 2013, the European Commission adopted Guidelines on the prevention and management of Conflict of Interest in EU decentralised Agencies. The Guidelines, while not being legally binding, provide the decentralised Agencies with a set of principles and tools to support them in developing their policy on preventing and managing conflict of interests in light of the Common Approach, with due consideration to the specific context in which each Agency operates, as well as its degree of exposure to the risk of conflict of interest.
- (7) The European Court of Auditors (hereinafter "ECA") published the Special Report No 15/2012 on the Management of Conflict of Interest in selected EU Agencies. In the Report, ECA reviews four Agencies that have the highest exposure to impartiality risk and provides them with a number of recommendations. Given the absence of a comprehensive EU regulatory framework dedicated to conflict of interest, ECA's conclusions and recommendations provide a useful source of information on best practices when defining the Agency's conflict of interest policy.
- (8) On 3 April 2014, the European Parliament adopted its Resolution with observations forming an integral part of its Decision 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<sup>4</sup> (hereinafter “the Resolution”). In point 10 and 11 of the Resolution, the Parliament called upon the Agency to collect and make publicly available the declarations of interests and CVs of the Agency Boards, the Director, senior management and the experts participating in the Agency’s expert groups.

- (9) It is appropriate for the Agency to reinforce and replace the Guidelines issued previously by the Administrative Board and to adopt a policy on preventing and managing conflict of interests on the basis of the available best practices and taking into account the particular points of interest raised by the Parliament.
- (10) The Agency carried out a prior conflict of interest risk assessment in early 2014, whereby it analysed the degree of exposure to conflicts of interest, bearing in mind the regulatory powers of the Agency and its decision-making powers. On the basis of this analysis, it was decided that the policy, with appropriate measures and procedure, should apply to the entire organisation of the Agency (the Agency staff members, including the seconded national experts, the three Agency Boards, and the Agency Working Groups and *ad-hoc* expert groups) and all of its activities, whether administrative or regulatory in nature.
- (11) The Agency staff is subject to the rules and regulations applicable to officials and other staff of the European Union, which already contain several provisions related to Conflict of Interests. The rules as laid down in the current decision aim to bring these obligations into a complete and coherent framework, whilst also providing more clarity on the relevant procedure to be followed.
- (12) It is important to identify potential conflict of interest situations at the earliest possible stage. The Agency’s current policy therefore attaches considerable importance to the need of transparency, as this enables the Agency to take proper remedial actions and to prevent any potential conflict of interest to arise. Likewise, before recruiting a staff member, the appointing authority shall examine whether the candidate has any personal interest such as to impair his independence or any other conflict of interest. To that end, the candidate shall inform the appointing authority using a specific form of any actual or potential Conflict of Interest. These obligations shall apply *mutatis mutandis* to staff members returning from leave on personal grounds.
- (13) Given that seconded national experts may also be exposed to situations of conflict of interests, which may negatively affect the functioning of the Agency, it is crucial that the rules as laid down in this decision equally apply to them.
- (14) The risk for actual or perceived conflict of interest cases may also arise with respect to the members and alternates of the three Boards of the Agency.
- (15) In line with Regulation (EC) No 713/2009 the members and alternates of the Agency Boards are under the obligation to act independently when carrying out their duties.

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<sup>4</sup> OJ L266, 5.9.2014, p.161.

- (16) In order to verify the compliance of the independence obligations of the Board members, a Declaration of Interests and a curriculum vitae shall be submitted annually.
- (17) In addition to the Declarations of Interests, members and alternates of the Administrative Board and Board of Appeal shall also submit a Declaration of Commitment (Annex 3), pursuant to Art. 12(7) and 18(7) of Regulation (EC) 713/2009.
- (18) The need to avoid conflicts of interest should not prevent the Agency from collaborating with and seeking input from high-level experts. As the persons concerned are generally experienced and may have interests stemming from their professional background and capacity, appearance of conflict of interest cannot always be entirely avoided. The risks of actual or perceived conflicts should be identified, evaluated and managed. A fair, proportionate and timely handling of each case should be ensured.
- (19) A particular case in this respect concerns the Agency Working Groups (AWGs), which are created by Director Decision and which help the Agency staff in preparing the Agency's opinions, recommendations and decisions. The AWG Chairpersons may establish Task Forces and appoint one or more convenors for each Task Force.
- (20) The AWGs can form an important part in the preparatory work of the Agency, even though they do not have decision-making powers as such. However the AWG Chairpersons, Vice-Chairpersons and Task Force Convenors may have significant influence in steering the work of the AWGs and Task Forces and therefore shall submit to the Agency's Director duly signed Declarations of Interests – DoI and a curriculum vitae.
- (21) The Board of Regulators and the Board of Appeal have been consulted on the provisions applicable to them. The Agency Director and the Staff Committee have been consulted on the provisions applicable to Agency's staff. In light of the new elements introduced in the current policy, the Administrative Board invites the other Agency's Boards to amend, where relevant, the internal Rules of Procedure and the Director to take the appropriate Director Decisions in conformity with the current policy.
- (22) Similarly, the procedures and provisions on processing and publishing the Declarations of Interests have been drafted in line with the guidelines concerning the processing of personal data with regard to the management of conflicts of interest and the implementation of certain ethics rules in European institutions and bodies issued by the European Data Protection Supervisor<sup>5</sup>. Where still needed, the Administrative Board calls upon the controllers who are required to

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[https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Guidelines/14-12-08\\_CoI\\_Guidelines\\_EN.pdf](https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Supervision/Guidelines/14-12-08_CoI_Guidelines_EN.pdf)

process personal data on the basis of the current decision to submit prior data protection notifications to the Agency's Data Protection Officer or the European Data Protection Supervisor pursuant to 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<sup>6</sup>,

**HAS ADOPTED THIS DECISION:**

**Article 1**

The document entitled 'Policy for the prevention and management of conflicts of interest', attached to this Decision, is hereby adopted.

**Article 2**

- (1) Notwithstanding paragraphs 4.1.4.1., 4.2.3.1, 4.3.3.1, of the Policy for the prevention and management of conflicts of interest, in its first year of application the Declarations of Interests of the Director, of the Heads of Department, of the Agency's Boards members and alternates and of the Agency's Working Group Chairs, Vice-Chairs and task Force Conveners shall be submitted within three months of the entry into force of this Decision.
- (2) Notwithstanding paragraph 4.1.4.1. of the Policy for the prevention and management of conflicts of interest, the Declarations of Interests of staff members and Seconded National Experts already employed at or seconded to the Agency on the date of entry into force of the present Decision shall be submitted within three months of that date.

**Article 3**

Prior to adopting the necessary measures to process personal data in the framework of this Decision, the processing activity shall, where needed, be notified to the Agency Data Protection Officer or the European Data Protection Supervisor pursuant to 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.

**Article 4**

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<sup>6</sup> OJ L8, 12.1.2001, p.1.

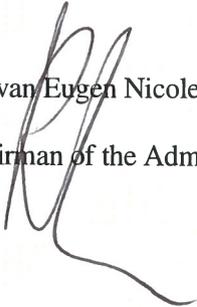
- (1) The Director of the Agency is delegated to complete or amend the Annexes to the 'Policy for the prevention and management of conflicts of interest', if this is desirable or required to implement more effectively the conflict of interest policy as laid down in this Decision.
- (2) Changes to the Annexes shall be adopted by Director Decision. The Director Decisions shall be communicated to the Administrative Board in the meeting which follows their adoption.

#### **Article 5**

This Decision shall enter into force on the day following that of its adoption, with the exception of the obligation laid down in paragraph 4.1.2 of the Policy for the prevention and management of conflicts of interest, which shall enter into force six months after the adoption of this Decision.

Done at Ljubljana on 31 January 2015.

For the Administrative Board:

  
Razvan Eugen Nicolescu

Chairman of the Administrative Board

ANNEX TO DECISION AB n° 02/2015



**Policy for the prevention and management of conflicts of  
interest**

attached to Administrative Board Decision AB no 02/2015 of 31 January 2015

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## 1. Scope and objectives

In December 2012 the Agency's Administrative Board (AB) adopted Guidelines on Preventing and Managing Potential or Actual Conflicts of Interest in the Agency. This document reinforces and replaces those guidelines on the basis of the Guidelines on the prevention and management of conflicts of interest in EU decentralised agencies issued by the European Commission in December 2013<sup>7</sup>.

The rules and procedures contained in this document apply to the entire organisation of the Agency and all of its activities, whether administrative or regulatory in nature. They are based on the degree of exposure to conflicts of interest, bearing in mind the regulatory powers of the Agency and its decision-making process, in line with the risk assessment run by the Agency in early 2014.

The management of (potential) conflicts of interest is crucial to ensure the Agency's independence and transparency, and to maintain the trust of stakeholders and citizens in the Agency's integrity. In the regulatory practice, the highest level of integrity is required to ensure the quality and credibility of regulatory measures. Conflicts of interest, actual or perceived, may put integrity of the decision-making process into question and also represent a reputational risk. They should therefore be avoided or, where this is not possible, effectively managed.

The Agency has to strike a delicate balance; on the one side it must strive to engage the appropriate expertise to ensure high-quality decision-making, while on the other side it must strictly avoid that conflicting interests influence, or are perceived to influence, its decision-making process. The key tools to achieve this balance are awareness raising among all actors involved, the application of methods for detecting risks to the Agency's integrity and reputation, the establishment of clear boundaries for (un)acceptable interests and the appropriate management of conflict of interest situations.

The need to avoid conflicts of interest should not prevent the Agency from collaborating with and seeking input from high-level experts. As the persons concerned are generally experienced and may have interests stemming from their professional background and capacity, appearance of conflict of interest cannot always be entirely avoided. The risks

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<sup>7</sup> [http://europa.eu/agencies/documents/2013-12-10\\_guidelines\\_on\\_conflict\\_of\\_interests\\_en.pdf](http://europa.eu/agencies/documents/2013-12-10_guidelines_on_conflict_of_interests_en.pdf).

of actual or perceived conflicts should be identified, evaluated and managed. A fair, proportionate and timely handling of each case should be ensured.

The procedures and provisions on processing and publishing the Declarations of Interests have been drafted in line with the guidelines concerning the processing of personal data with regard to the management of conflicts of interest and the implementation of certain ethics rules in European institutions and bodies issued by the European Data Protection Supervisor<sup>8</sup>.

## **2. Definition**

A conflict of interest refers to a situation where the impartiality and objectivity of a decision, opinion or recommendation of the Agency is or might be perceived as being compromised by a personal interest held by or entrusted to a given individual who is involved in the decision-making process for such a decision, opinion or recommendation.

A relevant personal interest may be of financial or non-financial nature and may concern a personal or family relationship or professional affiliations (including additional employment or "outside" appointments or former employment or appointments) and other relevant outside activities.

Not only actual independence, but also perception of independence is important, since any reduction of it can impact on the Agency's reputation by raising doubts about the conclusions reached in its activities. The appearance of conflict of interest can constitute a reputational risk to the Agency, even if it turns out to be unsubstantiated.

Therefore, giving due consideration to proportionality, specific backgrounds, all relevant facts and mitigating circumstances, a risk of perceived conflict of interest should be treated as if it were an actual conflict.

## **3. General principles**

### **3.1 Independence**

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Independence from external interests is one of the core values of the Agency. Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (the “Agency’s Regulation”) states that it is necessary to guarantee the independence of the Agency from electricity and gas producers, transmission and distribution system operators, whether public or private, and consumers and to ensure the conformity of its actions with Union law, its technical and regulatory capacities and its transparency, amenability to democratic control and efficiency.

The independence of the Agency from electricity and gas producers and transmission and distribution system operators is not only a key principle of good regulatory governance, but also a fundamental condition to ensure market confidence.

According to Articles 12(7) and 18(7) of the Agency Regulation, the members of the Administrative Board and of the Board of Appeal shall undertake to act independently in the public interest.

Pursuant to Article 14(5) of the Agency Regulation, the Board of Regulators should also avoid conflicts of interest and should not seek or follow instructions or accept recommendations from any government of a Member State, from the Commission or another public or private entity. The same applies to the Agency’s Director, as per Article 16 (1) of the Agency Regulation. National Regulatory Authorities for energy, whose representatives sit in the Board of Regulators, are subject to similar provisions regarding their independence in their jurisdictions, pursuant to Article 35(4) and (5) of Directive 2009/72/EC and Article 39(4) and (5) of Directive 2009/73/EC.

In all of its processes the Agency shall thus ensure that it is independent from external interests and that impartial decisions are taken. To achieve this, detailed guarantees and checks need to be implemented in all processes within the Agency. As a first step, all potential conflicts of interest must be declared. Each process owner<sup>9</sup> shall then be responsible for putting in place the necessary checks in the daily working practices, including regular checks for potential conflicting interests.

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<sup>9</sup> A process owner is a person designated by the Director or in this Policy document, responsible for the efficient and effective functioning of the process and who has the necessary authority to take action or make decisions with an impact on the process performance. In general, the process owner ensures that proper action is taken with respect to the implementation, maintenance, control and improvement of the process.

## 3.2 Transparency

Transparency is a core value of the Agency and is strongly embedded in the Agency's Regulation<sup>10</sup>. Decisions, recommendations and opinions are formed as openly as possible. For this reason, declarations of interests of the main actors behind the Agency's decision-making are made available to the general public.

Transparency must be ensured within the limits of the respect of personal dignity, in compliance with the data protection legislation, in particular Regulation (EC) No 45/2001 (and the consultation of the European Data Protection Supervisor as appropriate), whilst avoiding a disproportionate administrative burden.

To ensure transparency, the Agency publishes on its website:

- the names of the members of its Boards, of the Chairpersons and Vice-Chairpersons of its Working Groups and of the Convenors of their Task Forces;
- the names of external experts participating in expert groups, together with the name of their employer(s) or any organisation which pays them<sup>11</sup>;
- the Declarations of Interests and *curricula vitae* of the members and alternates of the Agency's Boards, of the Chairpersons and Vice-Chairpersons of its Working Groups, of the Convenors of their Task Forces and of the Agency's Director and Heads of Department;
- the minutes of board meetings, along with the list of participants, and any declaration of interests made by any one of the attendees and consequent decision to abstain or step down.

A special section on the implementation of the conflict-of-interest policy is also included in the annual activity report of the Agency.

Transparency has to be complemented by a culture of declaring interests and abstaining in cases where a conflict of interest exists or could be perceived to exist. Withdrawal from specific cases does not automatically imply full resignation. In certain situations of

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<sup>10</sup> Recital 18 of Regulation (EC) No 713/2009 states that "The Agency should have the necessary powers to perform its regulatory functions in an efficient, transparent, reasoned and, above all, independent manner."

<sup>11</sup> For stakeholders' representatives only the organisation represented is listed.

conflict of interest, declaring the interest while abstaining from contributing, giving advice or participating in the decision-making process, could be considered proportionate.

### **3.3 Awareness**

As the Agency's role is to promote the public interest in an independent and transparent manner, it is crucial that the individuals working for the Agency understand that the performance of a public function comes with certain duties. The Agency shall support these individuals in fulfilling their duties, raise awareness and set up further implementing procedures for identifying and handling conflict of interest situations.

## **4. Implementation**

### **4.1 Rules applicable to Agency staff members and SNEs**

#### **4.1.1 Legal provisions - Duties while employed at the Agency**

Any staff member is obliged to carry out his/her duties independently, objectively, impartially and in keeping with his/her duty of loyalty to the European Union (EU).

Staff members<sup>12</sup> are bound by the Staff Regulations and the Conditions of Employment of Other Servants (CEOS) and its implementing rules as adopted by the Agency's Administrative Board and the Director. Relevant rules in the Staff Regulations with respect to conflicts of interest can be found in Title II (Rights and Obligations):

- a staff member shall carry out his/her duties and conduct him/herself solely with the interest of the Agency in mind (cf. Article 11);
- a staff member shall neither seek nor take instructions from any government, authority, organisation or person outside the Agency (cf. Article 11);
- a staff member shall not without the permission of the Agency accept any honour, decoration, favour, gift or payment (cf. Article 11);
- a staff member shall inform the Agency of any potential conflict of interest due to any personal interest before his/her recruitment or at the end of the unpaid leave period (cf. Article 11);
- a staff member shall not deal with a matter in which, directly or indirectly, he/she has any personal interest such as to impair his/her independence (cf. Article 11a);

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<sup>12</sup> Pursuant to Article 28(1) of Regulation (EC) No 713/2009, the Staff Regulations also apply to the Agency's Director.

- a staff member shall refrain from any action or behaviour which might reflect adversely upon his/her position (cf. Article 12);
- a staff member shall inform the Agency if his/her spouse is in gainful employment (cf. Article 13);
- a staff member shall notify the Agency if he/she intends to stand for public office (cf. Article 15);
- a staff member shall refrain from any unauthorised disclosure of information received in the line of duty including after leaving the service (cf. Articles 17 and 19);
- a staff member shall inform the Agency of his/her intention to engage in an outside activity (cf. Articles 16 and 40).

Rules similar to those listed above shall apply for the national experts seconded to the Agency. For this reason, references to Agency staff in this document should be read as applicable to Seconded National Experts (hereafter SNEs) as well, unless where explicitly mentioned to the contrary. Upon commencement of their secondments, SNEs shall sign a commitment to comply with the provisions laid down in this Policy, including but not limited to the confidentiality and the post-employment requirements.

Complementary to the Staff Regulations, the Agency's Administrative Board adopted in December 2012 a Decision on outside activities and assignments<sup>13</sup>, which covers the relevant articles of the Staff Regulations and also includes specific provisions on conflict-of-interest policies and procedures for staff. Article 8(1)(b) of Decision AB No 02/2011 extends the relevant rules on outside activities also to national experts seconded to the Agency.

Finally, staff at the Agency or SNEs seconded to it should under no circumstances try to make a profit or assist others to make a profit by using or disclosing inside information he/she comes across in the performance of his/her duties. Inside information is defined:

- in Regulation (EU) No 596/2014<sup>14</sup>, as "information of a precise nature which has not been made public, relating, directly or indirectly, to one or more issuers or to one or more financial instruments, and which, if it were made public,

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<sup>13</sup> Decision AB No 23/2012 of 5 December 2012 on outside activities and assignments.

<sup>14</sup> Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC.

would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments”.

- in Regulation (EU) No 1227/2011 (REMIT)<sup>15</sup>, as “information of a precise nature which has not been made public, which relates, directly or indirectly, to one or more wholesale energy products and which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products”.

Insider dealing does not require any influence over opinions, recommendations or decisions. Indeed, a staff member/SNE would be guilty of insider dealing if he/she were to use, or cause others to use, directly or indirectly, inside information which comes to his/her knowledge within the Agency (either in the course of his/her work or by accident) in order to make a personal profit through trading in securities of a firm, in wholesale energy products or any other instrument or commodity whose price is related to the price of wholesale energy products, or to encourage third persons to do so. It should be noted that insider dealing is a criminal offence under most national laws of EU Member States.

#### 4.1.2 Provisions for the Agency's senior management

The Director and the Heads of Department and their close family members (i.e. spouse/partner and dependent children) shall not have any direct financial interests in companies which have significant activities in the electricity and gas sectors in the EU, except in the case of shares and other securities held within a fund in which the he/she has no say over the fund's investment policy.

#### 4.1.3 In-house Declarations of Interests - Scope

Every member of the Agency's staff and every SNE is responsible for submitting a Declaration of Interests, compliant with the template in Annex 1. In this document, all interests that may interfere or may be seen as interfering with the work of the Agency and its duty to take impartial and objective decisions in the public interest shall be declared. An example would be a staff member who could influence directly or indirectly

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<sup>15</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 8 December 2011 on wholesale energy market integrity and transparency.

a decision-making process<sup>16</sup> within the Agency and at the same time has a financial interest in a company likely to be affected by this decision-making process, or has a family member working in a company affected by such a process.

More specifically, the Declaration of Interests covers all current interests and those which existed in the recent past (typically over the last 5 years), and extends to family ties, financial investments and other potential interests:

- With regard to **family ties**, all relevant interests held by any members of the household of the person concerned (i.e. spouse/partner and dependent children) need to be declared.
- **Financial investments** in any relevant commercial entity<sup>17</sup>, including any investment in the energy sector, are to be declared when they amount to above 10,000 EUR per company, except in the case of shares held within a fund in which the shareholder has no say over the fund's investment policy. In addition and notwithstanding their financial value, holding of shares, stocks or comparable instruments amounting to a voting right of 5% or more in any commercial entity in the energy sector are to be declared. Interests below this threshold are declared on a voluntary basis<sup>18</sup>.
- **Other potential interests** include, among others, professional relationships such as employment, consultancy, membership of a managing body or advisory body, other memberships or affiliations.

The purpose of the Declaration of Interests is to raise awareness of and help identify possible conflict-of-interest situations so that these can be addressed and avoided at an early stage.

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<sup>16</sup> References in this document to “decision” or “decision-making process” do not mean the adoption of an actual decision in the legal sense, but refer to the process of defining the stance of the Agency or any of its Boards on a particular issue.

<sup>17</sup> A ‘relevant’ commercial entity is an entity whose business operations could affect or could be perceived to affect the independence of the person in his/her work at the Agency. In case of doubt, interests should be declared.

<sup>18</sup> For senior management (the Director and Heads of Department) see also 4.1.2.

#### 4.1.4 Procedures for identifying and handling potential conflicts of interest

##### 4.1.4.1 Submission of Declarations of Interests and responsible persons

Upon their entry into service, the Agency staff members shall submit their duly signed Declarations of Interests in paper to the Agency's Human Resources (HR) team, where they are kept in a Register of Declarations and retained for the period of employment and thereafter according to the provisions laid down in the Agency policy on records management<sup>19</sup>. Similar requirements apply to SNEs upon commencement of their secondments. The Declarations of Interests of the Director and the Heads of Department are updated (at least) once per year<sup>20</sup>. These Declarations are public and shall be published on the Agency's website (without visible signatures for security and data protection reasons), together with their *curricula vitae*.

The hierarchical superior, together with the Head of Department in case the hierarchical superior is not also the Head of Department, and a legal advisor, shall assess, within 1 month or prior to the assignment of first duties, whichever applies first, the Declaration of Interests submitted by a staff member/SNE. The declaration shall be brought to the attention of the Director, acting as Appointing Authority, for decision, if necessary.

Each year by the end of January, the Director shall submit his duly signed Declaration of Interests to the Administrative Board with copy to the Agency's HR team. The Declaration of Interests shall be reviewed by the Chair of the Administrative Board. When he/she detects a potential conflict of interest, or upon individual request of an AB member, the AB Chair brings the matter to the attention of the Administrative Board which shall then decide on the appropriate action.

If at any point in time a change occurs in the situation of the Director's, a staff member's or an SNE's interests, or his/her independence to work on a very specific dossier/task/case is at risk, the person involved must update his/her declaration without delay<sup>21</sup> and declare the specific interest to his/her line managers<sup>22</sup> or, in the case of the Director, to the Administrative Board.

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<sup>19</sup> The processing of personal data in the Register of Declarations shall be subject to the provisions laid down in Regulation (EC) No 45/2001.

<sup>20</sup> The Declarations of Interests shall at least be submitted each year by the end of January.

<sup>21</sup> Cf. Art. 11a of the Staff Regulations.

<sup>22</sup> Line manager shall mean hierarchical superior and/or Head of Department.

In particular, staff members/SNEs are obliged to notify changes/update their Declaration of Interests when assigned specific tasks for which they have a (potential) conflict of interest that may not yet be registered in the last version of their Declaration of Interests available to their line managers. Such update does not necessarily need to imply a new event in their personal interests. The update may also be due to the fact that the staff member/SNE initially did not consider the interest as potentially being in conflict with the tasks he/she had at the time the Declaration of Interests was submitted or last reviewed.

The Register of Declarations is accessible to the line managers<sup>23</sup> who shall be responsible for monitoring the declarations regularly to identify potential risks and handle situations of potential conflicting interests appropriately. The Register of Declarations is also accessible to the Director.

#### 4.1.4.2 Evaluation of declared interests – Risk levels

The line manager(s) or, in the case of the Director, the Chair of the Administrative Board, shall assign the staff member/SNE to one of the following risk levels<sup>24</sup>:

- Level 1: No relevant interests declared;
- Level 2: Interests declared pertaining to the general scope of work of the Agency but with no influence on the specific field of work of the staff member;
- Level 3: Interests declared pertaining directly to the field of work of the staff member and the staff member has or may have influence on the decision-making process.

For staff members/SNEs classified in the risk levels 3, the line manager(s) and a legal advisor shall further assess whether the declared interests constitute or could be perceived as a conflict of interest.

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<sup>23</sup> In case of disagreement between the hierarchical superior and the Head of Department, the conflict of interest issue shall be brought to the attention of the Director.

<sup>24</sup> In the case of administrative or “horizontal” duties the definitions shall apply also to companies not necessarily operating in the energy field (for example related to the provision of services, equipment, etc.).

In line with the definitions of the relevant Staff Regulations (e.g. Article 11a), the Agency determines whether a particular interest is substantial enough to give rise to a conflict of interest, taking into account the specific circumstances. This inevitably requires a case-by-case analysis, as not all possible scenarios can be foreseen.

Some of the factors that may be relevant for the analysis are:

#### Holding of financial interests

- The nature of the financial interest.
- The effect that the Agency's decision may potentially have on the financial interest.
- The magnitude of the financial interest. The higher the value of the financial interest, the higher the risk of undue influence. While a threshold is set for the declaration of financial interest, no fixed thresholds are established for what constitutes an actual conflict of interest, as this requires a case-by-case assessment.
- The role of the staff member/SNE in the decision-making process.
- The risk of a perceived conflict, even if it is not considered to be an actual or potential conflict in view of the above criteria.

#### Previous employment

A conflict of interest might also arise from previous employment of the Agency's (candidate) staff member/SNE. Where there is an issue that is clear from the *curriculum vitae* or information voluntarily provided by the candidate at the interview, including with the panel, the interviewers have to inform the Head of the recruiting department.

Staff members/SNEs must respect the ethical rules, if any, undertaken vis-à-vis their previous employers and promptly inform their Head of Department and Director thereof. The Head of Department should ensure that the staff member/SNE concerned is not assigned any task which may bring him/her in conflict with the conditions and obligations undertaken towards his/her former employers.

Gainful employment of close family members<sup>25</sup>

Professional activities of close family members, primarily those active in the energy sector, may also create a conflict of interest. Such activities must be registered in the Declaration of Interests. A brief description of the close family member's duties and activities must be provided, together with information on the links between their respective duties, his/her employer and the Agency. The required level of detail depends on the risk of a real or potential conflict of interest.

The possible conflict arising out of staff members'/SNEs' close family members' activities must be assessed on a case-by case basis and measures to remove the conflict of interest must be proportionate to the risk involved.

Criteria for assessing the existence of a conflict of interest related to close family members are, for example:

- The issue at stake and its likely impact on the company/organisation related to the close family member.
- The role of the staff member/SNE in the Agency's decision-making process related to the company/organisation.
- The role of the close family member in the company/organisation and the likelihood of his/her direct involvement in issues related to the work of the Agency's staff member.
- The risk of a perceived conflict, even if it is not considered to be an actual or potential conflict in view of the criteria above.

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<sup>25</sup> 'Close family members' are considered to be the persons forming a household with the person making this declaration (spouse, partner, and/or dependent children).

#### 4.1.4.3 Measures for staff members/SNEs

For risk level 1, no further action is needed (unless the information provided turns out to be incomplete or false – see Section 4.1.6, which applies also to all other risk levels mentioned herein).

For risk level 2, no further action is necessary, however line managers should pay particular attention if/when the staff member/SNE is reassigned to new tasks, in which case she/he may have to be reassigned to a different risk level.

For risk level 3, the staff member/SNE should, as a general rule, not be assigned to tasks/dossiers on the basis of which he/she has been classified in this risk level and thus the (potential) conflict of interest situation would be avoided. However decisions should also be taken on the basis of whether the interest declared constitutes or could be perceived to constitute a real conflict of interest.

In case a staff member/SNE is assigned to a dossier/task/case for which he/she has declared a (potentially) conflicting interest, and for which his/her line manager has maintained the assignment, the staff member/SNE may invoke Article 21a of the Staff Regulations.

In cases which do not appear to raise a clear-cut conflict of interest situation, operational criteria may also have to be taken into account, such as whether the staff member is indispensable to the specific task in question or whether the task could also be performed by a colleague, taking into account language requirements, experience, etc.

#### 4.1.5 Case handling in the Market Monitoring Department

In addition to the provisions applicable to all staff members/SNEs, special attention shall be given to those staff members/SNEs dealing with confidential information and handling cases within the context of REMIT.

Staff members/SNEs formally assigned to REMIT cases coordinated by the Agency must carry out their functions impartially. The staff member/SNE shall review his/her

Declaration of Interest and, if any change is made, resubmit it to the line manager(s)<sup>26</sup>. The latter (re)assess(es) the staff member's/SNE's risk level in relation to the case in question, and if the management of any actual, potential or perceived conflict of interest so requires, reassign(s) the case to another staff member/SNE.

As a basic ethical rule, staff/SNEs in the Market Monitoring Department dealing with potential market abuse cases under REMIT should not deal with cases related to an employer for whom he/she or a close family member has worked in the last 5 years, or, in the case of close family members, is still working. A case-by-case assessment shall be performed by the line manager(s) taking into account the level of involvement in the case. The case shall be brought to the attention of the Director, acting as Appointing Authority, for decision, if necessary.

In addition, SNEs should, as a rule, not be assigned to cases involving their seconding authority. Due to the Agency's limited resources, in some cases, this may not be possible as the SNE in question may be the only person having the technical / linguistic knowledge needed to deal with the case. In such circumstances, the SNE's role should be that of 'expert' and the information shared with him/her should be limited to the extent necessary to allow him/her to provide expert advice.

In the light of the sensitive nature of the information flows within the Market Monitoring Department and so as to be able to trace back information flows in case of allegations of insider dealing or any other misuse of the data<sup>27</sup>, measures are taken to ensure, under specific circumstances, the traceability of the information. Staff members handling cases of potential market abuse have the obligation to establish a "who knew what and when" document, under the supervision of the Head of the Market Monitoring Department. The document will be accessible to the Director of the Agency.

#### 4.1.6 False declarations and omissions

If the line manager(s) assessing the Declaration of Interests considers the information provided unclear, incomplete or inaccurate, she/he may verify if the rules are well

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<sup>26</sup> If the staff member is not structurally assigned to the Market Monitoring Department, the conflict of interest assessment in the REMIT case shall be carried out by the Head of the Market Monitoring Department.

<sup>27</sup> Cf. chapter 4.1.1.

understood and request written clarifications from the staff member/SNE in order to better assess whether there is a real or potential conflict of interest at stake.

Any false declaration or wilful omission of potential conflicts of interest, as well as the refusal to declare interests, may result in disciplinary action under Annex IX of the Staff Regulations. By analogy, disciplinary action shall also apply to SNEs not directly subject to the Staff Regulations. Since the appropriate remedial action should take into account the reasons for the failure to declare (negligence, justified lack of knowledge, for example due to confidentiality connected to the profession of the household member, etc.), it may be preceded by a letter of reprimand.

If the staff member/SNE was involved in a decision-making process without having declared a conflicting interest where such a declaration was required, the Agency may undertake remedial actions, in particular to review or cancel that decision if seriously affected by the conflict of interest. In such cases an ex-post review of the staff member's activities and contributions to the Agency's deliverable will be carried out by the Director.

If the Director was involved in a decision-making process without having declared an interest although this would have been necessary, the Administrative Board may undertake remedial actions, in particular to review or cancel that decision if seriously affected by the conflict of interest. In such cases the Chair of the Administrative Board shall carry out an ex-post review of the decision.

#### 4.1.7 Outside activities during employment at the Agency

Staff members in active employment wishing to engage in an assignment or outside activity must request permission from the Appointing Authority pursuant to Article 12b of the Staff Regulations and in line with Commission Decision C(2013) 9037 on outside activities and assignments and Decision AB No 23/2012 of 5 December 2012. Similar rules shall apply to SNEs. The rules are intended to prevent conflicts of interest from arising, without imposing unreasonable restrictions on staff members' outside activities.

#### 4.1.8 Post-employment

A staff member shall, after leaving the service, continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. Staff members intending to engage in an occupational activity, whether

gainful or not, within 2 years of leaving the service shall inform the Agency thereof using a specific form (see Annex 4). A similar requirement applies to SNEs who shall inform the Agency using a specific form (see Annex 5).

When a staff member joins the Agency and again when he/she leaves service at the Agency, he/she shall be reminded of his duties under the Staff Regulations. Upon leaving the service he/she shall duly sign a document regarding integrity, discretion and confidentiality. Upon commencement of his/her secondment, an SNE shall sign a commitment to confidentiality and to comply with the post-employment requirements laid down in this Section.

The form indicating the (former) staff member's or SNE's intention to engage in a new occupational activity will be reviewed by the Director, as the Appointing Authority, or, in the Director's case, by the Chair of the Administrative Board who will propose to the Appointing Authority the decision to be taken.

If within 2 years of leaving the service the (former) staff member or SNE intends to undertake an activity that is related to the work carried out by the staff member/SNE during the last 3 years of service in the Agency and could lead to a conflict with the legitimate interests of the Agency, the Director or, in the case of the Director, the Chair of the Administrative Board may, having regard to the interests of the service, either forbid him/her from undertaking it or give its approval subject to any conditions it considers fit. Any limitations to the staff member's/SNE's right to work shall be proportionate and strictly necessary in light of the risk of conflict with the legitimate interests of the Agency. It shall accordingly be duly justified to the staff member/SNE and adopted only after having given the chance to the staff member/SNE to be heard and, in the case of SNEs, having consulted the seconding institution.

The Director or, in the case of the Director, the Chair of the Administrative Board, shall notify the (former) staff member/SNE within 30 working days of the submission of the form notifying the intention to engage in an occupational activity. If no such notification has been made by the end of that period, this shall be deemed to constitute implicit acceptance.

Access to the (former) staff member's/SNE's personal data is given only to Agency staff members responsible for the management and assessment of the application. A copy of the application, together with the decision of the Director/Administrative Board, will be kept by the Agency's Human Resources team in line with the Agency's document management rules.

The Administrative Board shall prohibit a former Agency Director, during the 12 months after leaving the service, from engaging in lobbying or advocacy activities vis-à-vis staff of the Agency for his/her business, clients or employers on matters for which he/she was responsible during the last 3 years in the service.

If, within 2 years of leaving the service, the former staff member/SNE fails to inform the Agency of his/her intention to engage in an occupational activity and the Agency becomes aware of the fact that the former staff member/SNE has undertaken an activity, the Human Resources team of the Agency shall contact the former staff member/SNE and remind him/her of the obligations.

If the Agency has the suspicion that the former staff member/SNE has undertaken an activity that is related to the work carried out by him/her during the last 3 years of service at the Agency and could lead to a conflict with the legitimate interests of the Agency it shall ask for clarifications from the former staff member/SNE. In the absence of a satisfactory answer, the Agency may undertake legal action against the former staff member/SNE.

#### 4.1.9 Awareness-raising

The Agency will strive to raise awareness among all staff regarding conflicts of interest in order to ensure that the rules are well understood. This will be done by:

- Drawing attention to the issue during the recruitment phase (including the submission of the Declaration of Interests to be completed by the staff member and information on the staff's obligations when leaving the service);
- Including information on conflict of interest in the Agency's welcome pack for newcomers, the Agency's manual (guidebook) for all staff and on the Agency's intranet;
- Providing mandatory training on ethics and integrity;

- Providing specific training on conflicts of interest.

## 4.2 Rules applicable to members and alternates of the Agency's Boards

### 4.2.1 Legal and other provisions

The members and alternates of the Agency Boards are under an obligation to act independently when carrying out their duties<sup>28</sup>. This is explicitly stated in the Agency's Regulation<sup>29</sup>:

- *"The members of the Administrative Board shall undertake to act independently and objectively in the public interest, without seeking or following any political instructions" (Article 12(7)).*
  
- *"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" (Article 14(5))*
  
- *"The members of the Board of Appeal shall be independent in making their decisions. They shall not be bound by any instructions" (Article 18(3)). "Members of the Board of Appeal shall not take part in any appeal proceedings if they have any personal interest therein, or if they have previously been involved as representatives of one of the parties to the proceedings, or if they participated in the decision under appeal" (Article 18(4)). "The members of the Board of Appeal shall undertake to act independently and in the public interest" (Article 18(7)).*

In order to enable the verification of the compliance with the independence obligations of Boards' members and alternates, a Declaration of Interests (according to the template in Annex 1) and a *curriculum vitae* (according to the template in Annex 2) shall be

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<sup>28</sup> In case of the Board of Regulators, this is without prejudice to its members acting on behalf of their respective regulatory authority. See in this respect also chapter 4.2.2.

<sup>29</sup> In its report 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)), the European Parliament also explicitly called upon the Agency to collect and make publicly available the Declarations of Interests of the Agency Boards.

submitted annually and published on the Agency's website. If at any point in time changes occur in the situation of the declared interests, the Board member/alternate shall promptly make an updated Declaration of Interests, which shall be published without delay.

In addition to the annual Declarations of Interests, at each Board meeting, the participating members/alternates shall explicitly declare any interests which could be considered prejudicial to their independence with respect to any point on the agenda of the meeting.

In addition to the Declarations of Interests, members and alternates of the Administrative Board and of the Board of Appeal shall also submit a Declaration of Commitment (according to the template in Annex 3), pursuant to Articles 12(7) and 18(7) of the Agency's Regulation.

The Boards shall include in their rules of procedure provisions on honours, decorations, favour, gifts or payments (taking the provisions in Article 11 of the Staff Regulations as reference) when such honours, decorations, favours, gifts or payments are directly related to the member's or alternate's involvement in the Agency (i.e. in their capacity of Board members/alternates).

#### 4.2.2 Declarations of Interests - Scope

The purpose of assessing potential conflicts of interest is to ensure that the Board members/alternates have no personal interests which could affect their impartiality within their respective Boards. The Declarations of Interests should serve to raise awareness of and help identify possible conflict-of-interest situations so that these can be addressed and avoided at an early stage.

All interests that may interfere or may be seen as interfering with the work of the Agency and its duty to take impartial and objective decisions in the public interest shall be declared<sup>30</sup>.

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<sup>30</sup> An example would be a Board member who could influence directly or indirectly a decision-making process within the Board and, at the same time, has a financial interest in a company likely to be affected by this decision, or has a family member working in a company affected by the latter process.

The Declaration of Interests shall cover all current interests and those which existed during the recent past (generally the last 5 years), and extends to family ties, financial investments and other potential interests:

- With regard to **family ties**, all relevant interests held by any member of the household of the Board member/alternate concerned (i.e. spouse/partner and dependent children) need to be declared.
- **Financial investments** in any relevant commercial entity, including any investment in the energy sector, are to be declared when they amount to above 10,000 EUR per company, except in the case of shares held within a fund in which the shareholder has no say over the fund's investment policy. In addition and notwithstanding their financial value, holding of shares, stocks or comparable instruments amounting to a voting right of 5% or more in any commercial entity in the energy sector are to be declared. Interests below this threshold are declared on a voluntary basis.
- **Other potential interests** include, among others, professional relationships such as employment, and consultancy, membership of a managing body or advisory body, other memberships or affiliations.

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.

#### 4.2.3 Procedures for identifying and handling potential conflicts of interest

##### 4.2.3.1 Submission of Declarations of Interests and responsible persons

Board members and alternates shall submit their duly signed annual Declarations of Interests to the secretariat of their respective Board no later than 31 January of each year. The secretariat shall provide access to the Declarations of Interests to the members of the respective review panel, to the Director of the Agency and to a legal expert of the Agency.

If at any point in time a Board member/alternate updates his/her Declaration of Interests the secretariat of the respective Board, to which the updated Declaration of Interests is submitted, shall inform the respective review panel's members and observers of the update.

In case the secretariat has not received the annual Declaration of Interests of a member/alternate by the established deadline, and thus any assessment of potential conflicts of interest is impossible, the secretariat shall, without delay, remind the member/alternate of his/her obligation to submit such a Declaration. If the member/alternate persists in not providing the Declaration of Interests within 14 calendar days of being reminded, the appointing institution shall be notified by the Chair of the respective Board, or by the Vice-Chair in case the Chair is not complying. In case the non-compliance situation persists, the respective review panel may decide to bring the case to the attention of the European Commission.

The Chair of the respective Board, with the assistance of its secretariat, is responsible for keeping the Register of Declarations.

The Declarations of Interests of the members and alternates of the Boards are public and are published on the Agency's website (without visible signatures for security and data protection reasons).

##### 4.2.3.2 Handling of the Declarations of Interests

#### *Administrative Board*

The (updated) Declarations of Interests are to be examined by a review panel, which shall consist of the Chair, the Vice-Chair and a European Commission representative in the Administrative Board and, as alternate, a Commission official, 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, one appointed Board member and a European Commission representative in the Administrative Board, with the Director of the Agency as observer and a legal expert of the Agency as secretary.

For the Vice-Chair, the review panel shall consist of the Chair, one appointed Board member and a European Commission representative in the Administrative Board, with the Director of the Agency as observer and a legal expert of the Agency as secretary.

#### *Board of Regulators*

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.

#### *Board of Appeal*

The (updated) Declarations of Interests are to be examined by the Board of Appeal in line with the procedure mandated by the Agency's Regulation and the present Policy, as defined in the Board of Appeal's Rules of Procedure.

#### 4.2.3.3 Assignment to risk levels

The Declarations are reviewed and the Board members/alternates assigned to one of the following risk levels:

- Level 1: No relevant interests declared.
- Level 2: Relevant interests declared (e.g., in the energy sector) but which do not have any (and are not expected to have any for the year following the declaration) direct influence on the decision-making process of the Board or which are not directly impacted by the Board's decision-making process.
- Level 3: Interests declared pertaining directly to the field of competence of the Board.

#### 4.2.3.4 Criteria to determine potential conflicts of interest

For Board members/alternates classified at risk level 3, the review panel – or, in the case of the Board of Appeal, the Board itself - shall further assess whether the interests declared constitute or could be perceived to constitute a conflict of interest.

Given the wide range of possible situations there is a certain margin of discretion to determine whether a particular interest is substantial enough to give rise to a potential conflict of interest, taking into account the specific circumstances. This inevitably requires a case-by-case analysis, as not all possible scenarios can be foreseen.

Some of the factors that may be relevant for the analysis are:

##### Holding of financial interests

- The nature of the financial interest.
- The effect that the Board's action may potentially have on the financial interest.
- The magnitude of the financial interest. The higher the value of the financial interest, the higher the risk of undue influence. While a threshold is set for the declaration of financial interests, no fixed thresholds are established for what constitutes an actual conflict of interest, as this requires a case-by-case assessment.

- The risk of a perceived conflict, even if it is not considered to be an actual or potential conflict in view of the above criteria.

Employment and other activities of the member/alternate or of his/her close family members<sup>31</sup>

Employment and other (professional) activities of the member/alternate or of his/her close family members, primarily those in the energy sector, may also create a conflict of interest. Such activities must be registered in the Declarations of Interests. A brief description of the member's/alternate's or close family member's duties and activities must be provided. The required level of detail depends on the risk of a real or potential conflict of interest.

The possible conflict arising out of the member's/alternate's or close family members' activities must be assessed on a case-by-case basis and measures to remove the conflict of interest must be proportionate to the risk involved.

Criteria for assessing the existence of a conflict of interest related to the activities of the member/alternate or of his/her close family members are, for example:

- The possible impact of the Board's decision on the company/organisation related to the member/alternate or his/her close family member.
- The role of the Board in the Agency's decision-making process affecting the company/organisation.
- The role of the member/alternate or his/her close family member in the company/organisation and the likelihood of his/her direct involvement in issues related to the work of the Board.
- The risk of a perceived conflict, even if it is not considered to be an actual or potential conflict in view of the criteria above.

Previous employment

An actual or perceived conflict of interest might also arise from the Board member's/alternate's previous employment.

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<sup>31</sup> 'Close family members' are considered to be the persons forming a household with the person making this declaration (spouse, partner, and/or dependent children).

#### 4.2.4 Measures

For risk level 1, no further actions are needed (unless the information provided turns out to be incomplete or false – see section 4.2.5 below on breach of trust, which applies also to all other risk levels mentioned herein).

For risk level 2, no further actions are necessary. However, upon proposal of the Chair<sup>32</sup>, the review panel – or, in the case of the Board of Appeal, the Board itself - shall reconvene in case the respective Board is called to decide upon matters that appeared to be outside the scope of its powers when the Board member's/alternate's Declaration of Interests was assessed. Due to the changed circumstances, the review panel may have to reassign the Board member/alternate to a different risk level.

For members/alternates classified at risk level 3:

- in the case of the Administrative Board, the Chair<sup>33</sup> shall inform the concerned member/alternate of the assessment of the alleged conflict of interest. If the member/alternate disagrees with the assessment and/or if the situation is not remedied within two months, the Board shall decide on the matter, taking into consideration all the relevant facts. In case the existence of a conflicting interest is confirmed by the Board, the Chair<sup>34</sup> shall inform the Appointing Institution, indicating whether the situation which is considered to give rise to a (potential) conflict of interest already existed at the time of the appointment of the member/alternate or has emerged afterwards. The European Commission shall also be informed;
- in the case of the Board of Regulators, the Chair<sup>35</sup> shall inform the concerned member/alternate and the relevant National Regulatory Authority. If the member/alternate disagrees with the assessment and/or if the situation is not remedied within three months, the European Commission shall be informed;
- in the case of the Board of Appeal, the relevant provision relating to conflicting interests in the Agency's Regulation, as implemented in the Board of Appeal's Rules of Procedure shall be applied. The Chair<sup>36</sup> shall also inform the European Commission of any persisting conflict-of-interest situation.

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<sup>32</sup> Or, in the case of the Chair and his/her alternate, the Vice-Chair.

<sup>33</sup> Or, in the case of the Chair and his/her alternate, the Vice-Chair.

<sup>34</sup> Or, in the case of the Chair and his/her alternate, the Vice-Chair.

<sup>35</sup> Or, in the case of the Chair and his/her alternate, the Vice-Chair.

<sup>36</sup> Or, in the case of the Chair and his/her alternate, the Vice-Chair.

If a member/alternate was involved in a Board's decision-making procedure without having declared a relevant interest, the Board, having regard to the assessment of the respective review panel in the case of the Administrative Board and the Board of Regulators, shall decide upon remedial actions, including possible review or cancellation of the Board's decision if seriously affected by the conflicting interest.

#### 4.2.5 Breach of Trust Procedure

In case the review panel of the Administrative Board or of the Board of Regulators has knowledge or is made aware of information that is not consistent with the information included in the Declaration of Interests of a member/alternate and such information should have been declared, the Chair<sup>37</sup> will inform the member/alternate in writing, asking him/her to clarify the situation within 14 calendar days. If the Declaration of Interests turns out to be inconsistent with the actual facts, the member/alternate shall justify why this information was not initially provided and complete the Declaration with the missing information.

Once the aforementioned information has been received, the review panel shall assess it in order to establish whether the omission of the member/alternate needs to be considered as a breach of trust, which it would be the case if it were found that:

- the information missing from the Declaration of Interests is a declarable interest according to the Agency's Policy and
- the member/alternate did not declare the missing information intentionally or through gross negligence or he/she failed otherwise to meet his/her obligations under the Agency's Policy for the prevention and management of conflicts of interest.

Prior to a decision being taken, the member/alternate shall be invited to a hearing with the review panel to express his/her views on the facts in question. The review panel shall take into account any documents or comments submitted before and during the hearing.

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<sup>37</sup> Or, in the case of the Chair and his/her alternate, the Vice-Chair.

If the review panel has serious reasons to believe that there has been a breach of trust, it shall bring the case to the attention of the Board.

Upon recommendation of the review panel, the Board shall take a decision having due regard to all information provided. The member/alternate concerned shall again have the opportunity to present his or her views to the Board before the Board takes its decision. The Board may also seek the views of the European Commission before taking its decision. The member concerned shall not participate in the voting of the Board on the breach of trust, but be replaced by his/her alternate.

If the Board's final decision is that a breach of trust has occurred, the Chair<sup>38</sup> of the Board shall inform the member/alternate, the European Commission and:

- in the case of the Administrative Board, the Appointing Institution;
- in the case of the Board of Regulators, the relevant National Regulatory Authority;

of the outcome of the review, inviting them to replace the member/alternate.

If a National Regulatory Authority is called to nominate a new member/alternate of the Board of Regulators, it shall be fully independent in doing so, pursuant to Article 14(5) of Regulation (EC) 713/2009.

The Board of Appeal shall follow the breach of trust procedure laid down in its Rules of Procedure.

In case of a breach of trust, the Agency shall be entitled to make this information public.

Whenever a breach of trust reveals a case of suspected fraud, the Agency will inform the European Antifraud Office (OLAF) without delay. If the member/alternate was involved in an Agency's decision-making process without having declared a conflicting interest, the Board or the Agency may undertake remedial actions, in particular to review or cancel the decision if seriously affected by the conflict of interest.

### **4.3 Rules applicable to Agency Working Groups**

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<sup>38</sup> Or, in the case of the Chair and his/her alternate, the Vice-Chair.

#### 4.3.1 Role of Agency Working Groups

Agency Working Groups (AWGs) are created by Decision of the Director of the Agency. The AWGs assist the Agency staff in preparing the Agency's opinions, recommendations and decisions. AWG membership is foreseen for Agency staff and experts from National Regulatory Authorities. European Commission representatives may also attend AWG meetings<sup>39</sup>. The AWG's Chairpersons and Vice-Chairpersons are appointed by the Director and are typically senior experts from National Regulatory Authorities. The AWG Chairpersons may establish Task Forces if this is considered appropriate and appoint one or more Convenors for each Task Force.

#### 4.3.2 Declarations of Interests - Scope

The AWGs can form an important part in the preparatory work of the Agency, even though they do not have decision-making powers as such. Due to the AWG's relatively wide composition, the power of individual AWG members to influence the development of the work related to the Agency's deliverables, with decisions taken at the level of the Director or of the Board of Regulators, remains limited.

However AWG Chairpersons and Vice-Chairpersons and Task Force Convenors can effectively steer the preparation of Agency deliverables and should therefore be subject to greater scrutiny as concerns the existence of (potential) conflicts of interest compared to other AWG members. AWG Chairpersons and Vice-Chairpersons and Task Force Convenors shall therefore be subject to the same level of scrutiny as Board members and the scope of the Declaration of Interests described in section 4.2.2 and applicable to Board members shall also apply to AWG Chairpersons, Vice-Chairpersons and Task Force Convenors.

#### 4.3.3 Procedures for identifying and handling potential conflicts of interest

The (updated) Declarations of Interests of AWG Chairpersons, Vice-Chairpersons or Task Force Convenors who are also Agency's staff members are submitted and shall be reviewed according to the rules applicable to Agency staff members (see Section 4.1).

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<sup>39</sup> See Paragraph 3 of the Rules for the Functioning of the Working Groups of the Agency for the Cooperation of Energy Regulators, as adopted by Director Decision 2012-06 (hereinafter "AWG rules").

#### 4.3.3.1 Submission of Declarations of Interests

AWG Chairpersons, Vice-Chairpersons and Task Force Convenors shall submit to the Board of Regulators' secretariat duly signed Declarations of Interests (according to the template in Annex 1) and a *curriculum vitae* (according to the template in Annex 2). While the duly signed Declarations of Interests shall be submitted each year no later than 31 January, the *curriculum vitae* shall be updated whenever necessary.

AWG Chairpersons and Vice-Chairpersons and Task Force Convenors who are also members or alternates of the Board of Regulators shall submit only one Declaration of Interests, indicating both functions in the form. The Board of Regulators' secretariat forwards the Declarations of Interests and the *curricula vitae* of AWG Chairpersons, Vice-Chairpersons and Task Force Convenors to the Director without delay.

In case an AWG Chairperson, Vice-Chairperson or Task Force Convenor does not submit the Declaration of Interests by 31 January, and thus any assessment of conflicts of interest is impossible, the Board of Regulator's secretariat shall, without delay, remind the AWG Chairperson, Vice-Chairperson or Task Force Convenor of his/her obligation to submit such a Declaration. If the member/alternate persists in not providing the Declaration of Interests within 14 calendar days of being reminded, the function of the AWG Chairperson, Vice-Chairperson or Task Force Convenor is performed by the relevant Head of Department until the Declaration of Interests is received and a proper conflict of interest analysis pursuant to the procedure set out in this chapter takes place.

The Director is responsible for keeping the Register of Declarations of Interests of AWG Chairpersons, Vice-Chairpersons and Task Force Convenors.

The Declarations of Interests and *curricula vitae* of AWG Chairpersons and Vice-Chairpersons and Task Force Convenors are public and shall be published on the Agency's website (without visible signatures for security and data protection reasons).

#### 4.3.3.2. Handling of declared interests and risk levels

The (updated) Declarations of Interests of AWG Chairpersons, Vice-Chairpersons and Task Force Convenors who are National Regulatory Authorities' experts, including

members/alternates of the Board of Regulators, will be assessed by the Board of Regulators' review panel.

The Declarations of Interests are reviewed and the AWG Chairpersons, Vice-Chairpersons and Task Force Convenors assigned the following risk levels:

- Level 1: No relevant interests declared.
- Level 2: Relevant interests declared (e.g., in the energy sector) but which do not have any (and are not expected to have any for the year following the declaration) direct influence on the work of the AWG or which are not directly impacted by the work of the AWG.
- Level 3: Interests declared pertaining directly to the field of competence of the AWG.

#### 4.3.3.4 Criteria to determine potential conflicts of interest

The same criteria shall apply as in the case of the Boards (see Section 4.2.3.4). The text therein is applicable to the AWG by replacing the word 'Board' with 'AWG' and the terms 'Board's action' and 'Board's decision' with the term 'AWG's work'.

#### 4.3.4 Measures

For risk level 1, no further actions are needed (unless the information provided turns out to be incomplete or false – see Section 4.3.5 below on breach of trust, which applies also to all other risk levels mentioned herein).

For risk level 2, no further actions are necessary. However, upon proposal of the Director, the Board of Regulators' review panel shall reconvene in case the AWG is called to assist in matters that appeared to be outside the scope of its work when the AWG Chairperson's, Vice-Chairperson's and Task Force Convenor's Declaration of Interests was assessed. Due to the changed circumstances, the Board of Regulators' review panel may have to reassign the AWG Chairperson, Vice-Chairperson and Task Force Convenor to a different risk level.

As a rule, the Board of Regulators' review panel should propose to the Director the replacement of an AWG Chairperson, Vice-Chairperson or Task Force Convenor classified at risk level 3.

The outcome of the assessment carried out by the Board of Regulators' review panel on the Declarations of Interests submitted by AWG Chairpersons, Vice-Chairpersons and Task Force Convenors is without prejudice to the Rules on the functioning of the Agency's Working Groups, adopted by Director Decision, and in particular to the provisions on the appointment and termination of the mandate of AWG Chairpersons and Vice-Chairpersons and on the Director's guidance to the AWG Chairpersons contained therein.

#### 4.3.5 Breach of Trust Procedure

In case the Agency or the Board of Regulators' review panel has knowledge or is made aware of information that is not consistent with the information included in the Declaration of Interests of an AWG Chairperson, Vice-Chairperson or Task Force Convenor and such information should have been declared, the Director or the Board of Regulators' review panel informs the AWG Chairperson, Vice-Chairperson or Task Force Convenor in writing, asking him/her to clarify the situation within 14 calendar days. If the Declaration of Interests turns out to be inconsistent with the actual facts, the AWG Chairperson, Vice-Chairperson or Task Force Convenor shall justify why this information was not initially provided and complete the declaration with the missing information.

While awaiting the reply, the AWG Chairperson, Vice-Chairperson or Task Force Convenor may be suspended from his/her role by the Director. In this case, the function of AWG Chairperson, Vice-Chairperson or Task Force Convenor is performed by the relevant Head of Department until the aforementioned information has been received and assessed.

Once the aforementioned information has been received, the Board of Regulators' review panel shall assess it in order to establish whether the omission of the AWG Chairperson, Vice-Chairperson or Task Force Convenor needs to be considered as a breach of trust, which would be the case if it were found that:

- the information missing from the Declaration of Interests is a declarable interest

according to the Agency's Policy and

- the AWG Chairperson, Vice-Chairperson or Task Force Convenor did not declare the missing information intentionally or through gross negligence or he/she failed otherwise to meet his/her obligations under the Agency's Policy for the prevention and management of conflicts of interest.

The Director shall take a decision having due regard to all information provided and the assessment performed by the Board of Regulators' review panel. If his final decision is that there has been a breach of trust, the Director shall inform the AWG Chairperson, Vice-Chairperson or Task Force Convenor and the National Regulatory Authority concerned, of the outcome. In such a case the Director shall replace the AWG Chairperson or Vice-Chairperson or shall call upon the AWG Chairperson to replace the Task Force Convenor.

#### 4.3.6 Ad-hoc rules for meetings

The Rules on the functioning of the Agency's Working Groups shall require members and observers participating in AWG and Task Force meetings, to make specific declarations of potential conflict of interest when relevant. The AWG Chairperson or the Task Force Convenor shall then decide to which extent such interest may affect the participation of the member or observer concerned on that relevant point and take the necessary measure to ensure that the proceeding of the AWG or Task Forces, and their neutrality, are not adversely affected by the declared interest.

The Rules on the functioning of the Agency's Working Groups shall require members and observes to declare any interest which could be prejudicial to their independence also at the beginning of a particular work assignment within the AWG or Task Force.

The Rules on the functioning of the Agency's Working Groups shall be considered as complementing the national rules applicable to the National Regulatory Authorities' staff, which impose obligations of independence and impartiality which are similar in terms to those applicable to the Board of Regulators' members. Agency and European Commission staff who are members of the AWGs or participating in their meetings are bound by the Staff Regulations.

A AWG/Task Force member and, where he/she is a National Regulatory Authority's expert, the concerned National Regulatory Authority must notify the relevant AWG Chairperson and the Head of the relevant Department at the Agency immediately, and in any case prior to the following AWG/Task Force meeting, if the AWG/Task Force member has accepted an employment offer with an employer which may be affected by the issues discussed at the AWG/Task Force meetings, even if the AWG and Task Force have no decisional power on the issue. The Chairperson of the AWG of the Task Force Convenor (or in case of the Chairperson, the Agency's Director), having consulted the Head of the relevant Department in the Agency, may decide to exclude a AWG/Task Force member from the AWG/Task Force in cases in which he/she is to be employed by a company affected by the activities of the Agency.

#### **4.4 Rules applicable to ad-hoc expert groups**

Several ad-hoc consultation groups support the Agency in its work. The names and affiliations of the experts participating in the groups are published on the Agency's website. As these groups reflect different interests, and as they are only advisory bodies, the risk of conflicting interests affecting the formal work of the Agency is minimal. The Agency is free to take on board or not the advice it receives in the framework of the consultation groups.

#### **4.5 Working with third parties**

Whenever the Agency is contracting external service providers to support it in its tasks, it shall ensure that these contractors are bound by confidentiality duties, respect the rules on the processing of personal data and that potential conflicts of interest are avoided. A confidentiality clause, a data protection clause and a conflict of interest clause are included in all such contracts concluded by the Agency. Based on those contractual provisions, the Agency may require external consultants to make a specific Declaration of Interests with regard to the work performed for the Agency, should they be involved in preparatory work on the Agency deliverable.

## 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:**

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**Position / Involvement in the Board or Agency<sup>40</sup>:**

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**I hereby declare the following interests that could be prejudicial to my independence (please specify the interest that you or your close family members<sup>41</sup> currently have or have had in the recent past<sup>42</sup>).**

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<sup>40</sup> If you are both a member of the Board of Regulators and of an Agency Working Group, please indicate both functions.

<sup>41</sup> ‘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

**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<sup>43</sup> by you or your close family members<sup>44</sup> with a natural or legal entity<sup>45</sup> or other organisation<sup>46</sup> with an interest in the field of activity of the Agency.*

- I have nothing to declare in this respect
- I declare the following interests:

Activity	Time period (from...until month/year)	Name of commercial entity or organisation	Description

**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<sup>47</sup> in the recent past<sup>48</sup> 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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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.

<sup>42</sup> It is suggested that the Declaration covers current interest as well as those held over at least the last 5 years.

<sup>43</sup> See footnote 42.

<sup>44</sup> See footnote 41.

<sup>45</sup> 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.

<sup>46</sup> This includes governmental, international or non-profit organisations.

<sup>47</sup> See footnote 41.

<sup>48</sup> See footnote 42.

Activity	Time period (from...until month/year)	Name of commercial entity or organisation	Description

### 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<sup>49</sup> in the recent past<sup>50</sup>. 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:

Activity	Time period (from...until month/year)	Name of commercial entity or organisation	Description

### 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*

<sup>49</sup> See footnote 41.

<sup>50</sup> See footnote 42.

support) that you, your close family members<sup>51</sup> or any research entity to which you or your close family members belong(ed) has received in the recent past<sup>52</sup>, 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:

Activity	Time period (from...until month/year)	Name of commercial entity or organisation	Description

## 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<sup>53</sup> 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<sup>54</sup>.*

- I have nothing to declare in this respect  
 I declare the following interests:

Investment	Name of commercial entity or organisation

<sup>51</sup> See footnote 41.

<sup>52</sup> See footnote 42.

<sup>53</sup> See footnote 41.

<sup>54</sup> 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

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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. For security and data protection reasons the signatures provided on the Declaration of Interest will not be visible when it is 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<sup>55</sup>. For more details on the processing of your personal data, see the privacy statement applicable to your situation.<sup>56</sup>**

**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:**

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<sup>55</sup> OJ L8, 12.01.2001, p.1.

<sup>56</sup> [http://www.acer.europa.eu/The\\_agency/Pages/Data-Protection.aspx](http://www.acer.europa.eu/The_agency/Pages/Data-Protection.aspx)

## Annex 2 - Curriculum vitae

<b>Name</b>	
<b>Position / Involvement in the Board or Agency</b>	
<b>Professional experience</b>	
<b>Education</b>	
<b>Training/seminars</b>	
<b>Publications</b>	

**I understand that the Curriculum vitae will be processed according to the Policy for the prevention and management of conflicts of interest, entered in a register held by the Agency and 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<sup>57</sup>. For more details on the processing of your personal data, see the privacy statement applicable to your situation.<sup>58</sup>**

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<sup>57</sup> OJ L8, 12.01.2001, p.1.

<sup>58</sup> [http://www.acer.europa.eu/The\\_agency/Pages/Data-Protection.aspx](http://www.acer.europa.eu/The_agency/Pages/Data-Protection.aspx)

## **Annex 3 – Declaration of Commitment**

**(For Administrative Board and Board of Appeal**

**members/alternates in line with Regulation (EC) No 713/2009)**

**I ....., hereby declare that I shall make all reasonable efforts to fulfil my duties as member/alternate [delete where appropriate] of the Administrative Board / Board of Appeal [delete where appropriate] of the Agency for the Cooperation of Energy Regulators.**

**I shall comply with the provisions as laid down in the Rules of Procedure of the Administrative Board / Board of Appeal [delete where appropriate], and the conflict of interest rules as laid down in Decision 02/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 31 January 2015.**

**I understand that this Declaration of Commitment will be entered in a register held by the Agency for the Cooperation of Energy Regulators and 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<sup>59</sup>.**

**For more details on the processing of your personal data, see the privacy statement applicable to your situation.<sup>60</sup>**

**Done at \_\_\_\_\_ on \_\_\_\_\_**

**Signature:**

<sup>59</sup> OJ L8, 12.01.2001, p.1.

<sup>60</sup> [http://www.acer.europa.eu/The\\_agency/Pages/Data-Protection.aspx](http://www.acer.europa.eu/The_agency/Pages/Data-Protection.aspx)

## **Annex 4 - Application for authorisation to engage in an occupation after leaving the Agency for the Cooperation of Energy Regulators**

### **Former Temporary Agent/Contract Agent**

Please note that, pursuant to Article 16 of the Staff Regulations and Article 11 of the Conditions of Employment of Other Servants, you must inform the Agency about your professional activities in the 2 years after you have left the Agency.

Please fill in the form and submit it to the Agency for the attention of the HR Officer.

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<sup>61</sup>. For more details on the processing of your personal data, see the privacy statement applicable to your situation.<sup>62</sup>

Name:
Personnel No/Category/grade/step:
Date of leaving the Agency (dd/mm/yyyy):
Address:
Telephone:
Email:
Post(s) held at the Agency during the last three years of service:
Tasks during the last three years of service at the Agency:
<b><u>New Activity</u></b>
Name of employer/organization:
Address:
Telephone:

<sup>61</sup> OJ L8, 12.01.2001, p.1.

<sup>62</sup> [http://www.acer.europa.eu/The\\_agency/Pages/Data-Protection.aspx](http://www.acer.europa.eu/The_agency/Pages/Data-Protection.aspx)

Email:

Nature of its activities:

Description of work contemplated:

Expected duration of the work:

Position in the body:

Will you be an employee and/or shareholder in the body? Yes  No

Will you receive remuneration or other financial advantages? Yes  No

Does the organization for which you wish to work have direct or indirect commercial, financial or contractual links with the Agency? Yes  No

During your work at the Agency, did you have any direct or indirect relations with the organization for which you wish to work? Yes  No

If so, please specify:

Will your new activity have direct or indirect links with other EU institutions or bodies?  
Yes  No

Other relevant information:

Place:

Date:

Signature:

**Please attach any document you consider useful to demonstrate that your new activities are compatible with your tasks at the Agency.**

**To be completed by the Agency:**

Decision of the Appointing Authority - application authorized:  
Yes

Yes, subject to the following restrictions:

No

The Agency will notify you of its decision within 30 working days of the submission of this form. If no notification is made by the end of this period, the activities are considered implicitly accepted.

## **Annex 5 - Application for authorisation to engage in an occupation after leaving the Agency for the Cooperation of Energy Regulators - SNEs**

### **Seconded National Experts**

Please note that, according to your contract, you must inform the Agency about your professional activities in the 2 years after you have left the Agency.

Please fill in the form and submit it to the Agency for the attention of the HR Officer.

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<sup>63</sup>. For more details on the processing of your personal data, see the privacy statement applicable to your situation.<sup>64</sup>

Name:	
Personnel No:	<b>Category: SNE</b>
Date of leaving the Agency (dd/mm/yyyy):	
Address:	
Telephone:	
Email:	
Post(s) held at the Agency during the last three years of service:	
Tasks during the last three years of service at the Agency:	
<b><u>New Activity</u></b>	
Name of employer/organization:	
Address:	
Telephone:	
Email:	

<sup>63</sup> OJ L8, 12.01.2001, p.1.

<sup>64</sup> [http://www.acer.europa.eu/The\\_agency/Pages/Data-Protection.aspx](http://www.acer.europa.eu/The_agency/Pages/Data-Protection.aspx)

Nature of its activities:

Description of work contemplated:

Expected duration of the work:

Position in the body:

Will you be an employee and/or shareholder in the body? Yes  No

Will you receive remuneration or other financial advantages? Yes  No

Does the organization for which you wish to work have direct or indirect commercial, financial or contractual links with the Agency? Yes  No

During your work at the Agency, did you have any direct or indirect relations with the organization for which you wish to work? Yes  No

If so, please specify:

Will your new activity have direct or indirect links with other EU institutions or bodies?  
Yes  No

Other relevant information:

Place:

Date:

Signature:

**Please attach any document you consider useful to demonstrate that your new activities are compatible with your tasks at the Agency.**

**To be completed by the Agency:**

Decision of the Appointing Authority - application authorized:

Yes

Yes, subject to the following restrictions:

No

The Agency will notify you of its decision within 30 working days of the submission of this form. If no notification is made by the end of this period, the activities are considered implicitly accepted.