



**SUPPLEMENTARY INTERNAL RULES IMPLEMENTING REGULATION  
(EC) N° 45/2001 IN RELATION TO THE DATA PROTECTION OFFICER**

## **SUPPLEMENTARY INTERNAL RULES IMPLEMENTING REGULATION (EC) N° 45/2001 IN RELATION TO THE DATA PROTECTION OFFICER**

THE MANAGEMENT COMMITTEE OF THE EUROPEAN INVESTMENT BANK,

Having regard to the Treaty establishing the European Community, and in particular Article 286 thereof,

Having regard 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>1</sup>, and in particular Article 24(8) thereof,

Whereas:

1. Regulation (EC) No 45/2001 lays down the principles and rules applicable to all Community institutions and bodies and provides for a Data Protection Officer (DPO) to be appointed by each Community institution and body.
2. The appointment of the DPO of the European Investment Bank (hereinafter "the Bank") was made on 8 May 2002.
3. Pursuant to Article 24(8) of Regulation (EC) No 45/2001, each Community institution or body must adopt further implementing rules concerning the DPO in accordance with the provisions in the Annex to that Regulation.

HAS ADOPTED THE FOLLOWING RULES

### SECTION 1

General provisions

#### *Article 1*

#### **Subject matter and scope**

These internal provisions lay down the general rules implementing Regulation (EC) No 45/2001 as regards the Bank.

For the purposes of these internal rules the definitions set out in Article 2 of Regulation (EC) No 45/2001 shall apply.

### SECTION 2

The Data Protection Officer (DPO)

#### *Article 2*

#### **Appointment and status of the DPO and organisational measures**

1. The President of the Bank, after consultation of the Bank's Management Committee (hereinafter "Management Committee"), shall appoint the DPO from among members of the

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<sup>1</sup> OJ No 8 of 12.01.2001, p. 1.

Bank's staff who are sufficiently senior to meet the requirements of Article 24 of Regulation (EC) No 45/2001.

The Secretary General of the Bank shall register the DPO with the European Data Protection Supervisor (EDPS).

The DPO shall be selected on the basis of his or her personal and professional qualities as they relate to the DPO functions.

The selection of the DPO shall not be liable to result in a conflict of interests between his or her duty as DPO and any other duties that the DPO might exercise within or outside the Bank, in particular in relation to the application of the provisions of Regulation (EC) No 45/2001.

The Bank shall ensure that the other responsibilities entrusted to the DPO are compatible with the DPO's duties.

2. The DPO shall be appointed for a maximum period of three years, with the possibility of reappointment. The maximum term of office may not exceed ten years.

3. In exercising his or her duties, the DPO shall act in an independent manner and in cooperation with the EDPS and may not receive any instructions from the President of the Bank or from elsewhere regarding the internal application of the provisions of Regulation (EC) No 45/2001 or regarding the DPO's cooperation with the EDPS.

Without prejudice to such independence, the DPO shall be subject to the provisions applicable to members of the Bank's staff.

For administrative purposes, the DPO shall be assigned to one of the Bank's organisational areas.

4. The DPO may not be dismissed from the DPO post without the consent of the EDPS.

5. The persons assisting the DPO on data protection matters shall be appointed after consultation with the DPO. When working in the data protection field, such persons shall act solely on the DPO's instructions.

6. The Secretary General of the Bank shall determine the deputising arrangements for occasions when the DPO is absent or otherwise prevented from acting in that capacity.

### *Article 3*

#### **Tasks**

When carrying out the tasks specified in Article 24 of Regulation (EC) No 45/2001 and its Annex, the DPO shall:

a) ensure that the controller and the data subjects are informed of their rights and obligations pursuant to Regulation (EC) No 45/2001. In carrying out this remit, the DPO shall make notification forms available to the data subjects, consult with the parties concerned and take steps to create awareness of data protection issues;

b) respond to requests from the EDPS and, within the DPO's sphere of competence, cooperate with the EDPS at the latter's request or on his or her own initiative;

c) ensure in an independent manner the internal application of the provisions of Regulation (EC) No 45/2001 within the Bank;

d) compile an inventory of the processing operations being carried out by the controllers;

- e) keep a register of the processing operations carried out by the controllers, containing the items of information referred to in Article 25(2) of Regulation (EC) No 45/2001;
- f) notify the EDPS of processing operations likely to present specific risks within the meaning of Article 27(2) of Regulation (EC) No 45/2001 and in particular:
- the processing of data relating to health and to suspected offences, offences, criminal convictions or security measures;
  - processing operations intended to evaluate personal aspects of the data subjects, such as their ability, efficiency or conduct;
  - processing operations that enable linkages not provided for under national or Community legislation to be formed between data processed for different purposes;
  - processing operations for the purpose of excluding individuals from a right, benefit or contract;
- g) thereby ensure that such processing does not risk infringing the rights and freedoms of the data subjects.

#### *Article 4*

##### **Other activities**

1. In addition to the general tasks assigned to him or her, the DPO shall:

a) advise the Bank's bodies and organisational areas, as well as the controllers, on issues concerning the application of the data protection provisions. The DPO may be consulted directly, without going through official channels, on any issue concerning the interpretation or application of Regulation (EC) No 45/2001, by the Bank's bodies and organisational areas, by the relevant controllers, by the Staff Committee or by any individual;

b) on the DPO's own initiative or on a request made by the President, by the Bank's bodies and organisational areas, by the controllers, by the Staff Committee or by any individual, investigate matters and occurrences that directly relate to the DPO's responsibilities and have been brought to the DPO's attention and shall make a report to the President, the entity or person initiating the request.

All other parties who may be concerned should be informed accordingly.

If the requester is an individual or acting on behalf of an individual, the DPO must, to the extent possible, ensure that the request remains confidential unless the data subject gives unambiguous consent for the request to be treated otherwise;

c) in carrying out the DPO duties, cooperate with the DPOs of the other Community institutions and bodies, in particular by exchanging experience and best practices;

d) represent the Bank with regard to all data protection issues, except for matters referred to a court;

e) submit to the Management Committee and the EDPS an annual report on the DPO's activities and make it accessible to the staff.

2. Without prejudice to Article 3 b) and paragraph 1 b) and c) of this Article, the DPO and any staff who may be assisting the DPO on matters relating to data protection must not divulge information or documents obtained in the course of their duties.

No-one shall suffer prejudice on account of bringing a matter to the DPO's attention alleging a breach of the provisions of Regulation (EC) No 45/2001.

## *Article 5*

### **Powers**

In carrying out his or her tasks and duties, the DPO:

- a) shall have access at any time to data being processed, to all premises, all data processing installations and all information media;
- b) may, without prejudice to the duties and powers of the EDPS, propose administrative measures to the Bank's Secretary General and make general recommendations on the appropriate application of Regulation (EC) No 45/2001;
- c) may, in particular circumstances, make any other recommendation to the Bank's Secretary General and/or all the other parties concerned for the concrete improvement of data protection;
- d) may bring to the attention of the Bank's Secretary General and the Director of Human Resources any failure by a staff member to comply with the obligations pursuant to Regulation (EC) No 45/2001 and propose an administrative inquiry with a view to possible disciplinary action as specified in article 49 of Regulation (EC) No 45/2001 and by the Bank's Staff Regulations;
- e) may request an opinion from the relevant areas of the Bank on any issue associated with his or her tasks and duties.

## *Article 6*

### **Resources**

The DPO shall be allocated the resources necessary for performance of the DPO duties.

## SECTION 3

### Controller

## *Article 7*

### **Tasks and duties of the controller**

1. The controller shall ensure that all processing operations involving personal data that are performed within the controller's sphere of responsibility comply with Regulation (EC) No 45/2001.
2. When fulfilling his or her obligation to assist the DPO and the EDPS in the performance of their duties, the controller shall provide them with full information, grant them access to personal data and respond to their questions within a period not exceeding thirty working days from receipt of the request.
3. The relevant controller shall ensure that the DPO is informed without delay:
  - a) when an issue arises that has or could have data protection implications; and
  - b) of all contacts established with third parties relating to the application of Regulation (EC) No 45/2001, in particular with regard to interaction with the EDPS.

4. The controller shall implement appropriate technical and organisational measures to ensure a level of security appropriate to the processing risks and the nature of the personal data to be protected.

5. Before undertaking a processing operation or a series of such operations having the same objective or linked objectives, the controller shall inform the DPO by the procedure specified in Article 8 of these Rules.

#### *Article 8*

##### **Notification procedure**

1. The controller shall notify the DPO of any personal data processing operation by means of a notification form available from the DPO and on the Bank's intranet site. The notification, signed by the controller, must be transmitted to the DPO in paper and electronic form.

Any processing operation that is subject to prior checking pursuant to Article 27(3) of Regulation (EC) No 45/2001 shall be notified sufficiently well in advance to allow for prior checking by the EDPS.

On receipt, the DPO shall publish the notified processing operation in the register.

2. The notification shall contain all the items of information referred to in Article 25, paragraph 2, of Regulation (EC) No 45/2001. The DPO must be notified without delay by the controller of any change affecting this information.

#### SECTION 4

##### Data subjects' rights

#### *Article 9*

##### **Access to the register**

The register kept by the DPO pursuant to Article 26 of Regulation (EC) No 45/2001 shall serve as an index of all processing operations relating to personal data conducted at the Bank.

Data subjects may make use of the information contained in the register to exercise their rights under Articles 13 to 19 of Regulation (EC) No 45/2001.

Any person may consult the registers directly or indirectly through the EDPS.

#### *Article 10*

##### **Exercise of data subjects' rights**

1. Further to their right to be appropriately informed about any processing of their personal data, data subjects may approach the relevant controller to exercise their rights pursuant to Articles 13 to 19 of Regulation (EC) No 45/2001, as specified below.

a) These rights may only be exercised by the data subject or a duly authorised representative. Such persons may exercise any of these rights free of charge.

b) Requests to exercise one of these rights shall be addressed in writing to the relevant controller. The controller shall only grant the request if the requester's identity and, if applicable, the requester's entitlement to represent the data subject have been appropriately verified. The controller shall without delay inform the data subject in writing of whether or not the request has been accepted. If the request has been rejected, the controller's response shall include the grounds for the rejection.

c) The controller shall, at any time within three months of receipt of the request, grant access pursuant to Article 13 of Regulation (EC) No 45/2001 by enabling the data subject to consult these data on-site or to receive a copy thereof, according to the applicant's preference.

d) Data subjects may contact the DPO in the event that the controller does not comply with the time requirement specified in paragraph (b) or (c). In the event of obvious abuse by a data subject in exercising their rights, the controller may refer the case to the DPO, who will determine the merits of the request and the appropriate follow-up. In the event of disagreement between the data subject and the controller, both parties shall have the right to consult the DPO.

2. Members of the Bank's staff may consult the DPO before lodging a complaint with the EDPS pursuant to Article 33 of Regulation (EC) No 45/2001.

#### *Article 11*

#### **Exemptions and restrictions**

1. If legitimate reasons such as those specified in Article 20 of Regulation (EC) No 45/2001 clearly so justify, the controller may restrict the rights referred to in Article 4, paragraph 1, Article 11, Article 12, paragraph 1, Articles 13 to 17 and Article 37, paragraph 1, of Regulation (EC) No 45/2001, provided that the DPO has been consulted in advance.

2. Any data subject may ask the EDPS to order that requests to exercise certain rights with regard to the data be met when such requests have been rejected in breach of Article 10, pursuant to Article 47, paragraph 1(c), of Regulation (EC) No 45/2001.

#### *Article 12*

#### **Investigation procedure**

1. Any request for an investigation shall be addressed to the DPO in writing.

2. The DPO shall send an acknowledgement of receipt to the requester within fifteen working days of receipt of the request.

3. The DPO may investigate the matter on site and request a written statement from the controller. The controller shall respond to the DPO within not more than thirty working days from receipt of the DPO's request. The DPO may ask for additional information or assistance from any area of the Bank. The relevant area shall provide such additional information or assistance within not more than thirty working days from receipt of the DPO's request.

4. The DPO shall report back to the requester within three calendar months from receipt of the request.

#### *Article 13*

#### **Remedies**

Members of the Bank's staff may pursue the remedies laid down in Article 32 of Regulation (EC) No 45/2001 and lodge a complaint with the EDPS as provided in Article 33 of the same Regulation, without prejudice to the procedures laid down in the Bank's Staff Regulations.

#### **SECTION 5**

#### **Final provisions**

*Article 14*

**Detailed implementation measures**

The Bank's President is authorised to adopt the measures for implementation of these internal rules and shall inform the Bank's Management Committee on doing so.  
The DPO may submit recommendations to the President.

*Article 15*

**Publication**

These internal provisions shall be accessible to the public through display on the Bank's website (<http://www.eib.org>).

*Article 16*

**Entry into force**

These internal rules shall enter into force on the day of their adoption <sup>2</sup>

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<sup>2</sup> These rules were adopted on 10 September 2009