

# Prevention and Management of potential Conflicts of Interest

## 1. Purpose

The management of (potential) conflict of interest situations is a key element of governance and management of every EU institution, body or agency and crucial for maintaining the trust of stakeholders and citizens in its integrity. Effective management of conflicts of interest and assuring legality and regularity of its processes is thus a crucial requirement if ECHA wants to play a pivotal role in ensuring that chemicals legislation and the decision-making processes and scientific basis underlying it have credibility with all stakeholders and the public. For this reason it is vital to ensure ECHA's independence and transparency.<sup>1</sup>

In order to achieve this, ECHA has to strike a delicate balance between getting the right expertise to guarantee high quality science-based decision making and at the same time strictly avoiding conflicting interests influencing or seen as influencing the decision-making process. Important tools to achieve this balance are awareness raising, methods for detecting risks to the Agency's integrity, the establishment of clear boundaries for (un)acceptable interests and the appropriate management of conflict of interest situations, including underlying clear procedures. In this, it is not so much a matter of eliminating any possibility of conflict of interest, but of detecting them at an early stage, recording them and handling them appropriately.

## 2. Scope

This Procedure document applies to the entire ECHA organisation and all of its activities, whether administrative or scientific in nature. The scope thus includes all members, their advisers and invited experts of the ECHA bodies, including the Board of Appeal, the observers participating to their meetings and the statutory staff of the ECHA Secretariat.

For the specific groups below, the general principles of this procedure equally apply, but adaptations are made in view of their specific mandate:

### Expert groups

Several expert groups support the Agency in its work, e.g.:

- PBT expert group;
- Endocrine Disruptor (ED) expert group;
- Nanomaterial expert group.

They are not formal bodies of the Agency and function merely as advisory bodies. They are composed of Member State representatives and several members from selected stakeholders, with a balanced composition. While the risk of conflicting interests affecting the formal work of ECHA is minimal, the chairs and members of each of the three expert groups listed above shall make an annual declaration of interest (with the exception of the members representing stakeholders, who have an obvious bias), which is published on the ECHA website for full transparency. Each meeting shall start with the request to declare competing interests, which are minuted.

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<sup>1</sup> See also recital 95 of Regulation (EC) No 1907/2006 (the "REACH Regulation").

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Networks

The Agency also runs a number of networks and other discussion fora. As they are merely platforms for communication and the exchange of ideas, they are not subject to conflict of interest management.

Stakeholder observers

ECHA welcomes the attendance of observers of the stakeholder organisations at the meetings of the Committees, the Forum and informal ECHA expert groups and networks selected by the respective body, expert group or network. These stakeholder observers have to comply with the Code of conduct for observers<sup>2</sup>.

Furthermore, the Rules of Procedure of an ECHA body may foresee the possibility to invite case owners or applicants to participate in a meeting or part of it as observers. As these case owner/applicant observers clearly are attending the meeting to defend the interests of their organisation in a particular dossier, it is unnecessary that they make a declaration of interest. Strict compliance with the applicable Code of conduct shall be enforced<sup>3</sup>.

Contractors and interim staff

Whenever the Agency is contracting external service providers to support it in its tasks, these contractors are contractually bound by confidentiality duties and to ensure that potential conflicts of interest are avoided. Based on those contractual provisions, the Agency may require external consultants (regardless of the fact whether the person is working intra-muros or not) or interim staff to make a specific declaration of interest with regard to the work performed for ECHA, in case their participation has a qualitative impact on the decision-making at the Agency.

Trainees

The general principles of this procedure apply to the trainees of the Agency, but as they are not given tasks where they would have a qualitative impact on the decision making of ECHA, they are not required to fill out an annual declaration of interest.

Candidates for employment

Also candidates for employment at the Agency are subject to this Procedure in so far that they shall be required to fill out a full declaration of interest once placed on a reserve list and be subject to a pre-recruitment conflict of interest check when offered a post at ECHA (see hereunder).

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<sup>2</sup> Code of conduct for observers at ECHA meetings (ED/62/2008).

<sup>3</sup> See ECHA Code of conduct for case owners of evaluation draft decisions as observers at meetings of the Member State Committee (ED/89/2013) and ECHA Code of conduct for applicants participating in the Biocidal Products Committee and its Working Groups (ED/104/2013).

## 3. Description

All ECHA staff and members of ECHA bodies have the duty to **declare** all competing interests held by them by submitting and keeping up-to-date an annual declaration of interest compliant with the form FOR-0039 and submitting any specific declaration as required (see chapter 3.1).

The chairpersons of the respective ECHA bodies (for external experts) and the respective line managers (for the staff of the Agency) have the duty to **assess** all competing interests declared and to put in place effective controls and to **impose mitigating measures** where such interest carry a risk of turning into *conflicts* of interest (see chapter 3.2).

### 3.1. Step 1: Declaring all possible competing interests

#### 3.1.1. Before the mandate/employment

All candidates for a position in the Agency (in an ECHA body or in the ECHA Secretariat) are thoroughly screened before appointment.

For the statutory staff, in line with Article 11 of the Staff Regulations, before recruitment, all candidates for a position in the Agency are requested to make a written declaration of interest (based on FOR-0039) in order for the Appointing Authority to be able to assess any potential conflicts of interest in relation to the specific position that may be offered and to take appropriate mitigating measures if necessary.

[For certain positions of trust (the position of Executive Director, Director, Head of Unit, permanent member of the Board of Appeal, Accounting Officer or Chairperson of an ECHA Committee), this assessment as required by Article 11 of the Staff Regulations is based on the below mentioned eligibility criteria (see chapter 3.2.1. and annex 2).]<sup>4</sup>

For the members of the ECHA bodies, the pre-recruitment screening is based on the same five specific eligibility criteria. For this purpose, candidates for appointment as members of an ECHA body for which the Management Board is the Appointing Authority (i.e. the Board of Appeal, the Risk Assessment Committee and the Committee for Socio-economic Analysis) shall be requested to complete a written declaration of interest (based on FOR-0039) following their placement on the list of candidates by the Commission or the nomination by their respective Member State. This should allow the Management Board to analyse the declarations made, in order to take an informed decision on each appointment. For the positions in ECHA bodies for which ECHA is not the Appointing Authority (membership in the Management Board, the Member State Committee, the Biocidal Products Committee and the Enforcement Forum), the same criteria are applied as eligibility *guidelines* to which the relevant Appointing Authorities are invited to adhere.

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<sup>4</sup> Formal adoption of the eligibility criteria applicable to ECHA staff members will be done via an implementing rule in accordance with Article 110(2) of the Staff Regulations.

### 3.1.2. During the mandate/employment

#### Specific declarations

At each meeting the Management Board members and the members of the Committees and the Forum (and their advisors) and any experts participating in the meeting are explicitly asked by the chair to declare any interests which could be considered to be prejudicial to their independence with respect to any of the points on the agenda. Such conflicting interests are recorded in the minutes together with the specific mitigating measures imposed (see also chapter 3.2.2.) and made public.

When a Committee member is appointed as Rapporteur or Co-Rapporteur, he or she needs to make for each case a written declaration of absence of conflict of interest in line with Article 87(1) of the REACH Regulation. A member of a Committee is not appointed rapporteur for a particular case if he/she indicates any interest that might be prejudicial to the independent consideration of that case.

The members of the Board of Appeal are required to make an ad-hoc declaration for each specific case before the allocation of that case to them.

If at any point in time the staff member's independence to work on a specific dossier is at risk, the person involved must declare the specific interest in the dossier at hand to the process owner of the process in which he/she operates.

#### Annual declarations

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According to Article 88(2) of the REACH Regulation, all members of the Management Board and of the Committees and the Forum shall, when taking up their duties, make a written declaration of interest which could be considered to be prejudicial to their independence. Also all members of the Board of Appeal are required to make an annual declaration of interest in writing.

The initial declarations are renewed annually. The secretariat of the respective ECHA body is in contact with members in order to ensure that regular updates are provided. If at any point in time changes occur to the situation of the member's interests, he/she makes an updated declaration without delay.

The respective secretariat of the ECHA body shall enter the declarations of interest in a register, which is also published on the ECHA website.

The same duty shall apply to the core members of working groups established under the auspices of one of these ECHA bodies (if no annual declaration was already submitted/published for the same member).

Upon entry into the service at the Agency, the duty to declare all interests annually which is imposed on the Executive Director by the REACH Regulation is extended to all staff of the Agency. Besides filling in an initial declaration at the start of their employment, all staff members shall thus provide an annual update of this declaration. For the management staff (Executive Director, Directors and Heads of Unit), the permanent members of the Board of

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Appeal and the chairpersons of the ECHA Committees, these declarations shall be published on the ECHA website.

If at any point in time changes occur to the situation of the staff member's interests, the person involved must update his/her declaration without delay.

### Content

All interests that may interfere with the work of the Agency and its duty to take impartial and objective decisions in the public interest shall be declared. An affirmative answer in the annual declaration does not automatically disqualify the individual concerned, but requires the respective line manager (for staff) or the chair (for ECHA bodies) to have it screened in accordance with this Procedure, in order to determine if a conflict of interest exists.

**Timeframe:** all current interests and those that existed during the last 5 years. One should count 5 years from the date of submitting the declaration.

For interests held by close family members, investments and intellectual property rights, only current interests need to be declared.

**Family ties:** all current interests held by any members of the declarant's household (spouse, partner and dependent children, as well as other relatives under the care of the members of the household) should be declared.

The names of the members of the declarant's household do not need to be declared and the declaration shall be limited to the interests that the declarant is aware of to the best of his/her knowledge.

Staff members should also recall that Article 13 of the Staff Regulations creates an obligation for them to inform the Appointing Authority of their spouse's employment situation.

**The regulatory field of activity of ECHA:** all interest that may interfere with the work of the Agency shall be declared. This means that all interests in a commercial entity or other organisation which is subject to the authority of ECHA (e.g. duty-holders under REACH, CLP, Biocides or PIC) or which has dealings with ECHA shall be declared.

Only direct interests in duty-holders are considered and not interests in (potential) competitors or (potential) co-registrants.

The above means that interests in e.g. IT companies do not need to be declared, not even by the Director of Information Systems, as possible conflicts of interest in this field only become relevant for procurement procedures for instance, while strict controls and specific mitigating measures are in place for preventing any such conflicts in this process (e.g. via specific declarations to be signed by all procurement panel members, etc.).

**Confidential interests:** when bound by a professional or contractual duty of secrecy, for instance with regard to former clients represented (e.g. as lawyer or consultant), one shall only declare the employment with the law firm or consultancy firm concerned. The declarant shall then proactively make a specific declaration of absence of conflict of interest, each time a task is assigned to him/her related to a former client operating in the regulatory field of activity of the Agency. In some instance also the identity of substances worked on can be considered confidential, in which case they do not need to be included.

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

Employment is to be interpreted as covering all forms of employment (also self-employment), part-time and full-time, either paid or unpaid, in any organisation (profit or non-profit, public or private) whose activities fall within the regulatory field of activity of ECHA.

Consultancy, legal representation or advice within the regulatory field of activity of ECHA, regardless of whether they charge a fee or not, is to be considered as well. This also includes the provision of an expert opinion or testimony for a commercial entity or other organisation, as part of a regulatory, legislative or judicial process. Any contracts or collaborations with ECHA should also be specified. As stated above, the obligation to declare shall not prejudice any professional or contractual duty of secrecy with regard to the identity of (former) clients or substances worked on.

For members and invited experts of ECHA bodies, all current employment with a Member State Competent Authority shall also be covered. For ECHA staff members, outside activities which have been previously authorised by the Agency shall also be mentioned here.

Information about subsidiaries/parent companies of a former employer shall be declared, but only to the extent that such corporate links are known to the declarant.

**Membership of a Governing Body, Scientific Advisory Body or equivalent structure**

Membership of a Governing Body is to be interpreted as any participation in the internal decision-making (e.g. board membership, directorship) of a public or private organisation or commercial entity operating in the regulatory field of activity of ECHA.

Participation in a scientific advisory body is to be interpreted as meaning that the person concerned is participating or has participated in the works of a scientific advisory body operating in the regulatory field of activity of ECHA with a right to vote on the outputs of that entity (e.g. voting on scientific output adopted by that entity).

For this purpose the fact of whether this activity is remunerated or not is irrelevant.

**Other membership, affiliation or position**

This shall include active membership of or involvement in any organisation relevant to the regulatory field of activity of ECHA, other than the above. This shall in particular concern membership of interest groups (i.e. organisations engaged in activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and decision-making processes of the Agency). However, membership of a religious group, a political party, a trade union or comparable entity does not need to be declared.

Active membership or involvement shall include the making of donations beyond the regular membership fee; active participation to events or other contributions to activities; active involvement in the internal working of the organisation; et cetera.

Public office or other positions should be interpreted as the holding of an office or other position, paid or unpaid, where the declarant represents interests or defends an opinion in the regulatory field of activity of ECHA.



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With regard to ECHA staff members who intend to stand for public office, or have been elected or appointed to public office, Article 15 of the Staff Regulations establishes the obligation to inform the Appointing Authority, who will decide whether and under what modalities the staff member may continue to discharge his/her duties.

**Research funding**

This includes any funding for research provided by a private or public entity, including grants, rents, sponsorships and fellowships and received in a personal capacity or via the research entity to which one belongs (as long as it is related to projects to which the declarant has or had direct links) and falling within the regulatory field of activity of ECHA. Non-monetary support is also envisaged (e.g. equipment, facilities, research assistants, paid travel to meetings, et cetera). The declarant is requested to specify the estimated value if possible.

**Investments**

A conflict of interest would arise if an individual working with ECHA were to handle a matter or otherwise take part in a decision-making process (including through consultation) involving a commercial entity in which the person(s) concerned holds securities or otherwise has a financial interest.

For ECHA staff members, such situations are expressly covered by Article 11a of the Staff Regulations. Paragraph 3 states: *"He [the official] may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties."*

Consequently, the Agency has decided that the holding of a current financial interest of more than 10,000 EUR per commercial entity is considered as such a substantial value that it should be declared. In addition and notwithstanding their financial value, holding of shares, stocks or comparable amounting to a voting right of 5 % or more in a company, should be declared. Several investments in the same commercial entity made by different persons in the same household shall be counted together for calculating the threshold. However, several investments in different companies are not counted together for calculating the threshold. Interests below the threshold are to be declared on a voluntary basis. In view of frequent changes in the price value of such investments one shall update the declaration when the price has been fixed for a certain period of time above the threshold. The declarant is requested to specify the estimated value at the time of submission.

The term 'financial interest' or 'investment' shall mean any financial interest in undertakings which are subject to the authority of ECHA or which have dealings with ECHA, including the holding of stocks and shares, stock options, equity, bonds, and/or partnership interest in the capital of such an undertaking. This includes 'financial interests' or 'investments' in a subsidiary of the said undertaking or in a commercial entity in which the said undertaking holds capital.

Partnerships in law-firms or other managerial stakes are to be considered as well, if not already covered under one of the other sections.

However, the holding of financial interest through an investment fund, pension fund and/or interests in non-nominal unit trusts or similar arrangements would not, in principle, need to

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be declared, provided that these investments are broadly diversified and the individual has no influence on their financial management.

**Intellectual Property**

These are the rights granted to creators and owners of works that are the result of human intellectual creativity and that pertain to a domain falling within the regulatory field of activity of ECHA. These can be publications or can be in the industrial, scientific and artistic domain. They can be in the form of an invention, a manuscript, a suite of software, or a business name (e.g. copyrights, trademarks, patents, et cetera). Proprietary know-how in a substance, technology or process can also be relevant. The declarant is requested to specify the estimated value at the time of submission if possible.

**Other relevant information**

In addition to the interests above, a declarant should declare any other interest or fact that might prejudice their independence. These other elements may for instance include:

- relevant interests held beyond the past 5 years;
- close personal relationships (such as those with adult offspring, non dependent parents or siblings, close personal friendships, et cetera) and interests held by such individuals;
- the delivery of speeches or training for a commercial entity or other organisation with an interest in the regulatory field of activity of ECHA, regardless of whether any payment was provided;
- continuing rights of return to previous employment or positions and standing offers or agreements about future employment;
- gifts received exceeding 50 EUR (including travel, hospitality or other forms of valuable benefit).



## 3.2. Step 2: Effective controls for preventing conflicts of interests: applying cooling off periods

Based on the annual and specific declarations, the chairpersons of the respective ECHA bodies (for external experts) and the respective line managers (for the staff of the Agency) have the duty to **assess** all competing interests declared and to put in place effective controls and to **impose mitigating measures** where such interests carry a risk of turning into *conflicts* of interest.

### 3.2.1. Assessment criteria

#### Generic exclusion criteria applicable for key positions: the eligibility criteria

For certain key positions for which ECHA is the Appointing Authority, it has adopted eligibility criteria (see annex 2) with which candidates have to comply to be considered for appointment, including for the position of:

- Management staff in the Agency (Executive Director, Director, Head of Unit);
- Chairman of the Member State Committee, Committee for Risk Assessment and Committee for Socio-economic Analysis;
- Accounting Officer in the Agency;
- Member of the Agency's Board of Appeal;
- Member of the Committee for Risk Assessment;
- Member of the Committee for Socio-economic Analysis.

For the positions for which ECHA is not the Appointing Authority the same criteria are applied as eligibility guidelines (see annex 2) to which the relevant Appointing Authorities are invited to adhere:

- Member of the Management Board (with the exception of the Commission when appointing the three Management Board members to represent interested parties)
- Member of the Member State Committee;
- Member of the Biocidal Products Committee;
- Member of the Enforcement Forum.

#### Specific restrictions applicable to all staff and all members of ECHA bodies

Certain competing interests declared do not lead to a generic exclusion from appointment, but may lead to a specific restriction from the decision making (for staff) or from the voting in the decision making of the Agency (for members of ECHA bodies) for a specific commercial entity or substance for a period of up to five years. On this basis, an overview of the allowable and non-allowable interests is presented in annex 1.

#### Employment

Agency staff or members of the ECHA bodies who have been employed by or had another professional relationship (e.g. consultancy or legal advice) with a commercial entity, shall not be able to participate in the decision making/voting of opinions or decisions which create or modify legal rights or obligations of that commercial entity for a period of five years counted from the end of the employment or other professional relationship.

#### Membership of governing boards and permanent scientific advisory bodies

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Agency staff or members of the ECHA bodies who have been member of a governance board or permanent scientific advisory body of a commercial entity, shall not be able to participate in the decision making/voting of opinions or decisions which create or modify legal rights or obligations of that commercial entity for a period of five years counted from the end of the membership.

Investments and intellectual property

Agency staff or members of the ECHA bodies who hold current investments above 10.000 EUR (or giving right to 5% or more of voting rights) in a specific commercial entity or intellectual property in a specific commercial entity or manufacture or use of a substance, shall not be able to participate in the decision making/voting of the opinion- or decision making with regard to that substance or commercial entity for as long as the investment or intellectual property is kept.<sup>5</sup>

Research funding

Agency staff or members of the ECHA bodies who receive any research funding above 25% of the total research budget from a specific commercial entity shall not be able to participate in the decision making/voting of opinions or decisions which create or modify legal rights or obligations of that commercial entity for a period of five years counted from the end of the funding.

Other competing interests declared

Other competing interests declared are assessed case by case and mitigating measures and ad hoc restrictions to participate in the decision making are imposed by the chairperson of the respective ECHA body or the line manager of the staff member.

Expert witnesses

As an exception to the rules laid down above, it may be possible that the specific expertise of an expert or staff member is required despite the risk of a potential (perceived) conflict of interest, e.g. due to the very specific expertise required or the unavailability of other experts. In such cases, the Agency staff member or member of an ECHA body concerned shall not participate to the decision making (i.e. not participate to the voting on the opinion or decision), but may be heard as an expert witness.

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<sup>5</sup> For the members of the ECHA bodies, the ECHA management, the Accounting Officer and the Chairpersons of the Committees, current investments above 10.000 EUR (or giving right to 5% or more of voting rights) are even generic cooling off criteria (eligibility criteria) that prevent appointment.

It is to be noted however, that a zero tolerance policy for financial investments would not be feasible for ECHA due to the fact that chemicals are everywhere and any manufacturing company is a potential duty holder towards the Agency, e.g. going from shoe manufacturers to furniture to cars. The ECHA threshold is aligned with Commission decision C(2016)3301 final of 30.5.2016 establishing horizontal rules on the creation and operation of Commission expert groups.

### 3.2.2. Identifying risk levels and mitigating measures for competing interests declared

#### ECHA Staff

(see also Work Instruction 0105 Prevention of Conflicts of Interest of ECHA staff members)

Upon the receipt of the annually updated declaration of (competing) interests, the respective line manager reviews the content of the declaration and the staff members are classified into two risk levels:

- Staff members that have not declared any competing interests ("clearance list");
- Staff members that hold one or more competing interests.

The annual declaration of interest of the Executive Director is reviewed by the Chair of the Management Board.

#### Mitigating measures:

The staff members with the first risk level can be assigned to any task without a further conflict of interest check. For the second group a documented conflict of interest check will be performed each time a new task is assigned in processes that require (conflict of) interest management. The specific restrictions as defined under chapter 3.2.1. apply to these staff members.

The process owners shall, based on a risk assessment, define the processes in the Agency that require interest management. In such processes, conflict of interest checks shall be performed each time a particular staff member is assigned to a role in the process. Such interest checks are performed on the basis of the annual and (where relevant) specific declarations made by the staff members concerned and documented by the process owner. If there is a potential conflict of interest, another staff member shall be assigned, unless appropriate mitigating measures are imposed to guarantee the independent outcome of the procedure.

#### Board of Appeal

(see also Work Instruction (WIN-BOA-0010) Conflict of Interests checks)

The annual declarations of the Board of Appeal members are monitored by its Chair. The Chairman's declarations are monitored by the longest serving member of the Board of Appeal.

Specific, case-related declarations by a member of the Board of Appeal are assessed by the other Board of Appeal members, who shall decide as to the action to be taken.

If a member of the Board of Appeal considers that because of a conflict of interests he/she must not take part in the specific legal proceedings, he/she shall inform the Board of Appeal accordingly. The Chairman may replace that member by an alternate.

Likewise, members of the Board of Appeal may be objected to by any party to the appeal proceedings on the grounds of possible conflicts of interest. In this situation, the Board of Appeal shall decide as to the action to be taken without the participation of the member

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concerned. For the purpose of taking this decision, the member concerned shall be replaced by an alternate.<sup>6</sup>

Management Board, Committees and Forum

Members who have not submitted the annual declaration of interest shall not take part in meetings of the ECHA body and its working groups or decisions by written procedure.

Upon receipt of the annually updated declaration of (competing) interests, the chairperson of each ECHA body, with the assistance of the ECHA secretariat, shall identify one of the below risk levels for each of the competing interests declared by the members of his/her respective ECHA body:

- A ("interest cleared"): no competing interests declared or cleared as not relevant to the work of respective ECHA body

When no competing interests are declared at all or the declared competing interest is classified as not relevant to the work of the respective ECHA body, e.g. because it falls outside the regulatory field of activity of ECHA, it is given the risk level A.

All interests declared in a public organisation (body established under public law of a Member State serving a public interest) that is solely financed with public resources shall also be given the risk level A.

Mitigating measures: None. All competing interests that receive the risk level A are considered as not relevant and it clears the respective expert to work on any task assigned to the respective ECHA body, unless he/she has other competing interests that are classified with a B or C risk level.

However, public sector experts that have earlier contributed to the same case at Member State level may be at risk of being put in a position of **conflict of opinion** when asked by ECHA to review this earlier work. Therefore, members of the ECHA bodies may, where appropriate, be asked to refrain from voting on proposals for opinion or decision that they have contributed to themselves or that are otherwise stemming from the Member State that has nominated or appointed them.

- B ("interests require ad hoc assessment"): competing interest may be relevant to the work of the respective ECHA body under certain specific circumstances

For competing interests declared in the field of "research funding" below 25% of the total research budget; interests in "interest groups"; "other membership, affiliation or position"; "other relevant information" and "interests held by close family members" the identification of potential conflicts of interest can only be performed ad hoc, depending on the exact details and circumstances of the case.

Mitigating measures: the competing interests covered by this risk level have to be reviewed before each meeting against the agenda of such meeting and/or declared ad hoc by the experts themselves in a specific oral declaration at the start of each meeting (minuted). Depending on the exact details and circumstances of the case and based on the following

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<sup>6</sup> See Article 90 (5)-(7) REACH Regulation.

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criteria, a decision is made by the chairperson on the possible application of an ad hoc restriction:

- Direct interest (e.g. in the company/substance concerned) or indirect interest (e.g. interest of spouse, interest in competitor substance, interest is sector-wide but not related to one company, etc.);
- Amount/percentage of the research funding (below 25%) stemming from a party with an interest in the outcome of the regulatory processes of ECHA;
- Relevance of the membership, affiliation or position for the regulatory activity under discussion;
- Role of the individual concerned in the regulatory process;
- Etc.

When a restriction is applied, the chairperson shall decide on the appropriate level of participation. This applies accordingly for the cases of written procedures in ECHA bodies. As a minimum, such person shall not participate in any voting on the relevant agenda point (see Article 88(3) of REACH). Such person shall also not transfer his/her voting right by proxy to another member. This does not preclude the replacement by an alternate. The member concerned shall also not be appointed as (co-)rapporteur for a particular case if he/she indicates any conflicting interests (see Article 87(1) of REACH).

Additionally, where further steps are deemed necessary, the chair shall at least have at his/her disposal any of the following instruments to mitigate the issue:

- The member concerned can participate in the discussions but shall not participate in the final deliberations on the relevant agenda point;
  - The member concerned shall not participate in the discussions or final deliberations on the relevant agenda point;
  - The member concerned is to leave the room for the duration of the relevant agenda point;
  - The member concerned shall participate only as an expert witness in order to testify and give specialist advice on a specific issue by providing information and replying to any questions;
  - In the case that an alternate can be appointed in the pertinent ECHA body, the member concerned may be replaced by his/her alternate for the relevant agenda point;
  - Where the Chair is concerned, he/she is to be replaced for the relevant agenda point.
- C ("interest leads to specific restriction"): competing interest covered by a specific cooling off period

When the declared competing interest is covered by one of the specific restrictions described under chapter 3.2.1. above, it is given the risk level C.

Mitigating measures: for the competing interest covered by such a specific cooling off period, the expert cannot vote in the opinion- or decision making on this specific substance or company for a duration of five years.

For the competing interests declared orally at the beginning of a meeting, on the basis of the type and nature of the potential conflict identified, the chairperson shall decide on the appropriate level of participation, based on the same criteria and using the same instruments as indicated above for interests with risk level B.

### 3.2.3. Mitigating measures for conflicts of interest of a general nature and breach of trust

#### ECHA bodies

Any false declaration, wilful omission or refusal to declare interests or any other failure to comply with this procedure may be seen as a breach of trust towards the Agency. The same applies for any persistent conflict of interest which seriously hampers the functioning of the ECHA body.

The respective chair of the ECHA body shall inform the Executive Director of the Agency of any suspected breach and can decide on remedial actions. In case the remedial actions do not bring the expected outcome, the chair in consultation with the Executive Director shall send a formal notification to the Appointing Authority<sup>7</sup> stating the nature of the problem.

The respective Appointing Authority is responsible for adopting any formal decision as a consequence of a (potential) conflict of interest when they are informed of a situation which may be detrimental to the Agency. Such decision may vary from a letter of reprimand to the request or duty to resign or the revocation of the nomination / appointment. The nominating authority shall be consulted before any such formal decision is taken.

The members of the Board of Appeal may not be removed from office unless there are serious grounds and only by decision of the Commission, after obtaining the opinion of the Management Board.

In case the Executive Director is not satisfied with the remedies put in place by the chair or by the Appointing Authority, he/she shall inform the ECHA body concerned of this fact in its next meeting and have it noted in the minutes of the meeting.

Anyone affected by a decision of the chair of an ECHA body to implement remedial actions can request the Chair of the Management Board for a review of such decision. The Chair of the Management Board, in consultation with the Executive Director, shall decide on the follow-up, with the possibility to consult the Conflicts of Interest Advisory Committee.

#### ECHA staff

Any persistent conflict of interest that may hamper the proper functioning of an ECHA staff member in his/her current function shall be assessed by the respective line managers and escalated towards the Appointing Authority for decision if necessary. Where necessary, appropriate mitigating measures will be implemented (e.g. change in task description, move to another position in the interest of service, etc.)<sup>8</sup>. The Appointing Authority shall have the

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<sup>7</sup> For the Management Board the appointing authority is either the Council of the European Union (for the members nominated by the Member States), the Commission or the Parliament (Article 79 REACH Regulation). The appointing authority for the Member State Committee, the Biocidal Products Committee and the Forum are the respective Member States (Article 85(3) and 86 REACH Regulation and Article 75(2) BPR), while for the Board of Appeal, the Committee for Risk Assessment and the Committee for Socio-economic Analysis the appointing authority is the ECHA Management Board or the Committee in the case of co-opted members.

<sup>8</sup> For the regular members of the Board of Appeal (who are also ECHA staff) the provisions of Article 90 of the REACH Regulation will apply.



possibility to consult the Conflicts of Interest Advisory Committee before deciding on the action to take.

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 the Staff Regulations.

### 3.3. After the end of the mandate/employment

#### Post-employment declarations

Members of the ECHA bodies, staff members of the Agency, members of networks or expert groups, observers and third parties working with the Agency shall be required, even after their duties have ceased, not to disclose information of the kind covered by the duty of professional secrecy<sup>9</sup>.

When a staff member leaves the service at ECHA, he/she shall continue to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments or benefits. They shall be reminded of their duties under the Staff Regulations and shall duly sign a document regarding integrity, discretion and confidentiality.

Furthermore, when leaving the Agency service, former ECHA staff have to notify the Agency for a period of two years any new occupational activity they intend to engage in. If that activity is related to the work carried out by the staff member during the last three years of service and could lead to a conflict with the legitimate interests of the Agency, the Appointing Authority can, if needed, either forbid the former staff member from undertaking it or give its approval subject to any conditions it thinks fit (Article 16 Staff Regulations). For the senior management of the Agency, the outcome of such decisions is published on the ECHA website for full transparency.

### 3.4. Additional controls

#### Ex-post controls

The respective secretariat of each ECHA body shall undertake sample checks to guarantee the accuracy and completeness of the annual declarations submitted by the members of the ECHA bodies.

Each year the ECHA Secretariat shall undertake a number of ex-post reviews of conflict of interest checks performed. To that end, it shall verify for a number of randomly selected case files whether conflict of interest checks were performed according to this procedure and its implementing rules.

An ex-post review shall be mandatory with regard to the concerned case file(s) when an actual conflict of interest is discovered. Similarly, if the person concerned by an established breach of trust was involved in an opinion- or decision-making procedure, the Agency may carry out an ex post review of the person's activities and contributions to the Agency's output.

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<sup>9</sup> See e.g. Article 105 of the REACH Regulation and Article 12 of ED/62/2008.



## Conflict of Interest Advisory Committee

A Conflict of Interest Advisory Committee (CoIAC) is established as an advisory body in the context of this Procedure. It is available to the Management Board, the Committees and the Forum as well as to the Executive Director for advice on matters related to (potential) conflicts of interest of individuals staffing the Agency or members of its bodies. It is composed of the Head of the Legal Affairs unit of the Agency, acting as Chair; of a person designated by the Management Board from among its members; and of an outside expert designated by the Management Board, on a proposal by the Executive Director, for its competence in the field of conflicts of interest. All members shall make an annual declaration of interest, which is published on the ECHA website.

The Executive Director can consult the Conflict of Interest Advisory Committee in all stages of the process of handling a potential situation of conflicting interests, to seek their advice on the individual case at hand. The chair of any of the ECHA bodies can also request the Executive Director to consult the Conflict of Interest Advisory Committee. On request of the Executive Director, possibly prompted by the chair of an ECHA body, the Conflict of Interest Advisory Committee issues a reasoned advice, without prejudice to the decision-making powers of the Agency body requesting it.

For issues related to the Board of Appeal, the Management Board has established a standing working group. This working group can also provide advice on issues related to (potential) conflicts of interest. Where necessary and as appropriate, the working group may ask the Chair of the Management Board to consult the CoIAC in order to guarantee consistency in the application of conflict of interest criteria within the Agency.

In case one of the members of CoIAC is prevented from exercising their functions (e.g. due to a conflict of interest or a long term absence), he/she shall be replaced for that particular case or time period by an ad hoc member appointed by the Chair of the Management Board. The Chair of CoIAC shall be replaced for matters related to the Board of Appeal.

### 3.5. Further implementation

As the legal representative of the Agency and responsible for the daily management of the Agency, the Executive Director shall adopt implementing rules to this procedure, containing the detailed rules for preventing and handling conflicts of interest. He/she shall regularly report on the implementation of the procedure to the Management Board and in the annual activity report of the Agency.

The ECHA bodies shall include detailed provisions for the implementation of this procedure into their respective Rules of Procedures, Codes of Conduct and working procedures. Where necessary and if applicable, the chair may decide to impose the same requirements on the regular members of working groups established by the respective ECHA bodies.

The staff of the ECHA Secretariat shall further comply with all other obligations that are imposed on them by the Staff Regulations (see Articles 11 to 19) and its implementing rules.

For operational processes of ECHA where Member State authorities perform specific tasks and prepare proposals which are later subject to ECHA's opinions or decisions, a common understanding and approach towards the independence and impartiality of the work performed shall be sought and laid down in a Memorandum of Understanding.

## 4. Flowchart

N/A

## 5. Definitions

Term or abbreviation	Definition
"Active" membership of or affiliation to an organisation	<p>Active membership of or involvement in any organisation relevant to the regulatory field of activity of ECHA, other than a governing body or scientific advisory body. This shall in particular concern membership of interest groups (i.e. organisations engaged in activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and decision-making processes of the Agency). However, membership of a religious group, a political party, a trade union or comparable entity does not need to be declared.</p> <p>Active membership or involvement shall include the making of donations beyond the regular membership fee; active participation to events or other contributions to activities; active involvement in the internal working of the organisation; et cetera.</p>
Breach of trust	Any false declaration, wilful omission or refusal to declare interests or any other failure to comply with the agency's conflict of interest policy.
Close family members	The persons forming a household with the person making the declaration of interest (i.e. spouse, partner, and/or dependent children, as well as other relatives under the care of the members of the household).
CoIAC	Conflicts of Interest Advisory Committee
Commercial entity	Includes any commercial business, consultancy, research institute or other enterprise, whose funding is significantly derived from commercial sources. It also includes independent own commercial businesses, law offices, consultancies or other.
Conflict of interest	<p>There is a conflict of interest where the impartiality and objectivity of a decision, opinion or recommendation of the Agency, including 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.</p> <p>More specifically, this means that a conflict of interest can arise if private interests of those involved in the activities of ECHA interfere with the work of the Agency and its duty to take impartial and objective decisions in the public interest. A conflict of interest situation can also exist if personal interests are perceived by others as interfering with the work of ECHA and, thus, undermining the public's trust in the integrity of the Agency and its work.</p>
ECHA body	The ECHA bodies shall include the Management Board, the Member State Committee, the Risk Assessment Committee, the Committee

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Term or abbreviation	Definition
	for Socio-economic Analysis, the Biocidal Products Committee, the Enforcement Forum and the Board of Appeal.
ECHA Secretariat	The ECHA Secretariat works under the leadership of the Executive Director and provides technical, scientific and administrative support for the Committees and the Forum and ensures appropriate coordination between them. It shall also undertake the work required of the Agency under the procedures for pre-registration, registration and evaluation as well as preparation of guidance, database maintenance and information provision (Article 76.1(g) of REACH).
Employment, consultancy, legal representation or advice	<p>All forms of employment (also self-employment), part-time and full-time, either paid or unpaid, in any organisation (profit or non-profit, public or private) whose activities fall within the regulatory field of activity of ECHA.</p> <p>Consultancy, legal representation or advice within the regulatory field of activity of ECHA, regardless of whether they charge a fee or not, is to be considered as well.</p>
Intellectual Property	These are the rights granted to creators and owners of works that are the result of human intellectual creativity and that pertain to a domain falling within the regulatory field of activity of ECHA. These can be publications or can be in the industrial, scientific and artistic domain. They can be in the form of an invention, a manuscript, a suite of software, or a business name (e.g. copyrights, trademarks, patents, et cetera). Proprietary know-how in a substance, technology or process can also be relevant.
Investment	<p>Any financial interest in undertakings which are subject to the authority of ECHA or which have dealings with ECHA, including the holding of stocks and shares, stock options, equity, bonds, and/or partnership interest in the capital of such an undertaking. This includes 'financial interests' or 'investments' in a subsidiary of the said undertaking or in a commercial entity in which the said undertaking holds capital.</p> <p>Partnerships in law-firms or other managerial stakes are to be considered as well.</p> <p>However, the holding of financial interest through an investment fund, pension fund and/or interests in non-nominal unit trusts or similar arrangements would not, in principle, need to be declared, provided that these investments are broadly diversified and the individual has no influence on their financial management.</p>
Membership of a Governing Body or equivalent structure	<p>Any participation in the internal decision-making (e.g. board membership, directorship) of a public or private organisation or commercial entity operating in the regulatory field of activity of ECHA.</p> <p>For this purpose the fact of whether this activity is remunerated or not is irrelevant.</p>

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Term or abbreviation	Definition
Membership of a Scientific Advisory Body or equivalent structure	<p>Any participation in the works of a scientific advisory body operating in the regulatory field of activity of ECHA with a right to vote on the outputs of that entity (e.g. voting on scientific output adopted by that entity).</p> <p>For this purpose the fact of whether this activity is remunerated or not is irrelevant.</p>
Organisation	Governmental, international and non-profit organisations active in the regulatory field of activity of ECHA, as well as interest groups (i.e. organisations and self-employed individuals engaged in activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and decision-making processes of the Agency).
Process owner	A process owner is a person (staff member of the ECHA Secretariat) designated by the Executive Director, responsible for the efficient and effective functioning of the process and 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.
Research funding	<p>Any funding for research provided by a private or public entity, including grants, rents, sponsorships and fellowships and received in a personal capacity or via the research entity to which one belongs (as long as it is related to projects to which the declarant has or had direct links) and falling within the regulatory field of activity of ECHA.</p> <p>Non-monetary support is also envisaged (e.g. equipment, facilities, research assistants, paid travel to meetings, et cetera).</p>

## 6. Records

Record name	Security level	Comments
Declarations of interest and of commitment of members of ECHA bodies	Public	
Declarations of interest and of commitment of ECHA managers	Public	
Declarations of interest and of commitment of ECHA staff	Restricted	
Declaration of confidentiality of members of ECHA bodies	Restricted	
Declaration of confidentiality of ECHA staff	Restricted	
Specific declarations of interest related to a point on the agenda of a meeting of	Public	

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Record name	Security level	Comments
an ECHA body, as recorded in the minutes		
Specific declarations of interest by an ECHA staff member related to a specific dossier, as recorded in the case file	Dependent on the case file concerned	

## 7. References

Associated document code	Document name
REACH Regulation	Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals
Biocidal Products Regulation (BPR)	Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products
Regulation (EC) No 771/2008	Commission Regulation (EC) No 771/2008 of 1 August 2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency
Staff Regulations	Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union
MB/11/2008 amended by MB/21/2013	Code of Good Administrative Behaviour for the staff of the European Chemicals Agency
MB/11/2012 final	Code of conduct of the Management Board of the European Chemicals Agency
MB/12/2012 D final	Implementing rules on the conduct of administrative inquiries and disciplinary proceeding
MB/38/2012/D (2) final	Terms of Reference of the ECHA Conflicts of Interest Advisory Committee
MB/40/2012 final (1) final	Rules of Procedure for the Committee for Risk Assessment
MB/40/2012 (2) final	Rules of Procedure for the Committee for Socio-economic Analysis
MB/51/2012 final	Rules of Procedure for the Management Board
MB/14/2013 final	Rules of Procedure for the Member State Committee
MB/25/2013 final	Rules of Procedure for the Biocidal Products Committee
MB/31/2013 final	Rules of Procedure for the Forum for Exchange of Information on Enforcement

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Associated document code	Document name
Commission decision C(2018) 4048 final	Implementing Rules to the EU Staff Regulations on Outside activities and assignments
ED/62/2008	Code of conduct for observers at ECHA meetings
ED/159/2012	Guidance on gifts and hospitality
ED/08/2013	General Principles and Guidance for Committee Members of the European Chemicals Agency
ED/43/2013	General Principles and Guidance for members of the Forum for Exchange of Information on Enforcement of the European Chemicals Agency
ED/89/2013	ECHA Code of conduct for case owners of evaluation draft decisions as observers at meetings of the Member State Committee (MSC)
ED/104/2013	Code of conduct for applicants participating in the Biocidal Products Committee and its Working Groups
ED/66/2018	Rules on the secondment of national experts to the European Chemicals Agency (ECHA)
BoA/01/2018	Code of conduct of the members of the Board of Appeal of the European Chemicals Agency as regards its alternate and additional members
WIN-0105	Prevention of Conflicts of Interest of ECHA staff members
WIN-BOA-0010	Conflict of interests checks

## 8. Annexes

Annex 1 – Overview of allowable and non-allowable interests

Annex 2 – Eligibility criteria

## Annex 1 – Overview of allowable and non-allowable interests

<b>Full exclusion applied (before appointment/employment)</b>
<b>Specific restriction applied for 5 years for specific company concerned (during mandate/employment)</b>
<b>Allowable interests: no exclusion nor restriction</b>
<b>Interests subject to case-by-case assessment</b>

External experts			ECHA staff	
Management Board members	Committees and Forum members	Additional and alternate members of the Board of Appeal	Regular members of the Board of Appeal – ECHA managers – Accounting Officer – Committee chairpersons	Other ECHA staff
<b>Non-allowable interests</b>				
<b>Current employment</b> (in a position of relevant importance) by, or holding a position in a governing body or permanent scientific advisory body (whether paid or unpaid) of, a commercial enterprise with an interest in the regulatory field of activity of the Agency.			Under the Staff Regulations for EU officials, all ECHA staff members have to receive the approval of the appointing authority for any outside activity or assignment, regardless whether the activity is paid or unpaid.	
<b>Current active membership of, or employment by</b> (in a position of relevant importance), an association or other body (except a body established under public law serving a public interest) which can be considered an <b>interest group</b> with an interest in the field of chemicals management.				
<b>Current personal contractual obligations</b> to perform work for a commercial entity or an interest group with an interest in the regulatory field of activity of the Agency.				
<b>Current investments above 10.000 EUR</b> (or giving right to 5% or more of voting rights) in a commercial entity manufacturing, importing, supplying or placing on the market substances or mixtures subject to the authority of the Agency.			<b>Current investments above 10.000 EUR</b> (or giving right to 5% or more of voting rights) in a commercial entity (with regard to that commercial entity for as long as the investment is kept)	
<b>Past employment</b> by (in a position of relevant importance), or holding a position in a governing body or permanent scientific advisory body (whether paid or unpaid) of, a commercial enterprise with an interest in the regulatory field of activity of the Agency <b>within the past two years when</b> the individual concerned has a potential conflict of interest of a general nature that would lead to multiple exclusions of the individual from the meetings of the ECHA body concerned, from rapporteurship or from the decision-making of the Board of Appeal.				



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<p><b>Past active membership of, or employment by</b>, an association or other body (except a body established under public law serving a public interest) which can be considered an <b>interest group</b> with an interest in the field of chemicals management <b>within the past two years when</b> the individual concerned has a potential conflict of interest of a general nature that would lead to multiple exclusions of the individual from the meetings of the ECHA body concerned, from rapporteurship or from the decision-making of the Board of Appeal.</p>	
<p><b>Past employment</b> or another professional relationship (e.g. consultancy or legal advice) with a commercial entity for a period of <b>five years</b> counted from the end of the employment or other professional relationship (with regard to opinions or decisions which create or modify legal rights or obligations of that commercial entity)</p>	
<p><b>Past membership of a governance board or permanent scientific advisory body</b> with a commercial entity for a period of <b>five years</b> counted from the end of the membership (with regard to opinions or decisions which create or modify legal rights or obligations of that commercial entity)</p>	
<p><b>Current intellectual property</b> in a specific commercial entity or substance (with regard to that substance or commercial entity for as long as the intellectual property is kept)</p>	
<p><b>Research funding above 25%</b> of the total research budget received from a specific company for a period of five years counted from the end of the funding (with regard to opinions or decisions which create or modify legal rights or obligations of that commercial entity)</p>	
<p><b>Allowable interests</b></p>	
<p>Interests outside the regulatory field of activity of ECHA, with no restrictions.</p>	
<p>Past interests, for which a period of 5 years or more has passed, with no restrictions.</p>	
<p>Current and past employment by, or holding a position in a governing body or permanent scientific advisory body (whether paid or unpaid) of, a public organisation (including e.g. national competent authorities).<sup>10</sup></p>	
<p>Current investments below 10,000 EUR per commercial entity, with no restrictions (except if these investments would amount to voting rights of 5% or more in such commercial entity).</p>	
<p>Current non-active membership/affiliation or past active membership/affiliation in an organisation relevant to the regulatory field of activity of ECHA for which a period of five years has passed, with no restrictions. Current and past active membership or affiliation in organisations not relevant to the regulatory field of activity of ECHA, with no restrictions.</p>	
<p>Past interests of members of the same household, with no restrictions.</p>	
<p><b>Interests subject to a case-by-case analysis, taking into account all the specific elements of the case</b></p>	
<p>All current and past interests related to <b>research funding below 25%, memberships, affiliation and positions and close personal relationships</b> (beyond those with the members of household).</p>	

<sup>10</sup> This includes organisations solely financed with public resources. However, experts that have earlier contributed to the same case at Member State level may be at risk of being put in a position of **conflict of opinion** when asked by ECHA to review this earlier work. Therefore, members of ECHA bodies may, where appropriate, be asked to refrain from voting on proposals for opinion or decision that they have contributed to themselves or that are otherwise stemming from the Member State that has nominated or appointed them.

## Annex 2 – Eligibility criteria for candidates for membership in the ECHA bodies and for key positions in the ECHA Secretariat<sup>11</sup>

**Group 1:** Candidates for membership in the Committee for Risk Assessment, the Committee for Socio-economic Analysis or additional or alternate members of the Board of Appeal have to comply with the five eligibility criteria a) - e) below to be considered for appointment by the ECHA Management Board.

**Group 2:** For the candidates for membership in the Management Board, the Member State Committee, the Biocidal Products Committee, the Enforcement Forum (group 2), with the exception of the Commission when appointing the three Management Board members to represent interested parties, the relevant appointing authorities are invited to respect the ECHA Conflict of Interest Policy and to adhere to the below five guidelines for eligibility a) – e) when appointing members to such ECHA bodies.

**Group 3:** candidates for the position of Chairmen of the ECHA Committees (MSC, RAC, SEAC, BPC), Accounting Officer or for the position of Executive Director, Director, Head of Unit or permanent member of the Board of Appeal have to comply with the eligibility criteria d) – e) below to be considered for appointment. The first three criteria a) -c) are not relevant for the candidates for the above positions and do not apply, as they become ECHA staff members and they will have to comply with the Staff Regulations for EU officials, and in particular the obligation to receive the approval of the appointing authority for any outside activity.]<sup>12</sup>

- a. Candidates being currently employed by (in a position of relevant importance), whether paid or unpaid, a commercial entity with an interest in the regulatory field of activity of the Agency or an association or other body (except a body established under public law of a Member State serving a public interest) which can be considered as an interest group with an interest in the field of chemicals management shall not be appointed. Appointed members of the Committees of the Agency shall resign from the Committee before they enter into service in any such enterprise.
- b. Candidates being an active member of, or holding a position in a governing body or permanent<sup>13</sup> scientific advisory body of a commercial entity with an interest in the regulatory field of activity

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<sup>11</sup> The scope of the eligibility criteria shall be limited to duty-holders and interest groups subject to the authority of ECHA or active in the regulatory field of activity of ECHA as appropriate taking into account the mandate of the respective ECHA body. The eligibility criteria apply equally to the interests held by members of the candidates' household if significant interests are at stake that would potentially lead to multiple exclusions of the candidate from the meetings of the ECHA body, the decision making of the Agency or from rapporteurship.

<sup>12</sup> Formal adoption of the eligibility criteria applicable to ECHA staff members will be done via an implementing rule in accordance with Article 110(2) of the Staff Regulations.

<sup>13</sup> As opposed to ad hoc or temporary project boards

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of the Agency or an association or other body (except a body established under public law of a Member State serving a public interest) which can be considered as an interest group with an interest in the field of chemicals management shall not be appointed. Appointed members shall resign from the Committee before they enter into service in any such association.

- c. Candidates who personally have contractual obligations to perform work for a commercial entity or interest group with an interest in the regulatory field of activity of the Agency after having been appointed as members, shall (a) withdraw from current contracts and (b) refrain from entering into any new contracts with such commercial entities or organisations.
- d. Candidates who currently hold investments above 10.000 EUR in a commercial entity manufacturing, importing or supplying substances or mixtures subject to the authority of the Agency, including holding of stocks and shares, stock options, equity, bonds, partnership interest in the capital of such undertaking, one of its subsidiaries or a company in the capital of which it has a holding or entitling to a voting right of 5% or more in such commercial entity, shall not be appointed. This is without prejudice to 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 the candidate has no influence on their financial management.
- e. Candidates who were within the past two years employed by (in a position of relevant importance), or held a position in a governing body or permanent scientific advisory body (whether paid or unpaid) of a commercial entity with an interest in the regulatory field of activity of the Agency or an association or other body (except a body established under public law of a Member State serving a public interest) which can be considered as an interest group with an interest in the field of chemicals management (or an active member thereof) shall not be appointed when the candidate has a potential conflict of interest of a general nature that would potentially lead to multiple exclusions of the individual from the meetings of the ECHA body, the decision making of the Agency or from rapporteurship.