

Privacy Regulation
Foundation for Banking Ethics Enforcement
(Stichting Tuchtrecht Banken)



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Article 1: definitions

- 1.1 **AP**: the Personal Data Authority;
- 1.2 **Appeals Committee**: the Appeals Committee as referred to in the Banking Sector Ethics Regulations;
- 1.3 **Bank**: a Bank whereby the employees of said Bank are subject to the scope of the Banking Sector Code of Conduct in accordance with the Financial Supervision Act, and which is subject to ethics enforcement;
- 1.4 **Board**: the Board of Managers of the Foundation for Banking Ethics Enforcement;
- 1.5 **Certified Individual**: a natural person who has signed an agreement as defined in the Code of Conduct for the banking sector;
- 1.6 **Complaint**: a written complaint submitted by the General Director in accordance with section 2.1.2 of the Banking Sector Ethics Regulations;
- 1.7 **Controller**: the entity which determines the purpose and resources for the processing of the Personal Data. In the context of this Privacy Regulation, this is the Foundation for Banking Ethics Enforcement;
- 1.8 **Data Breach**: any incident in which Personal Data are unintentionally destroyed or lost, changed, provided or made available (in accordance with Art. 4 section 12 GDPR);
- 1.9 **Data Subject**: the person to whom the personal data pertain;
- 1.10 **Defendant**: a Certified Individual against whom a complaint has been filed;
- 1.11 **Disciplinary Measure**: a (conditional) irrevocable Measure implemented in accordance with the Ethics Regulations, which is also understood to include an amicable settlement as referred to in the Ethics Regulations;
- 1.12 **Disciplinary Register**: the register in which irrevocable disciplinary measures are administered and made available to the banking sector for a specified time period;
- 1.13 **Enforcement Committee**: the Enforcement Committee as referred to in the Ethics Regulations;
- 1.14 **Ethics Regulations**: The Banking Sector Ethics Regulations;
- 1.15 **Expert**: an individual who has extensive experience in the banking sector;
- 1.16 **Foundation**: Foundation for Banking Ethics Enforcement, founded by the Nederlandse Vereniging van Banken (Dutch Banking Association);
- 1.17 **General Director**: the General Director appointed by the Foundation;
- 1.18 **PD Complaint**: a complaint from the Data Subject concerning the handling of his Personal Data by the Foundation or a complaint about the conduct of the Foundation regarding the processing of Personal Data. The Foundation for Banking Ethics Enforcement Complaint Regulations apply to the PD Complaint.



- 1.19 **Personal Data:** any data pertaining to an identified or identifiable natural person, including but not limited to: name, address, date of birth, gender, telephone number, e-mail address, and position (in accordance with Art. 4 section 1 GDPR);
- 1.20 **Privacy Regulation:** this Privacy Regulation issued by the Foundation for Banking Ethics Enforcement;
- 1.21 **Processing of Personal Data:** an activity or set of activities pertaining to Personal Data or a collection of Personal Data, such as collection, recording, organizing, structuring, storing, editing or changing, requesting, consulting, using, providing by means of sending, publishing, or making available by other means, aligning or combining, protecting, deleting, or destroying data.
- 1.22 **Processor:** the natural person or legal entity that processes Personal Data on behalf of the Foundation for Banking Ethics Enforcement. The Processor has an executive responsibility with regard to the activities of the Foundation for Banking Ethics Enforcement;
- 1.23 **Protocol:** the Foundation for Banking Ethics Enforcement Disciplinary Register Protocol;
- 1.24 **Publication:** a published statement and/or verdict as referred to in the Ethics Regulations;
- 1.25 **Relevant Bank:** the Bank at which the Defendant worked or was present when the behaviour to which the Complaint or Report refers took place;
- 1.26 **Report:** a written report in accordance with Article 2.1 of the Ethics Regulations;
- 1.27 **Reporter:** the person who makes a report;
- 1.28 **Special personal data:** Personal data from which can be derived an individual's race or ethnic background, political opinions, religious or philosophical convictions, or membership in a labour union, as well as data pertaining to an individual's health or sexual orientation (in accordance with Art. 9 section 1 GDPR);
- 1.29 **Third party:** a natural person or legal entity, which is not the Data Subject, the party responsible for processing the data, the Processor, or the persons authorised to process the Personal Data under the direct authority of the party responsible for processing the data or the Processor;



Article 2: Scope of this Privacy Regulation

- 2.1 This Privacy Regulation applies to all processing of personal data by the Foundation.
- 2.2 The exception to this is the Processing of Personal Data in the context of the Disciplinary Register. This form of data processing is subject to the provisions of the Disciplinary Register Protocol.

Article 3: Controller

- 3.1 The Controller is the Foundation, with its statutory address at Beursplein 5, 1012 JW Amsterdam.
- 3.2 The Foundation has created the position of Data Protection Officer in order to monitor the guidelines for processing and protecting personal data. This initiative was reported to the AP. The Data Protection Officer can be contacted via privacy@tuchtrechtbanken.nl (attn.: Data Protection Officer) or via the post at: Tuchtrecht Banken, attn.: Data Protection Officer, Postbus 3861, 1001 AR Amsterdam.

Article 4: Purposes and grounds

- 4.1 The Foundation processes Personal Data for the following purposes:
- to maintain an independent disciplinary body to process Complaints regarding a Certified Individual.
 - the application and implementation of ethics law, as stipulated in the Ethics Regulations; This is understood to include: the reporting procedure, the complaint procedure, the Enforcement Committee procedure, the revision procedure, and the Appeals Committee procedure.
 - maintaining the Disciplinary Register in order to guarantee the effectiveness of banking supervision;
 - performing all activities pertaining to or in support of the above.
- 4.2 The Foundation processes Personal Data exclusively:
- when such processing is necessary to comply with the legal obligation expressed in Art. 3:17 of the Financial Supervision Act (Wft). In accordance with Art. 3:17 Wft, banks in the Netherlands are legally required to have an ethics enforcement arrangement. This arrangement is delegated to the Foundation;



- when such processing is necessary to perform the task of the general interest, specifically being the ethics enforcement within the banking sector;
- when such processing is necessary due to a legitimate interest of the Foundation or a Third Party, unless such interest is in conflict with the interest of the individual whose data is being processed, and their interest takes priority;

Article 5: Categories of Data Subjects

5.1 The Foundation processes Personal Data regarding the following categories of Data Subjects:

- General Director and his/her employees;
- Certified Individual / Defendant;
- Contact person at the Relevant Bank;
- Expert or witness;
- Members of the Enforcement Committee and the Appeals Committee;
- Members of the Board;
- Reporter;
- Persons involved in the Report and/or Complaint, and/or the processing of such, including clients of a Bank;
- The Secretary of the Enforcement Committee and the Appeals Committee;

Article 6: Categories of Personal Data

6.1 The following categories of Personal Data may be processed by the Foundation:

- Report data: These are Personal Data pertaining to a Report, including the Reporter's first- and last name, initials, gender, telephone number, e-mail address, and country; the Certified Individual's first- and last name, initials, gender, telephone number, e-mail address, bank, position, department, and office location; a description of the Certified Individual's behaviour, when it occurred, and which norm is alleged to have been violated. Sensitive Personal Data such as financial data may also be processed. In exceptional circumstances, Special personal data regarding the Reporter may also be included in the report data. These special personal data will only be processed of



such processing is necessary for the investigation and the disciplinary procedure, and for the execution of the legally required banking ethics law (Article 3.17 WFT), as stipulated in the Ethics Regulations. The report data are provided by the Reporter.

- Complaint data: These are Personal Data pertaining to the Complaint, the investigation, the revision procedure, the handling of the Complaint, the evidence, the verdict, the Measure, the challenge, the defence and the appeal, and communications pertaining to the above. The Personal Data processed in relation to a complaint include, but are not limited to, the following: personal details, contact information, employment information, information provided to the Data Subject and additional Personal Data necessary to investigate the Report or Complaint. Sensitive Personal Data such as financial data may also be processed. In exceptional circumstances, Special personal data or criminal records pertaining to the Certified Individual / Defendant may be included in the complaint data. The Foundation has received permission from the AP to process criminal records pertaining to the disciplinary procedure. The complaint data are provided by the Reporter, the Data Subject, or the Relevant Bank.
- Data pertaining to the members of the Board, the Enforcement Committee and the Appeals Committee, the Secretary of the Enforcement Committee and the Secretary of the Appeals Committee: these include, but are not limited to: first- and last name, initials, gender, titles, date of birth, home- and/or work address, postcode, city, telephone number, e-mail address, bank account number. These data are provided by the Data Subjects.
- Other contacts: when a Data Subject contacts the Foundation via telephone, e-mail, or post, then personal data such as their name, (e-mail) address, telephone number, and other data shared by the Data Subject may be processed, depending on the nature of the contact.

6.2 The categories of Personal Data processed within the Foundation are recorded in a processing register.

Article 7: Quality

7.1 Personal data are processed in a proper and accurate manner, in accordance with the Ethics Regulations and this Privacy Regulation. Personal data are only processed inasmuch as such processing is sufficient, pertinent, and not excessive in relation to the purposes described in Article 4 of this Privacy Regulation. In the event that data



provided are excessive or not pertinent, then the Foundation will not process these data, or the data will be included in the Report or Complaint in an anonymous or pseudonym form. The Foundation takes suitable organizational and technical measures to achieve this goal.

- 7.2 Personal data are only processed inasmuch as the data are correct and accurate in relation to the purposes described in Article 4 of this Privacy Regulation. If the data is found to be incorrect, then the amendment will be included in the files.
- 7.3 Document that still contain incorrect Personal Data can be retained if necessary for making a decision. This is for the benefit of due process during disciplinary proceedings.

Article 8: Security

- 8.1 The Foundation will implement suitable technical and organisational measures to secure the personal data against loss, damage, any form of violation of the integrity of data, or any form of unauthorised use. These measures guarantee a suitable security level with regard to the risks of use and the nature of the data to be protected, taking the state of the technology and the costs of implementation into consideration. The measures are intended in part to prevent the unnecessary collection and further processing of the personal data.
- 8.2 The Foundation ensures that processors offer sufficient guarantees with regard to the technical and organisational security measures for the processing activities. The Foundation monitors compliance with these measures. The Foundation shall sign a processing agreement with its processors.
- 8.3 The Foundation conducts regular data protection impact assessments (DPIA). A DPIA involves identifying any potential privacy risks and the implementation of any necessary corrective measures. When the Foundation changes its work methods, the Foundation also conducts a DPIA before implementing the proposed changes.
- 8.4 Employees of the Foundation who process Personal Data are required to report a Data Breach immediately in accordance with the Foundation's Data Breach Reporting Duty Protocol. The Foundation is required to report a Data Breach to the AP if a Data Breach can result in a significant chance of negative consequences for the protection of Personal Data.



Article 9: Storage period

- 9.1 With the exception of the situation described in Art. 9.2, Personal Data will not be stored in a form that makes it possible to identify the Data Subject for a period longer than necessary to achieve the purpose for which the data were collected or processed.
- 9.2 The case file will be stored for seven (7) years after the ethics enforcement procedure is complete, after which the file will be definitively destroyed. Measures are recorded in the Disciplinary Register for the period specified in the Ethics Regulations and the Disciplinary Register Protocol.

Article 10: Confidentiality and awareness

- 10.1 Any person who has access to personal data in the context of his/her work for the Foundation is required to maintain confidentiality and/or to sign a confidentiality statement to that end. This includes the General Director, the Secretary and the members of the Board, the Enforcement Committee and the Appeals Committee, the Expert and any person involved in handling a Report or Complaint. A person who has access to Personal Data in the conduct of his/her work shall only process the data to the extent necessary for the performance of the relevant position, activities, or task.
- 10.2 The Foundation guarantees that any person who has access to Personal Data in the context of his/her work for the Foundation is required to treat them with the utmost care and to have sufficient knowledge to achieve to that end.

Article 11: Inclusion and consulting the Disciplinary Register

- 11.1 Inclusion in and consultation of the Disciplinary Register may only take place in accordance with the provisions of the Protocol.

Article 12: Publishing anonymous data

- 12.1 As stipulated in the Ethics Regulations, the Foundation may publish a verdict with any identifying data in a manner of its own choosing.



Article 13: Information and provision

- 13.1 In accordance with the Ethics Regulations, the Foundation must inform the Certified Individual and the Relevant Bank if any Personal Data are processed for the purpose of a process or argumentation in writing within a period of four weeks. The notification must contain a description of the purpose of the processing, and information about the rights of the Relevant Parties and the right of complaint. The Certified Individual shall be informed of the contents of the report, unless there are serious grounds for not sharing certain information.
- 13.2 In the event that the Personal Data of any third parties are processed by the Foundation, then the Foundation shall only inform the third party that Personal Data pertaining to that party are being processed if such is permissible to protect the interests of the Data Subjects (including the Reporter and the Certified Individual/Defendant). The Foundation will then only inform the third party if doing so is possible and/or does not involve a disproportionate amount of effort. The notification must contain a description of the purpose of the processing.
- 13.3 Report and complaint information may be provided to the members of the Enforcement Committee and its Secretary and the Appeals Committee and its Secretary. These individuals are also subject to the provisions of this Privacy Regulation.
- 13.4 The Foundation shall only provide Personal Data to Third Parties if there are grounds to do so as described in Article 4 of this Privacy Regulation, or if legally obliged to do so. In all other situations, data will not be shared with Third Parties.

Article 14: Right of review

- 14.1 A Data Subject may submit a request to the Foundation to view his/her own Personal Data.
- 14.2 The Foundation shall process the Data Subject's request if it is submitted in writing or electronically, and is accompanied by initials, last name, (e-mail) address, and a secure copy of a valid proof of identification.¹ In order to confirm the Data Subject's e-mail address, a verification e-mail will be sent to the Data Subject's e-mail address known to the Foundation. If the Foundation cannot determine that the individual making the request is actually the Data Subject, or if there is a

¹ For instructions on making a secure copy, see:

[Hoe voorkom ik fraude met een kopie van mijn identiteitsbewijs? | Rijksoverheid.nl](#)



suspicion that the request may be fraudulent, then the Foundation may ask the Data Subject to identify him/herself in person. If the identity of the Data Subject cannot be confirmed, then the request of review will not be processed.

- 14.3 The Foundation will inform the Data Subject in writing whether or not the Personal Data pertaining to him/her are being processed within four weeks of receipt of the request. If a request is too complex or burdensome, then the Foundation may extend this period by a maximum of two months. If the Data Subject's Personal Data are processed, then the Foundation shall provide a complete overview of the Personal Data pertaining to the Data Subject processed by the Foundation, unless there are grounds on which such a review request cannot be honoured. In the event that the Foundation refuses to honour the request, the reasons for such a refusal shall be provided to the applicant. In the event that this right of review also involves the rights and freedoms of other individuals, for example if the documents also include the Personal Data of persons other than the Data Subject, then the Foundation may limit the right of review.

Article 15: Right to correction and addition

- 15.1 A Data Subject may request that the Foundation change, improve, supplement or screen his/her Personal Data if these data are incorrect, insufficient for the purpose for which they are processed, impertinent, or processed in violation of a legal regulation.
- 15.2 The Foundation shall process the request in accordance with Article 14.2 of this Privacy Regulation.
- 15.3 The Foundation shall inform the Data Subject whether and to what extent it will honour the request in writing within four weeks of receipt of the request. If a request is too complex or burdensome, then the Foundation may extend this period by a maximum of two months. In the event that the Foundation refuses to honour the request, the reasons for such a refusal shall be provided to the applicant.
- 15.4 The Foundation shall ensure that a decision to change, improve, supplement or screen the data is carried out as quickly as possible.
- 15.5 In the event that the Foundation honours the Relevant Party's request to change, improve, supplement, delete, or screen his/her data, then the Foundation will also inform the third parties, such as Banks, to which these data have been provided, unless doing so is impossible or involves a disproportionate amount of effort.



Article 16: Right to restriction of processing

- 16.1 A Data Subject may request the Foundation to restrict the processing of his/her Personal Data if this data may be incorrect, have been processed unlawfully, are no longer necessary for the processing purpose or if an objection has been made to the processing of the Personal Data.
- 16.2 The Foundation shall process the request in accordance with Article 14.2 of this Privacy Regulation.
- 16.3 The Foundation shall inform the Data Subject whether and to what extent it will honour the request in writing within four weeks of receipt of the request. If a request is too complex or burdensome, then the Foundation may extend this period by a maximum of two months. In the event that the Foundation refuses to honour the request, the reasons for such a refusal shall be provided to the Data Subject.
- 16.4 The Foundation shall ensure that a decision to restrict the processing of the Personal Data is carried out as quickly as possible.

Article 17: Right to data portability

- 17.1 Based on the GDPR, it is possible for the Data Subject to make a request to transfer the Personal Data; the right to data portability. The Data Subject may ask the Foundation to provide Personal Data to the Data Subject or to transfer the Personal Data to a third party. This right only applies if Personal Data is processed on the basis of consent or the performance of an agreement. The Foundation mainly processes Personal Data on the basis of a legal obligation, to which the right to transfer Personal Data does not apply.

Article 18: Right to erasure ('right to be forgotten')

- 18.1 The Data Subject may request the Foundation to delete the Personal Data if the Data Subject believes the data is no longer necessary, if the consent is withdrawn, if an objection has been made to the Processing, if the data is processed unlawfully or if the storage period has expired. Since the Foundation often processes the Personal Data on the basis of a legal obligation, in many cases it will not be possible to invoke the right to be forgotten.



Article 19: The right to obtain human intervention

19.1 When an organization makes a decision based on automatic processed data, the GDPR gives the Data Subject the right to obtain human intervention. The Foundation does not use automated decision-making, therefore this right does not apply to the Processing by the Foundation.

Article 20: Objection

20.1 The Data Subject may object to the processing of his/her Personal Data by the Foundation. The Foundation shall then cease the processing of the Personal Data to which the person objects as quickly as possible, unless there are urgent and justifiable grounds to override this objection that outweigh the interests of the Data Subject. In the event that the Foundation refuses to honour the request, the reasons for such a refusal shall be provided to the applicant.

Article 21: PD Complaints

- 21.1 In the event that the Data Subject is of the opinion that the Foundation is acting in conflict with the Privacy Regulation, the Ethics Regulations, the Protocol, the law, and/or has treated him/her incorrectly, then the Data Subject may submit a complaint in accordance with the [Foundation for Banking Ethics Enforcement Complaint Regulations](#).
- 21.2 If the Data Subject is of the opinion that the complaint has not been processed properly by the Foundation, then he/she may appeal to the court or to the AP.

Article 22: Approval and amendments

- 22.1 This Privacy Regulation was approved by the Foundation and can be amended by the Foundation at its discretion.
- 22.2 The Foundation shall regularly evaluate whether the Privacy Regulation fulfils its objectives. Any amendments must be accompanied with a revision date.
- 22.3 Once every two years, the Foundation shall conduct a review of this Privacy Regulation.



22.4 If a situation arises that is not described in this Privacy Regulation, then the Foundation shall take the necessary corrective measures and evaluate whether this Privacy Regulation must be amended or supplemented.

Article 23: Final provision

23.1 This document may be referred to as the Foundation for Banking Ethics Enforcement Privacy Regulation, and shall go into effect as from 1 August 2022.

