



Ombudsman inquiry finds the EBA should have forbidden Executive Director's move to finance lobby group

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European Ombudsman Emily O'Reilly has found that the European Banking Authority (EBA) should not have allowed its former Executive Director to become CEO of a financial lobby association. The Ombudsman also found the EBA did not immediately put in place sufficient internal safeguards to protect its confidential information when the planned move became clear.

The [two findings of maladministration \[Link\]](#) followed an inquiry - based on a complaint - into the EBA's decision to allow its former Executive Director to become CEO of the Association for Financial Markets in Europe (AFME).

"The EBA was created from the ashes of the 2008 financial crash – a crisis, in part, defined by regulatory failure and so-called 'regulatory capture' by the financial industry. In allowing its former Executive Director to join a major financial lobby association, the EBA risked perpetuating one of the core regulatory problems it was created to fix.

"The so-called 'revolving door' challenge is difficult for many public administrations. There is a fundamental right to work but it's a right that may be qualified by consideration of the interests of the general public. That interest is not always adequately understood or else is downplayed. EU institutions must however always maintain the highest standards, and assess revolving door



cases in terms of protecting that wider public interest.

*"This case involved the Executive Director of an EU agency, which is tasked with devising **rules** to regulate and supervise European banks, moving to a lobby group that represents the wholesale financial sector. This group quite obviously wishes to influence the drafting of those rules in its members favour. If this move did not justify using the legal option, provided under EU law, to forbid someone from moving to such a role, then no move would. " said Ms O'Reilly.*

"The 'right to work' is important but has to be interpreted in line with the public's right to trust in EU banking supervision and the right to an administration of the highest standards, particularly when it comes to those holding, or having held, senior positions. As we enter a new global economic crisis, there is a greater need than ever to protect the public interest, and the EBA should be to the forefront in doing so. Public authorities cannot allow themselves to become proxy recruiters for the industries they are regulating.

"The EU has, in many ways, stronger restrictions than many Member States in this area, however the EU especially should always do its utmost to maintain the highest standards." said the Ombudsman .

The inquiry

Based on the inquiry, and an inspection of relevant EBA documents, the Ombudsman concluded that, while the EBA had linked extensive restrictions to its approval of the former Executive Director's new post at AFME, the EBA is not in a position effectively to monitor how they are implemented. The inquiry also showed that, although the EBA was informed of the job move on 1 August 2019, its outgoing Executive Director had access to confidential information until 23 September 2019.

The Ombudsman made **three recommendations** to strengthen how the EBA deals with any such future situations. These are:

- 1. For the future, the EBA should, where necessary, invoke the option of forbidding its senior staff from taking up certain positions after their term-of-office. Any such prohibition should be time-limited, for example, for two years .**
- 2. To give clarity to senior staff, the EBA should set out criteria for when it will forbid such moves in future. Applicants for senior EBA posts should be informed of the criteria when they apply.**
- 3. The EBA should put in place internal procedures so that once it is known that a member of its staff is moving to another job, their access to confidential information is cut off with immediate effect.**

The details of the two findings of maladministration and the three recommendations can be found at: <https://www.ombudsman.europa.eu/recommendation/127638> [Link].



Background

Article 16 of the EU staff regulations deals with so-called 'revolving door' situations, under which staff have to inform an institution if they plan to take up a job within two years after leaving the EU civil service. The institution has the right to forbid the person from taking the job if it considers that it would conflict with the interests of the EU institution. An EU institution must also prohibit its former senior officials, during the 12 months after leaving the service, from lobbying the institution's staff.

In 2019, the Ombudsman concluded an in-depth [inquiry \[Link\]](#) into how the European Commission manages such cases, suggesting that a more robust approach is taken with cases involving senior officials.

At the same time, the Ombudsman concluded an [examination \[Link\]](#) into how the EU administration deals with them in general, making a number of proposals to strengthen the transparency in this area.