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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

The International Treatment of Public Bodies Charged with, or Intervening in, Public Debt Management and of Central Banks in Third Countries under Regulation (EU) No 596/2014 on Market Abuse

1. INTRODUCTION

Article 6(1) of Regulation (EU) No 596/2014 on market abuse (hereinafter: "MAR")[1] exempts Member States, including members making up the federation in the case of a Member State that is a federal state, members of the European System of Central Banks (ESCB), ministries and other agencies and special purpose vehicles of one or several Member States or persons acting on their behalf from the application of MAR to transactions, orders or behaviour insofar as they are undertaken in pursuit of monetary, exchange rate or public debt management policies.

Such an exemption from the scope of MAR may, in accordance with Article 6(5) of MAR, be extended by virtue of the Commission's delegated act in accordance with Article 35 of MAR to certain public bodies charged with, or intervening in, public debt management and to central banks of third countries.

This report assesses the international treatment of public bodies charged with, or intervening in, public debt management and of central banks in third countries with the purpose of evaluating the appropriateness of the extension of the abovementioned exemption.

2. THE REPORT'S LEGAL BASIS

Article 6(5) subparagraph 2 of MAR requires that by 3 January 2016 the Commission prepares and present to the European Parliament and to the Council a report assessing the international treatment of public bodies charged with, or intervening in, public debt management and of central banks in third countries. In terms of content, Article 6(5) subparagraph 3 of MAR sets out that the Commission's report should include a comparative analysis of the treatment of those bodies and central banks within the legal framework of third countries, and the risk management standards applicable to the transactions entered into by those bodies and central banks in those jurisdictions. In addition, Article 6(5) subparagraph 3 of MAR requires that if the report concludes, in particular in regard to the comparative analysis, that the exemption of the monetary responsibilities of those third-country central banks from the obligations and prohibitions of MAR is necessary, the Commission should extend the abovementioned exemption also to the central banks of those third countries.

3. ESMA'S TECHNICAL INPUT AND JURISDICTIONS CONSIDERED

Given the global nature of financial markets and differences of legal frameworks of third countries and of the risk management standards applicable to the transactions across third country jurisdictions, on 21 October 2013 the Commission has requested ESMA to identify the most relevant third country jurisdictions to be assessed. In drawing up these lists of third countries, the Commission invited ESMA to take into account input from competent authorities and market participants, where appropriate, and for the list of priority third countries, to consider only those countries with a significant volume of transactions within

[1] Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC (OJ L 173, 12.6.2014, p. 1).

scope of MAR. On 25 November 2013, ESMA provided the Commission with a technical input containing criteria for determining a prioritised and nominative list of third countries. In addition, ESMA has provided the Commission with recommendations in relation to the setting up of a selection procedure and to the elements for consideration in the third country assessment to be conducted.

For the purposes of evaluation of third countries, ESMA considered appropriate to consider and rely upon the International Monetary Fund's (IMF) methodology identifying jurisdictions with a systemically important financial sector for which the IMF's Financial Sector Assessment Program (FSAP) is mandatory. In ESMA's view, the IMF methodology combines the size and interconnectedness of each country's financial sector and hence takes into consideration the financial markets dimension. According to the IMF, this group of countries covers almost 90% of the global financial system and 80% of global economic activity and includes the majority of the G20 countries and of members of the Financial Stability Board (FSB). Moreover, ESMA has applied two additional criteria: first, being on the Financial Action Task Force (FATF) list of "High-risk and non-cooperative jurisdictions" which identifies countries that have strategic deficiencies in their measures to fight against money laundering and terrorist financing and second, not being a signatory of IOSCO Multilateral Memorandum of Understanding (MMoU).

When excluding members that are EU and EEA countries and including Turkey as an EU candidate country in the study, the Commission produced a list comprising 13 jurisdictions (Australia, Brazil, Canada, China, Hong Kong SAR, Japan, India, Mexico, Singapore, South Korea, Switzerland, Turkey and the United States). The Commission has decided to focus in its Report on those jurisdictions as a priority in order to decide on the appropriateness of the extension of the exemption from the obligations and prohibitions of MAR.

4. EXTERNAL STUDY

In order to carry out a comprehensive assessment of the international treatment of public bodies of third countries, the preparation of the evaluation has been commissioned to independent contractors, the Centre for European Policy Studies (CEPS) and the University of Bologna (hereinafter: "External Contractors"). On 12 June 2015, the External Contractors have delivered to the Commission the report entitled "Study on exemptions for third-country central banks and other entities under the Market Abuse Regulation and the Markets in Financial Instruments Regulation" (hereinafter: "External Study") For the purposes of conducting the External Study, the External Contractors carried out a survey and a questionnaire addressed to central banks of third countries, legal and economic research and an analysis of the respective data. Furthermore, the External Study was based on an economic analysis of central banks and debt management offices' (hereinafter: "DMO") mandates and operational procedures; and on a legal analysis of the market context and the operational and legal frameworks applicable to third-country central banks and DMOs.

In order to assess the opportunity of granting and exemption to central banks and DMOs concerning MAR requirements, the External Contractors compare the rules applicable in each of the jurisdictions considered with those of MAR. The External Study set the context and

framework for each jurisdiction and identified the level of transparency and protection of the system, and took into account, among others, the rules aiming at prohibiting and punishing insider dealing carried out by central banks or DMO staff members, exemption from market abuse regulation for monetary, exchange-rate or public debt management policy carried out by the central banks or DMOs and staff rules of conduct on the use of confidential information, on transactions in assets for private interests and on independence and conflicts of interest.

5. JURISDICTION ANALYSIS

Taking into account the empowerment provided by Article 6(5) of MAR concerning the preparation of the present Report, the comparative analysis of the identified jurisdictions is by no means exhaustive and is based, in particular, on the analysis of the internal rules of conduct and/or ethics applicable to central banks and DMOs, on rules restricting personal use of confidential information, trading of assets by staff members on their own account, measures promoting staff independence, as well as risk management standards and rules of conduct and/or ethics made applicable to staff members, and availability of effective enforcement by internal compliance.[2]

- **Australia**

Reserve Bank of Australia: Insider dealing, unlawful disclosure of inside information and all forms of market manipulation are prohibited and constitute both administrative and criminal offences. The Reserve Bank of Australia (RBA) is not formally exempt from the rules on insider dealing, unlawful disclosure of inside information or market manipulation. Likewise, no exemption is provided for third-country central banks. The RBA applies risk management standards in undertaking its operations. Staff members are subject to a duty of professional secrecy under several legal provisions and the applicable internal code of conduct and are prevented from active trading in financial instruments for personal purposes. In addition, staff members are required to preserve their independence from third-party interests, and must avoid conflicts of interest. Staff members are made aware of the existence and applicability of an internal code of conduct upon recruitment and are examined on a continuous basis on the knowledge they have of it. Depending on the seriousness of the misconduct, disciplinary actions may, depending on the gravity, be up to the termination of employment.

Australian Office of Financial Management: Staff members of the DMO are subject to the relevant rules on insider dealing, unlawful disclosure of inside information, and market manipulation. Neither the DMO nor third country DMOs are exempt from rules on insider dealing, unlawful disclosure of inside information or market manipulation. Staff members are bound by general regulations that apply risk management standards to government bodies, and they have a duty of professional secrecy. They are also prohibited from making use of inside information and prevented from trading in financial instruments issued by the DMO, as well as they have to preserve their independence from third-party interests, and avoid conflicts of interest. An internal compliance function is in place to preside over the

[2] *See* summary of the analysis and criteria in the Annex of this Report.

application of the internal rules of conduct, investigate breaches and to report to external authorities when required. Depending on the seriousness of the case, disciplinary actions may vary from reprimand to dismissal.

- **Brazil**

Central Bank of Brazil: Insider dealing, unlawful disclosure of inside information, all forms of market manipulation are prohibited and constitute criminal offences. The national central bank is not formally exempt from market abuse rules. Likewise, no exemption is provided for third-country central banks. The central bank has operational rulebook on the transactions for the disposal and acquisition of financial instruments, and effective risk management standards are in place and consistently applied. Staff members are subject to a duty of professional secrecy and are forbidden from making use of inside information for private purposes. While no rules prohibits outright trading in predetermined assets or financial instruments for personal purposes, staff members must refrain from taking any advantage of inside information or conflict of interests situations arising from their position with the central bank. Staff members also have a duty to preserve their independence from third-party interests, and must avoid conflicts of interest. An ethics committee informs staff of the rules of conduct, monitors their application and takes disciplinary actions in case of violation. Depending on the severity of the misconduct, disciplinary actions range from warning to dismissal.

National Treasury of Brazil: No exemption from rules on insider dealing, unlawful disclosure of inside information or market manipulation exists for the DMO and/or third-country DMOs. No specific operational rulebook for handling the disposal or acquisition of financial instruments exists. Staff members are subject to a duty of professional secrecy under several legal provisions and the applicable internal rules of conduct and are prohibited from making use of inside information for private purposes with no exception. Specific and detailed rules are put in place that explicitly prevent staff members from trading in financial instruments issued by the DMO or other government entities, unless specific and stringent conditions apply. Staff members are required to preserve their independence from third-party interests, and to avoid conflicts of interest. An internal ethics committee oversees the application of the internal rules of conduct and takes disciplinary actions in case of violation. Depending on the severity of the misconduct, disciplinary actions range from warning to dismissal.

- **Canada**

Bank of Canada: Insider dealing, unlawful disclosure of inside information and all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences, which are subject to penalties. The national central bank is not formally exempt from the rules on insider dealing or unlawful disclosure of inside information, but is exempt from rules on market manipulation. No exemption is provided for third-country central banks. The central bank applies risk management standards for undertaking its operations. Staff members have a duty of professional secrecy, which prohibits any use and attempt to use inside information for private interests. Applicable rules on trading in financial instruments

for personal purposes are tailored to the position of the staff member. Staff members are required to preserve their independence from third-party interests and to avoid conflicts of interest. A committee designated with the board of directors of the central bank, together with the compliance office, oversees the administration of the code of conduct and is entrusted with reviewing it, disseminating knowledge and taking disciplinary action in case of breach of it. Depending on the severity of the misconduct, disciplinary actions may include termination of employment.

Department of Finance Canada: DMO's staff members are subject to insider dealing, unlawful disclosure of inside information prohibition and all forms of market manipulation and relevant administrative and criminal penalties. DMO is not exempted from the rules on insider dealing and unlawful disclosure of inside information, save for an exemption from the rules on market manipulation. Third-country DMOs are not exempt from such rules. The same risk management standards apply as to the central bank. Staff members are subject to a duty of professional secrecy and are prohibited from making use of inside information for private purposes with no exception. Staff members are prevented from investing in financial instruments that give rise to actual or potential conflicts of interest. Furthermore, staff members are subject to independence duty and are required to avoid conflicts of interest. An internal compliance function is in place to preside over the application of the internal rules of conduct, the adherence to which is part of the employment contract, investigate instances of misconduct and report such instances of misconduct to external authorities.

- **China**

People's Bank of China: Staff members of the central bank are subject to all the rules that prohibit insider dealing, unlawful disclosure of inside information, and market manipulation and such breaches resulting in either administrative and/or criminal offences. The central bank is exempt from the rules on insider dealing, unlawful disclosure of inside information and market manipulation. However, no such exemption applies to third-country central banks. The central bank applies general and specific risk management standards when it undertakes its operations. Compliance with such standards is routinely checked by the internal compliance and audit. Staff members are subject to a stringent duty of professional secrecy, which applies beyond the term of employment. Staff members are also prohibited from making use of inside information for private purposes with no exception. Restrictions in investing and holding assets and financial instruments apply. Staff members have a duty to preserve their independence from third-party interests, and to avoid conflicts of interest. An internal compliance function is in place in order to oversee the application of the internal rules of conduct. Depending on the severity of the misconduct, disciplinary actions may be up to and include dismissal.

- **Hong Kong**

Hong Kong Monetary Authority: Insider dealing, unlawful disclosure of inside information, all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences and are subject to penalties. Since the Hong Kong Monetary Authority

belongs to the executive branch there is only a *de facto* exemption from the rules on insider dealing, unlawful disclosure of inside information and market manipulation. No exemption is provided for third-country central banks. Hong Kong Monetary Authority applies risk management standards and observes an internal investment policy and procedures manuals when it undertakes its operations. Staff members are subject to a duty of professional secrecy, which is enforced under several legal provisions and are prohibited from using inside information in their own private interest. Staff members are prohibited to invest in financial instruments issued by regulated entities and are required preserve their independence from third-party interests and to avoid conflicts of interest. The management and human resources department presides over the application of the internal code of conduct endorsed by outside regulatory authorities. Depending on the severity of the misconduct, disciplinary actions may be up to and include termination of employment.

Financial Services and the Treasury Bureau of Hong Kong: Insider dealing, unlawful disclosure of inside information and all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences, and are subject to penalties. The DMO is *de facto* exempt from the rules on insider dealing, unlawful disclosure of inside information and market manipulation. No exemption provided for third-country DMOs. Staff members are subject to a duty of professional secrecy and are prohibited from using inside information in their own private interest. Staff members must not engage in private investments which may cause real or apparent conflicts of interest with their official duties and must preserve their independence from third-party interests, and must disclose conflicts of interest to their supervisors. Depending on the severity of the misconduct, disciplinary actions may vary from verbal or written warning to compulsory retirement or dismissal.

- **India**

Reserve Bank of India: Insider dealing, unlawful disclosure of inside information, all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences, each one subject to ad hoc penalties. Reserve Bank of India is exempt from the rules on insider dealing, unlawful disclosure of inside information and market manipulation. No exemption is provided for third-country central banks and DMOs. Reserve Bank of India applies risk management standards in undertaking its operations and their mode of application has been sufficiently disclosed. Staff members are subject to a duty of professional secrecy under several legal provisions. Rules exist that explicitly prevent staff members from speculative trading in financial instruments. Staff members are subject to a duty to preserve their independence from third-party interests. However, there is no specific internal policy aimed at addressing issues of conflict of interests. Concerning the rules of conduct the oversight function falls on each line manager. Depending on the severity of the misconduct, disciplinary actions may be up to or even result in termination of employment.

- **Japan**

Bank of Japan: Insider dealing, unlawful disclosure of inside information, all forms of market manipulation are prohibited and constitute both administrative offences and criminal

offences, each one subject to ad hoc penalties. The national central bank is not formally exempt from the rules on insider dealing, unlawful disclosure of inside information or market manipulation. Likewise, no exemption is provided for third-country central banks. Staff members are subject to a duty of professional secrecy, which lasts for life. Staff members are prohibited from making use of inside information for private purposes and from dealing in financial instruments. Staff members are subject to a duty to preserve their independence from third-party interests, and they must also avoid conflicts of interest. A central authority, the National Public Service Ethics Board, is entrusted with advising on changes to the national ethics framework for public employees. Depending on the severity of the misconduct, disciplinary actions may vary from warning and pay cut to termination of employment.

Ministry of Finance: Insider dealing, unlawful disclosure of inside information and all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences, and subject to penalties. Staff members are subject to a duty of professional secrecy, which lasts for life. Staff members are prohibited from making use of inside information for private purposes and from dealing in government bonds. Staff members are subject to a duty to preserve their independence from third-party interests. The National Public Service Ethics Board is entrusted with advising on changes to the national ethics framework for all public employees. Depending on the severity of the misconduct disciplinary actions may vary from warning and pay cut to termination of employment.

- **Mexico**

Bank of Mexico: Insider dealing, unlawful disclosure of inside information and all forms of market manipulation are prohibited as criminal offences and are subject to the penalty of imprisonment. The national central bank is formally exempt from the rules on insider dealing, unlawful disclosure of inside information and market manipulation. No exemption is provided for third-country central banks. The central bank applies risk management standards in undertaking its operations and its means of implementation have sufficiently been disclosed. Staff members are subject to a duty of professional secrecy, which continues beyond the term of employment. Rules exist that explicitly prevent staff members from dealing in financial instruments for a price openly uncorrelated to the fair market price. Staff members are subject to a duty to preserve their independence from third-party interests, and they must also avoid conflicts of interest. The internal function in charge of supervising compliance with the rules of conduct is articulated in several committees and departments. Depending on the severity of the misconduct, disciplinary actions may vary from warning and suspension to removal, and temporary disqualification from holding analogous positions.

Ministry of Finance and Public Credit of Mexico: Staff members of the DMO are subject to the rules on insider dealing, unlawful disclosure of inside information, all forms of market manipulation and relevant criminal penalties. No exemption from rules on insider dealing, unlawful disclosure of inside information or market manipulation is provided for the national DMO or for third-country DMOs. Restrictions apply on trading in assets. The DMO applies risk management standards to its operations. Staff members are subject to a duty of professional secrecy and are prohibited from making use of inside information for private

purposes with no exception. No specific rules exist that would prevent staff members from trading in financial instruments issued by the DMO. However, staff members are subject to a duty to preserve their independence from third-party interests, and they must also avoid conflicts of interest. An ethics committee is in charge of the application of the internal rules of conduct. Depending on the severity of the misconduct, disciplinary actions may vary from warning to discharge from office and temporary disqualification from holding offices in the public sector.

- **Singapore**

Monetary Authority of Singapore: Insider dealing, unlawful disclosure of inside information, all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences, each one subject to ad hoc penalties. The Monetary Authority of Singapore is exempt from the rules on insider dealing, unlawful disclosure of inside information and market manipulation. No exemption is provided for third-country central banks or DMOs. The Monetary Authority of Singapore applies risk management standards in undertaking its operations and compliance with such standards is monitored. Staff members are subject to a duty of professional secrecy under the applicable internal code of conduct and are prohibited from making private use of inside information. Staff members and their family are not allowed to hold financial instruments issued by regulated entities and buy listed financial instruments outside public markets. Staff members are subject to a duty to preserve their independence from third-party interests, and they must also disclose conflicts of interest to the head of department. The Monetary Authority of Singapore's management, together with the human resources and risk management departments, supervise the application of the internal code of conduct and inform new staff members about it. Disciplinary actions taken by the Monetary Authority of Singapore's management range from oral reprimand to termination of employment.

- **Korea**

Bank of Korea: Insider dealing, unlawful disclosure of inside information, all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences, each one subject to ad hoc penalties, up to life imprisonment. The national central bank is not formally exempt from the rules on insider dealing, unlawful disclosure of inside information or market manipulation. Likewise, no exemption is provided for third-country central banks. The central bank applies risk management standards in undertaking its operations. Staff members are subject to a duty of professional secrecy, which may be waived for purposes of information sharing with other authorities, and may not use inside information for private purposes. Restrictions in dealing in financial instruments only apply to staff members with access to critical information. Staff members are subject to a duty to preserve their independence from third-party interests and must consult the compliance officer should a conflict of interest arise and are excluded from participating in the decision. An ethics and compliance officer is responsible for staff training on the code of conduct and monitors compliance. Depending on the seriousness of the misconduct, disciplinary actions may result in the termination of employment.

Ministry of Strategy and Finance of Korea: Staff members of the DMO are subject to the rules on insider dealing, unlawful disclosure of inside information, all forms of market manipulation and relevant administrative and criminal penalties. No exemption from rules on insider dealing, unlawful disclosure of inside information or market manipulation is provided for the national DMO or for third-country DMOs. Staff members are subject to a duty to preserve their independence from third-party interests, and they must also avoid conflicts of interest. A compliance officer is in charge of the application of the internal rules of conduct. Depending on the seriousness of the case, disciplinary actions may be taken.

- **Switzerland**

Swiss National Bank: Insider dealing, unlawful disclosure of inside information and all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences, and subject to penalties. The national central bank is formally exempt from the rules on insider dealing, unlawful disclosure of inside information and market manipulation. To the contrary, no exemption is granted to third-country central banks. The central bank applies risk management standards in undertaking its operations. Staff members are subject to a duty of professional secrecy under the applicable internal code of conduct and members of the bank council are held to it beyond the term of employment. Private use of inside information is prohibited. Staff members are prevented from trading in financial instruments on the basis of inside information and entering into foreign exchange transactions exceeding certain monetary threshold unless previously authorised. Staff members are subject to a duty to preserve their independence from third-party interests, and they must also avoid conflicts of interest. The compliance department presides over the application of the internal code of conduct and is responsible for advisory, training, investigation, monitoring, and reporting. In case of intentional misconduct or gross negligence, disciplinary actions may be up to termination of employment.

Federal Finance Administration: Staff members of the DMO are subject to the rules on insider dealing, unlawful disclosure of inside information, all forms of market manipulation and relevant administrative and criminal offences. An exemption from rules on insider dealing, unlawful disclosure of inside information or market manipulation is granted to the national DMO. Third-country DMOs are not exempt from such rules. Staff members are subject to a stringent duty of professional secrecy, which continues beyond the term of employment. They are also prohibited from making use of inside information for private purposes. There are rules that place restrictions on the transactions in financial instruments by staff members, who are obliged to keep record and report their investments upon request. Staff members are subject to a duty to preserve their independence from third-party interests, and they must also avoid conflicts of interest. Line managers oversee the application of the internal rules of conduct, the knowledge of which is part of the learning activity of staff members. Depending on the seriousness of the case, disciplinary actions may be up to dismissal.

- **Turkey**

Central Bank of the Republic of Turkey: Insider dealing, unlawful disclosure of inside information, all forms of market manipulation are prohibited and constitute both administrative offences and criminal offences, each one subject to ad hoc penalties. The national central bank is formally exempt from the rules on insider dealing, unlawful disclosure of inside information or market manipulation, however, no exemption exists for third-country central banks. The central bank applies risk management standards in undertaking its operations and the implementation of such standards is subject to auditing. Staff members are subject to a duty of professional secrecy, the violation of which constitutes a criminal offence. Staff members are prevented from participating in auctions of government bonds. Staff members are subject to a duty to preserve their independence from third-party interests, and they must abstain from taking part in decisions in relation to which they are conflicted. The audit department is in charge of applying the internal rules of conduct, it conducts examination and studies, carries out investigations and offer consulting services. Depending on the severity of the misconduct, disciplinary actions may be up to and even include termination of employment.

Undersecretariat of Treasury of the Republic of Turkey: Staff members of the DMO are subject to the rules on insider dealing, unlawful disclosure of inside information, all forms of market manipulation and relevant administrative and criminal offences. No exemption from rules on insider dealing, unlawful disclosure of inside information or market manipulation exists for the national DMO or for third-country DMOs. Staff members are bound by risk management standards and are subject to a stringent duty of professional secrecy, as well as restricted from trading in financial instruments. In addition, staff members must report information about the assets they and their families own and are required to preserve their independence from third-party interests, and to avoid conflicts of interest. An ethics commission nominated by the DMO management develops an ethical culture, provides advice and monitors behaviour. Depending on the severity of the misconduct, the council of the central bank may apply a series of disciplinary actions up to dismissal.

- **USA**

Federal Reserve System: Insider dealing, unlawful disclosure of inside information, all forms of market manipulation are prohibited and constitute both administrative offences, punishable by penalties. The national central bank is formally exempt from the rules on insider dealing, unlawful disclosure of inside information and market manipulation. No exemption is provided for third-country central banks. The central bank applies risk management standards in undertaking its operations. Staff members are subject to a stringent duty of professional secrecy and are prohibited from using inside information for their personal benefit. Rules exist that explicitly prevent or restrict staff members from trading in financial instruments on the basis of inside information around the time the Federal Open Market Committee gathers and from investing in the U.S. Government securities. Staff members are subject to a duty to preserve their independence from third-party interests, and they must also avoid conflicts of interest. An ethics officer, a senior officer of the central bank, is responsible for implementing the central bank's programme for maintaining the highest standards of honesty, integrity and impartiality in the conduct of central bank's

activities. Depending on the severity of the misconduct, staff members are subject disciplinary action up termination of employment.

U.S. Department of the Treasury: Insider dealing, unlawful disclosure of inside information and all forms of market manipulation are prohibited. Staff members are subject to a stringent duty of professional secrecy and to restrictions on purchasing assets and holding financial instruments, as well as to extensive rules on financial disclosure. Furthermore, staff members are required to preserve their independence from third-party interests, and to avoid conflicts of interest. The Deputy General Counsel is the Department's Designated Agency Ethics Official and is responsible for managing and coordinating the ethics program and other matters arising under the applicable internal rules of conduct. Heads of Bureau take appropriate corrective and disciplinary actions in case of misconduct up to termination of employment.

6. CONCLUSIONS

At this stage, the Commission concludes that on the basis of the assessment carried out through the analysis of the key and additional criteria as explained above, it is appropriate to grant an exemption from MAR requirements to central banks and DMOs of Australia, Brazil, Canada, Hong Kong SAR, India, Japan, Mexico, Singapore, South Korea, Switzerland, Turkey and the United States and to the central bank of China. Hence, a delegated act under Article 6(5) of MAR is required to extend the exemption to the abovementioned central banks and DMOs.

The comparative analysis in this Report is by no means exhaustive. It is also based on some third-countries' legislation that can be updated. Conclusions set out in this Report are without prejudice to possible changes in the future, having regard to changes of third-countries' legislation or changed factual circumstances which may trigger the need for a review of the list of exempted third country central banks and DMOs.

ANNEX: COMPARATIVE OVERVIEW OF THIRD COUNTRIES

		Insider dealing rules	Inside information disclosure rules	Market manipulation rules	CB/DMO exemption	Risk-management standards	Confidential information	Private transactions in assets	Independence and conflicts of interest	Enforcement	Exemption
Australia	**CB**	Yes	Yes	Yes	No	Applied but not disclosed	PSNPU	RTHA	Independence duty and avoid conflicts of interest	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	No	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
Brazil	**CB**	Yes	Yes	Yes	No	Applied and disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	No	Applied but not disclosed	PSNPU	RTHA	Independence duty and avoid conflicts of interest	Internal unit enforcing actions	**Yes**
Canada	**CB**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	No	Applied but not disclosed	PSNPU	RTHA	Independence duty and avoid conflicts of interests	Internal unit enforcing actions	**Yes**
China	**CB**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	Not publicly available/ disclosed	Not publicly available/ disclosed	Professional secrecy	Not publicly available/ disclosed	Independence duty	Disciplinary actions up to dismissal	**n/a**
Hong Kong SAR	**CB**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	Yes (only domestic DMO)	Not publicly available nor disclosed	PSNPU	RTHA	Independence duty and avoid conflicts of interests	Internal unit enforcing actions	**Yes**

India	**CB/ DMO**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	Professional secrecy	RTHA	Independence duty	Internal unit enforcing actions	**Yes**
Japan	**CB**	Yes	Yes	Yes	No	Not publicly available nor disclosed	PSNPU	RTHA	Independence duty	Disciplinary actions up to dismissal	**Yes**
	DMO	Yes	Yes	Yes	Not publicly available/ disclosed	Not publicly available nor disclosed	PSNPU	RTHA	Independence duty and avoid conflicts of interests	Disciplinary actions up to dismissal	**Yes**
Mexico	**CB**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	No	Applied but not disclosed	PSNPU	Keep record and report assets holdings/ transactions	Independence duty and DIS	Internal unit enforcing actions	**Yes**
Singapore	**CB/ DMO**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	PSNPU	RTHA	Independence duty and avoid conflicts of interests	Internal unit enforcing actions	**Yes**
South Korea	**CB**	Yes	Yes	Yes	No	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	No	Not publicly available nor disclosed	Not publicly available nor disclosed	RTHA	Independence duty and DIS	Internal unit enforcing actions (no dismissal)	**Yes**
Switzerland	**CB**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	Yes (only domestic DMO)	Not publicly available nor disclosed	PSNPU	RTHA	Independence duty and DIS	Disciplinary actions up to dismissal	**Yes**
Turkey	**CB**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions (no dismissal)	**Yes**
	DMO	Yes	Yes	Yes	No	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions (no dismissal)	**Yes**

USA	**CB**	Yes	Yes	Yes	Yes (only domestic CB)	Applied but not disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**
	DMO	Yes	Yes	Yes	Not publicly available/ disclosed	Not publicly available nor disclosed	PSNPU	RTHA	Independence duty and DIS	Internal unit enforcing actions	**Yes**

Legend:

'CB' stands for 'central bank';

'DMO' stands for 'debt management office';

'PSNPU' stands for 'professional secrecy and no private use';

'RTHA' stands for 'restrictions in trading and holding of assets';

'DIS' stands for 'disqualification if unavoidable conflict'.