



Accreditation requirements for code of conduct monitoring bodies

13 January 2021

Version 3.0

Version 1.0	08 June 2020.	Draft requirements for public consultation
Version 2.0	24 August 2020	Draft requirements for the opinion of the EDPB
Version 3.0	13 January 2021	Requirements adopted by the President of PDPO taking into account the opinion of the EDPB

Organizations representing controllers and processors of personal data may develop Codes of Conduct to clarify the application of the GDPR in their industry. Each Code of Conduct must include mechanisms to monitor compliance of entities who have committed to its application. In order to carry out these tasks, it is necessary to appoint a monitoring body responsible for monitoring compliance by code members with its provisions. In case of private entities that are signatories to the code it is necessary for the monitoring body to comply with the accreditation requirements of entities authorized to monitor compliance with the Code of Conduct by implementing the provisions of Article 41 point 2 GDPR. The requirements set out in this document have been reviewed by the European Data Protection Board to ensure consistency in the application of the provisions of the GDPR in all Membership States. All the information concerning Codes of Conduct are available on the website of the Personal Data Protection Office in the Codes of Conduct tab.

This official translation was prepared for the European Data Protection Board. Polish version is the original and should be consulted for the purpose of interpretation.

Pursuant to Article 41 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (GDPR), and having regard to Article 29 of the Act of 10 May 2018 on the protection of personal data (APPD), the President of the Personal Data Protection Office has prepared accreditation requirements for code of conduct monitoring bodies. Pursuant to Article 41 (3) GDPR the draft was submitted to the European Data Protection Board (Board) using the consistency mechanism referred to in Article 63 GDPR and updated according to the Opinion 31/2020 on the draft decision of the competent supervisory authority of Poland regarding the approval of the requirements for accreditation of a code of conduct monitoring body pursuant to article 41 GDPR adopted on 07 December 2020¹.

This document should be interpreted in accordance with the Guidelines 1/2019 on Codes of Conduct and Monitoring Bodies under Regulation 2016/679² and the relevant opinions issued by the Board in accordance with Article 41 (3) and Article 64 (1) (c) GDPR³.

The accreditation process consists of the following steps: the submission of an application for accreditation together with the relevant documents, a formal assessment of the application, a substantive assessment of the application and granting the accreditation in the form of the accreditation certificate in accordance with Article 41 (2) GDPR and Article 31 APPD.

The requirement to monitor codes of conduct by an accredited monitoring body shall not prevent to draw up codes of conduct.

The application of accreditation requirements for monitoring bodies shall take into account the specificities of the processing of personal data in each sector.

Glossary

APPD – the Act of 10 May 2018 on the Protection of Personal Data (Polish Journal of Laws of 2019, item 1781)

GDPR — Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (OJ L 119, 04.05.2016, p.1, as amended)

Board Guidelines — European Data Protection Board Guidelines 1/2019 on Codes of Conduct and Monitoring Bodies under Regulation 2016/679

Board — European Data Protection Board

Supervisory Authority — President of the Personal Data Protection Office

Code owners — associations and other bodies that draw up codes within the meaning of Article 40 (2) GDPR and submit them for approval and may be parties – by themselves or via representatives -

¹ https://edpb.europa.eu/our-work-tools/our-documents/opinion-board-art-64/opinion-312020-draft-decision-competent_pl

² https://edpb.europa.eu/sites/edpb/files/files/file1/edpb_guidelines_201901_v2.0_codesofconduct_pl.pdf

³ https://edpb.europa.eu/our-work-tools/consistency-findings/opinions_pl

to the proceedings before the supervisory authority in accordance with the Polish Code of Administrative Procedure.

A monitoring body — body/committee, one or more natural or legal persons, legal entities without legal personality or a number of bodies/committees (internal or external from the perspective of the code owners), who perform a monitoring function to identify and ensure compliance with the Code in accordance with Article 41 GDPR (including the candidate for the monitoring body).

Candidate for Code member — controller or processor applying for Code membership.

Code member — controller or processor who has implemented the provisions of the Code and has committed himself to apply and comply with it, and the situation and capacity have been positively assessed by the monitoring body.

Monitoring body personnel — all natural persons who perform decision-making functions or performing technical tasks and duties to the monitoring body regardless of any form of employment.

Monitoring body management— natural persons who perform decision-making functions in the monitoring body.

§ 1.

General provisions/ Sources of law

1. According to Article 41 (1) GDPR and Board Guidelines, national and transnational Codes of Conduct must be monitored by a body accredited by the competent supervisory authority.
2. In complying with the obligation arising under Article 57 (1) (p) GDPR and point 60 of the Board Guidelines, the supervisory authority shall draft and publish the criteria accreditation of a body for monitoring Codes of Conduct.
3. This document describes the detailed criteria for accreditation of bodies authorised to monitor compliance with the Code of Conduct by implementing the provisions of Article 41 (2) GDPR.
4. Accreditation is granted after the accreditation procedure has been carried out by the supervisory authority for a period of 5 years, subject to the possibility of its withdrawal (e.g. when as a result of an ad hoc review of the requirements, the supervisory authority finds that the entity does not meet or no longer meets the requirements of accreditation or if the activities undertaken by it are not consistent with the GDPR). If the 5-year period has expired or the accreditation has been withdrawn, the accreditation procedure must be re-launched. At the same time, the lack of an accredited monitoring body makes the Code of Conduct ineffective, with all the consequences of this fact. The accredited monitoring body should reapply for accreditation before the deadline expires, taking into account the duration of the procedure before the supervisory authority provided by law.
5. The monitoring body must be able to demonstrate compliance with the requirements set out in this document throughout the entire period of its function.
6. The public authorities and bodies who are signatories of the Codes of Conduct, on the basis of Article 41 (6) GDPR are excluded from monitoring compliance with codes by an accredited monitoring body.
7. In accordance with point 64 and point 65 of the Board Guidelines, a monitoring body may be external or internal to the code owner. An example of an internal monitoring body may be an

internal team, a committee, a collective or a separate body, an independent department within the code owner or professional self-government.

8. Participation in the accreditation process of a monitoring body shall be based on the following principles:

8.1. Assessment as per criteria

All bodies participating in the accreditation process shall be subject to the consistent principles for assessment and decision making. Published and transparent criteria are rigorously implemented, guaranteeing the fairness of the assessment expressed in the decision. The requirements for accreditation shall be: multidisciplinary, relevant (with significant impact on data processing), understandable, measurable and educational (formative practice). These concern both the organisational structure and the proceedings of the monitoring body.

8.2. Educational background

The purpose of accreditation, based on accreditation requirements, is also education and cooperation between the supervisory authority, the code owner and the monitoring body in order to ensure a higher level of personal data protection by, for example, publishing information on the result of proceedings.

8.3. Periodic review

The supervisory authority shall have the power to verify compliance with the accreditation requirements, in particular on the basis of information obtained from the monitoring body referred to in § 3 point 6.

8.4. Self-assessment

It is an essential element of accreditation, it is necessary for the preparation of the application for accreditation, and specifies the level of compliance with accreditation requirements and identifies areas for improvement after accreditation is granted.

§ 2.

Formal requirements

1. In order to be accredited, the monitoring body shall provide the following evidence:
 - 1.1. its independence in relation to code owner, candidates for Code member and Code members and representatives of the profession, industry or sector to which the code applies,
 - 1.2. its required expertise in the area covered by the Code of Conduct,
 - 1.3. procedures which ensure that the performance of their duties and obligations does not result in a conflict of interest.
2. The monitoring body shall also provide:
 - 2.1. procedures and management structures designed to assess whether a candidate for Code member is eligible for application and compliance with the Code, monitor the compliance of a code member with its provisions and carry out reviews of the operation of the Code;
 - 2.2. a publicly available governance structure and procedure to deal with complaints handling against breaches of the Code of Conduct effectively;
3. A monitoring body may operate in any legal form (such as a commercial company, foundation or sole proprietorship). Irrespective of its legal form, it shall demonstrate that it has the necessary

finances, personnel and technical resources to perform its tasks and duties, in accordance with the requirements set out in that document.

4. The application, in accordance with § 1 point 5, may also be submitted by an organisational unit within the organisational structure of the code owner (internal monitoring body).
5. The accreditation of a monitoring body in accordance with Article 29 (1) APPD shall be granted upon application, which shall include:
 - 5.1. the name of the body who applying for the accreditation and the address of its registered office;
 - 5.2. information confirming compliance with the criteria referred to in Article 41 (1) and (2) GDPR and § 3 of this document.
6. The application referred to in point 5 shall be accompanied by documents confirming compliance with the criteria referred to in Article 41 (1) and (2) GDPR in (original or certified true copy) and:
 - 6.1. information from the National Court Register, or
 - 6.2. information from the Central Register and Information on Economic Activity or
 - 6.3. other documents making it possible to identify the body;
 - 6.4. name, surname and contact details of the person who are authorised to represent the monitoring body in the procedure of accreditation, together with the document confirming the above, unless the representation results from the contents of the documents indicated in points 6.1.-6.3.;
 - 6.5. the planned field(s) of activity covered by the Code of Conduct to be monitored, by reference to the Code owner and the members of the Code of Conduct.
7. The application for accreditation shall also include representatives of the monitoring body if they are indicated in point 6.4 to determine the responsibility for the actions of a monitoring body, in respect of which action is to be taken in the event of failure to comply with its obligations. The application shall identify the persons or bodies responsible for the internal control of the monitoring body.
8. The documentation required for the accreditation procedure which is prepared in a foreign language shall be submitted to the supervisory authority in Polish in accordance with Article 63 APPD

§ 3.

Specific requirements for the accreditation of the monitoring body of the Code of Conduct

1. Independence

In accordance with point 63 The Board Guidelines, independence in relation to Code owner and members thereof and the industry should be demonstrated by criteria: legal, decision-making, economic, organisational and personnel. The monitoring body independence should be understood as a series of formal rules and procedures relating to the appointment, terms of reference and operation of the monitoring body. The rules and procedures will allow the monitoring body to perform the monitoring of compliance with a Code of Conduct in complete autonomy, without being directly or indirectly influenced, nor subject to any form of influence that might affect its decisions. The monitoring body should not be in position to receive any instructions regarding the exercise of its tasks from the Code members, the profession, industry or sector, to which the code applies, or from the code owner itself.

1.1. Requirements for accreditation in the legal and decision-making fields:

- 1.1.1. In the case of an external monitoring body, the application for accreditation shall be accompanied by the following:
 - 1.1.1.1. the act of incorporation of the monitoring body (or the legal basis for the functioning) if it is not a natural person;
 - 1.1.1.2. a description of the governance structure of the monitoring body;
 - 1.1.1.3. the method used and the scope of the reporting, and
 - 1.1.1.4. an agreement that specifies division of responsibilities and responsibilities of the monitoring body and of the code owner,
 - 1.1.1.5. the ownership structure list, if applicable.
- 1.1.2. In the case of an internal monitoring body, in order to demonstrate independence in relation to industry representatives, Code members and the code owner, the application for accreditation shall be accompanied by:
 - 1.1.2.1. the internal regulations of the monitoring body, including the constitution and structure of the body, the membership requirements,
 - 1.1.2.2. the procedure for the appointment of the members of the bodies and the scope of the powers and responsibilities assigned,
 - 1.1.2.3. procedures for decision-making related to the accreditation and monitoring of Codes of Conduct, and
 - 1.1.2.4. the method used and the scope of the reporting between the internal monitoring body and the Code owner.
- 1.1.3. For the internal monitoring body, in order to distinguish it from the Code owner, a name or a figurative mark other than the name and logo used by the Code owner must be adopted.
- 1.1.4. The monitoring body shall also present a document setting out the rules for the appointment and the term of office of its management (including the supervisory body, if any), in order to demonstrate the ability to perform their tasks and duties within the prescribed period, specified in the Code of Conduct or in the contract between the monitoring body and the code owner .
- 1.1.5. The monitoring body shall demonstrate how its governance structure and the formal appointment rules ensure that it is able to operate freely without instructions and that it is protected from any interference (both direct and indirect) or sanctions in relation to the proper performance of its tasks and responsibilities.
- 1.1.6. The monitoring body shall demonstrate that appropriate mechanisms are in place to identify and minimise the risks to its management's independence and to the risk of conflicts of interest, in particular where they have been involved in the development of a Code of Conduct.
- 1.1.7. Decisions on sanctions imposed by a monitoring body shall not be subject to consultation or approval by industry representatives, the Code owner or members thereof. The sanction decisions are based on the complaint handling procedure described in § 3 point 5 and § 3 point 4.1.3.6. of the procedure for monitoring the compliance with the Code of Conduct.

1.2. Economic accreditation requirements :

- 1.2.1. The monitoring body shall demonstrate that it has sufficient financial resources and financial stability to carry out its tasks and responsibilities with the funding rules. The above should depend on the number, size and complexity of the organisational structure of the Code members, the nature and scope of their activities and the risks associated with the processing of personal data. The source of funding for the monitoring body may be, inter alia, the fees paid by the candidates for Code members, the contributions of the Code members, the part of the contributions collected by the Code owner from its members. Regardless of the source of financing, the monitoring body must be independent in the area of economics throughout the performance of its functions. The monitoring body cannot be considered financially independent, for example where the rules governing its financial support would allow a Code member who is the subject of proceedings before the monitoring body to stop paying contributions. Such a situation could be read as an attempt to avoid a possible sanction by the monitoring body.
- 1.2.2. The monitoring body shall manage its budget independently from industry representatives, the Code owner or its members and the power of disposal shall be recorded in the limits of the powers and responsibilities of the monitoring body's management.
- 1.2.3. The monitoring body has procedures in place to ensure its long-term financial stability. Independence cannot be affected by the loss of one or more sources of funding. Therefore, in the adopted funding rules it shall take into account the financial security mechanisms, inter alia, in the event of a reduction in the number of Code members or of the organisation of the code or significant delays in the fee payments.

1.3. Organisational and personnel accreditation requirements:

- 1.3.1. The Monitoring body shall indicate whether it is acting as an internal or external body to the Code owner.
- 1.3.2. The monitoring body shall demonstrate that it has adequate personnel and organisational and material resources (including technical) to effectively carry out its tasks and monitoring and control duties.
- 1.3.3. The internal monitoring body shall also provide evidence of lawful receipt from the Code owner of the powers and material resources necessary for carrying out the monitoring and control tasks and duties, including: resolutions, fiats, contracts or agreements, guarantees.
- 1.3.4. The monitoring body shall provide a procedure for the allocation of personnel and organisational and material resources to carry out the specific task and responsibility (conducting and managing audits, handling complaints, etc.). The quantity and type of resources required depend on the risks for the data subjects, the categories of personal data and the complexity of the processing that takes place in the context of the Code of Conduct, the estimated number of Code members and their size, as well as the size of the sector concerned.
- 1.3.5. The internal monitoring body shall provide additional information on its independence in relation to the Code owner, specifying:

- 1.3.5.1. information barriers, an internal communication plan;
 - 1.3.5.2. responsibilities for management;
 - 1.3.5.3. separate managing functions.
- 1.3.6. The monitoring body shall demonstrate its independence during the decision-making process, including with regard to the selection of personnel. An example of independence in the selection of personnel is recruitment by an independent external contractor providing recruitment and human resources services. In order to demonstrate independence, the monitoring body personnel must be able to act without exerting pressure or influence from the Code owner and Code members.

1.4 Accountability

- 1.4.1 The monitoring body is required to demonstrate its independence in each of the areas indicated in points 1.1.-1.3 throughout the entire period of performing its function.

2. Conflict of interests⁴

- 2.1. The monitoring body shall refrain from any activity inconsistent with its tasks and duties, and provide safeguards to ensure that no activity is undertaken which is inconsistent with these tasks and duties.
- 2.2. The monitoring body shall remain free from direct and indirect external influence and shall not seek or receive instructions from any person, organisation or association.
- 2.3. An example of a conflict of interest could be situation where personnel conducting audits or making decisions on behalf of the monitoring body, previously worked for a Code owner or a Code member.
- 2.4. The monitoring body shall provide a documented procedure for the identification, analysis, assessment and monitoring of any risks to the impartiality of its activities, hereinafter referred to as the procedure to manage the conflict of interest.
- 2.5. The monitoring body personnel shall be trained in that respect and shall be required to observe the procedure and to report any situation which may give rise to a conflict of interest.
- 2.6. The procedure for managing a conflict of interest shall be reviewed periodically.
- 2.7. The procedure for managing a conflict of interest obliges the monitor body personnel to inform their supervisor about the performance of, or involvement in, additional activities in the field of application of the Code, as well as the performance of functions in the managing or supervisory bodies of other entities or associations in order to rule out a potential conflict of interest.
- 2.8. The procedure for managing conflicts of interest shall describe the implementation of remedies and minimise the negative impact in the event of a conflict of interest.
- 2.9. The procedure for managing a conflict of interest shall provide that the monitoring body shall require the personnel to keep any information obtained or created during the

⁴Impartiality of function, i.e. the ability to act autonomously.

performance of the tasks and duties as confidential, unless it is required to disclose them or is exempt from this obligation by law.

3. Expertise

- 3.1. The detailed requirements, determined by the size of the industry, the specific processing operations and risks associated with them, as well as the scope of the provisions of the Code on expertise for the monitoring body personnel may be laid down in the Code.
- 3.2. The monitoring body shall demonstrate that it fulfils the necessary requirements of expertise as laid down in the Code of Conduct.
- 3.3. The necessary expertise shall include, in addition to the knowledge relating to the subject matter of the Code of Conduct, in-depth knowledge of the law relating to the protection of personal data and its application, including specific knowledge of data processing activities in a given sector, as well as the legal and technical provisions common to the Code of Conduct and of industry knowledge.
- 3.4. The monitoring body shall document that its personnel also have appropriate knowledge in the areas of audit, monitoring or quality assurance activities in order to establish its ability to monitor the activities of its members with the Code of Conduct.
- 3.5. Documents proving the relevant qualifications of the personnel of the monitoring body are, for example:
 - 3.5.1.a certificate of professional experience in the field of data protection, auditing or in the field of a Code of Conduct;
 - 3.5.2.a certificate of legal expertise in the field of law, in the industry of a Code of Conduct or in the field of the protection of personal data;
 - 3.5.3.attestation of training on issues related to the protection of personal data or with the industry of the Code of Conduct
 - 3.5.4.membership in professional chambers, professional associations, etc.
 - 3.5.5.Industry, scientific, etc. publications, related to the subjects referred to in § 3 point 3.5.2.
- 3.6. In order to safeguard key competences, the monitoring body shall also provide procedures for raising their personnel's skills and for knowledge sharing (training procedures).
- 3.7. The level of expertise and professional experience in the above areas should be higher for the management of the monitoring body.

4. Established procedures and structures

- 4.1. The monitoring body shall have at its disposal the procedures, structures and resources to ensure the integrity of the monitoring process, including:
 - 4.1.1.Procedures and management structures to assess whether a candidate for Code member is eligible to receive and comply with a code, which shall include at least the following:
 - 4.1.1.1. a description of the measures adopted to carry out the selection process,
 - 4.1.1.2. possible results of the assessment of a qualifying accession to the Code of Conduct, indicating areas for improvement.

- 4.1.2. Course of action in case of failure to meet the qualification requirements (including, for example, the procedure for re-applying for membership).
- 4.1.3. The procedure for monitoring compliance with the Code of Conduct including at least the following:
 - 4.1.3.1. the audit plan to be carried out over a defined period of time (recurring and temporary);
 - 4.1.3.2. the audit methodology to be applied, i.e. the set of criteria to be assessed taking into account the estimated number of Code members and their size, the number of complaints received, the territorial scope of the Code and the level of risk;
 - 4.1.3.3. type of audit e.g. remote audit or audit of member/candidate to the Code;
 - 4.1.3.4. audit report;
 - 4.1.3.5. course of action in case of breaches the Code of Conduct (including additional checks and the procedure to rectify infringements);
 - 4.1.3.6. the sanction matrix;
 - 4.1.3.7. rules and terms for appeal;
 - 4.1.3.8. regular reporting obligations in relation to the Code owners and the supervisory authority, in particular aggregated information on complaints lodged with a monitoring body including inter alia an indication of the most common problems encountered and the ways in which they are addressed;
- 4.1.4. The procedure for the regular review of the Code, in accordance with the principles set out in § 3 point 7.
- 4.2. The monitoring body shall provide an assessment of the auditee to the Code member / candidate for Code member, indicating whether it is eligible for and compliance with the Code (compliance of activities with its provisions). If the procedure involves the Code owner, the monitoring body shall also report its assessment to the Code owner.
- 4.3. The monitoring body shall be responsible for managing all information obtained during the monitoring process.
- 4.4. The monitoring body shall ensure that all information obtained or generated in the course of carrying out its tasks and duties is treated as confidential and will oblige its personnel to maintain confidentiality, unless the personnel is obliged to disclose it or exempted by law.
- 4.5. The monitoring body shall provide information on possible fees related to the monitoring of compliance with the Code of Conduct to candidates for Code member and to the supervisory authority.
- 4.6. The monitoring body shall make publicly available information on its tasks and duties, monitoring requirements and information on the monitoring process itself.

5. Transparent complaints handling

- 5.1. The monitoring body shall provide a procedure for the receipt and recording, assessment, monitoring and handling of complaints, hereinafter referred to as the complaints handling procedure.
- 5.2. The monitoring body shall make publicly available the complaints handling procedure in order to enable the complainants and the code members to understand and act in accordance with its rules. The monitoring body shall make publicly available decisions on

- handled complaints, with due regard for the protection of the rights and freedoms of others, including the protection of personal data of natural persons.
- 5.3. The complaints handling procedure shall cover complaints against:
 - 5.3.1. Code members
 - 5.3.2. actions and decisions issued by the monitoring body.
 - 5.4. The complaints handling procedure shall include at least the following:
 - 5.4.1.a description of how to record, handle and decide on measures made in response to the complaint (including contact details of the monitoring body, form of complaint e.g. template of contact form);
 - 5.4.2.a catalogue of sanctions and remedies that can be applied;
 - 5.4.3. time limits for handling the complaint;
 - 5.4.4. the manner in which the supervisory authority, the code member and the complainant have been notified of the action taken.
 - 5.5. The monitoring body shall provide a transparent and publicly accessible appeal procedure.
 - 5.6. The appeal procedure shall include at least the following:
 - 5.6.1.a description of how to receive, investigate and decide on the action to be taken in response to the appeal;
 - 5.6.2. the time limit for the examination of the appeal;
 - 5.6.3. the manner in which the parties are to be informed of the decision taken as a result of an appeal.
 - 5.7. The complaints handling procedure and the appeal procedure provide for inform the person lodging the complaint each time of the progress of the proceedings, including about its conclusion.
 - 5.8. The time limit indicated in point 5.4.3. and 5.6.2 must be reasonably specified. In the case of a particularly complicated matter, the time limit may be extended, which should be communicated to the parties concerned.
 - 5.9. The monitoring body shall enforce the corrective measures and sanctions provided for in the Code of Conduct.
 - 5.10. The monitoring body shall inform the supervisory authority, Code members, Code owner and concerned supervisory bodies collectively, in the form of a summary, of the actions taken in respect of complaints submitted, in accordance with the rules laid down in the procedure referred to in § 3 point 5.4.
 - 5.11. The summary referred to in § 3 point 5.10 shall set out the reasons justifying the use of the corrective measure or sanctions and the steps taken to implement them for example by asking him to confirm it.
 - 5.12. The monitoring body keeps a register of all complaints received and of the results of proceedings (including appeals) and makes it available to the supervisory authority on its request. This register shall include among others:
 - 5.12.1. a concise description of the complaint and the date of its receipt by the monitoring body,
 - 5.12.2. the identification of the Code member and the identity of the complainant,
 - 5.12.3. how the complaint has been handled (including possible reasons for not dealing with the complaint),
 - 5.12.4. the type of sanction or corrective measure imposed, including whether or not it has been implemented, and

- 5.12.5. information on the possible reasons for the delay in handling the complaint.
- 5.13. The monitoring body, after having received a complaint, is required to determine whether the complainant has previously complained to the supervisory authority or to the court of law of the same action, for example by asking him to confirm it.
- 5.14. The monitoring body shall first encourage the parties to settle their dispute by means of an amicable settlement procedure established by the monitoring body, which is a voluntary and alternative form of resolution of the dispute.

6. Communication with the competent supervisory authority

- 6.1. The monitoring body shall submit an annual report to the supervisory authority on all its activities in relation to the Code of Conduct.
- 6.2. This report shall include:
 - 6.2.1. The list of Code members.
 - 6.2.2. The number of members who have joined the Code of Conduct in the last 12 months, indicating which members have joined the Code of Conduct once again after temporary suspension, exclusion or withdrawal.
 - 6.2.3. The number of members who were temporarily suspended, excluded or withdrawn during the last 12 months.
 - 6.2.4. The number of complaints received by the monitoring body.
 - 6.2.5. An indication of the most frequently emerging and critical issues in the content of the complaints and how to deal with them, including the time limits (average).
 - 6.2.6. Information on the audits carried out as a consequence of a breach of the Code.
 - 6.2.7. Decisions concerning actions to be taken in the event of a breach of the Code by a Code member.
 - 6.2.8. The conclusions of the code review or audits referred to in §3 point 6.2.6.
- 6.3. The monitoring body shall provide a procedure to inform the supervisory authority without undue delay of cases of non-compliance with the Code of Conduct resulting in temporary suspension, exclusion or withdrawal of compliance with the Code of Conduct (e.g. if the code specifies the obligation referred to in Article 33 of the GDPR, i.e. failure by a Code member to report the personal data breach to the supervisory authority, where there is a high risk of violating the rights and freedoms of individuals). In cases of temporary suspension or exclusion of a code member, the notification shall include, inter alia:
 - 6.3.1. a description of the activities that led to the code being breached,
 - 6.3.2. type of sanctions or corrective measures imposed,
 - 6.3.3. the reasons justifying them as set out in the decision,
 - 6.3.4. the actions taken to implement them by a Code member,
 - 6.3.5. actions taken by the monitoring body,
 - 6.3.6. in the event of a member's withdrawal from the Code, the notice shall, if possible, include information on the reasons for the withdrawal.
- 6.4. The monitoring body shall provide a procedure for informing the supervisory authority without undue delay of any crucial changes concerning:
 - 6.4.1. changes in legal, organisational and management status of the monitoring body having an impact on its performance of tasks and responsibilities;

- 6.4.2.changes in funding, resources and locations affecting the performance of tasks and responsibilities;
- 6.4.3.any other change affecting the grounds for accreditation.
- 6.5. Regardless of the obligations set out in §3 points 6.1-6.4. the monitoring body is obliged to provide without undue delay, comprehensive information, at each request of the supervisory authority.
- 6.6. Any significant change concerning the ability of a monitoring body to function independently and effectively, its expertise and any conflicts of interest result in a review of its accreditation in accordance with § 1 point 6.3.
- 6.7. A monitoring body shall use an electronic inbox within the meaning of Article 3 point 17 of the Act of 17 February 2005 on computerisation of the activities of entities carrying out public tasks (Polish Journal of Laws of 2020, item 346, as amended).

7. Review Mechanisms

- 7.1. The monitoring body shall provide a procedure to assist with the periodic review of the Code of Conduct on the basis of § 3 point 4.1.4 and the information indicated in § 3 point 6.2.5. to the Code owners, assuming that the monitoring body plays a key role in the procedure of updating the provisions of the code (amendments, extensions) in accordance with the instructions of the Code owner.
- 7.2. The review mechanisms shall enable the Code owner to decide to revise it in order to adapt to changes in the application and interpretation of provisions on the protection of personal data, new technological developments and changes in the practice of the regulated industry.
- 7.3. The report on the implementation of the support procedure for the periodic review referred to in § 3 point 7.1 shall include, inter alia, information on:
 - 7.3.1.audits carried out,
 - 7.3.2.the findings of the audits,
 - 7.3.3.complaints received and decisions taken in connection with these complaints.
- 7.4. The procedure to assist with the periodic review of the Code of Conduct is mainly based on the number of complaints submitted, the audits carried out and their findings, and the sanctions and corrective measures imposed in the event of a breach of the Code of Conduct.
- 7.5. The procedure to assist with the periodic review of the Code of Conduct also sets out the principles for reporting, after the review, the Code owner and any other subject referred to in the Code of Conduct of recommendations as to the appropriateness of amending the Code of Conduct.
- 7.6. The monitoring body is obliged to provide without undue delay information regarding the procedure referred to in § 3 point 7.1. and the report referred to in § 3 point 7.3. at each request of the supervisory authority.

8. Legal status

- 8.1. The establishment of the monitoring body is located in the European Economic Area (EEA) and enables its tasks and responsibilities to be exercised effectively in relation to the Code members.

- 8.2. The monitoring body shall be responsible only for failure to comply with its tasks and supervisory responsibilities or for refraining from appropriate measures in the event of a breach of the principles of the Code of Conduct.
- 8.3. The monitoring body has adequate resources, including financial and procedures necessary to perform its role in accordance with Article 41 (4) GDPR, including bearing of responsibility in accordance with Article 83 (4) (c) GDPR.
- 8.4. In connection with the obligation specified in §1 point 4, the monitoring body keeps documents and evidence of compliance with all accreditation requirements and makes them available to the supervisory body upon its request.
- 8.5. The monitoring body shall identify all entities involved in the implementation of the tasks and duties in relation to the Code of Conduct at the time of the application for accreditation.
- 8.6. Where a subcontractor is used to carry out the tasks and duties, the monitoring body shall ensure that:
 - 8.6.1. sufficient guarantees of expertise, reliability, independence, absence of conflict of interest and resources of the subcontractor;
 - 8.6.2. compliance by the subcontractor with the requirements for accreditation set out in this document.
- 8.7. A monitoring body may demonstrate this by, for example, the following:
 - 8.7.1. a contract specifying the responsibilities and obligations of the parties, confidentiality, the categories of personal data processed and the obligation to provide adequate security for them, also the consequences of termination of the contract in the abovementioned scope,
 - 8.7.2. a documented procedure for subcontracting, including where subcontractors are permitted, the conditions under which subcontractors may be authorised and monitored,
 - 8.7.3. a documented procedure for the assessment of the independence, expertise and absence of conflict of the interests of subcontractors.
- 8.8. The subcontractor shall ensure the confidentiality of any personal data that may be disclosed in connection with the agreement with the monitoring body.
- 8.9. Using the services of subcontractors does not release the monitoring body from the its responsibility to the extent resulting from the GDPR. The monitoring body is obliged to ensure effective monitoring of the services provided by subcontractors. Regardless of the established responsibilities and specific obligations of subcontractors, the monitoring body is responsible for carrying out the monitoring function in order to establish and ensure compliance with the Code of Conduct.
- 8.10. The monitoring body shall make available to the supervisory authority, at its request, a list of all subcontractors.
- 8.11. The monitoring body shall apply the procedure for notifying the supervisory authority without undue delay and the Code owner of any crucial changes affecting the subcontractor which adversely affect the organisation of the monitoring body and which could adversely affect its capacity to carry out its functions effectively and the issue corrective measures . Such substantial changes may include:
 - 8.11.1. termination or expiration of the agreement with a subcontractor,
 - 8.11.2. replacement of a subcontractor by another.



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