

THE ETHICS COMMITTEE

[ECB/EC/20/12]

ECB-PUBLIC

[TRANSMITTED ON 14 SEPTEMBER 2020]

To the ECB President

Subject: New post-employment activity – Ethics Committee Opinion

Dear Madame President,

The Ethics Committee has assessed a notification¹ received from Mr Klaus Kumpfmüller, former alternate member of the ECB Supervisory Board and former Executive Board member of the Österreichische Finanzmarktaufsicht (FMA), concerning his intention to take up the positions of Deputy Chairman of the Supervisory Boards of (i) Kepler-Fonds Kapitalanlagegesellschaft m.b.H., an asset management company which is licensed and supervised by the FMA; (ii) WAG Wohnungsanlagen Gesellschaft m.b.H.; and (iii) EBS Wohnungsgesellschaft m.b.H. Linz, the latter two companies both active in the real estate sector. The three positions are directly linked to Mr Kumpfmüller's position as CEO of HYPO Oberösterreich (Oberösterreichische Landesbank Aktiengesellschaft), a less-significant Austrian credit institution, for which the Governing Council - based on an opinion of the Ethics Committee - decided on a six-month cooling-off period², which was duly observed by Mr Kumpfmüller.

Overall, the Ethics Committee concludes that given that Mr Kumpfmüller's position with the ECB Supervisory Board has ended in January 2020, any cooling-off period applicable in these cases has already been observed.

Regarding the prospective role with the asset management company, the Ethics Committee notes that the Single Code³ stipulates that alternate members of the ECB Supervisory Board may engage in a gainful occupational activity with any other financial institution not being a significant or less significant credit institution after the expiry of a period of three months from the end of their duties and responsibilities as alternate members. The Ethics Committee takes note that Mr Kumpfmüller has relinquished his duties and taken leave on 13 January 2020 with access to sensitive SSM supervisory information being withdrawn with effect of 14 January 2020. Hence, the Ethics Committee considers Mr Kumpfmüller's intention to take on this position more than three months from the end of his term as

¹ In line with Articles 17.2 and 17.3 of the Code Conduct for High-level ECB Officials (Single Code).

² Transmitted via a letter dated 31 January 2020.

³ In line with Article 17.2 (b) of the Single Code.

alternate member of the ECB Supervisory Board, as compatible with the provisions of the Single Code and concludes that the applicable three-month cooling-off period has already been observed.

As to the prospective roles with the two real estate companies, the Ethics Committee is of the view that such roles do not raise and could not be perceived to raise conflict of interest concerns given that the ECB Supervisory Board has no supervisory role over real estate companies. Hence, no cooling-off period is applicable to Mr Kumpfmüller in these two cases.

In making its assessment, the Ethics Committee also took into account that the three companies are owned by a less-significant credit institution. Nevertheless, given the separate legal personalities and distinct fields of operation of the three companies, the Ethics Committee does not consider it necessary to equate these to moves to a credit institution, triggering a six-month cooling-off period⁴. In any event, Mr Kumpfmüller would join the three companies more than six months after he relinquished his duties.

The Ethics Committee wishes to emphasise that the above assessment applies exclusively to Mr Kumpfmüller's former role as alternate member of the ECB Supervisory Board and is without prejudice to the application of potentially stricter national rules which he may be subject to by virtue of his former functions at the FMA, namely in view of his possible involvement in the supervision of any of the three companies in question.

Finally and for the sake of completeness, the Ethics Committee deems it important to remind Mr Kumpfmüller of his professional secrecy obligations applying beyond his term as alternate member of the ECB Supervisory Board⁵ and of his duty to notify any potential new occupational activity for a period of one year from the end of his term.

With best regards,

Chair of the ECB Ethics Committee (Patrick Honohan)

Cc: Mr. Enria, Chairman of the Supervisory Board

⁴ In line with Article 17.1 (a) of the Single Code.

⁵ In line with Article 339 of the Treaty on the Functioning of the European Union, Article 37 of the Statute of the European System of Central Banks and of the European Central Bank, Article 27 (1) of Council Regulation (EU) No 1024/2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions, Article 4 of the Single Code and Article 54 of the Directive 2013/36/EU on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms.