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In the interests of readability, this circular has been drafted using the masculine gender only. However, use of the masculine gender should be understood to refer to both sexes. The provisions of the circular therefore apply to both men and women, except where it is clear from the context that they concern one sex or the other exclusively.

**PRINCIPLES AND PROCEDURES GOVERNING
INVESTIGATION OF FRAUD**

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I. PURPOSE AND SCOPE

1. The purpose of this circular is to state the definition of fraud and set out the Organization's fraud investigation process pursuant to the CERN Anti-Fraud Policy and in accordance with the principles of due process.
2. Any person working at or on behalf of CERN is covered by this circular.

II. DEFINITIONS

3. Fraud is defined as any intentional act or omission designed to deceive others and to achieve a gain for the perpetrator or a third party, resulting in the Organization suffering a loss of funds, property or reputation.

It includes, but is not limited to, deception, bribery, forgery, extortion, corruption, theft, embezzlement, misappropriation, false representation and concealment of material facts.

For the purposes of this circular, attempted fraud, or participation in the commission of fraud, shall be treated in the same manner as fraud.

4. A fraud indicator is any element indicating the reasonable possibility of fraud. An indicator can be internal (e.g., results of manual or automated controls, internal or external audit findings, anonymous or identified tips) or external (e.g., supplier complaint, information from national authorities).
5. A fraud investigation is the objective, diligent and timely process of information-gathering and analysis to assess whether fraud has occurred.

III. FRAUD INVESTIGATION PROCESS

A. General principles

6. All persons who have suspicion of fraud shall inform one or more of the following persons, as deemed appropriate:
 - their hierarchy,
 - the Head of the Human Resources Department, or
 - the Head of Internal Audit.
7. Persons in the hierarchy and the Head of the Human Resources Department shall promptly refer suspected fraud which comes to their attention to the Head of Internal Audit.

8. The Head of Internal Audit is responsible for fraud investigations and shall ensure that the investigations comply with the provisions set out in this circular. If in the course of such investigation, the Head of Internal Audit suspects misconduct other than fraud, he shall refer the misconduct to the Head of Human Resources for appropriate action.
9. No fraud investigation may be launched in the absence of a fraud indicator.
10. All persons covered by this circular shall:
 - 10.1 cooperate fully in the context of a fraud investigation; and,
 - 10.2 maintain confidentiality throughout the fraud investigation, including after the case has been dealt with. Information shall be shared strictly on a need-to-know basis.
11. The Organization prohibits:
 - 11.1 making allegations of fraud or otherwise acting in bad faith in the context of a fraud investigation; and,
 - 11.2 any form of retaliation against a person as a result of his participation in the investigation process set out in this circular. Any attempted or actual retaliation shall be brought to the attention of the Head of Internal Audit.
12. In the event of a failure to comply with the provisions of paragraphs 10 and 11 above, the Head of Internal Audit shall notify:
 - 12.1 If the person concerned is a member of the personnel, the Head of the Human Resources Department or, if necessary, the Director-General. In such case, failure to comply may result in administrative, disciplinary and/or legal action. If the person concerned is an associated member of the personnel, the Head of Human Resources shall decide whether to notify the home institution.
 - 12.2 If the person concerned is not a member of the personnel, the CERN contract manager or the Head of Procurement or, if necessary, the Director-General, who in turn shall take such measures as are as appropriate to protect the interests of the Organization and/or notify the person's employer with a request for appropriate action.
13. The Head of Internal Audit shall maintain a register of fraud investigations conducted and investigation reports issued.
14. In consultation with the Head of the Legal Service and the Head of the Human Resources Department, the Head of Internal Audit may establish such guidelines as are deemed necessary to supplement the procedures laid down in this circular.

B. Investigation process

1. Preliminary Assessment

15. Within 30 calendar days of receipt of a fraud indicator, the Head of Internal Audit shall perform a preliminary assessment thereof.
16. On the basis of this preliminary assessment, the Head of Internal Audit shall determine whether:
 - 16.1 to conduct an investigation or not; and/or
 - 16.2 to take any other action deemed appropriate, including referring the matter for resolution elsewhere within the Organization, such as the hierarchy, the Head of the Human Resources Department or the Ombuds.
17. In all cases, the Head of Internal Audit shall keep appropriate records.

2. Investigation

a) Appointment of the investigation team

18. When the Head of Internal Audit determines that an investigation be conducted, he shall start the investigation within 5 calendar days and establish an investigation team composed of staff members of the Internal Audit who possess the required competencies to carry out the investigation.
19. If the investigation team requires the support of persons with additional competencies, the Head of Internal Audit shall contact the Head of the Department that may be able to provide the appropriate resources.
20. When such competencies are not available within the Organization or when it would not be appropriate to use them due to the matter under investigation, the Head of Internal Audit may, in cooperation with the Head of the Human Resources Department and the Head of the Legal Service, obtain them from external sources.
21. No person with any actual or perceived conflict of interest in the matter under investigation can serve on an investigation team. If a person becomes aware of any actual or perceived conflict of interest during the investigation, he has a duty to inform the Head of Internal Audit who will recuse him or the investigator concerned.
22. The Director-General shall ensure that the members of the investigation team are granted the necessary time release and training for carrying out their duties.
23. The Head of Internal Audit shall communicate the decision to start an investigation, as well as the composition of the investigation team, to the Director-General, the Head of Human Resources Department and the Head of the Legal Service.

24. The investigation team receives instruction from, and reports to, only the Head of Internal Audit for any issue related to the fraud investigation.

b) Investigation

25. The investigation shall include an in-depth analysis of the fraud indicator and its surrounding circumstances. It may also include interviews, review of data, contacts with third parties, and any other measures as the investigation team deems relevant.
26. Interviewees shall be informed of the fact that they are being interviewed in the context of a fraud investigation.
27. If at any time during a fraud investigation a member of the personnel is reasonably suspected of having committed fraud, he shall be immediately notified accordingly in writing by the Head of Internal Audit. The notification shall include the subject matter of the suspected fraud.
28. At the same time, the Head of Internal Audit shall notify the Head of department of the member of the personnel reasonably suspected of having committed fraud that a fraud investigation involving a member of his department is taking place. The Head of department shall not be provided with identifying information regarding the member of personnel concerned.
29. Further to paragraphs 27 and 28, once a member of the personnel is no longer suspected of having committed fraud, the Head of Internal Audit shall notify him that he is no longer the subject of the fraud investigation and shall notify the Head of department concerned that the investigation no longer involves a member of his department.
30. Prior to any (further) interviews by the investigation team of a member of the personnel suspected of having committed fraud, he shall be notified in writing that he is entitled to be accompanied by a member or former member of the personnel who is not a party to the investigation.
31. In connection with a fraud investigation, the Director-General shall ensure that the Head of Internal Audit has authorized access to all relevant records, property and personnel of the Organization, and shall facilitate his access to third parties. The Head of Internal Audit is responsible for liaising with the Head of the Legal Service to ensure that legal provisions are complied with in the exercise of such access.
32. All work performed as part of the investigation shall be adequately documented, and filed centrally, when possible, in its original format. Access to the fraud investigation documentation is limited to the members of the investigation team and the Head of Internal Audit.

33. Notwithstanding the foregoing, the Head of Internal Audit may share documentation with other services concerned on a need-to-know basis only and shall keep a record of all shared documentation.
34. The investigation team shall complete its investigation within 60 calendar days of the start of the investigation. This deadline may be extended once for up to 30 calendar days, upon written notification to the Head of Internal Audit. Any further extensions may be granted by the Head of Internal Audit only in exceptional circumstances and in consultation with the Head of the Legal Service and the Head of the Human Resources Department.
35. Upon completion of the fraud investigation, the investigation team shall issue a written investigation report which shall include:
 - 35.1 the statement of procedure;
 - 35.2 the list of persons interviewed (if deemed essential by the investigation team for the protection of an individual, his identity may be made anonymous);
 - 35.3 the documentation and any additional information considered in the course of the fraud investigation;
 - 35.4 the facts as established in the course of the fraud investigation;
 - 35.5 an opinion as to whether or not the facts established amount to fraud and to whom such acts are attributable. In case the opinions of the members of the investigation team differ, their respective opinions shall be presented in the investigation report.
36. Within 15 calendar days of receipt of the investigation report, the Head of Internal Audit shall send it, with his comments if any, to the Director-General with a copy to the Head of the Human Resources Department and the Head of the Legal Service.

IV. PROCEDURES FOLLOWING CONCLUSION OF THE FRAUD INVESTIGATION PROCESS

37. Within 30 calendar days of receipt of the investigation report, the Director-General shall decide, on the basis of the report, whether or not to pursue disciplinary action under Chapter VI, Section 2 of the Staff Rules and Regulations, administrative action, and/or legal action. If the Director-General decides to pursue disciplinary action, the matter shall be referred to the Head of the Human Resources Department.
38. Within 5 calendar days of his decision, the Director-General shall notify in writing the following persons of the relevant facts established in the course of the investigation and the opinion(s) set out in the investigation report, as well as the Director-General's conclusions thereon:
 - The Head of Internal Audit;
 - The Head of the Human Resources Department;

- The Head of the Legal Service;
 - The Head(s) of the department(s) notified under paragraph 28;
 - The member(s) of the personnel suspected of having committed fraud;
 - If relevant, the home institution(s) of any such member(s) of the personnel.
39. If, as the result of the fraud investigation, a person who is not a member of the personnel is implicated as having committed fraud, the Director-General shall insure that measures are taken as are appropriate to protect the interests of the Organization and that the person's employer is notified, with a request for appropriate action.
40. The investigation report shall form the basis for fact finding in disciplinary and/or settlement of dispute procedures under Chapter VI of the Staff Rules and Regulations.
