

# Rules of Procedure of the European Insurance and Occupational Pensions Authority

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## **DECISION**

### **ADOPTING THE RULES OF PROCEDURE**

#### **OF THE EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY**

The Board of Supervisors of the European Insurance and Occupational Pensions Authority,

Having regard to Regulation (EU) No 1094/2010 of the European Parliament and the Council<sup>1</sup>,

Has decided to adopt the following Rules of Procedure:

#### **RULES OF PROCEDURE OF THE EUROPEAN INSURANCE AND OCCUPATIONAL PENSIONS AUTHORITY**

##### *Article 1*

##### ***Composition and committees***

1. The European Insurance and Occupational Pensions Authority (EIOPA) shall comprise:
  - a) a Board of Supervisors, which shall operate in accordance with its Rules of Procedure<sup>2</sup>;
  - b) a Management Board, which shall operate in accordance with its Rules of Procedure<sup>3</sup>;
  - c) a Chairperson, who shall operate in accordance with Article 2; and
  - d) an Executive Director, who shall operate in accordance with Article 4.
2. The staff of EIOPA shall operate in accordance with Article 11.
3. EIOPA shall participate in the two joint bodies of the three European Supervisory Authorities, i.e. the Joint Committee and the Board of Appeal.
4. EIOPA shall establish a Proportionality Advisory Committee in accordance with Article 1(7) of Regulation (EU) No 1094/2010.

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<sup>1</sup> Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010, p.48).

<sup>2</sup> Rules of Procedure of the Board of Supervisors available at: <https://eiopa.europa.eu>.

<sup>3</sup> Rules of Procedure of the Management Board available at: <https://eiopa.europa.eu>.

5. EIOPA shall establish the Committee on Consumer Protection and Financial Innovation, as referred to in Article 9(4) of Regulation (EU) No 1094/2010 and may establish further internal committees in accordance with Article 41 of Regulation (EU) No 1094/2010.
6. EIOPA shall establish ad hoc peer review committees in accordance with Article 30(2) of Regulation (EU) No 1094/2010.
7. In accordance with Article 1(2) of Regulation (EU) No 1094/2010, EIOPA shall ensure that it is appropriately represented in, and contributes to the work of the permanent internal committee on anti-money laundering and countering terrorist financing established by the European Banking Authority (EBA) under Article 9a(7) of Regulation (EU) No 1093/2010. EIOPA shall involve the Board of Supervisors where EIOPA has to decide on its agreement in accordance with Article 9a(9) of Regulation (EU) No 1093/2010.

## *Article 2*

### **Chairperson**

#### **Appointment and term of office**

1. The Chairperson shall be appointed by the Council in accordance with the first subparagraph of Article 48(2) of Regulation (EU) No 1094/2010.
2. The Chairperson's term of office shall be five years and may be extended once in accordance with Article 48(3) of Regulation (EU) No 1094/2010.
3. The Chairperson may be removed from office by the Council subject to the second subparagraph of Article 48(2) and Article 48(5) of Regulation (EU) No 1094/2010.

#### **Tasks**

4. The Chairperson shall represent EIOPA.
5. The Chairperson shall participate in the meetings of the European Systemic Risk Board (ESRB), the Joint Committee and in the Sub-Committee on Financial Conglomerates.
6. The Chairperson shall be responsible for preparing the work of the Board of Supervisors, including setting the agenda to be adopted by the Board of Supervisors, convening the meetings and tabling items for decision.
7. The Chairperson shall chair the meetings of the Board of Supervisors and shall have the right to vote on all decisions except on the decision referred to in the second subparagraph of Article 44(1) of Regulation (EU) No 1094/2010.
8. The Chairperson shall be responsible for setting the agenda of the Management Board, shall chair the meetings of the Management Board and shall have the right to vote in these meetings.
9. The Chairperson shall chair the meetings of the Joint Committee on an annual rotation basis with the chairpersons of the other ESAs.
10. The Chairperson shall designate a replacement from among the available alternates of the members of the Board of Appeal in case of conflicts of interest.

11. Subject to Article 41(2)-(4) of Regulation (EU) No 1094/2010, the Chairperson shall propose a decision to the Board of Supervisors to convene an independent panel composed of candidates listed in the common pool established by the Board of Supervisors in accordance with 2(6) of the Rules of Procedure of the Board of Supervisors.
12. The Chairperson shall in accordance with Article 3(4) of Regulation (EU) No 1094/2010 participate in a hearing before the European Parliament on the performance of EIOPA and shall make a statement before the European Parliament and answer any questions put by it, whenever so requested.
13. The Chairperson shall report in writing on the activities of EIOPA to the European Parliament when requested and at least 15 days before making the statement referred to in paragraph 12. The Report shall include all information referred to in Articles 11 to 18 and Articles 20 and 33 of Regulation (EU) No 1094/2010, and any relevant information requested by the European Parliament on an ad-hoc basis.
14. The Chairperson shall, upon request, hold confidential oral discussions behind closed doors with the Chair, Vice-Chairs and Coordinators of the competent committee of the European Parliament, as provided for in Article 3(8) of Regulation (EU) No 1094/2010.

### *Article 3*

#### ***Vice-Chairperson***

1. The Vice-Chairperson shall be elected by the Board of Supervisors from among the Members of the Board of Supervisors who are not Members of the Management Board.
2. The Vice-Chairperson shall carry out the functions of the Chairperson in his/her absence.
3. The Vice-Chairperson shall carry out the tasks of the Chairperson for the purpose of the evaluation made by the Board of Supervisors under Article 48(4) of Regulation (EU) No 1094/2010.
4. The term of the Vice-Chairperson shall be five years unless elected to fill a vacancy in the office in which case it shall be the remainder of the predecessor's term. The term of office shall in any event expire on this person ceasing to be a Member of the Board of Supervisors. The term of office may be renewed once.

### *Article 4*

#### ***Executive Director***

##### **Appointment and term of office**

1. The Executive Director shall be appointed by the Board of Supervisors in accordance with Article 51(2) of Regulation (EU) No 1094/2010.
2. The Executive Director's term of office shall be five years and may be extended once. He/she may be removed from office only upon a decision of the Board of Supervisors.

##### **Tasks**

3. The Executive Director shall be in charge of the management of EIOPA.
4. The Executive Director shall prepare the work of the Management Board.

5. The Executive Director shall participate as an observer in the meetings of the Board of Supervisors, the Management Board and the Joint Committee without the right to vote.
6. The Executive Director shall be responsible for implementing the annual work programme of EIOPA under the guidance of the Board of Supervisors and under the control of the Management Board.
7. The Executive Director shall take the necessary measures, notably the adoption of internal administrative instructions and the publication of notices, to ensure the functioning of EIOPA, in accordance with Regulation (EU) No 1094/2010.
8. The Executive Director shall prepare a multi-annual work programme in accordance with Article 53(4) of Regulation (EU) No 1094/2010.
9. Each year, by 30 June, the Executive Director shall prepare a work programme for the following year, as referred to in Article 53(5) of Regulation (EU) No 1094/2010.
10. Each year, the Executive Director shall draw up a provisional draft single programming document of EIOPA for the three following financial years setting out estimated revenue and expenditure, as well as information on staff, from its annual and multi-annual programming and shall forward it to the Management Board and the Board of Supervisors, together with the establishment plan, pursuant to Article 63 of Regulation (EU) No 1094/2010.
11. The Executive Director shall act as authorising officer and shall implement EIOPA's budget pursuant to Article 64 of Regulation (EU) No 1094/2010.
12. The Executive Director shall send the final accounts of EIOPA for an opinion, to the Board of Supervisors.
13. The Executive Director shall send the Court of Auditors a reply to the latter's observations by 30 September. He/She shall also send a copy of that reply to the Management Board and the Commission.
14. The Executive Director shall submit to the European Parliament, at the latter's request and as provided for in Article 261(3) of the Financial Regulation, any information necessary for the smooth application of the discharge procedure for the financial year in question.
15. Each year the Executive Director shall prepare a draft report with a section on the regulatory and supervisory activities of EIOPA and a section on financial and administrative matters.
16. The Executive Director shall exercise in respect to EIOPA's staff the powers laid down in Article 68 of Regulation (EU) No 1094/2010 and manage staff matters.

#### *Article 5*

##### ***Joint Bodies of the European Supervisory Authorities***

1. The Joint Bodies of the three European Supervisory Authorities are:
  - a) the Joint Committee
  - b) the Board of Appeal

that shall operate according to their own Rules of Procedure.

2. EIOPA, together with EBA and ESMA, shall ensure adequate operational and secretarial support for the Joint Committee and the Board of Appeal.
3. EIOPA, together with EBA and ESMA, shall contribute adequate resources to administrative, infrastructure and operational expenses.

#### *Article 6*

##### ***Legal instruments of EIOPA***

1. EIOPA's draft technical standards shall be submitted for adoption by the Board of Supervisors and, when adopted, submitted to the Commission for endorsement, and to the European Parliament and Council for information.
2. EIOPA's guidelines and recommendations addressed to competent authorities or financial institutions shall be submitted for adoption by the Board of Supervisors.
3. EIOPA's opinions shall be submitted for adoption by the Board of Supervisors or by the Management Board in accordance with their respective tasks, and notified to the parties concerned.
4. EIOPA's warnings issued under Article 9(3) of Regulation (EU) No 1094/2010 shall be submitted for adoption by the Board of Supervisors.
5. EIOPA's decision to temporarily prohibit or restrict certain financial activities, issued under Article 9(5) of Regulation (EU) No 1094/2010, shall be submitted for adoption by the Board of Supervisors.
6. EIOPA's individual recommendations addressed to a competent authority, as referred to in Articles 16(1), 17(3), 21(2) point (b) thereof, and Article 22(4) of Regulation (EU) No 1094/2010, shall be submitted for adoption by the Board of Supervisors and, when adopted, notified to the parties concerned. The recommendation under Article 17 shall be notified to the parties concerned in their official language.
7. EIOPA's individual decisions addressed to a financial institution, as referred to in Articles 17(6), 18(4) and 19(4) of Regulation (EU) No 1094/2010 shall be submitted for adoption by the Board of Supervisors and notified to the parties concerned in their official language.
8. EIOPA's individual decisions addressed to a competent authority, as referred to in Article 18(3) of Regulation (EU) No 1094/2010, shall be submitted for adoption by the Board of Supervisors and, when adopted, notified to the parties concerned in their official language.
9. EIOPA's binding mediation decisions addressed to competent authorities, as referred to in Articles 19(3) and 21(4) of Regulation (EU) No 1094/2010 shall be submitted for adoption by the Board of Supervisors and, when adopted, notified to the parties concerned in their official language.
10. EIOPA's opinions addressed to a competent authority in non-binding mediation, as referred to in Article 31(2)(c) of Regulation (EU) No 1094/2010, shall be submitted for adoption by the Board of Supervisors and, when adopted, notified to the parties concerned.

11. EIOPA's measures referred to in Article 9a of Regulation (EU) No 1094/2010 shall be submitted for adoption by the Board of Supervisors.
12. EIOPA actions requested under Article 16b(4) of Regulation (EU) No 1094/2010, concerning questions and answers shall be decided upon by the Board of Supervisors.
13. EIOPA's practical instruments and convergence tools referred to in Article 29(2) of Regulation (EU) No 1094/2010 shall be adopted by the Board of Supervisors.
14. EIOPA's recommendations referred to in Article 29a of Regulation (EU) No 1094/2010 shall be adopted by the Board of Supervisors.
15. EIOPA's follow-up measures referred to in Article 30(4) of Regulation (EU) No 1094/2010 shall be adopted by the Board of Supervisors.

#### *Article 7*

##### **Remedies**

1. Appeals received against decisions of EIOPA, as referred to in Articles 60 and 72(3) of Regulation (EU) No 1094/2010, shall immediately be communicated to the President of the Board of Appeal.
2. EIOPA shall publish on its website the decisions taken by the Board of Appeal.

#### *Article 8*

##### **Code of Conduct**

When carrying out the tasks conferred upon them by Regulation (EU) No 1094/2010, and, - where relevant - after leaving services, the Chairperson, the Members and Observers of the Board of Supervisors, the Management Board, the Executive Director, and each staff member of EIOPA or member of an Internal Committee, or Panel of EIOPA shall:

- (a) act in accordance with the independence requirements laid down in Articles 42, 46, 49 and 52 of Regulation (EU) No 1094/2010, as relevant;
- (b) be subject to the requirements of professional secrecy and confidentiality laid down in Article 70 of Regulation (EU) No 1094/2010, and to EIOPA's Rules of Procedure implementing Article 70;
- (c) be subject to EIOPA's anti-fraud measures and to EIOPA's Code of Good Administrative Behaviour<sup>4</sup>;
- (d) comply with EIOPA's internal rules concerning the classification and protection of EIOPA information and documents.

#### *Article 9*

##### **Public Relations Work and Transparency**

1. EIOPA shall fulfil its tasks in a spirit of openness and transparency in accordance with Article 8(1)(ka) of Regulation (EU) No 1094/2010, subject to Union legislation and EIOPA's Rules of Procedure concerning professional secrecy and confidentiality, and public access.

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<sup>4</sup> Decision of the Management Board on EIOPA Code of Good Administrative Behaviour, available at: <https://eiopa.europa.eu>.

2. EIOPA shall publish an annual work programme for each accounting year.
3. EIOPA shall publish its legal instruments on its website in accordance to the provisions of Article 8(1)(ka) of Regulation (EU) No 1094/2010.
4. EIOPA shall use appropriate processes for consulting market participants, consumers and end users in accordance to its internal procedures on consultation practices.
5. For the purpose of facilitating consultation with stakeholders in areas relevant to the tasks of EIOPA, an Insurance and Reinsurance Stakeholder Group and an Occupational Pensions Stakeholder Group shall be established (the Stakeholder Groups). The two Stakeholder Groups shall operate according to their own Rules of Procedure to be published on EIOPA's website.

#### *Article 10*

#### **Language Arrangements**

EIOPA's internal working language shall be English<sup>5</sup>.

#### *Article 11*

#### **EIOPA Staff**

1. Each member of staff of EIOPA shall be informed about his/her position, reporting line and professional responsibilities. EIOPA's staff policy plan and the necessary implementing measures in accordance with Article 110 of the Staff Regulations of Officials of the European Communities, shall be adopted by the Management Board.
2. Staff matters shall be managed by the Executive Director in accordance with Article 53(8) of Regulation (EU) No 1094/2010.

#### *Article 12*

#### **Transitional Provisions**

1. All agreements, standards, protocols, commitments and work agreed within the Conference of Insurance Supervisory Authorities of the Member States and within the Committee of European Insurance and Occupational Pension Supervisors (CEIOPS) before these Rules of Procedure came into effect, remain in full force and effect – unless repealed – for the Competent Authorities for which they were applicable on 31.12.2010. With regard to the Competent Authorities as referred to in Article 2(2) of Regulation (EU) No 1094/2010 for which the above-mentioned measures were not applicable before these Rules of Procedures came into effect, the 'comply' or 'explain' principle of Article 16(3) of Regulation (EU) No 1094/2010 shall apply.
2. The mandates of the Stakeholder Groups, in place on 01.01.2020, shall cease on the date on which new Stakeholder Groups are constituted in accordance with Article 37 of Regulation (EU) No 1094/2010.

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<sup>5</sup> Decision of the Management Board on Internal Language Arrangements, available at: <https://eiopa.europa.eu>.

*Article 13*

***Entry into force***

These Rules of Procedure shall enter into force on the date of their adoption and shall replace Decision (EIOPA-BoS-11/003) of the Board of Supervisors on the Rules of Procedure of EIOPA.

Done at Frankfurt am Main, on 15 January 2020.

For the Board of Supervisors

Gabriel Bernardino

Chairperson