

Rules of Procedure of the Inquiry Panel of the European Insurance and Occupational Pensions Authority



DECISION
ADOPTING THE RULES OF PROCEDURE OF THE INQUIRY PANEL
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 of the Council¹, (the “Regulation”), in particular Article 22(4), Article 41(4) and (5), and the first and fourth subparagraph of Article 44(1) thereof,

Having regard to the Decision of the EEA Joint Committee No 200/2016 of 30 September 2016 amending Annex IX (Financial Services) to the EEA Agreement (2017/277)²,

Whereas:

- (1) In accordance with the abovementioned provisions of the Regulation, EIOPA needs to provide for suitable rules of procedure arranging for the processing of inquiry requests, the setup process concerning an independent panel to conduct the inquiry, the inquiry procedure, the involvement of entities concerned where appropriate, including any recommended action under the inquiry outcome adopted by the Board of Supervisors.
- (2) If an inquiry needs to be conducted into a particular type of financial institution based in, type of product marketed in, or type of conduct practiced in an EEA EFTA State (“EEA EFTA scope”), the inquiry process has to take into account the role of the EFTA Surveillance Authority and the competent authorities of the EEA EFTA States pursuant to the Decision of the EEA Joint Committee No 200/2016.

Has decided as follows:

CHAPTER I
General Provisions

Article 1 - Tasks of the Panel

These Rules of Procedure regulate the setting-up and functioning of an independent inquiry panel and relevant process for conducting an inquiry into a particular type of financial institution or type of product or type of conduct in order to assess potential threats to the stability of the financial

¹ 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).

² OJ L 46, 23.02.2017, p. 13.

system or to the protection of customers or consumers under Article 22(4) of the Regulation (the “Panel”).

Article 2 – Request, initial assessment and preliminary enquiry

1. An inquiry may be launched:
 - (a) upon request lodged with EIOPA electronically or in writing by one of the following persons:
 - (i) one or more competent authorities,
 - (ii) the European Parliament,
 - (iii) the Council,
 - (iv) the Commission; or
 - (b) on EIOPA’s own initiative.
2. The request shall detail the reasons for the need to conduct an inquiry and provide evidence supporting the reasons, where available.
3. The Chairperson shall verify that the relevant legal requirements to launch an inquiry are met and decide whether to accept the request (admissibility). In deciding whether to accept the request, the Chairperson shall in particular refuse requests, which: (a) are outside the scope of Article 22(4) of the Regulation; (b) unreasoned; (c) have already been appropriately addressed through EIOPA’s recent activities; or (d) are subject to ongoing proceeding with identical or similar scope.
4. The Chairperson may run a preliminary enquiry. To this end, the Chairperson may invite the concerned entities to provide information within a specified timeline, and may use any of the powers conferred on EIOPA under the Regulation, including Article 35 thereof.
5. The Chairperson may close the request without launching an inquiry where he/she considers that (a) the request is inadmissible or (b) the request is admissible but launching an inquiry is inappropriate as it is more suitable to deal with the request by other legal means available to EIOPA.

CHAPTER II Inquiry

Article 3 - Composition and appointment of the Panel

1. If the Chairperson decides to launch an inquiry, he/she shall propose a decision to convene a Panel and shall arrange for its establishment.

2. In accordance with the requirements set out in Article 41(4) of the Regulation, the Panel shall consist of the Chairperson and six other members. If a Panel member is not able to participate in the Panel, the Chairperson shall arrange for replacement subject to the requirements listed in this paragraph.
3. When the Chairperson convenes the Panel for the purposes of a particular inquiry, he/she shall inform the Panel of the scope of the request, the entities concerned and the preliminary enquiry outcome, if any. The members of the Panel shall inform the Chairperson of any impediments to their participation in the Panel for the purpose of conducting an independent inquiry.
4. Taking into account the subject and scope of the inquiry, the Panel may consult if necessary relevant EIOPA committees and working groups.
5. The Chairperson shall inform the requesters of its reasoned decision regarding the launch of the inquiry.

Article 4 - Panel decision-making

Panel's decisions on the inquiry outcome to be presented to the Board of Supervisors shall be adopted where at least four of the Panel's members vote in favour of the decision. Each member of the Panel shall have one vote. No abstention shall be allowed.

Article 5 – Inquiry conduct

1. The Panel shall set a deadline to conduct the inquiry and may require the concerned entities to provide the relevant information and summon them to participate in its meetings, and may use any of the powers conferred on EIOPA under the Regulation, including Article 35 thereof.
2. The Panel shall present the outcome of the inquiry conducted under Article 22(4) to the Board of Supervisors.
3. Before presenting the outcome of the inquiry to the Board of Supervisors, the Panel shall inform the competent authorities concerned thereof if the outcome contains a recommended action to them and set a time limit within which the competent authorities concerned may express their views on the matter. The time limit shall take full account of the urgency, complexity and potential consequences of the matter.
4. The panel's proposal of the inquiry outcome to the Board of Supervisors shall:
 - (a) state the identity of the addressees that are concerned by the scope of the inquiry outcome;
 - (b) state the reasons on which it is based;

- (c) if appropriate, recommend a specific action to the addressees and inform them of the legal remedies available under the Regulation;
- (d) set a deadline within which the addressees shall report on their compliance with the recommended action;
- (e) set out the views expressed by the entities concerned if available.

Article 6 – Adoption of the inquiry outcome

The Board of Supervisors shall adopt the inquiry outcome, included the recommended action pursuant to the first subparagraph of Article 44(1) of the Regulation. The inquiry outcome, included the recommended action, shall be notified to the entities concerned.

Article 7 – Inquiry with an EEA EFTA scope

1. These Rules of Procedure shall apply to inquiries under Article 1, with an EEA EFTA scope, subject to the following modifications:
 - (a) A reference to Union acts shall apply to the extent that those acts are incorporated into the EEA Agreement and taking into account any adaptations made.
 - (b) Request for an inquiry shall be sent to the EFTA Surveillance Authority, which shall without delay forward such request to EIOPA accompanied by information regarding the relevant legal requirements of Union acts as incorporated into the EEA Agreement.
 - (c) The Chairperson shall inform the EFTA Surveillance Authority without delay of requests with an EEA EFTA scope, made by a requestor under Article 2(1).
 - (d) For the purposes of Article 2, the EFTA Surveillance Authority shall be an observer to the Panel.
 - (e) For the purposes of Article 5(3), the Chairperson shall:
 - (i) inform the EFTA Surveillance Authority that the Panel intends to present an inquiry outcome to the Board of Supervisors;
 - (ii) set a time limit within which the EFTA Surveillance Authority shall allow any competent authority concerned, which is the addressee of the recommended action under the inquiry outcome to express its views on the matter. The time limit shall take full account of the urgency, complexity and potential consequences of the matter.
2. For the purposes of Article 6, the Panel shall submit its draft inquiry outcome to the Board of Supervisors for adoption. EIOPA shall without undue delay submit the draft adopted by the Board of Supervisors to the EFTA Surveillance Authority or inform the EFTA

Surveillance Authority if the draft could not be adopted.

CHAPTER III
Ancillary provisions

Article 8 – Confidentiality

1. The rules governing confidentiality in accordance with Article 70 of the Regulation and EIOPA's rules on professional secrecy which lay down practical arrangements for the implementation of the Regulation shall apply to any person involved in the proceedings of the Panel.
2. A request may be made to the Panel for the confidential treatment of a document or any information contained in a document to be filed in connection with the inquiry conducted by the Panel.
3. In determining the request, the Panel shall have regard as appropriate to the relevant provisions of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

Article 9 - Monitoring and compliance

The Chairperson shall take any necessary steps to monitor whether addressees of recommended action under the adopted inquiry outcomes comply and report regularly to the Board of Supervisors.

Article 10 - Reporting of the Panel's activities

1. The Panel shall report periodically to the Board of Supervisors on its activities. Such reports shall not identify the entities concerned unless this fact is publicly available by ways of legal means.
2. EIOPA's annual report referred to in Article 53(7) of the Regulation shall state in a summary form the scope of the inquiry and the recommended action therein, as approved by the Board of Supervisors.

Article 11 – Communications

Competent authorities and entities concerned shall be invited to agree to written and oral communications being in the working language of EIOPA for the purposes of the conciliation and decision-making phases under these Rules of Procedure where possible.

Article 12 – Miscellaneous

1. These rules of procedure and any supplementary internal rules, forms and guides shall be published on EIOPA's website.
2. These rules of procedure shall enter into force the day after their adoption.

Done at Frankfurt am Main, on 31 January 2020

For the Board of Supervisors
Gabriel Bernardino
Chairperson
[signed]