



EIOPA-MB-13-055-rev1
23 September 2014

**Decision of the Management Board
Adopting a Policy on Independence and Decision Making Processes for
avoiding Conflicts of Interest (Conflict of Interest Policy) for Non-Staff¹**

The Management Board of EIOPA,

Having regard to:

Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority)², (hereinafter "EIOPA") and in particular Articles 42, 46 and 70 thereof;

The Staff Regulations of Officials and the Conditions of Employment of other Servants of the European Union³, and in particular Article 16 thereof;

Whereas:

- (1) Independence and high standards of professional conduct by all those involved in the activities of EIOPA are crucial for EIOPA's excellence and reputation;
- (2) Transparency and openness are essential to ensure public confidence;
- (3) The responsibility for declaring any interest that might be considered prejudicial to their independence can only be placed on the individuals themselves;
- (4) High quality of expertise is by nature based on prior experience and knowledge acquired in the relevant domain.
- (5) Some of those interests may however conflict with EIOPA's objectives and responsibilities;

¹ Staff members are subject to similar Rules

² OJ L 331, 15.12.2010, p.48

³ Staff Regulations and conditions of employment replaced the Staff Regulations of officials and the conditions of employment of other servants of the European Economic Community and the European Atomic Energy Community laid down by Council Regulations No 31 (EEC) and No 11 (EAEC) of 18.12.1961 (OJ 45, 14.6.1962 - Special Edition 1959-62, November 1972), as last amended.

- (6) In order to ensure a coherent level of detail in the declarations of interests, a set of activities that might cause potential conflict of interests (CoI) should be defined;
- (7) Any CoI should be promptly identified, handled and mitigated without delay. To this end, a system of declaration of interests and their subsequent screening and evaluation is required;
- (8) To ensure consistent reporting and evaluation, a set of comprehensive declarations should be used;
- (9) A transparent procedure should be followed by establishing inter alia the following aspects:
 - a) Guidelines to the Chair, the Management Board, the Board of Supervisors and EIOPA's Ethics Officer performing the screening and evaluation of declarations of interest;
 - b) Transparent consequences linked to the interests declared.
- (10) Regulation (EC) No 1094/2010 requires EIOPA to establish and maintain an efficient and fruitful cooperation with bodies active within the European System of Financial Supervision. Without prejudice to the responsibility of each competent authority for the appointment of their representatives, including in relation to preventing CoI, it is therefore appropriate to establish a dedicated set of rules enabling EIOPA to foster strong and independent decision making as well as a real and effective network of organisations active within its remit.

Has adopted the following DECISION:

TITLE I - GENERAL PRINCIPLES AND INTERESTS TO BE DECLARED

SECTION I - GENERAL PRINCIPLES

Article 1 – Scope and definitions

1.1. The present decision is applicable to:

- a) The Voting Members and Common Representatives of the Board of Supervisors⁴;
- b) The members of the Management Board⁵;
- c) The Observers (heads of national competent authorities of the non-EU Member States of the EEA and the representatives of COM, ESRB, EBA, ESMA) and the officially nominated Alternates of the Board of Supervisors and the officially nominated Alternates of the Management Board;
- d) Any other observer invited to the meetings of the Board of Supervisors or Management Board.

As the Conflict of Interest Policy for EIOPA Staff (EIOPA-13-480) is applicable to the Chair and the Executive Director of EIOPA, the present decision is not applicable to them.

1.2. For the purposes of this decision:

- a) Interest means the relation of being objectively concerned in something, e.g. by having a right or title thereto, a claim thereupon, or a share therein, falling within fields of competence of EIOPA that creates, or has the potential to create a CoI;
- b) Interests of close family member means interests (as defined above) held by partners or persons dependent on the individual subject to this Decision (spouse/partner/dependent family member);
- c) A CoI means a conflict between the public duty of EIOPA and private interests of an individual or interests of his/her close family members, in which an individual has private-capacity interests which could improperly influence the performance of his/her official duties and responsibilities⁶ or could compromise his/her impartiality, objectivity or independence;
- d) Forum means any type of participation in EIOPA's Management and Board of Supervisors' activities (meetings, written procedure, ...);

⁴ See BoS Rules of Procedure, Article 1

⁵ See MB Rules of Procedure, Articles 1 and 4

⁶ Definition based on the OECD definition, as published in "Managing conflict of interest in the public service" (ISBN 92-64-10489-5, OECD 2003)

- e) Financial institutions falling under EIOPA's scope of action means any financial institutions as defined in Article 4(1) of Regulation (EU) No 1094/2010.
- 1.3. For the purposes of this decision the following interests shall be considered as a source of CoI, actual or potential, (non-exhaustive list):
- a) Economic interest meaning any economic stake or share in a body, in particular in any financial institutions that are under EIOPA's scope of action (as defined in Article 1(2) and (3) of EIOPA Regulation), including the stocks, equities or bonds thereof, or of one of its subsidiaries or of a company in which it has a holding. This does not include personal insurance policies or deposits contracted as a regular customer;
 - b) Member of a managing body or equivalent structure, other than the parties of the ESFS⁷, meaning any participation in an internal decision-making body (e.g. board membership, directorship) of a public or private entity carrying out any of the activities falling under scope of action (as defined in Article 1(2) and (3) of EIOPA Regulation), or a trade association of such persons;
 - c) Employment or consultancy meaning any form of regular, occasional or ad hoc occupation or business, part-time or full-time, paid or unpaid, including self-employment in or to any legal or natural person carrying out any of the activities scope of action (as defined in Article 1(2) and (3) of EIOPA Regulation), or a trade association of such persons. This includes also services provided on an honorary basis (i.e. for free or without the payment of fees or emoluments) and any advice related to products, their development and/or assessment methods thereof;
 - d) Intellectual property rights meaning rights on the subject matter granted to creators and owners of works that are the result of human intellectual creativity⁸ and may lead to a financial gain;
 - e) Other memberships or affiliations meaning any membership or affiliation not falling under the definitions provided above and relevant for the purposes of the present decision, to anybody with an interest in the subject matter, including professional organisations.
- 1.4. In addition to the interests defined under Article 1.3. above of the present Decision, and as stipulated in Article 70(1) of the EIOPA Regulation, the individuals identified in Article 1.1.a) and b), shall inform EIOPA about prospective employment.

⁷ Defined in Article 2(2) of the EIOPA Regulation

⁸ E.g. patents, trademarks *et cetera*.

Article 2 – General principles of declarations and assessment of interests

- 2.1. EIOPA applies the principle that individuals are informed of their obligations vis-à-vis the declaration of CoI and the risks attached to not declaring them. EIOPA will ensure individual awareness through adequate information on the subject of CoI.
- 2.2. It is the obligation of the individual to provide the information of the existence of the potential or existing conflict, including the ones of a close family member, to EIOPA in the first place, for EIOPA to assess the related risk.
- 2.3. The following general principles shall be applicable to all persons subject to this Decision:
 - a) The responsibility for a complete and truthful declaration shall lie exclusively with the person completing the declaration.
 - b) The identification and handling of CoI as defined in Article 1 shall be based on the evaluation of the following declarations, submitted by the concerned persons as specified in the present decision:
 - The general declaration on confidentiality and commitment whereby the person declares having read the present document, and confirms his/her awareness of his/her obligations (Declaration of Intention; Annex I);
 - The Declaration of Interests or DoI (Annex II);
 - c) Only interests/activities from the two years preceding the submission of the declaration shall be declared.

SECTION II - DECLARATIONS

Article 3 – Declaration of Intention

- 3.1. Upon their appointment, the individuals identified in Article 1.1. shall make a declaration in writing concerning commitment and confidentiality in accordance with the template provided in Annex I to the present decision.
- 3.2. The declarations of the individuals identified under Article 1.1.a), b) and c) shall be made public via EIOPA's website.
- 3.3. Individuals identified in Article 1.1. shall continue to be bound by the terms of their declaration after the end of their involvement in EIOPA's activities.
- 3.4. Declarations shall be submitted to EIOPA's Ethics Officer.

Article 4 – Declaration of Interests (DoI)

- 4.1. The individuals identified in Article 1.1.a), b) and c) shall declare on the basis of the Declaration of Interest (DoI) (Annex II) any interest that creates a CoI as defined in Article 1.2.c) with respect to all activities in which the individuals are involved or have been involved during the two years preceding the submission of the DoI and which fall within EIOPA's scope of action (as defined in Article 1(2) and (3) of the EIOPA Regulation).
- 4.2. Individuals identified in Article 1.1.a), b) and c) shall indicate whether interests declared are Current (when activities currently exist); or they refer to a Past period (when they are no longer ongoing but have been completed during the two years preceding the submission of the DoI).
- 4.3. Details on the name of body or organisation of relevance for each declared interest shall be given. This is to be interpreted as meaning the full name, location of the seat (town and country) and nature (private or public).
- 4.4. Details on the subject matter of each declared interest shall be given, indicating the domain in which the activity is, or was, carried out and clarifying the interest and role of the concerned body or organisation in the matter and the role of the concerned person.
- 4.5. DoI shall be submitted to EIOPA's Ethics Officer.
- 4.6. DoI shall be made public via EIOPA's website.
- 4.7. The Management Board may invite the individuals identified in Article 1.1.a), b) and c) for an annual declaration to be provided within a specified time frame.

Article 5 – Ad-hoc declaration of interest

- 5.1. Where a situation of a CoI, not covered by a DoI already submitted, arises, including in the context of a meeting, the individuals identified in Article 1.1. shall inform EIOPA's Ethics Officer immediately.
- 5.2. Any ad-hoc declaration shall be recorded by EIOPA's Ethics Officer, and, where relevant, in the minutes of the meeting, together with the specific mitigating measures imposed. In addition, the DoI already submitted might be updated and submitted to the EIOPA's Ethics Officer.

Article 6 – Declaration of prospective employment

- 6.1. The individuals identified in Article 1.1.a) and b) are requested to inform EIOPA on their employment for two years following departure from EIOPA's Boards.
- 6.2. Declarations shall be submitted to EIOPA's Chair.

TITLE II - PROCEDURE FOR IDENTIFYING AND HANDLING POTENTIAL CONFLICT OF INTEREST

SECTION I – SCREENING PROCESS

Article 7 – Screening of the Declarations of Interest

- 7.1. Upon receipt, the Ethics Officer shall screen the declaration in order to assess actual or potential CoI arising in any of the categories described in Article 1.3.. The screening shall be performed according to the criteria specified under Article 8.
- 7.2. The Ethics Officer shall inform the Chair on the outcome of the screening including a proposal for a preventive measure in case of a potential CoI.

Article 8 – Criteria for the screening of Declarations

- 8.1 The Ethics Officer or in case of Article 6 the Chair in consultation with the Ethics Officer shall screen the declarations according to the following criteria:
 - a) Interests can only be assessed by considering whether the specific interests declared by a person are compatible with EIOPA's activities and interests;
 - b) In the case of an ad-hoc declaration, the assessment should take into account the context in which the declaration is made, including the items on the agenda of a meeting in which the person participates and the role and function that he or she is required to take on or perform in that context.

SECTION II - DECISION ON THE ASSESSMENT OF THE DECLARATION

Article 9 – Process for addressing declared CoI of the Management Board and the Board of Supervisors

- 9.1. Upon being informed of an actual or potential CoI of an individual identified under Article 1.1.a), b) or c) by EIOPA's Ethics Officer, the Chair shall take his/her decision with the shortest possible delay. The decision on the outcome of the screening rests with the Chair, who shall take a

decision containing appropriate measures/action to remove or adequately mitigate an identified actual or potential CoI.

- 9.2. Upon being informed of a prospective employment by an individual identified under Article 1.1.a) or b), the Chair shall, with the shortest possible delay, take a position whether or not the prospective employment is seen as a CoI from EIOPA's perspective. The relevant National Competent Authority, current employer of the declaring individual, shall, where possible, be informed about the position of the Chair prior to taking its decision on the clearance of the prospective employment.
- 9.3. The Chair may on his/her own discretion submit the complete file for decision to the Management Board if he/she deems this appropriate.
- 9.4. Any preventive measure taken to address potential CoI shall be recorded by the Ethics Officer.

Article 10 – Process regarding omissions of declarations

- 10.1. In case EIOPA is aware, or is made aware, of some information that is not consistent with, or that is missing from, the declaration of an individual and that a preliminary assessment suggests that it concerns a declarable interest, EIOPA's Ethics Officer shall seek additional information from the individual with regard to the omission. At the same time, the individual shall be requested to update the missing details of the DoI.
- 10.2. Upon completion of the update, the DoI shall be processed and screened in accordance with the present Decision.
- 10.3. The Chair may take any appropriate preventive action regarding the individual's participation in EIOPA's activities.

Article 11 – Process regarding breaches of EIOPA's rules on Declarations of Interest

- 11.1. In case the assessment of the DoI results in the identification of a breach of EIOPA's rules on CoI, EIOPA's Ethics Officer shall inform the Chair.
- 11.2. The Chair shall perform a review of the draft instruments adopted by the forum in which that person participated. The Chair shall clarify whether, and if appropriate the extent to which, that individual influenced the outputs adopted by EIOPA. The Chair shall take all the appropriate measures to address these findings.

Article 12 – Review of the decisions of Chair and/or the Management Board

- 12.1. In the case a specific complaint filed by the concerned individual on a decision taken by the Chair, the Chair shall submit the complete file to the Management Board for its review and decision.
- 12.2. In the case of a specific complaint filed by the concerned individual on a decision taken by the Management Board pursuant to Article 9.3, the Management Board shall submit the complete file to the Board of Supervisors for review and decision.

TITLE III - COMMON PROVISIONS

Article 13 – Publication and protection of personal data

- 13.1. Without prejudice to Regulation 1094/2010, EIOPA shall process all DoI pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.
- 13.2 The purpose of the data processing is to safeguard the independence of EIOPA and its constituent bodies.
- 13.4 The recipients of the DoI are the persons and bodies identified in the present Decision. Furthermore, DoI may be transferred to bodies in charge of a monitoring or inspection task in conformity with Union Law, including the European Court of Auditors, the Internal Audit Service, OLAF, the European Ombudsman and the European Data Protection Supervisor.
- 13.6 The conservation period of DoI shall be two years after the discharge for the budgetary year to which the DoI relates.
- 13.7 Data subjects with active EIOPA involvements have a right to access their Declaration of Interest and to update or correct it at any time. In case the EIOPA has knowledge of information that is not consistent with the declared interest, or in case of failure to submit a DoI, the data subject concerned will be contacted with the purpose to update the DoI on the missing information. In case an internal procedure is opened as referred to in Article 12 of this decision, the data subject will be notified.
- 13.8 Data subjects also are entitled to have recourse at any time to EIOPA's Data Protection Officer and/or to the European Data Protection Supervisor: <http://www.edps.europa.eu>.

Article 14 – Entry into force and transitional measures

14.1. The present decision replaces the Decision of the Management Board on EIOPA's Procedure on Independence and Decision Making Processes regarding Declarations of interests of 19 November 2013, and shall enter into force four months from the date of its approval by the Management Board.

Done at Frankfurt am Main, 23 September 2014

[signed]

Gabriel Bernardino

Chair of the Management Board

Overview of declarations

	To complete by:	To be published on EIOPA website:
Declarations of intention	<ol style="list-style-type: none"> 1. BoS Voting Members 2. BoS common Representatives 3. BoS Observers 4. BoS Alternates 5. MB Members 6. MB representative of the Commission 7. MB Alternates 8. Other observers in the BoS/MB 	<ol style="list-style-type: none"> 1. BoS Voting Members 2. BoS common Representatives 3. BoS Observers 4. BoS Alternates 5. MB Members 6. MB representative of the Commission 7. MB Alternates
Declarations of Interests	<ol style="list-style-type: none"> 1. BoS Voting Members 2. BoS common Representatives 3. BoS Observers 4. BoS Alternates 5. MB Members 6. MB representative of the Commission 7. MB Alternates 	<ol style="list-style-type: none"> 1. BoS Voting Members 2. BoS common Representatives 3. BoS Observers 4. BoS Alternates 5. MB Members 6. MB representative of the Commission 7. MB Alternates
Declaration of prospective employment	<ol style="list-style-type: none"> 1. BoS Voting Members 2. BoS common Representatives 3. MB Members 	None



Declaration of Intention

First Name	
Surname	
Authority/ MS	
Current EIOPA involvement	

☐ **I hereby declare that I have read EIOPA's Policy on Independence and Decision Making Processes for avoiding Conflicts of Interest (Conflict of Interest Policy) for Non-Staff [EIOPA-MB-13-055-Rev1] and on Professional Secrecy and Confidentiality [EIOPA-MB-11/008] and am aware of my obligations.**

☐ **I hereby agree and acknowledge as follows:**

1. I am subject to EIOPA Management Board Decision on Professional Secrecy and Confidentiality (EIOPA-MB-11/008) of 10 January 2011.
2. "EIOPA Activities" includes (but is not limited to) activities related to my role and responsibilities at EIOPA, including any attendance at any meeting whether or not with attendees who are not staff of EIOPA; and the production or review of any documents.
3. "Confidential Information" means all information, facts, data and any other matters of which I acquire knowledge, either directly or indirectly, as a result of my EIOPA activities whether or not contained in a document of any kind (electronic or on paper or any other medium).
4. "Third party" means any legal or natural person other than EIOPA, its staff and the parties of the ESFS⁹.

⁹ Defined in Article 2(2) of the EIOPA Regulation

5. I will treat all Confidential Information as confidential.
6. I will not disclose (or permit any other person to disclose) in any way to any third party any Confidential Information without EIOPA's prior written consent.
7. I will not use (or permit any other person to use) any Confidential Information other than for the purposes of my work in connection with EIOPA activities.
8. This undertaking shall not apply to any information that I can reasonably prove was known to me before the date of this undertaking or which becomes public knowledge otherwise than as a result of a breach of any of the above undertakings.
9. I acknowledge that improper disclosure of Confidential Information may constitute serious misconduct and I may be subject to disciplinary measures and may be required to make good, in whole or in part, any damage suffered by the Union as a result of such disclosure.
10. I acknowledge that I shall continue to be bound by the terms of my declaration after the end of my involvement in EIOPA's activities, in line with Article 70(1) of the EIOPA Regulation.
11. I acknowledge that, where improper disclosure of information is a criminal offence, I may be prosecuted for such disclosure before a court with relevant jurisdiction, which may include the court of a Member State of the Union.

I have read and understood this undertaking, and agree to its terms.

Date:	Signature:
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Please send a signed copy of this form to EIOPA's Ethics Officer
EthicsBoard@eiopa.europa.eu



Declaration of Interests

First Name	
Surname	
Authority/ MS	
Current EIOPA involvement	

- ☐ I declare that I have read the Decision of the Management Board on the Policy on Independence and Decision Making Processes for avoiding Conflicts of Interest (Conflict of Interest Policy) for Non-Staff [EIOPA-MB-13-055-Rev1] and that this declaration is truthful and complete.
- ☐ I do hereby declare on my honour that, to the best of my knowledge, the only direct or indirect interests¹⁰ that create a Conflict of Interest¹¹ as defined in Article 1.2. c) I have in respect of EIOPA's scope of action are those listed in the annex.
- ☐ Whenever I have a Conflict of Interest I will alert EIOPA.

Date:	Signature:
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¹⁰ As defined in Article 1.2, a) and b)

¹¹ As defined in Article 1.2. c) A CoI Conflict of Interest being means a conflict between the public duty of EIOPA and private interests of an individual or interests of his/her close family members, in which an individual has private-capacity interests which could improperly influence the performance of his/her official duties and responsibilities or could compromise his/her impartiality, objectivity or independence.

Please send a signed copy of this form to EIOPA's Ethics Officer
EthicsBoard@eiopa.europa.eu

Annex

In all cases, please provide as many details as possible (in the case of a body or employer, full name, location, private or public nature and your role).

Nature of conflict	Period (from /till)	Organisation	Subject matter/ Reasons why my independence may be impaired
I. Economic Interest	1. 2.		
II. Membership	1. 2.		
III. Employment or Consultancy	1. 2.		
IV. Intellectual Property Rights	1. 2.		
V. Other	1. 2.		
VI. Interests of close family members	1. 2.		