

Decision of the European Banking Authority establishing the Review Panel of the European Banking Authority

The Board of Supervisors,

Having regard to the Regulation No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending decision No 716/2009/EC and repealing Commission Decision 2009/78/EC¹, and in particular Article 30 thereof,

Whereas recital 41 of Regulation No 1093/2010 states 'peer reviews are an efficient and effective tool for fostering consistency within the network of financial supervisors. The Authority should therefore develop the methodological framework for such reviews and conduct them on a regular basis. Reviews should focus not only on the convergence of supervisory practices, but also on the capacity of supervisors to achieve high-quality supervisory outcomes, as well as on the independence of those competent authorities. The outcome of peer reviews should be made public with the agreement of the competent authority subject to the review. Best practices should also be identified and made public',

Whereas the EBA needs to establish a Review Panel, to set out its role, the objective of its work, its functioning as well as the commitment of the competent authorities to actively ensure that the Review Panel fulfils its role,

Whereas the Protocol of 15 October 2007 on CEBS Review Panel has to be repealed,

Has adopted this decision:

Article 1 Establishment of the Review Panel

This decision establishes the Review Panel of the EBA and sets out its mandate.

Article 2 Definitions

- 2.1. 'Regulation': 'Regulation' means Regulation No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC.

¹ OJ L 331, 15.12.2010, p. 12.

- 2.2. 'Board of Supervisors': 'Board of Supervisors' means the Board of Supervisors of the European Banking Authority, as defined in Article 6(1) of the Regulation.
- 2.3. 'Joint Committee': 'Joint Committee' means the Joint Committee of the European Supervisory Authorities, as referred to in Article 54 of the Regulation.
- 2.4. 'Banking Stakeholder Group': 'Banking Stakeholder Group' means the banking stakeholder group as referred to in Article 37 of the Regulation.
- 2.5. 'Competent authorities': 'competent authorities' means the authorities defined in Article 4(2) of the Regulation, including authorities from the EEA countries.

Article 3 Purpose and scope of peer reviews

- 3.1. The Review Panel shall periodically organise and conduct peer reviews of some or all of the activities of competent authorities, to further strengthen consistency in supervisory outcomes.
- 3.2. The peer reviews shall include an assessment of, but shall not be limited to:
 - (a) the adequacy of resources and governance arrangements of the competent authority, with particular regard to the effective application of the regulatory technical standards and implementing technical standards referred to in Articles 10 to 15 of the Regulation and of the acts referred to in Article 1(2) of the Regulation;
 - (b) the adequacy of resources and governance arrangements of the competent authority, with particular regard to the capacity to respond to market developments;
 - (c) the degree of convergence reached in the application of Union law and in supervisory practice, including regulatory technical standards and implementing technical standards, guidelines and recommendations adopted under Articles 10 to 16 of the Regulation, and the extent to which the supervisory practice achieves the objectives set out in Union law;
 - (d) best practices developed by some competent authorities which might be of benefit for other competent authorities to adopt;
 - (e) the effectiveness and the degree of convergence reached with regard to the enforcement of the provisions adopted in the implementation of Union law, including the administrative measures and sanctions imposed against persons responsible where those provisions have not been complied with.

Article 4 Chair, members and sub-groups of the Review Panel

- 4.1. The Chair of the Review Panel shall be appointed by the Board of Supervisors.
- 4.2. Each competent authority shall appoint one representative as a member of the Review Panel. Where the appointed member cannot attend a meeting, an alternate can attend in his/her place.

- 4.3. The Chair and the members of the Review Panel should have the necessary independence and objectivity, seniority, knowledge of the community legislation and decisions and acts adopted pursuant to the Regulation and expertise in supervisory practices in order to ensure that the Review Panel is able to fulfill its role. In case of a conflict of interest, the Chair or member should abstain from taking decision in the concrete review case.
- 4.4. The Review Panel may create sub-groups composed of members of the Review Panel or experts delegated by competent authorities if this is deemed necessary for the purpose of its work.

Article 5 Obligations of the competent authorities

- 5.1. Competent authorities shall participate in the work of the Review Panel and, in accordance with Article 35 of the Regulation, provide it with the necessary information and input. Each competent authority is responsible for the accuracy and completeness of the information provided.
- 5.2. Existing information and evaluations already made with regard to the competent authority concerned shall be taken into account.

Article 6 Methodology of the Review Panel

- 6.1. Upon proposal from the Review Panel, the Board of Supervisors of the EBA shall adopt methods to allow for objective assessment and comparison between the competent authorities reviewed.
- 6.2. Without prejudice to the methods referred to in paragraph 1, where appropriate and prior to each peer review, the Review Panel may further specify procedures and tools, taking into account the nature of the issues under review.

Article 7 Work program

- 7.1. Before the beginning of each calendar year, the Review Panel shall submit a draft work program to the Board of Supervisors for adoption.
- 7.2. The Review Panel may take into consideration the suggestions of other EBA committees and working groups, the Banking Stakeholder Group, and the Joint Committee.

Article 8 Cooperation with EBA committees and working groups

- 8.1. Where appropriate, the Review Panel may ask EBA committees and working groups to cooperate in the peer review it conducts.
- 8.2. The Review Panel may seek clarifications on the subject under review from the relevant EBA committees and working groups through their Chairs.

Article 9 Cooperation with Review Panels and other external parties

- 9.1. Where deemed appropriate or upon request of the Joint Committee, the Review Panel may cooperate with the Review Panels of the other European Supervisory Authorities, including though the conduct of joint peer reviews.
- 9.2. The Review Panel may seek information from external parties on specific issues, provided that the confidentiality of its work is appropriately safeguarded.

Article 10 Outcome of the peer reviews

- 10.1. The Review Panel shall regularly report to the Board of Supervisors on the progress of its work.
- 10.2. The Review Panel shall submit the final outcome of each peer review to the Board of Supervisors for adoption. Where appropriate, and without prejudice to Article 3, the Review Panel shall:
 - (a) signal the extent to which competent authorities apply specific supervisory provisions, achieve convergence in supervisory practices and consistency in supervisory outcomes;
 - (b) present the measures that competent authorities not applying specific supervisory provisions and not achieving consistent supervisory outcomes, intend to take to correct the situation or to adopt a more convergent supervisory practice;
 - (c) express views on specific problems encountered by individual competent authorities and recommend ways for achieving full implementation by the relevant jurisdictions, where necessary;
 - (d) signal and identify the reasons for inconsistencies or general problems in the implementation of Union law, regulatory and implementing technical standards, guidelines or recommendations, and in the implementation of commonly agreed supervisory practices and the achievement of consistent of consistent supervisory outcomes;
 - (e) recommend that work is undertaken to amend a specific supervisory provision or practice that raises significant problems in relation to the operation of the Single Market;
 - (f) describe possible best practices developed by some competent authorities which might be of benefit for other competent authorities to adopt.
- 10.3. On the basis of a peer review, the Review Panel may propose the issuance of guidelines and recommendations pursuant to Article 16 of the Regulation.

Article 11 Publication of the outcome of peer reviews

- 11.1. The EBA shall make public the best practices that can be identified from the peer review.
- 11.2. All other results of the peer review may be disclosed publicly, subject to the agreement of the competent authority that is subject of the peer review.

Article 12 Role of EBA Staff

The EBA shall support the Review Panel and its sub-groups with the staff having the relevant expertise and shall provide any other necessary resources.

Article 13 Entry into force

13.1. This decision shall enter into force on the date of its adoption.

13.2. The Protocol of 15 October 2007 on CEBS Review Panel is hereby repealed.

Done at London on 4 May 2011.

Andrea Enria
Chairperson
For the Board of Supervisors