



EBA/DC/2020/307

EBA REGULAR USE

# Decision of the European Banking Authority

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of 22-01-2020

concerning the Rules of Procedure of the Board of Supervisors

## The Board of Supervisors

1. **Having regard to** Regulation (EU) 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<sup>1</sup> (the “Regulation” and the “EBA”), in particular Article 44(3) thereof,
2. **Having regard to** the Agreement on the European Economic Area (the EEA Agreement)<sup>2</sup>, as amended by Decision of the EEA Joint Committee No 199/2016 of 30 September 2016 amending Annex IX (Financial services) to the EEA Agreement to the effect of incorporating Regulation (EU) No 1093/2010 into the EEA Agreement.

### Whereas:

- (1) The Regulation has been amended by Regulation (EU) 2019/2175<sup>3</sup> on different aspects, including in relation to the working methods of the Board of Supervisors such as the role of the Chairperson, participation by consumer authorities, default use of written procedure for the adoption of certain acts, independence requirements on members, and transparency of decisions taken.
- (2) The Regulation lays down new requirements in terms of gender balance for the Management Board’s members, who are elected by the Board of Supervisors. The report on the appointment of the Chairperson of the EBA on 1 March 2019 and the joint motion for a resolution on gender balance on 12 March 2019 in the Economic and Monetary Affairs Committee of the European Parliament have sought greater respect for gender balance within future nominations and noted that women continue to be underrepresented in executive positions in the field of banking and financial services and underlined that all EU and national institutions and bodies

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<sup>1</sup> OJ L331, 15.12.2010, p. 12.

<sup>2</sup> OJ L 1, 3.1.1994, p. 1.

<sup>3</sup> OJ L334, 27.12.2019, p. 1–145

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should implement concrete measures to ensure gender balance. It is therefore appropriate to establish rules of procedure to promote gender balance more generally when appointments are made by the Board of Supervisors.

- (3) The rules of procedure adopted in Decision EBA/DC/2011/001 (Rev 4) should therefore be replaced with a new decision.

### Has decided as follows:

## Title I – The Board of Supervisors

### Article 1 – Composition

#### Members

1. The Board of Supervisors shall be composed of the following (each a ‘Member’):
  - a. The EBA Chairperson who shall vote except on the matters specified in Article 4(4);
  - b. The heads of the national public authorities competent for the supervision of credit institutions or in his/her absence, his/her alternate (a ‘national member’):
    - i. in each EU Member State, each a voting Member;
    - ii. in each European Economic Area (‘EEA’) European Free Trade Association (‘EFTA’) Member State (each an ‘EEA EFTA Member’), each a non-voting member.
  - c. one representative of the European Commission who shall be non-voting<sup>4</sup>;
  - d. one representative nominated by the Supervisory Board of the European Central Bank, who shall be non-voting;
  - e. one representative of the European Systemic Risk Board (‘ESRB’) who shall be non-voting;
  - f. one representative of the European Securities and Markets Authority (‘ESMA’) who shall be non-voting;
  - g. one representative of the European Insurance and Occupational Pensions Authority (‘EIOPA’) who shall be non-voting; and
  - h. one representative of the EFTA Surveillance Authority who shall be non-voting.

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<sup>4</sup> Except on the matters referred to in Article 63 of the Regulation: establishment of the budget.

2. Where the national public authority referred to in paragraph 1(b) is not responsible for the enforcement of consumer protection rules, the Member referred to in that point may decide to invite one representative from the Member State's consumer protection authority, who shall be non-voting. In the case where the responsibility for consumer protection is shared by several authorities, those authorities shall agree on a common representative.

In Member States where more than one authority is responsible for the supervision according to the Regulation, those authorities shall agree on a common representative. Nevertheless, when an item to be discussed by the Board of Supervisors does not fall within the competence of the national authority being represented by a national member, that Member may bring a representative from the relevant national authority, who shall be non-voting.

In case no representative from the relevant national authority is brought by the voting Member, the voting Member shall be responsible for coordinating with that national authority to be sufficiently informed on the item to be able to carry out his functions as such. In doing so, the voting Member shall have regard to the requirement to act independently and objectively in the sole interest of the Union as a whole, in accordance with Article 42 of the Regulation.

3. Where the national member's authority is not a central bank, that member of the Board of Supervisors may bring a representative from the Member State's central bank, who shall be non-voting.
4. In discussions not relating to individual financial institutions, the representative nominated by the Supervisory Board of the European Central Bank may be accompanied by a representative of the European Central Bank with expertise on central banking tasks.
5. For the purpose of acting within the scope of Directive 2014/49/EU<sup>5</sup>, a national member may where appropriate be accompanied by a representative from the relevant bodies which administer deposit-guarantee schemes in each Member State, who shall be non-voting.
6. For the purpose of acting within the scope of Directive 2014/59/EU<sup>6</sup>, a national member may where appropriate, be accompanied by a representative from the resolution authority in each Member State, who shall be non-voting.

### Observers

7. The following observers can participate in the Board of Supervisors (each an 'Observer'):
  - a. the Chair of the Single Resolution Board;
  - b. additional observers and experts invited by the Board of Supervisors;

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<sup>5</sup> OJ L 173, 12.6.2014, p. 149.

<sup>6</sup> OJ L 173, 12.6.2014, p. 190.

- c. in accordance with Article 75(2) of the Regulation, representatives of third countries under the relevant provisions of any agreement concluded with the Union providing for such representation. Such representatives shall not attend any discussions relating to individual financial institutions, except where there is a direct interest;
  - d. following approval by the Board of Supervisors, representatives of relevant national authorities of any State which has applied for membership of the European Union, on condition that the accession negotiations have been successfully completed.
8. The non-voting Members and Observers - with the exception of the European Central Bank representative nominated by its Supervisory Board and the EEA EFTA Members or the representative of the EFTA Surveillance Authority - shall not participate in any discussions within the Board of Supervisors relating to individual financial institutions, unless otherwise provided for in Article 75(3) of the Regulation or in the acts referred to in Article 1(2) of the Regulation, except where there is a direct interest. A national central bank without a right to vote that exercises supervisory task related to the discussion shall be considered as having such direct interest.

#### Executive Director

9. The Executive Director participates in meetings of the Board of Supervisors without the right to vote.

#### Notification of documents

10. EBA staff shall maintain a list of Members and Observers and of alternates nominated in accordance with Article 5(7).
11. Members and Observers shall notify the Chairperson in writing of the email addresses to which notifications required by these rules of procedure shall be sent and shall inform the Chairperson of any necessary change.

#### Article 2 – Tasks and powers

1. The Board of Supervisors shall have the tasks specified in Article 43 of the Regulation and any other tasks provided for in Union acts.
2. The Board of Supervisors shall, in accordance with Article 45(1) of the Regulation, elect the members of the Management Board.
3. The Board of Supervisors, on its own initiative or at the request of the Chairperson, may establish internal committees for specific tasks attributed to it.
4. The Board of Supervisors, upon request from the Management Board or from the Chairperson, may establish internal committees for specific tasks attributed to the Management Board.

5. The Board of Supervisors shall, on the proposal of the Chairperson after consulting the Management Board, take decisions on the convening of independent panels for the purposes of Article 17 and Article 19 of the EBA Regulation, and on the launching of an inquiry provided for in Article 22(4) first subparagraph of the EBA Regulation and convening of an independent panel for that purpose.

### **Article 3 – Chairperson and Vice-Chairperson**

#### **Chairperson**

1. The Board of Supervisors shall draw up a shortlist of qualified candidates for the position of the Chairperson. Based on this shortlist, the Council shall adopt a decision to appoint him, after confirmation by the European Parliament.
2. Meetings of the Board of Supervisors shall be chaired by the Chairperson.
3. The Chairperson's term of office shall be 5 years and may be extended once.
4. The Board of Supervisors shall elect from among its voting Members an alternate to the Chairperson (the "Vice-Chairperson"). The Vice-Chairperson shall not be elected from amongst the members of the Management Board.

#### **Vice-Chairperson**

5. The Vice-Chairperson shall carry out the functions of the Chairperson in his/her absence or in cases where the Board of Supervisors evaluates the result achieved during the term of office of the Chairperson in accordance with Article 48(4) of the Regulation.
6. Nominations for the Vice-Chairperson shall be submitted in writing by the candidates themselves to the Executive Director no later than fifteen days before the start of the meeting of the Board of Supervisors at which the election is to take place and shall be communicated to the Board of Supervisors.
7. Candidates shall submit a brief résumé in support of their candidature at the time of their nomination.
8. The election of the Vice-Chairperson requires a simple majority of the voting members. Each member shall have one vote. The election shall be held by a secret ballot. A vote is held even if there is only one candidate. If there are more than two candidates and a simple majority is not reached, a second secret ballot shall be held between the two candidates who obtained the highest number of votes. If there were not any two candidates with the highest number of votes, ballots will be held until there are two candidates with the highest number of votes. Additional ballots shall be held until one candidate obtains a simple majority of the voting members. If a simple majority cannot be reached, a new election shall be held at the latest at the next meeting of the Board of Supervisors.

9. Elections shall normally take place at the meeting preceding the expiry of the Vice-Chairperson's term of office or the date on which the position is expected to fall vacant. Should the Vice-Chairperson prematurely terminate his/her term of office, there will be a new election in the meeting of the Board of Supervisors following the premature termination.
10. If both the Chairperson and the Vice-Chairperson are absent or unable to attend a meeting, the Members present shall elect a Member to chair the meeting.
11. The term of office of the Vice-Chairperson shall be two and a half years and may be renewed once.

#### **Article 4 – Decision making procedures**

##### **Quorum**

1. In order for the Board of Supervisors to vote, there shall be a quorum of two-thirds of the Voting Members.
2. If the quorum is not met, the Chairperson may convene an extraordinary meeting at which decisions may be taken without quorum.

##### **Voting**

3. Each voting Member, or in his/her absence, his/her alternate, shall have a right to vote.
  4. The Chairperson shall have a vote, except on the following matters:
    - a. the decisions referred to in Articles 10 to 16 of the Regulation;
    - b. measures and decisions adopted under the third subparagraph of Article 9(5): temporary prohibition or restriction of the marketing, distribution or sale of certain financial products, instruments or activities that have the potential to cause significant financial damage to customers or consumers or threaten the orderly functioning and integrity of financial market or the stability of the whole or part of the financial system in the Union in the cases specified and under the conditions laid down in the legislative acts referred to in Article 1(2) of the Regulation or, if so required, in the case of emergency situation in accordance with and under the conditions laid down in Article 18 of the Regulation;
    - c. the decisions referred to in Chapter VI (Financial Provisions).
  5. The Vice-Chairperson shall vote on behalf of the Chairperson in his/her absence whenever explicitly instructed by him.
  6. The Board of Supervisors shall proceed to a vote at the request of the Chairperson. The Chairperson has the prerogative to call for a vote at any time. Without prejudice to that power and to the effectiveness of the EBA's decision-making procedures, the Board of Supervisors shall strive for consensus when taking its decisions.
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7. Decisions of the Board of Supervisors shall be taken by simple majority of its Members unless otherwise stated. Each voting Member shall have one vote. A simple majority shall be achieved where more voting Members vote in favour of a proposal than vote against it. Abstentions shall not be counted as approvals or as objections, and will not be considered when calculating the number of votes cast.
8. With regard to regulatory technical standards, implementing technical standards, guidelines and recommendations (Articles 10 to 16 of the Regulation) and measures and decisions adopted under the third subparagraph of Article 9(5) of the Regulation and under Chapter VI of the Regulation (financial provisions), decisions of the Board of Supervisors shall be taken on the basis of a qualified majority of its members, as defined in Article 16(4) of the Treaty on European Union ('TEU') which shall include at least a simple majority of the Members present at the vote from competent authorities of Member States that are participating Member States as defined in point 1 of Article 2 of the Council Regulation (EU) No 1024/2013 ('participating Member States') and a simple majority of the Members present at the vote from competent authorities of Member States that are not participating Member States as defined in point 1 of Article 2 of the Council Regulation (EU) No 1024/2013 ('non-participating Member States').
9. A qualified majority is achieved, if there are at least 55% of the voting Members in favour, comprising at least fifteen of them and coming from competent authorities from Member States comprising at least 65% of the population of the Union. A blocking minority shall be achieved as defined in Article 16(4) of the TEU. Population figures shall be calculated using the population figures adopted by the Council of the European Union and in force at the relevant time for the purpose of adopting its own decisions by a qualified majority.
10. With regard to the composition of the panels to be convened in accordance with Article 41(2), (3) and (4) of the Regulation the Chairperson shall provide an explanation of the proposed composition of any panel including as to the relevant expertise of proposed members. The Board of Supervisors, when considering the proposal by the Chairperson, shall strive for consensus. In the absence of consensus, decisions of the Board of Supervisors shall be taken by a majority of three quarters of its voting Members. Each voting Member of the Board of Supervisors shall have one vote. Abstentions will not be counted as approvals or as objections, and will not be considered when calculating the number of votes cast.
11. With regards to the composition of the peer review committees referred to in Article 30(2) of the Regulation, Members of the Board of Supervisors shall strive for consensus. The Chairperson's proposal shall be considered approved unless the Board of Supervisors adopts a decision to reject it within 10 days by majority of three quarters of its voting members. Each voting Member shall have one vote.
12. With regard to decisions adopted under Article 18(3) and 18(4) of the Regulation the Board of Supervisors shall take decisions on the basis of a simple majority of its voting Members, which shall include a simple majority of its members from competent authorities of participating

Member States and a simple majority of its members from competent authorities of non-participating Member States.

### Written procedure

13. Where appropriate, decisions may be taken by written procedure unless at least one third of the Members of the Board of Supervisors with a right to vote object. In principle, all voting Members should express their approval (I agree), objection (I disagree) or express abstention (I abstain).
14. Abstentions shall not be counted as approval or as objections and shall not be considered when calculating the number of votes cast.
15. A proposal from the Chairperson shall be circulated to the Board of Supervisors:
  - a. stating the time and date by which votes must be cast;
  - b. stating whether a failure to vote will be considered a vote for the proposal, and whether a minimum number of votes is required;
  - c. where, exceptionally, the period for casting votes is less than five working days, giving the reason for the short period;
  - d. providing any other material considered necessary for making the decision that has not previously been provided to the Board of Supervisors.
16. A written procedure shall require normally not less than five working days for consideration by every voting member of the Board of Supervisors.
17. Votes on decisions being taken by written procedure shall be in written form.
18. Where the Chairperson has informed the Board of Supervisors that a failure to vote will be considered a vote for a proposal, if within 48 hours three or more voting Members request in writing to the Chairperson that they consider the vote in question to be of significant importance, then:
  - a. a failure to vote shall not be considered a vote for the proposal;
  - b. the time and date by which votes must be cast shall if necessary be extended to ensure a minimum of 24 hours for voting Members to vote on the revised basis; and
  - c. the Chairperson shall notify the Board of Supervisors accordingly.



19. Adoption of draft decisions prepared by the EBA Standing Committee on anti-money laundering and countering terrorist financing ('AMLSC') shall normally be adopted by the Board of Supervisors by written procedure.
20. In the cases specified in this paragraph, the general rules on written procedure shall apply except that voting Members shall have eight working days to vote and the following modifications:
  - a. With regard to the decisions taken in accordance with Articles 17 and 19 of the Regulation: the proposed decision shall be considered adopted unless a simple majority of its members from competent authorities of participating Member States or a simple majority of its Members from competent authorities of non-participating Member States objects to it. If three voting Members object to the written procedure, the draft decision shall be discussed by the Board of Supervisors and can be adopted by a simple majority of the voting Members, which shall include a simple majority of its Members from competent authorities of participating Member States and a simple majority of its Members from competent authorities of non-participating Member States.
  - b. By way of derogation, from the date when four or fewer voting Members are from competent authorities of non-participating Member States, the decision proposed shall be adopted by a simple majority of the voting Members, which shall include at least one vote from Members from competent authorities of non-participating Member States.
  - c. With regard to the decisions in accordance with Article 30 of the Regulation: the proposed decision shall be considered adopted unless a simple majority of voting Members objects. If three voting Members of the Board of Supervisors object to the written procedure, the draft decision shall be discussed and decided on by the Board of Supervisors by simple majority.
21. The result of a written procedure shall be notified without delay to the Board of Supervisors and shall be recorded in the minutes of the subsequent meeting of the Board of Supervisors.

#### Anti-money laundering and terrorist financing

22. This paragraph applies to any draft decision of the EBA internal committee on anti-money laundering and countering terrorist financing (AMLSC) based on, or connected with, the powers conferred on the EBA under Articles 9b, 17 or 19 of the Regulation and which concerns:
  - a. in relation to EIOPA, financial institutions as defined in Article 4(1) of Regulation (EU) No 1094/2010 or any of the competent authorities supervising them.
  - b. in relation to ESMA, financial market participants as defined in Article 4(1) of Regulation (EU) No 1095/2010 or any of the competent authorities supervising them.

The Board of Supervisors shall duly consider any views notified to the EBA on the draft decision by ESMA or EIOPA, as the case may be. The Board of Supervisors shall only adopt the decision in agreement with EIOPA (in case of (a) above) or of ESMA (in the case of (b) above) or where ESMA or EIOPA, as the case may be, has not notified its views within 20 days and has not requested a duly justified prolongation for notifying its views.

### Finalising documents

23. The text of acts adopted by the Board of Supervisors shall be signed by the Chairperson.

## Article 5 – Meetings

### Convening meetings

1. Meetings of the Board of Supervisors shall be convened by the Chairperson at his or her own initiative or at the request of one third of its members.
2. Meeting dates and places of future meetings shall be notified by the Chairperson to the Board of Supervisors as soon as practicable. Invitations shall be sent to email addresses notified by each Member and Observer to the Chairperson for this purpose.
3. Meetings shall normally be held at EBA's premises, unless the Board of Supervisors decides otherwise. In case the meeting place has not been decided yet, it shall be notified to the Board of Supervisors and to the Executive Director as soon as practicable.
4. The Chairperson shall prepare the work of the Board of Supervisors, including setting the draft agenda to be adopted by the Board of Supervisors and tabling items for decision. The agenda, accompanied by the relevant material for decision-making, should be forwarded to the Board of Supervisors at least 5 working days prior to a meeting. Material shall be provided as soon as practicable in urgent cases.
5. The Board of Supervisors shall meet at least four times a year.

### Attendance

6. Members shall normally meet in person. Meetings may also be held by video, telephone conference call or other technical means.
7. Each national member shall appoint, in writing, a high-level alternate from its authority, who may replace him/her in case he/her is prevented from attending.

### Minutes

8. EBA staff shall maintain a comprehensive and meaningful record of the proceedings of the meetings that enables a full understanding of the discussions, including an annotated list of decisions.

9. This record shall not reflect discussions related to individual financial institutions, unless otherwise provided for in Article 75(3) or in the acts to in Article 1(2).
10. This record shall be forwarded to Members and observers within two weeks of the meeting. Once approved by the Members, the record of the proceedings shall be signed by the Chairperson.
11. This record shall be provided to the European Parliament and published within at most six weeks from the date of the Board of Supervisors.

## Article 6 – Independence of the Board of Supervisors

### Independence

1. When carrying out the tasks conferred upon the Board of Supervisors by the Regulation, the Members shall act independently and objectively in the sole interest of the Union as a whole and shall neither seek nor take instructions from Union institutions or bodies, from any government or from any other public or private body.
2. The Chairperson shall make public all meetings held with external shareholders within a period of two weeks following the meeting and any hospitality received. Expenses shall be recorded publicly.

### Conflict of interest

3. Before any meeting, Members, their alternates, non-voting participants as well as Observers participating in the Board of Supervisors meeting and any representative from a relevant national authority shall declare the absence or existence of any interest which might be considered prejudicial to their independence in relation to any item of the agenda.
4. In case of existence of any interest in relation to any item of the agenda, the individual concerned ('conflicted individual') shall abstain from participating in the discussion of and voting upon that item. .
5. Unless a Member requests a vote on whether the conflicted individual should attend the discussion and voting, the conflicted individual may remain present for the agenda item but shall not participate in the related discussion and voting.
6. This shall not affect any right to be heard, whether pursuant to Article 39(2) of the EBA Regulation or otherwise, of a competent authority or other addressee of an EBA act, which shall be fulfilled before the act is tabled for decision.
7. Where the agenda item concerns a matter on which a right to be heard has been provided to a competent authority, the conflicted individual may present the position of that competent

authority in relation to that agenda item provided that the presentation takes place prior to, and is separate from, the discussion and voting on that agenda item.

8. Members, their alternates, Participants and Observers shall comply with the practical arrangements for implementing these rules on declaration of interest and for the prevention and management of conflict of interest set out in the Decision of the European Banking Authority on the EBA's Policy on Independence and Decision Making Processes for avoiding Conflicts of Interest (Conflict of Interest Policy) for Non-Staff.

### Confidentiality

9. All proceedings of the Board of Supervisors shall be confidential. Anyone attending shall respect their confidentiality and shall comply with EBA's rules of procedure concerning professional secrecy.
10. Individuals who provide any service, directly or indirectly, permanently or occasionally, relating to the tasks of the Authority, including officials and other persons authorised by the Management Board and the Board of Supervisors or appointed by the competent authorities for that purpose, are subject to the same requirements of professional secrecy, as specified in the EBA rules of procedures on professional secrecy for non-staff.

### Transparency

11. The decisions and minutes of meetings of the Board of Supervisors shall be subject to the provisions on access to documents in Article 72 of the Regulation and measures taken for its implementation.

### Code of conduct

12. The Board of Supervisors shall adopt and make public a code of conduct for the EBA.
13. The Chairperson, the Members and Observers, the members of the Management Board, the Executive Director and the members of staff of the EBA shall abide by the code of conduct of the EBA.

### Article 7 – Provisions for EEA EFTA Members and the EFTA Surveillance Authority

1. The competent authorities of the EEA EFTA Member States and the EFTA Surveillance Authority shall, but for the right to vote, have the same rights and obligations as the competent authorities of the EU Member States in the work of the EBA.
2. A Multilateral Memorandum of Understanding on cooperation, information exchange and consultation concluded between the EBA, EIOPA, ESMA and the EFTA Surveillance Authority shall further clarify practical arrangements of the cooperation between these authorities in relation to the application of Union law as incorporated into the EEA Agreement.

3. When carrying out the tasks conferred upon the Board of Supervisors by the Regulation, the EEA EFTA Members shall act independently and objectively in the sole interest of the EEA as a whole and shall neither seek nor take instructions from any government or from any other public or private body.

### **Article 8 – Correspondence to the Board of Supervisors**

All correspondence with the Board of Supervisors shall be addressed to EBA at its headquarters.

## **Title II – The Management Board**

### **Article 9 – Composition and Election of the Management Board**

#### **Composition**

1. The Management Board consists of the Chairperson and six members elected by and from the voting Members of the Board of Supervisors.
2. Each member other than the Chairperson shall appoint in writing an alternate, from that member's authority, who may replace the member of the Management Board if the member is prevented from attending, and vote on the member's behalf.
3. The Executive Director and a representative from the Commission shall participate in meetings of the Management Board without the right to vote. The representative of the Commission shall have the right to vote on matters referred to in Article 63 of the Regulation.
4. The Management Board shall include at least two Members of the Board of Supervisors from Member States which are non-participating Member States.
5. The composition of the Management Board shall be gender balanced and proportionate and reflect the European Union as a whole. In particular, where four members are of the same gender, calls for candidates shall prioritise candidates from the under-represented gender.
6. Whenever the Board of Supervisors is electing or appointing a candidate to any committee, panel or other body, Members shall take gender balance into consideration.

#### **Election**

7. Nominations of Members of the Management Board shall be submitted in writing by the candidates themselves to the Executive Director no later than fifteen working days before the start of the meeting of the Board of Supervisors at which the election is to take place and shall be communicated to the members of the Board of Supervisors.
8. Candidates shall submit a brief résumé in support of their candidature at the time of the nomination.
9. The Chairperson shall advise the Board of Supervisors on a balanced and reasoned composition of the Management Board. In particular, the Chairperson may, in order to ensure compliance

with the requirement in paragraph 4, limit nominations to members of the Board of Supervisors from participating Member States.

10. The election requires a simple majority of the voting members. Each member shall have one vote. Where there is an election for one position on the Management Board, the procedure as outlined under Article 3(8) shall apply. Where there is more than one vacant position on the Management Board, one voting member shall have one vote for each vacant position. Subject to the need to elect one or more candidate(s) from non-participating Member States pursuant to paragraph 5, those candidates who receive a simple majority and the highest number of votes given the positions available shall be selected. In the event of a need to elect one or more members from the non-participating Member States pursuant to paragraph 5, the candidate(s) from the non-participating Member State(s) who receive(s) the most votes shall be selected in place of the other candidates, subject to the need for a simple majority. Additional secret ballots for the remaining positions shall be held whereby one voting member shall have one vote for each of the remaining positions. In case there is one remaining position, the election as outlined under Article 3(8) shall apply. If a simple majority cannot be reached, a new election procedure shall be held at the latest at the next meeting of the Board of Supervisors.
11. Should a member of the Management Board prematurely terminate his/her term of office, there will be a new election in the meeting of the Board of Supervisors following the premature termination.

#### Term of office of the members of the Management Board

12. The term of office of members of the Management Board shall be two and a half years and may be extended once. In addition, the term of office of members shall expire when:
  - a. the member ceases to be a Member of the Board of Supervisors; or
  - b. whenever the status of a non-participating Member State whose member of the Board of Supervisors is also a member of the Management Board changes, to the extent that such change would result in a breach of the requirement referred to in paragraph 5.
13. Mandates of Management Board's members shall overlap and an appropriate rotating arrangement shall apply.

#### Article 10 – Organisation of the meetings of the Management Board

The Management Board shall adopt and make public its rules of procedure.

### Title III – The Executive Director

#### Article 11 – The Executive Director

1. The European Banking Authority shall be managed by the Executive Director.
2. The Executive Director shall be appointed by the Board of Supervisors, after confirmation by the Parliament.

3. The Board of Supervisors shall exercise disciplinary authority over the Chairperson and the Executive Director. It may remove the Executive Director from office in accordance with Article 51(5) of the Regulation.
4. The Executive Director's term of office shall be 5 years and may be extended once.
5. The Board of Supervisors may adopt supplementary rules for the selection, appointment and dismissal of the Executive Director.
6. The Executive Director shall provide a secretariat and the appropriate administrative support to enable the Board of Supervisors to carry out its work.

## Title IV – Organisation of the European Banking Authority

### Article 12 – Delegation of powers

1. The Board of Supervisors may delegate certain clearly defined tasks or decisions to the Chairperson, to the Management Board, to the Executive Director or to internal committees.
2. Where delegations of tasks or of decisions have legal effects on third parties, the delegation shall be notified to the parties concerned or, where appropriate, published. Acts adopted by way of delegation shall be communicated promptly to the Board of Supervisors.

### Article 13 – Internal committees

1. Internal committees shall contribute to the work of and shall report to the Board of Supervisors via the Management Board.
2. Internal committees may establish permanent sub-groups, with the agreement of the Management Board.

### Article 14 – Legal instruments of the EBA

1. EBA draft technical standards and draft implementing standards shall be submitted for adoption by the Board of Supervisors and when adopted, submitted to the European Commission for endorsement and to the European Parliament and Council for information.
2. The Board of Supervisors shall adopt the opinions, recommendations, guidelines and decisions of the Authority, and issue the advice referred to in Chapter II, based on a proposal of the relevant internal committee, panel, Chairperson, or of the Management Board, as applicable.
3. EBA guidelines and recommendations adopted under Article 16 of the Regulation shall be adopted by the Board of Supervisors. They shall be published on the Authority's website, unless to do so could seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system of the Union.

4. EBA decisions adopted by the Board of Supervisors, shall be signed by the Chairperson and notified to the parties concerned.
5. The decisions which EBA takes pursuant to Articles 17, 18 and 19 shall be made public and shall state the identity of the competent authority or financial institution concerned and the main content of the decision, unless such publication is in conflict with the legitimate interest of financial institutions in the protection of their business secrets or could seriously jeopardise the orderly functioning and integrity of the financial markets or the stability of the whole or part of the financial system of the Union.
6. EBA decisions adopted by the Management Board, according to its respective tasks, shall be signed by the Chairperson and notified to the parties concerned, where appropriate. They shall be published on the Authority's website, as appropriate.
7. EBA opinions or EBA advice referred to in Chapter II of the EBA Regulation shall be adopted by the Board of Supervisors, signed by the Chairperson and notified to the parties concerned. They shall be published on the Authority's website, unless to do so could seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system of the Union.

## Title V – Final Provisions

### Article 15 – Repeal, entry into force and publication

1. The EBA decision EBA/DC/2011/001(Rev 5) of 12 January 2011 is repealed with immediate effect. References to this repealed decision shall be read in accordance with this new decision.
2. This Decision enters into force immediately.
3. This Decision shall be made public.

Done at Paris, 22/01/2020

José Manuel Campa

Chairperson  
For the Board of Supervisors