

EBA/DC/2020/317 (consolidated version)

EBA REGULAR USE



Decision of the European Banking Authority

of 04-02-2020

concerning the Rules of Procedure of the Management Board

Amended by:

➤A1 EBA/DC/451

21.06.2022

The Management Board

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/EC¹, (the Regulation and the EBA) and in particular Articles 45(2) to 47(7).

Whereas:

- (1) In order for the Management Board of the EBA (hereafter “Management Board”) to give guidance to the work of the EBA and to fulfil the requirement of Article 47(7) of the Regulation, it is necessary for the Management Board to adopt rules of procedure.
- (2) The Management Board adopted its rules of procedure by a decision EBA/DC/2014/095 of 7 July 2014.
- (3) Following amendments to the Regulation, it is necessary to adopt new rules of procedure and repeal the previous rules of procedure, and for the new rules to apply immediately.

Has decided as follows:

¹ OJ L331, 15.12.2010, p. 12.

Title 1 – Composition

Article 1 – Members

In accordance with Article 45(1) and 45(2) of the Regulation, the Management Board shall be composed of the following (each a “Member”):

- (a) the EBA Chairperson (‘Chairperson’), who is a voting member; and
- (b) six members of the Board of Supervisors elected by the Board of Supervisors, who are voting members.

Article 2 – Participants

In accordance with Article 45(a) (2) of the Regulation, the following shall participate in the work of the Management Board (each a “Participant”):

- (a) the Executive Director; and
- (b) a representative of the Commission. In matters referred to in Article 63 of the Regulation (establishment of the budget), this representative shall be considered as a Member and a voting member.

Article 3 – Observers

1. The Management Board may decide to admit observers and invite experts.
2. The Vice-Chairperson shall be entitled to attend Management Board meetings as an observer. The Vice-Chairperson shall be non-voting, except in the case specified in Article 8(2).

Article 4 – Advisers

At the discretion of the Chairperson, the Management Board may invite advisers or experts to attend its meetings and assist its members in their deliberations.

Article 5 – Notification of Documents

1. EBA staff shall maintain a list of Members, Participants and Observers and of alternates.
2. Members, Participants and Observers shall notify the Chairperson 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.

Title 2 – Tasks and delegations

Article 6 – Tasks

1. The Management Board's tasks are those assigned to it in Article 47 of the Regulation (see the Annex).
2. The Management Board shall provide its opinion to the Chairperson on the composition of independent panels for the purposes of Article 19, Article 17 and Article 22(4) of the Regulation and following an open call for participation.
3. The Management Board may set up coordination groups on its own initiative or upon the request of a competent authority on defined topics for which there may be a need to coordinate having regard to specific market developments. The Management Board shall set up coordination groups at the request of five members of the Board of Supervisors. Coordination groups shall be chaired by a Member.
4. The Management Board shall make a proposal for a peer review work plan for the coming two years. The peer review work plan shall constitute a separate part of the annual and multiannual work programme. It shall be presented every two years. It shall be made public.

Article 7 – Delegations

The Management Board may request the Board of Supervisors to establish internal committees and delegate to them specific and certain clearly defined tasks attributed to the Management Board.

Title 3 – Chairperson

Article 8 – Chairperson

1. The Chairperson shall chair the meetings of the Management Board.
2. If the Chairperson is absent, meetings of the Management Board are chaired by the Vice-Chairperson. In that case, the Vice-Chairperson shall vote on behalf of the Chairperson if explicitly instructed by him
3. If both the Chairperson and the Vice-Chairperson are absent at a meeting and the meeting cannot be postponed, Members present shall elect a Member to chair the meeting.
4. The Chairperson may invite the Management Board to consider setting up a coordination group in accordance with Article 6(3).

Title 5 – Decision making procedures

Article 9 – Quorum

1. The quorum shall be reached whenever two-thirds of the Members are present.
2. If the quorum is not met, the Chairperson may convene an extraordinary meeting at which decisions may be taken without regard to the quorum; the Chairperson may also decide to submit those decisions for adoption by written procedure.

Article 10 – Voting

1. Each Member has one vote.
2. Decisions of the Management Board shall be adopted by simple majority of its Members whilst striving for consensus. In the event of a tie, the Chairperson shall have a casting vote.
3. EBA staff shall maintain a record of votes taken on the adoption of acts.

Article 11 – Written Procedure

1. Where appropriate, the Chairperson may decide to submit decisions for adoption by written procedure unless a Member objects in which case the matter may be discussed at either a teleconference, videoconference or at a meeting.
2. Voting Members should express their approval (I agree), disapproval (I disagree) or abstention.
3. Votes and comments on decisions being taken by written procedure shall be in written form, within five working days of the launch of the written procedure. This timeframe may be shortened, depending on the urgency of the matter.
4. The result of a written procedure shall be notified without delay to the Management Board.

Article 12 – Finalising documents

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

Title 6– Meetings

Article 13 – Frequency

The Management Board shall meet prior to every meeting of the Board of Supervisors and as often as the Management Board deems necessary. It shall meet at least five times a year.

Article 14 – Convening meetings

1. Meetings of the Management Board shall be convened by the Chairperson at his or her own initiative or at the request of at least a third of its Members.
2. Meeting dates and places of future meetings shall be notified by the Chairperson to the Management Board as soon as practicable. Invitations shall be sent to email addresses notified by each Member, Participant and Observer for that purpose.
3. Meetings shall be held at the EBA's premises, unless the Management Board decides otherwise.
4. Meetings may be held by telephone, video conference call, or any other technical means.
5. Meetings of the Management Board shall be held at least five times a year.

Article 15 – Agenda

1. The provisional agenda shall be drawn up by the Chairperson.
2. The provisional agenda, accompanied by the relevant material for decision making, shall be forwarded to the Members, Participants and Observers at least 5 working days prior to a meeting, or as soon as practicable in urgent cases. In the case of an extraordinary meeting to deal with urgent matters, these timelines may be shortened.
3. Members may request a topic to be added to the provisional agenda by consulting the Chairperson up to five working days before the meeting.
4. The final agenda of each meeting shall be adopted by the Members at the Management Board meeting.

Article 16 – Attendance

1. Each Member shall be responsible for nominating, in writing, a high-level alternate from its authority, who may replace him/her in case he/her is prevented from attending.
2. The Commission representative and any Observer, other than the Vice-Chair, shall not attend any discussions within the Management Board relating to individual financial institutions, unless otherwise provided for in Article 75 of the Regulation or in the acts referred to in Article 1(2) of the Regulation.

Article 17 – Minutes

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

2. This record shall be forwarded to Members and Observers within two weeks of the meeting. Once approved by Members, the record of the proceedings shall be signed by the Chairperson and published on the EBA's website within 6 weeks.

Article 18 – Secretariat

The Executive Director shall provide a secretariat and the appropriate administrative support to enable the Management Board to carry out its work.

Title 5 – Independence of the Management Board members

Article 19 – Independence

When carrying out the tasks conferred upon the Management Board by the Regulation, 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, and in accordance with 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.

Article 20 – Confidentiality

All proceedings of the Management Board shall be confidential. Anyone attending shall respect their confidentiality and shall comply with the EBA's internal rules of procedure concerning professional secrecy.

Article 21 – Transparency

1. The names of the Members and their respective alternate shall be made public.
2. The decisions and minutes of meetings of the Management Board shall be subject to the provisions on access to documents in Article 72 of the Regulation and measures taken for its implementation.
3. Members shall inform the EBA in writing of all meetings held and any hospitality received in their role as Members, so that the EBA can publish them. Their expenses shall be recorded publicly.

Article 22 – Conflicts of interest

1. Before any meeting, Members, their alternates as well as Participants and Observers participating in the Management Board meeting 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.

➤A1

2. 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. In that case, the conflicted individual shall not be present during the discussion of and voting upon this item; or, in the case of written procedures, the submission of comments and voting on the item.

3. *Deleted*

➤0

4. This shall not affect any right to be heard, whether pursuant to Article 39(2) of the 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.

5. 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.

6. 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.

Title 5 – Final Provisions

1. Decision EBA/DC/2014/095 of 7 July 2014 is repealed with immediate effect. References to that decision shall be read in accordance with this new decision.

2. This decision shall take immediate effect.

3. This decision shall be made public.

Done at Paris, 04/02/2020

José Manuel Campa

Chairperson

For the Management Board

ANNEX

Tasks of the Management Board

1. The following tasks are assigned to the Management Board in Article 47 of the Regulation:

- (a) The Management Board shall ensure that the Authority carries out its mission and performs the tasks assigned to it in accordance with this Regulation.
- (b) The Management Board shall propose, for adoption by the Board of Supervisors, an annual and multi-annual work programme.
- (c) The Management Board shall exercise its budgetary powers in accordance with Articles 63 and 64 of the Regulation.
- (d) The Management Board shall adopt the Authority's staff policy plan and, pursuant to Article 68(2) of the Regulation, the necessary implementing measures of the Staff Regulations of Officials of the European Communities.
- (e) The Management Board shall adopt the special provisions on right of access to the documents of the Authority, in accordance with Article 72 of the Regulation.
- (f) The Management Board shall propose an annual report on the activities of the Authority, including on the Chairperson's duties on the basis of the draft report prepared by the Executive Director referred to in Article 53(7) of the Regulation, to the Board of Supervisors for approval.
- (g) The Management Board shall appoint and remove the members of the Board of Appeal in accordance with Article 58(3) and (5) of the Regulation.
- (h) The Management Board may examine, give an opinion and make proposals on all matters save for tasks according to Articles 9a, 9b, 30 of the Regulation as well as Articles 17 and 19 of the Regulation on matters concerning the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.