

Rules of Procedure of the Banking Stakeholder Group

THE BANKING STAKEHOLDER GROUP OF THE EUROPEAN BANKING AUTHORITY

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 ‘Authority’), in particular Article 37 of the Regulation,

Whereas:

- (1) Decision 086/2013 of the Authority’s Board of Supervisors appointed the members of the Banking Stakeholder Group (‘the Group’).
- (2) Art. 37(1) of the Regulation provides that the Group’s role is, to ‘help facilitate consultation with stakeholders in the areas relevant to the tasks of the Authority’. More in particular, art. 37(1) provides that the Group ‘shall be consulted on actions taken in accordance with Articles 10 to 15 concerning regulatory technical standards and implementing technical standards and, to the extent that these do not concern individual financial institutions, Article 16 concerning guidelines and recommendations.
- (3) Art. 37(5) provides that the Group ‘may submit opinions and advice to the Authority on any issue related to the tasks of the Authority, with particular focus on the tasks set out in Articles 10 to 16 and Articles 29, 30 and 32’, where the latter refer to common supervisory culture, peer reviews of competent authorities and assessment of market developments.
- (4) Art. 17(2) of the Regulation provides that the Group may submit a request to the Authority, as appropriate, to investigate the alleged breach or non-application of Union law.
- (5) Decision 003/2011 of the Authority’s Management Board on Internal Language Arrangements provided that English is the working language of the Authority and it is therefore advisable that the Group has the same working language.
- (6) Article 339 of the Treaty on the Functioning of the European Union, Article 70 of the EBA Regulation, Article 16 of the Staff Regulations lay out the rules of professional secrecy that apply in relation to the activities of the Authority, and Decision EBA DC 004 of the Authority’s Management Board on Professional Secrecy implements the above rules. Also, the Annex to Commission Decision 2001/844/EC, ECSC, Euratom lays out the rules on security regarding the protection of classified information.
- (7) Decision EBA DC 036 of the Authority’s Management Board on Access to Authority documents.

¹ OJ L331, 15.12.2010, p. 12.

(8) Regulation (EC) No 45/20018, on the processing of personal data and Decision EBA DC 037 on Data Protection Implementing Rules.

(9) Decision EBA DC 116 on reimbursement of eligible stakeholders.

(10) Decision EBA BSG 2013 049 on BSG's Rules of Procedure.

HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Article 1 – Membership, appointment and mandates

1. The appointment of the Group members shall be made by the Board of Supervisors in accordance with article 37(3) of the Regulation.
2. According to article 37(4) of the Regulation, Group members shall serve for a period of two and a half years, following which a new selection shall take place.
3. Group members shall serve in a personal capacity.
4. Members may serve for no more than two successive terms.
5. Members shall inform the Authority as soon as possible of relevant professional changes. The Authority shall consider whether such changes affect their capacity as a member of the Group or could represent a substantial conflict of interest in line with article 12. In such a case, the Authority, upon consultation with the Group's Chairperson, may ask the respective Group member to vacate the current position and the Board of Supervisors to select a new Group member.
6. Should a member's position be vacated for whatever reason before the end of their service, a new member shall be appointed out of the list of applications submitted to the Authority at the latest call for the expression of interest for setting up the Group. Should the remaining candidates on the list of applications not be considered as suitable to be appointed or should the list be exhausted, the Authority reserves the right to open a new Call for Expression of Interest to replace the respective member(s) of the Group.

Article 2 - Chairperson and Vice-Chairperson

7. Upon the reappointment of the Group, the first and, if necessary, the second statutory meeting of the Group shall be chaired by the Chairperson or the Executive Director of the Authority, until the Group has elected a Chairperson.
8. The Group shall be chaired, in a personal capacity, by one of the Group members. The Group shall elect a Chairperson and Vice-Chairperson during its first or second meeting. The Group Chairperson shall be chosen for the remaining period of the Group's term.
9. The election of the Chairperson and Vice-Chairperson shall be preceded by and based on a nomination procedure. Any member of the Group may nominate themselves, or any other member of the Group.

10. The election requires a simple majority of the Group's members present. 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 are not 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 BSG's members present. If a simple majority cannot be reached, a new election shall be held at the latest at the following meeting of the BSG.
11. The Group Chairperson may be removed from office following a decision by the whole Group by 2/3 majority.
12. The Group Chairperson shall organise and chair the meetings of the Group; shall represent the Group before the Authority's Board of Supervisors; and shall execute all other functions delegated to him/her by the Group.
13. To assist the Chairperson, the Group shall also elect a Vice-Chairperson among its members following the same procedure used to elect the Chairperson as described in the preceding paragraphs. The Vice-Chairperson may replace and represent the Chairperson in case of absence or impediment. A Group member cannot serve more than two terms as Group Vice-Chairperson. The Vice-Chairperson may be removed from office, following the procedure as outlined under point 11.
14. Should the Chairperson's or Vice-Chairperson's position be vacated for whatever reason, a new Chairperson or Vice-Chairperson shall be elected as soon as possible or at the next meeting of the Group, following the procedure as outlined under this article.

Article 3 - Convening and location of meetings

15. Meetings of the Group shall be convened by the Authority. The Group shall meet on its own initiative as necessary, and in any event at least four times a year in the form and according to the timetable determined in coordination with the Authority. The Group shall meet with the Board of Supervisors, at least twice a year, in accordance with article 40(2) of the Regulation. Additional meetings of the Group can be convened depending on the calendar of Authority's regulatory output and related consultation procedures.
16. The Group meetings shall be held at the Authority's premises. On an exceptional basis, upon request of the members of the Group, one meeting per year may be held in another location, upon confirmation and agreement with the Authority.
17. In order for the Group to be able to convene, there shall be a quorum of two-thirds of its members. If the quorum is not met, the Chairperson may convene an extraordinary meeting at which decisions may be taken without a quorum, taking into account at least the number of calendar days as mentioned in point 22.

Article 4 - Agenda

18. The Authority shall draw up the agenda and distribute it to the members of the Group, after consulting the Chairperson of the Group. The members of the Group can suggest items to be included in the agenda.

19. The agenda shall be adopted by the Group at the start of each meeting.

Article 5 - Secretariat support and Group documents

20. The Authority shall ensure adequate secretarial support for the activities of the Group, its Chairperson and Vice-Chairperson.

21. The Authority shall provide to the Group all information that is necessary for it to carry out its role.

22. The Authority shall send meeting invitations and draft agendas to the Group members no later than two calendar weeks in advance of the date of the meetings.

23. The Authority shall send drafts on which the Group is consulted and all other working documents to the Group members no later than seven calendar days in advance of the date of the meeting.

24. In urgent or exceptional cases, the time limits for sending the documentation mentioned in points 22 and 23 above, may be reduced to three calendar days in advance of the date of the meeting.

25. The Authority shall organise meeting facilities, prepare meeting agendas, background materials and minutes, provide technical coordination for the preparation of opinions, advice or any other input the Group may wish to provide to the Authority and arrange the reimbursement of travel expenses.

Article 6 - Consultation of the Group

26. The Group may issue opinions at the request of the Authority or at its own initiative.

27. Where the Group issues opinions at the request of the Authority, the Group shall deliver its opinions within the deadline requested by the Authority. Where the Group issues opinions at its own initiative, it shall deliver them to the Authority taking into account the timeline noted in the Authority's work programme.

Article 7 - Decision-making

28. As far as possible, the Group shall adopt its decisions, opinions or reports by consensus.

29. In the event that a consensus has not been reached and decisions, opinions or reports of the Group are put to a vote, a simple majority of the members present shall be required in order for the opinion or report to be adopted.

30. In cases of dissent, minority opinions shall be presented in the opinion submitted to the Authority.

Article 8 - Written procedure

31. If necessitated by urgency, the Group may deliver its opinions on specific issues through use of written procedure. To this end, the Authority shall be responsible for the distribution to the Group members of drafts on which the Group is being consulted and/or any other working documents.
32. However, if a simple majority of Group members asks for the question to be examined at a meeting of the Group, the written procedure shall be suspended and the question shall be added to the agenda of the next meeting of the Group.

Article 9 - Working language

33. The working language of the Group shall be English.

Article 10 - Technical Working Groups

34. In agreement with the Authority, the Group may establish Working Groups to examine specific technical issues related to the discharge of the Group's tasks. Working Groups shall be dissolved as soon as their tasks are fulfilled.
35. Working groups shall appoint a coordinator who shall actively lead the activity of the working group. The appointment may take place by acclamation or the procedure set out under point 10 regarding the Group Chairperson.
36. The coordinator of a working group may be removed from office following a decision by the whole Group by simple majority.
37. Should the coordinator's position be vacated for whatever reason, a new coordinator shall be elected as soon as possible or at the next meeting of the Group, following the procedure as outlined under point 35.
38. When deciding the set-up of such Working Groups, the Group shall decide on their mandate, composition rules and duration. These Working Groups shall report to the Group.
39. Working Group meetings shall be held at the Authority premises, as per article 3 of these Rules of Procedure on the convening of meetings of the Group, or via other communication means such as conference calls and/or e-mail exchanges.
40. Upon a reasoned request of the members of the Working Group, a meeting may also be held in another location, upon confirmation and agreement with the Authority.

Article 11 - Attendance and duties of Group Members

41. The Chairperson of the Authority may attend the meetings of the Group and can ask the Executive Director, Vice-Chairperson and/or members of the Authority's Management

Board and/or the Chairpersons of the relevant Standing Committees and/or working groups of the Authority and/or members of the European Supervisory Authorities' staff to join the meetings.

42. The European Commission is also invited to attend the official meetings of the Group.
43. At each meeting, the Authority shall draw up an attendance list.
44. Members are expected to attend and actively participate in the meetings of the Group.
45. Members are expected to actively contribute to the work undertaken by the Group and to undertake any other duties decided on an *ad hoc* basis by the Group.
46. The Authority shall keep track of the attendance records and regularly inform the Chairperson and Vice-Chairperson of the Group. Failure to attend two consecutive meetings of the Group shall be deemed a failure to perform the member's duties. In such a case, the Chairperson and Vice-Chairperson of the Group shall activate a discussion with the Group Member. In case this Group Member misses a third consecutive meeting, the Authority may ask the respective Group Member to vacate his/her current position. This decision shall be promptly communicated to members. In such circumstances the Board of Supervisors shall then select a new Group member.

Article 12 - Prevention of conflicts of interest

47. At the start of each meeting, any member whose participation in the Group's deliberations would raise a conflict of interest on a specific item on the agenda relating to his/her position and/or role in a specific entity/body shall inform the Chairperson.
48. In the event of such a conflict of interest, the member shall abstain from discussing the items on the agenda concerned and from any vote on these items.
49. In the event that the Chairperson's participation in a specific item on the agenda would raise a conflict of interest, the Chairperson shall inform the Group and the discussion of that item shall be managed by the Vice-Chairperson.

Article 13 - Minutes of the meetings

50. Minutes of the discussion on each point on the agenda and the opinions delivered by the Group will be drafted by the Authority.
51. Previous meeting's minutes shall be adopted by the Group by written procedure or at meetings.
52. Once adopted, the minutes of the meetings will be published on the Authority's website.

Article 14- Reporting and Transparency

53. The Authority shall include in its Annual Report a Chapter providing an overview of the activities of the Group, including a summary of any opinions it has formulated over the course of the given year.

54. The Authority shall make public on its website:

- The names of Members of the Group and any changes or amendments to the Group's membership.
- CVs of Members of the Group, subject to the agreement of each individual Member.
- The opinions and advice of the Group and the results of their consultations, including the conclusions of its meetings.

55. The Group may decide to publish one or several activity reports informing about its work.

Article 15 - Correspondence

56. Correspondence sent to the Group shall be addressed to the Authority, for the attention of the Group Chairperson.

57. Correspondence sent to Group members shall be sent to the e-mail address which they provide for that purpose.

Article 16 - Access to documents

58. Public access to the Group's documents shall be the same as that applying to the Authority's documents.

59. The Authority shall be competent to take decisions regarding requests for access to Group documents.

Article 17 - Confidentiality and professional secrecy

60. Members of the Group shall not make public nor share with the general public any unpublished documents which have been made available to them by the Authority, in accordance with professional secrecy rules as set out in Article 70 of the Regulation.

61. Members of the Group shall comply with the obligations of professional secrecy and the protection of classified information laid down in EU law, in particular Article 70 of the EBA Regulation.

62. If a Member of the Group fails to respect these obligations, the Authority shall seek to undertake all appropriate measures, which may include requesting the Member to stand down.

Article 18 - Protection of personal data

63. All processing of personal data for the purposes of these rules of procedure shall be in accordance with Regulation (EC) No 45/2001.

Article 19 - Reimbursement rules

64. The reimbursement of the members of the Group shall be done in accordance with Decision EBA DC 116.

Article 20 - Collaboration with other user Groups

65. The Group should seek to foster dialogue and cooperation with other user groups in the financial services area established by the Commission or by Union legislation.

Article 21 - Amendments to these Rules of Procedure

66. The Group may amend these Rules of Procedure in order to take into account possible developments in the roles, tasks and organisation of the Authority and the Group.

These Rules of Procedure shall enter into force immediately after their approval.

Done in London on 26 October 2015.

Chairperson
For the Banking Stakeholder Group