

13 November 2014
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Joint Committee: Rules of Procedure (revised version November 2014)

Decision of the Joint Committee of the European Supervisory Authorities (the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority) amending its Rules of Procedure

The Joint Committee

Having regard to

Section 1 of Chapter IV of 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 (the “EBA Regulation” and “EBA”);

Section 1 of Chapter IV of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (the “EIOPA Regulation” and “EIOPA”);

Section 1 of Chapter IV of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (the “ESMA Regulation” and “ESMA”); Commonly referred to as “the European Supervisory Authority (ESA) Regulations”

Acting in accordance with Article 55 paragraph 4 of the ESA Regulations adopt these Rules of procedures

Whereas:

(1) The Joint Committee shall serve as a forum in which the three European Supervisory Authorities shall cooperate regularly and closely and ensure cross-sectoral consistency among them. The Joint Committee shall ensure cross-sectoral consistency of work and reaching joint positions where appropriate, in particular regarding:

- the area of supervision of financial conglomerates;
- accounting and auditing;
- micro-prudential analyses of cross-sectoral developments;
- risks and vulnerabilities for financial stability;

- consumer protection and financial innovation, including retail investment products;
- measures combating money laundering;
- common processes and procedures issues amongst the ESAs; and
- information exchange with the European Systemic Risk Board (ESRB) and developing the relationship between the ESRB and the ESAs.

Has adopted this Decision:

Article 1. The Chairperson

- 1.1. The Joint Committee shall be chaired by one of the Chairpersons of the ESAs (the “Chair”) on an annual rotational basis. The order of the rotating annual chairmanship shall be: EBA, ESMA, and EIOPA.
- 1.2. In accordance with the objectives of the Joint Committee provided for in the ESA Regulations, the Chair shall act objectively and in the best interest of the Joint Committee¹.

Role of the Chair:

- 1.3. The Chair shall convene and chair the Joint Committee’s meetings.
- 1.4. The Chair may represent the three ESAs on cross-sectoral issues in international organisations in accordance with the common agreement by the three ESAs in this respect.
- 1.5. The Chair of the Joint Committee shall be the second Vice-Chair of the ESRB.
- 1.6. The Chair, with the support of the Executive Director of the Chair’s ESA and the Joint Committee Secretariat, shall be responsible for the fulfilment of the tasks as laid down in the annual work programme of the Joint Committee.
- 1.7. The Chair, with the support of the Executive Director of the Chair’s ESA and the Joint Committee Secretariat, shall serve as the main contact point for the EU institutions and other stakeholders for issues related to the Joint Committee.

Article 2. Date and place of meetings

- 2.1. The Joint Committee shall decide on the dates of its meetings on a proposal from the Chair submitted at the start of each calendar year. The Joint Committee shall meet at least every two months.
- 2.2. The Chair shall convene a meeting of the Joint Committee if a request is submitted by two ESA Chairpersons. The Chair may also convene a meeting when he/she deems it necessary, including in the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the EU.
- 2.3. The Joint Committee shall normally hold its meetings at the premises of the Chair’s ESA.
- 2.4. Meetings may also be held by means of teleconferencing / videoconferencing.

¹ As per Article 49 of the ESA Regulations.

Article 3. Attendance at meetings

- 3.1. Except as otherwise provided herein, attendance at meetings of the Joint Committee shall be restricted to the following Members and Observers of the Joint Committee:
- 3.2. Members:
 - 3.2.1. The Chairpersons of EBA, EIOPA and ESMA (each an “ESA Chairperson”); and
 - 3.2.2. The Chairperson(s) of each Sub-Committee- of the Joint Committee, where applicable.
- 3.3. Observers:
 - 3.3.1. The Executive Directors of EBA, EIOPA and ESMA;
 - 3.3.2. A representative of the European Commission; and
 - 3.3.3. A representative of the European Systemic Risk Board (the “ESRB”).
- 3.4. The Joint Committee Secretariat may attend meetings of the Joint Committee.
- 3.5. A Member may appoint an alternate to represent him/her in meetings if he/she cannot attend.
- 3.6. The Joint Committee may admit other observers and experts, where appropriate.
- 3.7. The observers, with the exception of the Executive Directors, shall not attend any discussion of the Joint Committee relating to individual financial institutions, unless otherwise provided for in the acts referred to in Article 1(2) of the ESA Regulations in line with Article 44(4) of the ESA Regulations, or any other confidential issue according to the ESAs’ Rules on confidentiality.

Article 4. Agenda and documents

- 4.1. The provisional agenda of the meetings of the Joint Committee and the related documents shall be sent to the Members and Observers at least five working days before the relevant meeting, except in emergencies where this delay may be shortened having regard to the circumstances.
- 4.2. The Joint Committee’s Chair may decide to remove items from or add items to the provisional agenda on a proposal from any Member or Observer of the Joint Committee.

Article 5. Minutes

- 5.1. The draft minutes of each meeting of the Joint Committee shall be submitted to its Members and Observers for approval by its Members within two weeks of the meeting.
- 5.2. The final minutes shall be circulated to the three ESAs Boards of Supervisors for information.

Article 6. Tasks

- 6.1. The Joint Committee shall monitor and coordinate all the joint work and tasks of cross-sectoral relevance carried out by the ESAs.
- 6.2. Upon request of an ESA, an external request, or on its own initiative, the Joint Committee shall identify and propose areas for joint work and tasks of cross-sectoral relevance.

- 6.3. The Joint Committee shall establish Sub-Committees of the Joint Committee (in accordance with Article 12).
- 6.4. The Joint Committee shall prepare a proposal for a joint position on:
 - 6.4.1. The joint work programme as reflected in the ESAs' work programmes and changes to the ESAs' joint work programme (including any joint work streams derived from the work programmes of each ESA);
 - 6.4.2. Joint reports, letters and other documents to be sent to EU institutions and other fora, in particular cross-sectoral risks reports; and
 - 6.4.3. A cross-sectoral training programme to be carried out by the ESAs.
- 6.5. The Joint Committee shall prepare a proposal for common acts as referred to in the second paragraph of Article 56 of the ESAs Regulations.
- 6.6. The Joint Committee shall resolve disagreements between competent authorities across sectors, as referred to in Article 20 of the ESA Regulations, in accordance with the procedure laid down in Article 19 of the ESA Regulations.
- 6.7. The Joint Committee shall ensure overall and cross-sectoral coordination of the activities carried out by the ESAs in accordance with Article 22(5) of the ESA Regulations, including coordination with the ESRB. The Joint Committee shall coordinate, where necessary, the information exchange of the ESAs with the ESRB.
- 6.8. Each year, the Joint Committee shall provide a report on cooperation by the ESAs over the past year to be included in the annual reports of the ESAs.
- 6.9. The ESA Chairpersons shall agree to designate ESAs staff to provide secretarial support for the Board of Appeal in accordance with Article 58(8) of the ESA Regulations.

Article 7. Adoption of proposals for joint positions

- 7.1. Proposals for the joint positions of the ESAs, as referred to in Article 56 of the ESA Regulations, namely those that fall in the scope of the ESAs' tasks in Chapter II of the ESA Regulations, and in particular with respect to the implementation of Directive 2002/87/EC, where relevant, shall be adopted by consensus by the ESAs' Chairpersons at Joint Committee meetings or by written procedure.
- 7.2. The ESA Chairpersons shall take the necessary steps for approval of an adopted proposal through their respective Board of Supervisors in a timely manner and in close co-ordination with each other. Standard practice should be that a proposal for a joint position should be submitted by written procedure to all three ESAs' Board of Supervisors in parallel and with the same timeline for their approval.
- 7.3. Each ESA's Board of Supervisors may, in accordance with Article 41 of the ESA Regulations, delegate tasks and decisions to its Chairperson with respect to Joint Committee work.
- 7.4. If an ESA's Board of Supervisors does not approve a proposal for a joint position, the Joint Committee shall reconsider the proposal, taking into account the reasons for rejection. An updated proposal from the Joint Committee shall be submitted to the ESAs' Board of Supervisors for approval.

Article 8. Adoption of Common Acts²

- 8.1. In its preparation of a proposal for adoption of acts referred to in Article 56 of the ESA Regulations, namely acts under Articles 10 to 15, 17, 18 19, or 20 of the ESA Regulations in relation to the application of Directive 2002/87/EC and of any other Union acts referred to in Article 1(2) of the ESA Regulations (“common acts”), the Joint Committee shall consider the implications of the adoption of those acts. The ESA Chairpersons shall be responsible for ensuring their counterparts are informed of the positions of their respective ESAs and any potential areas of concern.
- 8.2. Proposals for common acts of the ESAs shall be adopted by consensus by the ESAs Chairpersons at Joint Committee meetings or by written procedure.
- 8.3. The ESA Chairpersons shall take the necessary steps for approval of an adopted proposal through their respective Board of Supervisors in a timely manner and close co-ordination with each other. Standard practice should be that a proposal of for a common act from the Joint Committee should be submitted by written procedure to all three ESAs’ Board of Supervisors in parallel and with the same timeline for their approval.
- 8.4. Each ESA's Board of Supervisors may, in accordance with Article 41 of the ESA Regulations, delegate tasks and decisions to its Chairperson with respect to Joint Committee work.
- 8.5. If an ESA’s Board of Supervisors does not approve a common act proposed by the Joint Committee, the Joint Committee shall reconsider the proposal, taking into account the reasons the common act was not approved. An updated version of the common act shall be submitted to the ESAs’ Board of Supervisors for approval.
- 8.6. The Joint Committee may adopt supplementary rules for common acts.

Article 9. Voting and adoption of decisions on settlement of disagreements between Competent Authorities of different sectors

- 9.1. The decisions on settlement of disagreements in the Joint Committee, as referred to in Article 20 of the ESA regulations, shall be implemented in accordance with the Rules of Procedure for settlement of disagreements in cross border situations across sectors.
- 9.2. The decisions shall be adopted as a Common Act.

Article 10. Composition and tasks of the Secretariat of the Joint Committee

- 10.1. Each ESA shall provide dedicated staff to support the Joint Committee for the fulfilment of its work (the Joint Committee Secretariat).
- 10.2. In accordance with the Joint Committee work programme the Secretariat shall act in the interest of the Joint Committee.
- 10.3. The Joint Committee Secretariat shall include:
 - 10.3.1. A staff contact point from each ESA; and
 - 10.3.2. A lead staff contact point at the ESA chairing the Joint Committee.

² As referred to in Article 56 of the ESA Regulations

- 10.4. Staff supporting the Joint Committee Secretariat shall be based at the ESA where they are employed.
- 10.5. The Joint Committee Secretariat shall in particular support the Chair and the Executive Director of their respective ESAs in the fulfilment of his/her Joint Committee tasks.
- 10.6. The Joint Committee Secretariat shall, amongst other things:
 - 10.6.1. support the Executive Director of the ESA who is reporting to the Joint Committee rotational Chair, by facilitating cooperation amongst the ESAs within the Joint Committee;
 - 10.6.2. contribute to implementing the Joint Committee work programme and monitor and report on its implementation;
 - 10.6.3. draw up the annual conclusions of the implementation and results of the cooperation of the ESAs, to be approved by each ESA and published in each ESA's annual report;
 - 10.6.4. provide support to the meetings of the Joint Committee, including appropriate preparation and follow-up;
 - 10.6.5. provide support to the preparation of the Joint Committee's proposals for joint positions and common acts; and
 - 10.6.6. support and coordinate the Sub-Committees and other joint work streams of the Joint Committee.

Article 11. Delegation of tasks

- 11.1. The Joint Committee may delegate tasks to the Chair, its Sub Committees, Task Forces and other joint work streams/networks, and its Joint Committee Secretariat, where appropriate.

Article 12. Sub-Committees and other joint work streams

- 12.1. The Joint Committee shall establish and dissolve Sub-Committees, and other joint work streams, such as networks and Task Forces.
- 12.2. The Sub-Committees, and other joint work streams, such as networks and Task Forces, shall organise their work and their deliverables with regard to the Joint Committee's meeting schedule.

Sub-Committees:

- 12.3. Sub-Committees shall contribute to the work of and shall report to the Joint Committee.
- 12.4. The Joint Committee shall prepare the draft mandates Committees and propose to the ESAs the appointment of their Chairpersons. The draft mandates and proposed Chairpersons should be submitted to the ESAs Boards of Supervisors for approval.
- 12.5. Documents for Sub-Committee meetings shall be sent well in advance of a meeting and no later than five working days before the meeting.
- 12.6. The Sub-Committees and the other joint work streams shall present proposals related to their assigned tasks and deliverables to the Joint Committee, in order to propose joint positions and

common acts, as referred to in Articles 7 and 8 of these Rules, to be submitted to the ESAs for approval.

- 12.7. When carrying out their tasks as Chairpersons of a Sub-Committee or leaders of a Joint Committee's work stream/network, these Chairpersons shall act objectively in the interest of the European Union.
- 12.8. In consideration of whether a Sub-Committee of the Joint Committee shall be established, regard should be given to objective criteria. These may include:
 - 12.8.1. Whether the task is a permanent one for the Joint Committee or it is a task which is not intended to be disbanded in a short term;
 - 12.8.2. Whether the task implies that a minimum number of representatives of more than one ESA is to be involved; and
 - 12.8.3. Whether the task is related to EU political institutional work of a cross sector nature, and/or other cross sectoral work with the ESRB.
- 12.9. A Sub-Committee on Financial Conglomerates shall be established as per Article 57 of the ESA Regulations and as per Article 14 of these rules.
- 12.10. Further, a Sub Committee shall be formed from the membership of the three ESAs, to assist in providing an adequate coverage of cross sectoral developments, risks and vulnerabilities and overall and cross sectoral coordination of the activities carried out by the ESAs in relation to systemic risk, as stipulated in Article 22 of the ESA Regulations.
- 12.11. Furthermore, a Sub Committee on Anti Money Laundering shall be established, to assist in supervisory input to measures combating money laundering.
- 12.12. Other Sub-Committees can be formed with members of more than one ESA on specific subjects of common interest for more than one ESA.
- 12.13. The Chairperson of a Sub-Committee shall strive to reach consensus amongst the Sub-Committee Members. In the event that consensus cannot be reached, any issue of controversial nature being discussed in a Sub-Committee shall be remitted and presented by the Chair of the Sub-Committee to the Joint Committee, which shall consider the issue and take a decision.

Other joint work streams / task forces / networks:

- 12.14. The fulfilment of the Joint Committee's tasks may imply the creation of joint work streams / task forces / networks different from the Sub-Committees, involving representatives of more than one ESA or more than one ESA staff member with the appropriate expertise, if and where necessary.
- 12.15. Staff members from one ESA may be appointed as 'lead' ESA staff members for a particular work stream, such that it could be asked to draft the proposals, invite and process the comments and input from the other ESA's structures.
- 12.16. A Joint Committee Training network shall be formed with members of the three ESAs for the planning and implementation of the cross sectoral training activities to be carried out by the ESAs.

12.17. The Joint Committee and the ESAs may be supported in their cost-benefit analysis by the ESAs Impact Assessment Advisor Network.

Article 13. Composition of Sub-Committees:

13.1. This Article applies to all Joint Committee Sub-Committees other than the Sub-Committee on Financial Conglomerates.

13.2. The Chairperson of each Sub-Committee should ideally be an EBA, ESMA or EIOPA Board of Supervisor Member or his/her alternate, an EIOPA permanent representative or his/her alternate or an ESA staff member. The proposed Chairperson shall be appointed by the Members of the Joint Committee, who shall inform the three ESAs' BoS of the appointment.

13.3. Each Board of Supervisors' Member may be represented on each Sub-Committee. Further there should be no more than two members per Member State, except where provided in the terms of reference of the Sub Committee's Mandate.

13.4. Where there is more than one competent authority in a Member State with competencies relating to the role of the Sub-Committee, then both/all those authorities may attend the Sub-Committee, except where provided in the terms of the reference of the Sub Committee's Mandate. These authorities shall coordinate their positions so as to arrive at a joint view on the initiatives and deliverables of the Sub-Committee.

13.5. For those Member States which choose not to nominate a representative to attend the Sub-Committee, a contact person may be designated to make sure that the respective authority(ies) in that Member State is (are) able to follow and contribute to the work of the Sub-Committee.

13.6. Sub-Committees may appoint a Vice-Chair if deemed practical.

13.7. The following shall be invited as observers to the Sub-Committees:

13.7.1. The Executive Directors of the EBA, EIOPA and ESMA;

13.7.2. A representative from the European Commission; and

13.7.3. A representative from the ESRB.

13.8. The following may be invited as observers to the Sub-Committee meetings:

13.8.1. A representative from each of the EEA EFTA countries and from applicant countries of the EU, provided they are from a competent authority which has a national representative as an observer on the Board of Supervisors of the relevant ESA.

13.8.2. A representative from the ECB/SSM where competencies of the ECB/SSM are relevant to that Sub Committee.

13.8.3. For those Member States where the BoS Member does not have national competence relevant to that Sub Committee, a senior representative from the Member States' relevant competent authority with sufficient seniority, expertise and experience relevant to the tasks and deliverables of the Sub Committee.

13.9. Other observers as well as external experts may be invited, where appropriate.

Article 14. Composition of the Sub-Committee on Financial Conglomerates

14.1. The ESA Chairpersons and one high-level representative from the current staff of the relevant competent authority from each Member State shall be Members of the Sub-Committee on Financial Conglomerates.

14.2. The Chairperson of the Sub-Committee on Financial Conglomerates shall be elected from among the Members of this Sub-Committee. The Chairperson of the Sub-Committee should ideally be an EBA, ESMA or EIOPA or Board of Supervisor Member or his/her alternate, an EIOPA permanent representative or his/her alternate.

14.3. There should be no more than one member per Member State where there is a single supervisory authority.

14.4. For those Member States who choose not to nominate a representative to attend the Sub-Committee, a contact person may be designated to make sure that the respective authority(ies) in that Member State is (are) able to follow and contribute to the work of this Sub-Committee.

14.5. This Sub-Committee may appoint a Vice-Chair if deemed practical.

14.6. The following shall be invited as observers to the Sub-Committee of Financial Conglomerates' meetings:

14.6.1. The Executive Directors of the EBA, ESMA and EIOPA;

14.6.2. A representative from the European Commission;

14.6.3. A representative from the ESRB; and

14.6.4. A representative from the ECB/SSM.

14.7. The following may be invited as observers to the Sub-Committee of Financial Conglomerates' meetings:

14.7.1. A representative from each of the EEA EFTA countries and from applicant countries of the EU, provided they are from a competent authority which has a national representative as an observer on the Board of Supervisors of the relevant ESA.

14.8. Other observers and as well as external experts may be invited where appropriate.

Article 15. Code of conduct

15.1. Members shall adhere to the ESAs' Code of Conduct Rules / Decisions.

Article 16. Obligation of professional secrecy

16.1. The Joint Committee shall adhere to the ESAs' internal rules of procedure regarding professional secrecy.

Article 17. Transparency

17.1. The decisions and minutes of meetings of the Joint Committee shall be subject to the provisions on access to documents in Article 72 of the ESA Regulations and measures taken for its implementation.

Article 18. Confidentiality of and access to documents

18.1. The conclusions and summary of the proceedings of the meetings of the Joint Committee, its Sub-Committees and their substructures, its Task Forces, networks and other joint work streams shall respect the ESAs' confidentiality and access to documents procedures.

Article 19. Exchange of information among the ESAs

19.1. The Joint Committee Secretariat may share the Joint Committee documents for the meetings of their respective ESA's Boards of Supervisors and Management Boards. They may also be forthcoming in sharing other documents and information which are of relevance to the joint work of the ESAs. However, such sharing of information shall not take place where confidentiality requirements apply.

19.2. In areas in which cross-sectoral interests have been identified, working documents discussed at the level of sectoral expert groups/working groups are also circulated to the other ESAs at an early stage.

Article 20. Publication

20.1. The ESAs shall publish jointly agreed documents at the same time.

20.2. In the case of requests for feedback to the documents, the time given and the deadlines provided to each ESA should be the same.

Article 21. Joint work programme and annual report

21.1. The Joint Committee shall agree each year on a proposal for a joint work programme for the joint work of the ESAs. The proposed work programme for the following calendar year shall be submitted to the ESAs' Boards of Supervisors for their approval and sent to the EU Institutions together with the annual work programme of each ESA by the end of September.

21.2. The Joint Committee work programme establishes the areas where the ESAs have agreed to work together to reach joint positions and common acts and to fulfil the tasks described in Article 6 of these Rules. The Joint Committee may define further deliverables or subjects for discussion if it deems necessary.

21.3. The Joint Committee work programme selects defined items with allocation of responsibilities and identifies deliverables and priorities.

21.4. The Joint Committee work programme shall match planned tasks against available resources.

21.5. The lead Joint Committee Secretariat shall prepare a draft of the Joint Committee work programme.

21.6. The draft joint work programme shall be discussed and approved by the Joint Committee. The Joint Committee shall assess the implementation and results of the cooperation of the ESAs on an annual basis.

Article 22. Third Parties

- 22.1. The Members of the Joint Committee may, where necessary, make operational contacts with third country bodies.
- 22.2. All contacts should be made in close coordination and consistency with the ESAs.

Article 23. Budget

- 23.1. The ESAs shall contribute adequate resources to administrative, infrastructure and operational expenses needed for the functioning of the Joint Committee.

Article 24. Relations and reporting to the EU political institutions

- 24.1. On cross-sectoral risks, there shall be joint reporting to the ESRB and the Council's EFC-FST and other EU institutions, as appropriate.
- 24.2. The ESAs shall use common formats and structures for sectoral contributions which are to be incorporated into joint reports to be sent to the EU institutions.

Article 25. Reporting to the ESAs

- 25.1. The Chairpersons or the Executive Directors of the ESAs shall report periodically and at least at each Board of Supervisors' meeting, to their respective ESA's Board of Supervisors, on the progress and the fulfilments of the tasks established in the joint work programme, and brief them on the ongoing contacts and relevant work under these arrangements.
- 25.2. The ESAs' Board of Supervisors Members shall be notified of forthcoming meetings of the Joint Committee and have the opportunity to propose items for the agenda.

Article 26. Amendments to these rules of procedure

- 26.1. The Joint Committee may amend these rules of procedure. The Joint Committee may adopt supplementary rules where appropriate.

Article 27. Review clauses

- 27.1. These Rules of Procedures shall be reviewed within two years.

Article 28. Date of Entry

- 28.1. This decision enters into force as of the date of its publication and shall apply immediately.

Done in London on 13 November 2014

For the Joint Committee

Andrea Enria
Chairperson of the EBA
and Chair of the ESAs' Joint Committee

Gabriel Bernardino
Chairperson of EIOPA

Steven Maijoor
Chairperson of ESMA