

13 July 2022

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Joint Committee of the European Supervisory Authorities

Rules of Procedure

(Revised version June 2022)

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

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”), in particular Section 1 of Chapter IV;

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”), in particular Section 1 of Chapter IV;

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”, in particular Section 1 of Chapter IV;

Decision of the EEA Joint Committee No 199/2016 of 30 September 2016 amending Annex IX (Financial services) to the EEA Agreement, in particular Paragraph 31g;

Decision of the EEA Joint Committee No 200/2016 of 30 September 2016 amending Annex IX (Financial services) to the EEA Agreement, in particular Paragraph 31 h,

Decision of the EEA Joint Committee No 201/2016 of 30 September 2016 amending Annex IX (Financial services) to the EEA Agreement, in particular Paragraph 31 l;

Whereas:

(1) The Joint Committee serves as a forum in which the three European Supervisory Authorities cooperate regularly and closely to ensure cross-sectoral consistency among them, while considering sectoral specificities and reach joint positions with consensus and draft common acts, where appropriate, in particular regarding:

- financial conglomerates and, where required by Union law, prudential consolidation;
- accounting and auditing;
- micro-prudential analyses of cross-sectoral developments, risks and vulnerabilities for financial stability;
- retail investment products;
- cybersecurity;
- information and best practice exchange with the ESRB and ;
- retail financial services and consumer and investor protection issues;
- advice by the Committee established in accordance with Article 1 (6) EBA Regulation, ESMA Regulation and 1(7) of EIOPA Regulation.

The Joint Committee may assist the European Commission in assessing the conditions and the technical specifications and procedures for ensuring secure and efficient inter-connection of the centralised automated mechanisms pursuant to the report referred to in Article 32a(5) of Directive (EU) 2015/849 as well as in the effective interconnection of the national registers under that Directive.

(2) Article 25 of the Rules of Procedure of the Joint Committee of the European Supervisory Authorities adopted in Decision JC 2020 06 contains a review clause according to which these Rules should be reviewed every two years. Therefore, those Rules of Procedure should be replaced by means of a new Decision.

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. The Chair of the Joint Committee shall be the second Vice-Chair of the ESRB.
- 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 Committee.

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, with the support of the Executive Director of the ESAs’ Chairs and the Joint Committee dedicated staff as permanent Secretariat, shall be responsible for the fulfilment of the tasks as laid down in the annual work programme of the Joint Committee.
- 1.6. The ESAs’ Chair, with the support of the Executive Director of the ESA holding the rotating Chairmanship and the support of dedicated staff as a permanent 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 its meeting dates for the next calendar year upon proposal from the incoming Chair by the end of each year. The Joint Committee shall meet at least every three 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 ESA holding the rotating Chairmanship.
- 2.4. Meetings may also be held by means of tele-conferencing / video-conferencing.

Article 3 Attendance at meetings

- 3.1. Except as otherwise provided herein, attendance at Joint Committee meetings shall be restricted to the following Members and Observers of the Joint Committee:
- 3.2. Members:
 - (i) The Chairpersons of EBA, EIOPA and ESMA (each an “ESA Chairperson”);
- 3.3. Observers:
 - (i) The Executive Directors of EBA, EIOPA and ESMA;
 - (ii) The Chairperson of each Sub-Committee of the Joint Committee;
 - (iii) The representative of the European Commission; and
 - (iv) A high-level representative of the European Systemic Risk Board (the “ESRB”).
- 3.4. The Joint Committee permanent Secretariat staff may attend meetings of the Joint Committee.
- 3.5. The respective vice-Chairperson of an ESA represents the Chairperson of the respective ESA in case she/he 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 legislative 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 the Joint Committee within two weeks of the meeting.
- 5.2. The final minutes shall be circulated for information to the three ESAs Boards of Supervisors.

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:
 - (i) The joint work programme;
 - (ii) Joint reports, letters and other documents to be sent to EU institutions and other fora, in particular cross-sectoral risks reports; and
 - (iii) cross-sectoral training activities to be carried out by the ESAs, where relevant.
- 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 prepare an annual report, 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 joint positions, as referred to in Article 56 of the ESA Regulations, and in particular with respect to the implementation of Directive 2002/87/EC¹, 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 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 approval.

¹ Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives, Official Journal L 035 , 11/02/2003.

- 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 ESAs' 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. Where required by Union law, measures pursuant to Articles 10 to 16 and decisions pursuant to Articles 17, 18 and 19 of the ESAs Regulation in relation to the application of Directive 2002/87/EC and of any other Union acts referred to in Article 1(2) of the ESAs Regulation ("common acts") are adopted in line with the procedures in paragraphs 2 to 5 below.
- 8.2. Proposals for common acts of the ESAs shall be adopted by consensus by the ESAs Chairpersons.
- 8.3. The ESA Chairpersons shall take the necessary steps for approval through their respective Board of Supervisors in a timely manner and close co-ordination with each other. Standard practice should be that a proposal 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 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 why the common act was not approved. An updated version of the common act shall be submitted to the ESAs' Board of Supervisors for approval.

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

- 9.1. As referred to in article 20 of the ESAs' Regulation, the Joint Committee shall settle cross-sectoral disagreements that may arise between Competent Authorities.
- 9.2. The decision shall be adopted as a Common Act.

Article 10 Composition and tasks of the permanent 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 permanent Secretariat).
- 10.2. In accordance with the Joint Committee work programme the permanent Secretariat shall act in the interest of the Joint Committee.
- 10.3. The Joint Committee permanent Secretariat shall include:
 - (i) a staff contact point from each ESA; and
 - (ii) a lead staff contact point at the ESA chairing the Joint Committee.
- 10.4. Staff supporting the Joint Committee permanent Secretariat shall be based at the ESA where they are employed.
- 10.5. The Joint Committee permanent Secretariat shall in particular support the Chair and the Executive Director of their respective ESAs in the fulfilment of his/her Joint Committee tasks.

² As referred to in Article 56 of the ESA Regulations.

10.6. The Joint Committee permanent Secretariat shall, amongst other things:

- (i) support the Joint Committee work, by facilitating cooperation amongst the ESAs within the Joint Committee;
- (ii) contribute to implementing the Joint Committee work programme and monitor and report on its implementation;
- (iii) draw up the Joint Committee annual report on the implementation and results of the cooperation of the ESAs, to be approved by each ESA and published in each ESA's annual report as well as on the respective ESAs' websites;
- (iv) provide support to the meetings of the Joint Committee, including appropriate preparation and follow-up;
- (v) provide support to the preparation of the Joint Committee's proposals for joint positions and common acts; and
- (vi) support and coordinate the Sub-Committees and other joint work streams of the Joint Committee.

Article 11 Delegation of tasks

The Joint Committee may delegate tasks to the Chair, its Sub Committees, other joint work streams (such as networks and task forces), and its Joint Committee permanent Secretariat, where appropriate.

Article 12 Sub-Committees and other joint work streams

12.1. The Joint Committee may establish and dissolve Sub-Committees and other joint work streams, in order to prepare draft joint positions and draft common acts for the Joint Committee.

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 Sub-Committee mandates. The draft mandates shall be submitted to the ESAs Boards of Supervisors for approval.

12.5. Documents for Sub-Committee meetings shall be sent 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, to propose joint positions and common acts, as referred to in Articles 7 and 8, to be submitted to the ESAs for approval.

12.7. When carrying out their tasks as Chairpersons of a Sub-Committee or lead person of another joint work stream, 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:

- (i) Whether the task is a permanent one for the Joint Committee or it is a task which is not intended to be finalised in the short term;
- (ii) Whether the task implies that a minimum number of representatives of more than one ESA is to be involved; and

(iii) 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(4) of the ESA Regulations.

12.10. A Sub-Committee on Securitisation shall be established in accordance with Article 36(3) of Regulation (EU) 2017/2402.³

12.11. Any other Sub-Committees can be formed with Members of more than one ESA on specific subjects of common interest for more than one ESA.

12.12. 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:

12.13. The fulfilment of the Joint Committee's tasks may imply the creation of joint work streams 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.

12.14. 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.

Article 13 Composition of Sub-Committees

13.1. The Chairperson of each Sub-Committee shall be a high-level representative of one of the relevant Competent Authorities. This representative shall have sufficient seniority, expertise and experience and shall preferably be a Member or alternate of the Board of Supervisors of one of the ESAs or a permanent representative in the case of EIOPA. The ESAs' Board of Supervisors shall be offered the opportunity to propose candidates for the position, and the Joint Committee shall propose the most suitable candidate(s) to the Sub-Committee for election. Where necessary and where appropriate, an ESA staff member may act as interim Chairperson of a Sub-Committee.

13.2. Each Board of Supervisors' Member with a right to vote or without the right to vote, may be represented in each Sub-Committee.

13.3. There should be no more than two members per Member State. Where there is more than one competent authority in a Member State with competencies relating to the role of the Sub-Committee, all those authorities may attend the Sub-Committee. These authorities shall coordinate their positions so as to reach a joint view on the initiatives and deliverables of the Sub-Committee. Terms of references of the Sub-Committee's mandate may provide different/specific rules taking into account specificities of the respective mandates.

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

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

(i) A representative of the EBA, EIOPA and ESMA; and

(ii) A representative from the European Commission;

³ Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, OJ L

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

- (i) A representative from the ESRB;
- (ii) A representative 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.

A representative from the ECB/SSM where competencies of the ECB/SSM are relevant to that Sub-Committee.
- (iii) A representative from the SRB where competencies of the SRB are relevant to the Sub Committee.
- (iv) A representative from other Union institutions, bodies, offices or agencies whose competences are relevant to the Sub-Committee.
- (v) For those Member States where the Board of Supervisors 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.

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

Article 14 Code of conduct

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

Article 15 Obligation of professional secrecy

The Joint Committee shall be bound by the ESAs' internal rules of procedure regarding professional secrecy.

Article 16 Transparency

- 16.1. 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.
- 16.2. The Joint Committee shall make public on the respective ESAs' websites all established Sub-Committees including their mandates and a list of their members with their respective functions in the Sub-Committee.

Article 17 Confidentiality of and access to documents

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

Article 18 Exchange of information among the ESAs

- 18.1. The Joint Committee permanent Secretariat may share the Joint Committee documents with their respective ESA's Boards of Supervisor and Management Board. 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.

- 18.2. 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 in the process.
- 18.3 The ESAs' Chairpersons shall be responsible for ensuring that their counterparts are informed of the positions of their respective ESAs and any potential areas of concern.

Article 19 Publication

The ESAs shall publish jointly agreed documents on their respective websites.

Article 20 Joint work programme and annual report

- 20.1. 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 approved by the Joint Committee to be submitted to the ESAs' Boards of Supervisors for their approval, and subsequently sent to the EU Institutions together with the annual work programme of each ESA by the end of September.
- 20.2. The Joint Committee work programme establishes the areas in which the ESAs have agreed to work together to reach joint positions and adopt common acts and to fulfil the tasks described in Article 6 of these Rules of Procedure. The Joint Committee may define further deliverables or subjects for discussion if it deems necessary.
- 20.3. The Joint Committee work programme identifies items with allocation of responsibilities and defines deliverables and priorities.
- 21.4. The Joint Committee permanent Secretariat in the ESA holding the Chairmanship shall in close cooperation with the incoming Joint Committee permanent Secretariat prepare a draft of the Joint Committee work programme.
- 20.5 The outgoing Joint Committee permanent Secretariat shall assess the implementation and results of the Joint Committee work and the cooperation of the ESAs and prepare the draft annual report. The draft annual report shall be approved by the Joint Committee and the ESAs Board of Supervisors for adoption, and included in the annual reports of the ESAs.

Article 21 Budget

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

Article 22 Relations and reporting to the EU political institutions

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

Article 23 Reporting to the ESAs

The Chairpersons of the ESAs shall report periodically and at least at each Board of Supervisors' meeting, to their respective ESA's Board of Supervisors on positions taken in the meetings of the Joint Committee as well as on the progress and the fulfilments of the tasks established in the joint work programme.

Article 24. Amendments to these Rules of Procedure

- 24.1. The Joint Committee may amend these Rules of Procedure, following consultation with the ESAs' Boards of Supervisors.
- 24.2. The Joint Committee may adopt supplementary rules where appropriate.

Article 25. Review clauses

These Rules of Procedures shall be reviewed within two years.

Article 26. Repeal and date of entry into force

The Joint Committee's decision JC 2020 06 of 5 March 2020 is repealed. References to this repealed decision shall be read in accordance with this new decision.

This decision enters into force as of 13 July 2022.

Done on 13 July 2022

For the Joint Committee

José Manuel Campa

Petra Hielkema

Verena Ross

Chairperson of the EBA

Chairperson of EIOPA
and Chair of the ESAs'
Joint Committee

Chairperson of ESMA