



EIOPA-13-480_Rev2
27 January 2017

**Decision of the Executive Director
on
EIOPA's Procedure on Independence and Decision Making
Processes regarding Declarations of interests for staff and other
contractual parties**

EIOPA's Executive Director

Having regard to:

Regulation (EU) No 1094/2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), (hereinafter "EIOPA") and in particular Article 70 thereof;

The Ethics Rules for staff of EIOPA, approved by EIOPA's Executive Director (hereinafter also "[EIOPA's Staff Ethics Rules](#)");

The Staff Regulations of Officials of the European Communities and conditions of employment of other servants (CEOS) of the European Union¹, hereinafter the "Staff Regulations" and in particular Articles 11, 11a, 13 and 16 of the Staff Regulations of Officials and Articles 11 and 81 of the CEOS thereof;

The Financial Regulation applicable to the General Budget² of the Union, the detailed rules for the implementation of the Financial Regulation³ and EIOPA's Financial Regulation⁴.

Whereas:

¹ Staff Regulations and conditions of employment replaced the Staff Regulations of officials and the conditions of employment of other servants of the European Economic Community and the European Atomic Energy Community laid down by Council Regulations No 31 (EEC) and No 11 (EAEC) of 18.12.1961 (OJ 45, 14.6.1962 - Special Edition 1959-62, November 1972), as last amended.

² Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of Union and repealing Council Regulation (EC, Euratom) No 1605/2002, OJ L 298, 26.10.2012, p.1

³ Commission Delegated Regulation (EU) No 1268/2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union, O.J. L 362, 31.12.2012, p.1

⁴ EIOPA-13-474

- (1) Independence and high standards of professional conduct by all those involved in the activities of the EIOPA, i.e. EIOPA staff and contractors, are crucial for EIOPA's excellence and reputation;
- (2) Transparency and openness are essential to ensure public confidence;
- (3) The responsibility for declaring any interest that might be considered prejudicial to their independence can only be placed on the individuals themselves;
- (4) High quality of expertise is by nature based on prior experience and knowledge acquired in the relevant domain. Interests are therefore a natural and inevitable consequence of attaining recognition at international level in a given field. Some of those interests may however conflict with EIOPA's objectives and responsibilities;
- (5) Any actual or potential conflict of interests (CoI) should be promptly identified, handled, removed or mitigated without delay. To this end, a system of declaration of interests and their subsequent screening and evaluation is required;
- (6) In order to ensure a coherent level of detail in the declarations of interests, a set of activities that might cause potential CoI should be defined;
- (7) To ensure consistent reporting and evaluation, a set of comprehensive declaration of interests' forms should be used;
- (8) A transparent procedure should be followed by establishing inter alia the following aspects:
 - a) Guidelines to EIOPA's Appointing Authority⁵, EIOPA's Ethics Officer and other staff members performing the screening and evaluation of declarations of interests;
 - b) Transparent consequences linked to the interests declared; and
 - c) An enforcement procedure to deal with the most serious cases of breach of these rules.
- (9) Regulation (EC) No 1094/2010 requires the Authority to establish and maintain an efficient and fruitful cooperation with bodies active in the Member States carrying out tasks similar to those entrusted to EIOPA. Without prejudice to the responsibility of each Member State and of its authorities for the appointment of their representatives, including in relation to preventing conflicts of interests, it is therefore appropriate to establish a dedicated set of rules enabling EIOPA to optimise the use of resources available and foster a real and effective network of organisations active within its remit.

⁵ Appointing authority as defined in the "Staff Regulations", which, in the case of EIOPA, is the Executive Director.

HAS ADOPTED THE FOLLOWING DECISION:

TITLE I - GENERAL PRINCIPLES AND INTERESTS TO BE DECLARED

SECTION I - GENERAL PRINCIPLES

Article 1 – Scope and definitions

- 1.1. The present Decision is applicable to:
- a) all EIOPA statutory staff, hereafter referred to as “staff” or “staff member(s)”⁶; and
 - b) contractors and their employees⁷;
 - c) trainees and study visitors.
- 1.2. For the purpose of this Decision:
- a) Interest means the relation of being objectively concerned in something, e.g. by having a right or title thereto, a claim thereupon, or a share therein, falling within fields of competence of EIOPA that create, or have the potential to create, a CoI;
 - a) A CoI is a conflict between EIOPA’s public duty and the private interest(s) of an individual, in which an individual has private capacity interests which could improperly influence the performance of his/her official duties and responsibilities⁸ or could compromise his/her impartiality, objectivity or independence. A CoI can thus be current or it may be found to have existed in the past;
 - b) Interests of close family member(s) mean interests in the subject matter held by partners⁹ or persons dependent on the individual;
 - c) Competent officer means the staff member who performs the screening and evaluation of declarations. Annex I of this decision comprises an overview of the competent officers for the various declarations.
- 1.3. For the purposes of this Decision, the following interests shall be considered as a source of CoI, actual or potential (non-exhaustive list):

⁶ For the purpose of this Decision, individuals covered by the Staff Regulations and CEOS, as well as Seconded National Experts.

⁷ For the purpose of this Decision, interim employees and consultants.

⁸ Definition based on the OECD definition, as published in “Managing conflict of interest in the public service” (ISBN 92-64-10489-5, OECD 2003)

⁹ A partner who shares a household.

- a) Economic interest meaning any economic stake or share in a body, in particular in any financial institution carrying out any of the activities falling under EIOPA's scope of action (as defined in Article 1(2) and 1(3) of the Regulation, including stocks, equities or bonds thereof, or of one of its subsidiaries or of a company in which it has a holding (direct and indirect). This does not include deposits or personal insurance policies contracted as a regular customer with the exception of saving life insurance products (see further 2.3.d);
 - b) Member of a managing body or equivalent structure meaning any participation in the internal decision-making (e.g. board membership, directorship) of a public or private entity with an interest in the subject matter;
 - c) Employment meaning any form of regular occupation or business, part-time or full-time, paid or unpaid, including self-employment (e.g. consultancy), in any body with an interest in the subject matter. Employment by industry shall mean any form of employment by any legal or natural person carrying out any of the activities on which EIOPA's outputs impact directly or indirectly, or a trade association of such person;
 - d) Ad hoc or occasional consultancy meaning any ad hoc or occasional activity in which the concerned person provides advice or services to undertakings, trade associations or other bodies with an interest in the subject matter. This includes also services provided on an honorary basis (i.e. for free or without the payment of fees or emoluments) and any advice related to products, their development and/or assessment methods thereof;
 - e) Intellectual property rights meaning rights on the subject matter granted to creators and owners of works that are the result of human intellectual creativity¹⁰ and may lead to a financial gain;
 - f) Other memberships or affiliations meaning any membership or affiliation not falling under the definitions provided above and relevant for the purposes of the present decision, to anybody with an interest in the subject matter, including professional organisations.
- 1.4. In addition to the interests defined under Article 1.3 above and as arranged in the EIOPA's Staff Ethics Rules, the following sources of conflict of interests shall apply to EIOPA's staff:
- Negotiating prospective employment;
 - Gainful employment of a spouse or partner;
 - Gifts and hospitality;

¹⁰ E.g. patents, trademarks *etc.*

- Outside activities;
- Publications; and
- Public Office.

Article 2 – General principles of declarations and assessment of interests

- 2.1. EIOPA applies the principle that individuals are informed of their obligations vis-à-vis the declaration of CoI and the risks attached to not declaring them. EIOPA will ensure individual awareness through participation in trainings or presentations organised by EIOPA on the subject of CoI.
- 2.2. It is the obligation of the individual to provide the information of the existence of the potential or existing conflict to EIOPA in the first place, for EIOPA to assess the related risk.
- 2.3. The following general principles shall be applicable to all persons subject to the present Decision:
 - a) The responsibility for a complete and truthful declaration shall lie exclusively with the person completing the declaration.
 - b) The identification and handling of CoI as defined in Article 1 shall be based on the evaluation of declarations submitted by the concerned persons and/or staff as specified in the present Decision.
 - c) Only activities having taken place in the five years preceding the submission of the declaration shall be declared.
 - d) In addition to the economic interests described under 1.3. a), direct holdings in saving life insurance products, including unit linked, which amount to a value above 10,000 EUR per institution are to be considered, as well as direct holdings in credit institutions which amount to a value above 10,000 EUR per institution or comparable amounting to a voting right of 5% or more in a credit institution (notwithstanding their financial value) and indirect holdings which amount to a value above 10,000 EUR per holding are to be considered. This includes UCITs that are mainly (> 50%) invested in the financial sector.

SECTION II - DECLARATIONS

Article 3 – Declaration concerning confidentiality and declaration of commitment

- 3.1. Contractors and/or their representatives, trainees and study-visitors identified in Article 1.1(b) and (c) shall make a declaration in writing concerning confidentiality and commitment in accordance with the template provided in Annex II to the present Decision.
- 3.2. EIOPA staff members shall sign a confidentiality agreement only to confirm in exceptional circumstances their commitment of confidentiality, already embedded in their employment contract.
- 3.3. Confidentiality agreements shall be submitted to the relevant competent officer (See Annex I).
- 3.4. Individuals will continue to be bound by the terms of their declaration after the end of their engagement to carry out work for EIOPA in line with Article 70 (1) of the EIOPA Regulation.
- 3.5. For EIOPA staff members, except SNEs, trainees and study-visitors, the specific rules on cooling-off periods on external activities and on the continued obligation to inform EIOPA on their employment for two years following departure from EIOPA are specified in EIOPA's Staff Ethics Rules.

Article 4 – Annual Declaration of Interests

- 4.1. EIOPA staff members shall sign annually a Declaration of Interests¹¹ (DoI - Annex III). They herewith shall declare having read Article 11a of the Staff Regulations, the Ethics Rules as well as the present Rules, and confirm their awareness of their obligations. They shall declare their financial interests and any other interest belonging to the categories defined in Article 1 with respect to all activities in which they are involved or have been involved in during the five years preceding the submission of the DoI and which fall within EIOPA's remit.
- 4.2. Staff members shall indicate whether interests declared are current (when activities are currently ongoing); or they refer to a past period (when they are no longer ongoing but have been completed during the five years preceding the submission of the DoI).
- 4.3. Details on the name of the body or organization of relevance for each declared interest shall be given. This is to be interpreted as meaning the

¹¹ This DoI shall replace Annex B and C of the Ethics Rules

full name, location of the seat (town and country) and nature (private or public).

- 4.4. Details on the subject matter of each declared interest shall be given, indicating the domain in which the activity is, or was, carried out and clarifying the interest and role of the concerned body or organisation in the matter and the role of the concerned person.
- 4.5. DoI shall be submitted to the Reporting Officer or to the E.O. depending on the type of interest. All DoI shall be recorded by the E.O. The E.O. shall submit his/her DoI to EIOPA's Appointing Authority. The E.O. shall forward the DoI of the Chairperson and the Executive Director to the Advisory Committee on Conflict of Interests (ACCI) in accordance with Article 10 of this Decision (see also the overview in Annex I).
- 4.6. If at any point in time changes occur to the situation of his/her interests, the staff member shall update his/her declaration without delay (see Article 5).

Article 5 – Interests to be declared on an ad-hoc basis

- 5.1. Where an actual or potential CoI, not covered by a DoI already submitted, arises, **EIOPA staff members** shall immediately declare this to the relevant competent officer, using the relevant templates (see overview in **Annex I**).
- 5.2. Staff members returning from leave on personal grounds shall submit the DoI before starting the specific position offered.
- 5.3. Staff members involved in selection panels shall declare to the Human Resources team (HR) any conflicts of interest impairing objectivity or absence thereof before the short-listing meeting and throughout the recruitment process. HR will bring it to EIOPA's Appointing Authority for taking appropriate action.
- 5.4. Where an actual or potential CoI arises in the context of a meeting, the staff member shall immediately inform the chair of the meeting. The chair may take appropriate action in urgent cases and/or bring it to the E.O.
- 5.5. All **candidates** for a position in EIOPA as statutory staff shall submit a DoI (Annex III) to the E.O. before their recruitment in order for the Appointing Officer to be able to assess any actual or potential conflict of interest in relation to the specific position that may be offered and to take appropriate mitigating measures if necessary.
- 5.6. **Individuals identified under Article 1.1.b and Article 1.1.c** shall submit a DoI in case of potential or actual conflict of interest to the E.O. Article 5.4 shall apply mutatis mutandis.

- 5.7. If at any point in time changes occur to the situation of the interests of individuals listed under Article 1.1, the person involved shall update his/her DoI without delay.
- 5.8. Ad-hoc declarations shall be recorded by the E.O. or the relevant competent officer (See Annex I).

TITLE II - PROCEDURE FOR IDENTIFYING AND HANDLING POTENTIAL CONFLICTS OF INTERESTS

SECTION I – SCREENING PROCESS

Article 6 – Principles of assessment of interests

- 6.1. In addition to the general principles laid down in Article 2 above, interests can only be assessed by considering whether the specific interests declared by a person are compatible with the tasks assigned or to be assigned by EIOPA to him or her, having regard to the mandate of the group(s)¹² where the person participates and/or the role and function that he/she is required to take on or perform.

Article 7 – Screening of Declarations

- 7.1. Upon receipt, the competent officer or appointing authority, for the case of the E.O., shall screen the declarations in order to assess actual or potential CoI arising in any of the categories described in Articles 1.3 and 1.4. The screening shall be performed according to the criteria specified under Article 8.
- 7.2. The competent officer shall inform the Appointing Authority on the outcome of the screening, including, where relevant, a proposal for a preventive measure in case of an identified CoI.
- 7.3. The competent officer may request the advice of the E.O. where relevant.

Article 8 – Criteria for the screening of Declarations

- 8.1. The screening shall be made according to the following criteria:
 - a) Interests can only be assessed by considering whether the specific interests declared by a person are compatible with the tasks assigned or to be assigned by EIOPA to him or her;
 - b) In the case of an ad-hoc declaration, the assessment should take into account the context in which the declaration is made, including the

¹² Groups should be understood as EIOPA working group according to the Rules of Procedure (including Task Forces, Committees, Project Groups, Expert Networks or any other).

items on the agenda of a meeting of the group(s) where the person participates and the role and function that he or she is required to take on or perform in that specific context.

SECTION II - DECISION ON THE ASSESSMENT OF THE DECLARATION

Article 9 – Process for addressing declared CoI of EIOPA’s staff members

- 9.1 Upon receipt of the competent officer’s¹³ screening report – or the appointing authority in the case of the E.O. - with, where relevant, a proposal for a preventive measure, the Appointing Authority shall, – within 30 working days after having heard the member of the staff concerned, take a decision. He/she may request the advice of the E.O. where relevant.
- 9.2 The Appointing Authority may decide to reassign the person in question or to take any measure considered appropriate to ensure that the actual or potential conflict of interest in question does not occur, or to remedy a CoI within 30 working days.
- 9.3 Any change regarding interests already declared shall result in a swift update of the DoI, which shall be submitted to the Ethics Officer without delay. The procedure laid down above applies to updated DoIs.
- 9.4 The procedure laid down in this Article is without prejudice to disciplinary measures that may be taken by the Executive Director in accordance with the Staff Regulations for officials and other servants.
- 9.5 Article 90 of the Staff Regulations is applicable to the procedures laid down in this Article.
- 9.6 Any preventive measure taken to address potential conflicts of interests shall be recorded by the E.O.

Article 10 – Process regarding the DoI of the Chairperson and the Executive Director

- 10.1 The DoI of the Chairperson and of the Executive Director shall be submitted by the E.O. to the ACCI.

¹³ Or after having drafted his/her screening report

- 10.2 The ACCI consists of a Senior Legal Counsel of EIOPA, acting as Chair, and two other members, one appointed by the Management Board among its members and one being a Voting Member of the Board of Supervisors appointed by the Board of Supervisors.,
- 10.3 The ACCI shall apply the principles laid down in Articles 6 – 8 of this Decision mutatis mutandis to the Executive Director and Chairperson as appropriate.
- 10.4 The ACCI shall inform the Management Board of its screening before the publication of the DoI on EIOPA's website.
- 10.5 In case an actual or potential CoI is identified, the ACCI shall provide an initial advice, including any preventive measure, to EIOPA's Management Board for its approval
- 10.6 Any preventive measure taken to address potential conflicts of interests shall be recorded by the E.O.

Article 11 – Process regarding omissions of declarations

- 11.1 In case EIOPA is aware, or is made aware, of information that is not declared or not consistent with the declaration of an individual and a preliminary assessment suggests that it concerns a declarable interest, the E.O. shall seek additional information from the individual with regard to the omission. At the same time, the individual shall be requested to declare or update the missing details of the declaration(s).
- 11.2 Upon declaration or completion of the update, the declaration shall be processed and screened in accordance with the present Decision.
- 11.3 The Appointing Authority may take any appropriate preventive actions regarding the individual's participation in EIOPA's activities.
- 11.4 For the case of the Chairperson and the Executive Director, the E.O. shall immediately inform the ACCI, which shall process and screen the new or updated declaration in accordance with the present Decision.

Article 12 – Process regarding breaches of EIOPA's rules on declarations of interests

- 12.1. In case the assessment of the DoI results in the identification of a breach of EIOPA's rules on declarations of interests, the Appointing Authority shall submit the case to the ACCI for an initial advice for this review.
- 12.2. For EIOPA's staff, decisions taken as a consequence of a breach of the rules may include disciplinary measures such as:
 - warnings;
 - reprimands;

- temporary reduction in salary;
- reassignment, temporary or permanent;
- dismissal;
- reduction in pension;
- demotion; and
- judicial prosecution.

- 12.3 If EIOPA finds an individual to be in breach of the present rules, the Appointing Authority may ask the ACCI to perform a review of the draft instruments adopted by the group(s) to which that person contributed. Upon receipt of such a request, the ACCI shall clarify whether and, if appropriate, the extent to which that individual influenced the outputs adopted by EIOPA. The ACCI shall report its findings to the Executive Director and to the Management Board. The Appointing Authority shall take all the appropriate measures to address these findings (e.g. request the revision of an output, replace the staff member in a Working Group).
- 12.4 For the case of the Chairperson and the Executive Director, the disciplinary measures shall be decided by the ACCI.

Article 13 – Granting of waivers

- 13.1 In the context of Articles 5.4., 9 and 11, when an individual has an actual or potential CoI excluding him or her from performing a task and his or her expertise is considered essential for the completeness of certain deliverables or outputs, the availability of alternative experts in the field shall be considered.
- 13.2 Where a search for alternative individuals is performed, the availability of alternative individuals shall be discussed.
- 13.3 In exceptional cases, when the concerned individual's involvement in a particular task is considered essential and where no suitable alternative individual is found, the competent officer may request a waiver to the Appointing Authority.
- 13.4 The Appointing Authority shall inform the Management Board on the conclusion reached. This shall include all pertinent information on which the conclusion is based.
- 13.5 Waivers shall be recorded by the E.O.
- 13.6 Should a waiver be granted, the concerned individual shall be allowed to take part in the discussions and in the drafting phase of the output. Individuals having been granted a waiver shall not be allowed to be or act as chair, vice- chair or rapporteur of the EIOPA's Working Groups.

13.7 The provisions of this Article apply to the Chairperson and Executive Director as appropriate.

Article 14 – Review of the decisions of the Appointing Authority

14.1 In case a specific complaint is filed by the concerned individual, the Appointing Authority shall submit the file to the ACCI.

14.2 On the basis of the advice provided by the ACCI, the Appointing Authority may review the decision in question taking all measures necessary to rectify the deficiencies identified therein.

14.3 Should the review by the Appointing Authority identify a conflict of interests regarding a decision that has already been adopted, Articles 8 to 11 shall apply by analogy.

14.4 The provisions of this Article apply to the Chairperson and Executive Director as appropriate.

TITLE III - PROCUREMENT PROCEDURES

Article 15 – Declaration by tenderers to EIOPA’s procurement procedures

15.1 The principles applying to the management of conflict of interests in the context of a procurement process are laid down in the Financial Regulation and Rules of Application.

15.2 Legal or natural persons applying to EIOPA’s public procurement procedures shall submit a true, accurate and up to date Declaration of honour on exclusion criteria and absence of conflict of interests using the template provided by EIOPA (Annex IV - A).

15.3 Tenderers shall update their declarations without delay in case of any change.

15.4 To interpret the concepts and definitions contained in the template declaration, tenderers shall make reference to the definitions laid down in the Financial Regulations.

15.5 Contractors or their representatives shall submit, where relevant, the declaration concerning confidentiality (as per Article 3.1) to the procurement team.

Article 16 – Declaration by staff members and consultants in the context of procurement procedures of EIOPA

- 16.1 Each staff member appointed as a Member of the Opening Board and/or Evaluation Committee shall sign the declaration of absence of conflict of interests and of confidentiality, using the appropriate template of procurement procedures (Annex IV – B) and submit it to Procurement.

Article 17 – Screening of the declarations

- 17.1 The screening of the declarations submitted under 15.2. shall be performed by EIOPA's Evaluation Committee designated for each procurement procedure.
- 17.2 Should a potential conflict of interests be identified, the Evaluation Committee shall request the tenderer to put in place within a set time period measures appropriate to prevent the occurrence of that conflict, such as the replacement of the individual(s) with the identified conflict.
- 17.3 The Evaluation Committee shall assess the measures taken by the tenderer and the above sequence shall be repeated until no potential conflict of interests is identified, or until the tenderer is excluded from the procedure for his or her inability to adopt the appropriate measures. In that case, the tenderer shall be excluded and his or her offer shall not be retained for contract award.
- 17.4 The screening of the declarations submitted under 16.1. shall be performed by the appointed Secretary of the Opening and/or Evaluation Committee.
- 17.5 Should a potential conflict of interests be reported, the Authorising Officer shall be informed and shall take the appropriate decision whether to replace the staff member in the Opening Board and/or Evaluation Committee or not.

TITLE IV - COMMON PROVISIONS

Article 18 – Publication and protection of personal data

- 18.1 Without prejudice to Regulation 1094/2010, EIOPA shall process all declarations pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the

institutions and bodies of the Community and on the free movement of such data.

- 18.2 The purpose of the data processing is to safeguard the independence of EIOPA and its constituent bodies.
- 18.3 The legal basis for processing DoI is provided in:
 - a) Article 11 and 11(a) of the Staff Regulations;
 - b) Article 107 of the Financial Regulation applicable to the General Budget, 143 of the detailed rules for the implementation of the Financial Regulation, Article 41 of EIOPA's Financial Regulation.
- 18.4 EIOPA's Executive Director is the controller of handling the declarations.
- 18.5 The nature of the interests to declare, the obligation to do so, the possible consequences of not declaring as well as the publication of declarations are explained in the present decision, available on the EIOPA's website.
- 18.6 The recipients of the declarations are the persons and bodies identified in the present document. Furthermore, declarations may be transferred to bodies in charge of a monitoring or inspection task in conformity with Union Law, including the European Court of Auditors, the Internal Audit Service, OLAF, the European Ombudsman and the European Data Protection Supervisor.
- 18.7 The Chairperson and the Executive Director shall undertake to act independently in the public interest in accordance with Articles 49 and 52 respectively of the EIOPA's Regulation and Article 11a of the Staff Regulations. For this purpose, their annual DoI shall be made available on EIOPA's website.
- 18.8 The conservation period of declarations per category of data subjects shall be:
 - a) For the Chairperson and Executive Director, 5 years after the discharge for the budgetary year in which the Chairperson and Executive Director terminate their mandate at EIOPA;
 - b) For EIOPA staff, 5 years after the discharge for the last budgetary year in which they worked for EIOPA;
 - c) For declarations submitted in the context of procurement, 5 years after the discharge for the budgetary year in which the contract was terminated.
- 18.9 Data subjects with active EIOPA involvement have a right to access their declaration and to update or correct it at any time. In case the EIOPA has knowledge of information that is not consistent with the declared interest,

or in case of failure to submit a declaration, the data subject concerned will be contacted with the purpose to update the declaration on the missing information. In case an internal procedure is opened as referred to in Article 13 of this decision, the data subject will be notified.

18.10 Data subjects also are entitled to have recourse at any time to the European Data Protection Supervisor: <http://www.edps.europa.eu>.

Article 19 – Entry into force

The present decision shall enter into force on the date following its adoption by the Executive Director.

Done at Frankfurt am Main on 27 January 2017

Fausto Parente

Executive Director of EIOPA
(signed)

Annex I – Overview of declarations (EIOPA’s Staff Ethics Rules and this Decision) – relevant templates – competent officers

Declarations	Template	Who	Competent Officer for submission/screening	Decision
Request for clearance to deal in financial instruments (Ethics Rules, page 8)	EIOPA’s Staff Ethics Rules – Annex D	Statutory staff	E.O.	EIOPA’s Appointing Authority
			EIOPA’s Appointing Authority in case of the E.O.	ACCI in case of Chair and ED
Gainful employment of spouses/partners (Ethics Rules, page 8)	EIOPA’s Staff Ethics Rules – Annex E	Statutory Staff	E.O.	EIOPA’s Appointing Authority
			EIOPA’s Appointing Authority in case of the E.O.	ACCI in case of Chair and ED
Gifts/ Hospitality (Ethics Rules, page 9)	EIOPA’s Staff Ethics Rules – Annex F	Statutory Staff	Reporting Officer	EIOPA’s Appointing Authority
			E.O. in case of Chair and ED	ACCI in case of Chair and ED
Outside activities (Ethics Rules, page 13)	EIOPA’s Staff Ethics Rules – Annex G	Statutory Staff <i>Except SNEs/ trainees</i>	Reporting Officer	EIOPA’s Appointing Authority
			E.O. in case of Chair and ED	ACCI in case of Chair and ED
Publications (Ethics Rules, page 13)	EIOPA’s Staff Ethics Rules – Annex H	Statutory Staff	Reporting Officer	EIOPA’s Appointing Authority

Declarations	Template	Who	Competent Officer for submission/screening	Decision
			E.O. in case of Chair and ED	ACCI in case of Chair and ED
Public Office (Ethics Rules, page 14)	EIOPA's Staff Ethics Rules – Annex I	Statutory Staff	Reporting Officer	EIOPA's Appointing Authority
			E.O. in case of Chair and ED	ACCI in case of Chair and ED
Negotiating prospective employment (Ethics Rules, page 15)	No template	Statutory Staff <i>Except SNEs/ trainees</i>	E.O. EIOPA's Appointing Authority in case of the E.O.	EIOPA's Appointing Authority
Declaration in the context of procurement procedure (This decision, Article 16)	Annex IV-B of this decision	Statutory Staff	Procurement/ Secretary of the Opening and/or Evaluation Committee	EIOPA's Authorising Officer
Declaration in the context of procurement procedure (This decision, Article 15)	Annex IV-A of this decision	Contractors and their employees, interims, consultants	Procurement/ Evaluation Committee	EIOPA's Authorising Officer
Declaration in the context of a selection panel (This decision, Article 5.3.)	HR Template	Statutory Staff	HR	EIOPA's Appointing Authority
Declaration in the context of a meeting (This decision, Article 5.4.)	No template	Statutory Staff	Chair of the meeting	Chair of the meeting if urgent E.O.
		Contractors and their employees, interims,	E.O.	EIOPA's Authorising

Declarations	Template	Who	Competent Officer for submission/screening	Decision
		consultants, trainees		Officer
Annual DoI (This decision, Article 4) And/or For any actual/potential CoI other than those above (see f.ex. Article 5.2)	DoI (Annex III)	Statutory Staff	E.O.	EIOPA's Appointing Authority
			EIOPA's Appointing Authority in case of the E.O.	ACCI in case of Chair and ED
For any actual/potential CoI other than those above (see f.ex. Article 5.2)	DoI (Annex III)	Contractors and their employees, interims, consultants, trainees	E.O.	EIOPA's Authorising Officer
Confidentiality Agreement (This decision, Article 3)	Annex II	Contractors and their employees	Procurement	N/A
		Trainees	HR	N/A
	Ad-hoc template	Statutory Staff	E.O.	N/A

CONFIDENTIALITY UNDERTAKING

to be signed by Individual(s)

I, (Title) (Name) (Surname).....
(Organisation/Company)
(Country)

In view of the following definitions:

"EIOPA Activities" encompass (but are not restricted to) activities related to my role and responsibilities at the European Insurance and Occupational Pensions Authority (further referred to as "EIOPA"), any meeting (including meeting preparation and follow-up), associated discussion or any other related activity of EIOPA's Boards, Working Groups, colleges, or any other meeting related to the EIOPA.

"Confidential Information" means all information, facts, data and any other matters of which I acquire knowledge, either directly or indirectly, as a result of my EIOPA activities.

"Confidential Documents" mean all drafts, preparatory information, documents and any other material, together with any information contained therein, to which I have access, either directly or indirectly, as a result of my participation in EIOPA Activities. Furthermore, any records or notes made by me relating to Confidential Information or Confidential Documents shall be treated as Confidential Documents.

I acknowledge that I may, in the course of the work that EIOPA has asked me to carry out, obtain information (whether or not in documentary form) relating to EIOPA and its internal affairs, and information about third parties. I also understand that I may be invited to participate either directly or indirectly in certain EIOPA activities and hereby undertake:

- 1. to treat all Confidential Information and Confidential Documents under conditions of strict confidentiality.**
- 2. not to disclose (or authorise any other person to disclose) in any way to any third party any Confidential Information and Confidential Documents without EIOPA's prior written consent.**
- 3. not to use (or authorise any other person to use) any Confidential Information and Confidential Documents other than for the purposes of my work in connection with EIOPA activities.**
- 4. to dispose of Confidential Information and Confidential Documents as soon as I have no further use for them.**

Upon termination of my temporary placement with EIOPA, all confidential information held should be collected and returned to EIOPA. This includes electronic and print versions.

I also understand that I am subject to EIOPA Management Board Decision on Professional Secrecy and Confidentiality (EIOPA-MB-11/008), Article 70 of Regulation (EU) No 1094/2010, and Article 339 TFEU.

This undertaking shall not be limited in time, but shall not apply to any document or information that I can reasonably prove was known to me before the date of this undertaking or which becomes public knowledge otherwise than as a result of a breach of any of the above undertakings.

I acknowledge that, where disclosure of the information I obtain is controlled by statutory provision, I may be prosecuted for wrongful disclosure.

I HAVE READ THIS AGREEMENT, UNDERSTAND IT, AND AGREE TO ITS TERMS.

I acknowledge having received a fully executed copy of this agreement and of EIOPA's Rules on Professional Secrecy and Confidentiality (EIOPA-MB-11/008), Article 70 of Regulation (EU) No 1094/2010, and Article 339 TFEU.

Signature	Date/ Place
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Annex III – **Template for Declaration of Interests**

(Please do not use this document but the [declaration form](#) saved under I:\Corporate Support\Administrative Support\Internal Procedures\Ethic_Rules_Conflicts-Interest\STAFF ETHICS Framework\Declarations)

You are required to sign this form in order to confirm that you have read and taken note of Article 11a of the Staff Regulations as applied by the Conditions of Employment of Other Servants, EIOPA's Ethics Rules and EIOPA's Procedure on Independence and Decision Making Processes regarding Declarations of interests for staff and other contractual parties

Signing this declaration should prompt you to consider whether you may have a possible conflict of interests that could affect the performance of your duties at EIOPA. The act of signing the declaration should also remind you that when you do have a conflict of interests you should inform the Appointing Authority accordingly.

Article 11a of the Staff Regulations states the following:

"1. An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.

2. Any official to whom it falls, in the performance of his duties, to deal with a matter referred to above shall immediately inform the Appointing Authority. The Appointing Authority shall take any appropriate measure, and may in particular relieve the official from responsibility in this matter.

3. An official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties."

I hereby declare that I have read Article 11a of the Staff Regulations, EIOPA's Ethics Rules and EIOPA's Policy on Independence and Decision Making Processes regarding Declarations of interests for staff and other contractual parties and am aware of my obligations.

I attach a list of my current financial interests and other sources of conflict of interests, where applicable.

Whenever I have a conflict of interests I will alert the Appointing Authority.

First Name:	
Last name:	
Position in EIOPA:	

hereby declares the following:

I. Employment¹⁴, consultancy¹⁵, legal representation or advice

Within the past 5 years, were you employed or have you had any other professional relationship with a public or private entity with an interest in the field of activity of EIOPA?

<input type="checkbox"/> No:			
<input type="checkbox"/> Yes, and more in particular:			
Function/Activity	Time period (from...until month/year)	Name of public or private entity	Description
*			

II. Membership of a Managing Body, or equivalent structure

Within the past 5 years, have you participated in the internal decision-making of a public or private entity with an interest in the field of activity of EIOPA (e.g. board membership, directorship)?

<input type="checkbox"/> No:			
<input type="checkbox"/> Yes, and more in particular:			
Function/Activity	Time period (from...until month/year)	Name of public or private entity	Description
*			

¹⁴ **“Employment”** refers to any form of regular occupation or business, part-time or full-time, paid or unpaid, including self-employment (e.g. consultancy), in any body with an interest in the field of activity of EIOPA. It includes employment by industry which refers to any form of employment by any legal or natural person carrying out any of the activities on which EIOPA’s outputs impact directly or indirectly, or a trade association of such person.

¹⁵ **“Consultancy”** refers to any ad hoc or occasional activity in which the concerned person provides advice or services to undertakings, trade associations or other bodies with an interest in the field of activity of EIOPA. This includes also services provided on an honorary basis (i.e. for free or without the payment of fees or emoluments) and any advice related to products, their development and/or assessment methods thereof.

III. Other membership or affiliation

Within the past 5 years, have you had any membership or affiliation other than the above that can be perceived as creating a potential conflict of interest?

<input type="checkbox"/> No:			
<input type="checkbox"/> Yes, and more in particular:			
Function/Activity	Time period (from...until month/year)	Name of public or private entity	Description
*			

IV. Economic interest

Do you have current economic interests including:

- (a) Any economic stake or share in a body, in particular in any financial institution, carrying out any of the activities falling under EIOPA's scope of action (as defined in Article 1(2) and 1(3) of the Regulation, including the stocks, equities or bonds thereof, or of one of its subsidiaries or of a company in which it has a holding (direct and indirect). [This does not include deposits or personal insurance policies contracted as a regular customer with the exception of saving life insurance products].
- (b) Direct holdings in saving life insurance products, including unit linked, which amount to a value above 10,000 EUR per institution are to be considered;
- (c) Direct holdings in credit institutions which amount to a value above 10,000 EUR per institution or comparable amounting to a voting right of 5% or more in a credit institution (notwithstanding their financial value) are to be considered; and/or
- (d) Indirect holdings which amount to a value above 10,000 EUR per holding are to be considered. This includes UCITs that are mainly (> 50%) invested in the financial sector?

<input type="checkbox"/> No:	
<input type="checkbox"/> Yes, and more in particular:	
Economic interest	Name of organisation or commercial entity
*	

V. Intellectual Property¹⁶

Do you have any intellectual property rights (e.g. patent, trademark or copyright) in the field of activity of EIOPA that might create a potential conflict of interest?

<input type="checkbox"/> No:		
<input type="checkbox"/> Yes, and more in particular:		
Intellectual Property	Name of organisation or commercial entity	Description
*		

VI. Interests held by close family members¹⁷

Does any of your close family members hold any current interests in the field of activity of EIOPA (as specified above in the sections I.-VIII.)?

<input type="checkbox"/> No:		
<input type="checkbox"/> Yes, and more in particular:		
Function/Activity	Name of organisation or commercial entity	Description
*		

VII. Other relevant information

Are there any other elements that could be seen as jeopardising your independence when working for the Authority?

*

Date:

Signature:

¹⁶ "Intellectual Property" refers to rights on the subject matter granted to creators and owners of works that are the result of human intellectual creativity and may lead to a financial gain.

¹⁷ For this purpose, "close family member" are considered to be partners (i.e. persons forming parts of the household) or persons dependent on the individual. For privacy reasons neither the relationship nor the name is to be included. Only current interests held by close family members are of relevance and not past interests.

(* If you need more sheets or rows to declare your interests, do not hesitate to use blank ones or add rows in the relevant table. Please sign each one of added sheets and attach them to this form.)

Please send a completed and signed form to EIOPA's Ethics Officer: ethicsofficer@eiopa.europa.eu

Please note that EIOPA's Ethics Officer will keep a record of this declaration.

Personal data protection notice

Introduction

EIOPA, as a European Authority, is committed to protect individuals with regard to the processing of their personal data in accordance with the Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2001¹⁸.

Purpose of the processing of personal data

Personal data are collected and processed in order to enable EIOPA to:

- Ensure the independence and high standards of professional conduct by all those involved in the activities of the EIOPA, i.e. EIOPA staff, contractors and trainees, which is crucial for EIOPA's excellence and reputation;
- Identify, handle, remove or mitigate without delay any actual or potential conflict of interests (CoI).

In accordance with Article 5 (a) of Regulation (EC) No 45/2001, the processing is necessary for the performance of tasks carried out in the public interest on the basis of the Treaties establishing the European Communities. The process is necessary for the management and functioning of the Agency.

Data will not be used for any purposes other than the performance of the activities specified above.

Controller of the personal data processing

The controller responsible for processing your data is EIOPA's Executive Director.

Type of data processed:

¹⁸ OJ L 8, 12.1.2001

The personal data processed are the ones provided in the DoI.

To whom are data disclosed?

- The Ethics Officer;
- The Appointing Authority (Executive Director);
- The Personal Assistants of the Ethics Officer and the Appointing Authority;
- Regarding EIOPA's Chair and Executive Director: in addition to the E.O. and his/her P.A., the Senior Legal Counsel, one dedicated member of the Management Board and one of the Board of Supervisors (together the ACCI);
- Also, if appropriate, access will be given to the Internal Audit Service, the European Ombudsman, the Civil Service Tribunal and the European Data Protection Supervisor.

How long are your data kept?

- For the Chairperson and Executive Director, 5 years after the discharge for the budgetary year in which the Chairperson and Executive Director terminate their mandate at EIOPA;
- For all other EIOPA statutory staff, 5 years after the discharge for the last budgetary year in which they worked for EIOPA;
- In case of a legal challenge, the above dates shall be extended until two years after completion of all relevant proceedings.

How can you have access to your data, verify their accuracy or rectify them?

Individuals have a right to access their data. They have a right to update or correct at any time their identification data.

The rights of the data subject's rights can be exercised in accordance with "EIOPA's implementing rules on data protection"¹⁹.

You have the right to obtain from the controller copy of your personal data in order to check the accuracy of the data held, and/or to obtain rectification or update of these data if necessary.

You may also ask for deletion of your data if the processing thereof is unlawful, or to have your data blocked for a period enabling the data controller to verify the accuracy, including the completeness, of the data.

¹⁹ EIOPA-MB-11-050

What are the technical means used and the security measures taken to avoid misuse or unauthorised access?

Data are saved on the I-Drive and Outlook in folders with limited access rights to the relevant staff members to safeguard your data against unauthorised access, to maintain data security, and to lawfully use the information collected for the processing of requests.

Staff of EIOPA having access to information concerning an identified or identifiable person are required to protect the data in a manner that is consistent with the rules set out in this privacy notice by, for example, not using the data for any purposes other than the tasks carried out in the exercise of their respective competences.

Whom can you contact if you have questions or complaints?

For any questions on your rights and the exercise of your rights related to the processing of personal data (like access and rectification of your personal data), please feel free to contact the Controller of the process.

In case of conflict on any Personal Data Protection issue you can address yourself to the Controller at the above mentioned address. You can also contact

EIOPA Data Protection Officer

by email : DPO@eiopa.europa.eu
by letter : EIOPA
Data Protection Officer (Confidential)
Westhafen Tower, Westhafenplatz 1
DE-60327 Frankfurt am Main

or

the European Data Protection Supervisor

by email : <https://secure.edps.europa.eu/EDPSWEB/edps/EDPS>
by letter : EDPS
Rue Wiertz 60
B-1047 Brussels
Belgium

Annex IV - A:

**Declaration of honour on
exclusion criteria and absence of conflict of interests**

(Complete or delete the parts in grey italics in parentheses)
[Choose options for parts in grey between square brackets]

The undersigned (*insert name of the signatory of this form*):

in [his][her] own name (*for a natural person*)

or

representing the following legal person: (*only if the economic operator is a legal person*)

full official name:

official legal form:

full official address:

VAT registration number:

- declares that [the above-mentioned legal person][he][she] is not in one of the following situations:
- a) is bankrupt or being wound up, is having its affairs administered by the courts, has entered into an arrangement with creditors, has suspended business activities, is the subject of proceedings concerning those matters, or is in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
 - b) has been convicted of an offence concerning professional conduct by a judgment of a competent authority of a Member State which has the force of *res judicata*;
 - c) has been guilty of grave professional misconduct proven by any means which the contracting authorities can justify including by decisions of the European Investment Bank and international organisations;
 - d) is not in compliance with all its obligations relating to the payment of social security contributions and the payment of taxes in accordance with the legal provisions of the country in which it is established, with those of the country of the contracting authority and those of the country where the contract is to be performed;
 - e) has been the subject of a judgement which has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation, money laundering or any other illegal activity, where such activity is detrimental to the Union's financial interests;
 - f) is subject to an administrative penalty for being guilty of misrepresenting the information required by the contracting authority as a condition of participation in a grant award procedure or another procurement procedure or failing to supply this information, or having been declared to be in serious breach of its obligations under contracts or grants covered by the Union's budget.
- (*Only for legal persons other than Member States and local authorities, otherwise delete*) declares that the natural persons with power of representation, decision-making or control²⁰ over the above-mentioned legal entity are not in the situations referred to in b) and e) above;
- declares that [the above-mentioned legal person][he][she]:
- g) has no conflict of interest in connection with the contract; a conflict of interest could arise in particular as a result of economic interests, political or national affinity, family, emotional life or any other shared interest;

²⁰ This covers the company directors, members of the management or supervisory bodies, and cases where one natural person holds a majority of shares.

- h) will inform the contracting authority, without delay, of any situation considered a conflict of interest or which could give rise to a conflict of interest;
- i) has not granted and will not grant, has not sought and will not seek, has not attempted and will not attempt to obtain, and has not accepted and will not accept any advantage, financial or in kind, to or from any party whatsoever, where such advantage constitutes an illegal practice or involves corruption, either directly or indirectly, inasmuch as it is an incentive or reward relating to award of the contract;
- j) provided accurate, sincere and complete information to the contracting authority within the context of this procurement procedure ;
 - acknowledges that [the above-mentioned legal person][he][she] may be subject to administrative and financial penalties²¹ if any of the declarations or information provided prove to be false.

In case of award of contract, the following evidence shall be provided upon request and within the time limit set by the contracting authority:

For situations described in (a), (b) and (e), production of a recent extract from the judicial record is required or, failing that, a recent equivalent document issued by a judicial or administrative authority in the country of origin or provenance showing that those requirements are satisfied. Where the tenderer is a legal person and the national legislation of the country in which the tenderer is established does not allow the provision of such documents for legal persons, the documents should be provided for natural persons, such as the company directors or any person with powers of representation, decision making or control in relation to the tenderer.

For the situation described in point (d) above, recent certificates or letters issued by the competent authorities of the State concerned are required. These documents must provide evidence covering all taxes and social security contributions for which the tenderer is liable, including for example, VAT, income tax (natural persons only), company tax (legal persons only) and social security contributions.

For any of the situations (a), (b), (d) or (e), where any document described in two paragraphs above is not issued in the country concerned, it may be replaced by a sworn or, failing that, a solemn statement made by the interested party before a judicial or administrative authority, a notary or a qualified professional body in his country of origin or provenance.

If the tenderer is a legal person, information on the natural persons with power of representation, decision making or control over the legal person shall be provided only upon request by the contracting authority.

Full name

Date

Signature

²¹ As provided for in Article 109 of the Financial Regulation (EU, Euratom) 966/2012 and Article 145 of the Rules of Application of the Financial Regulation

Annex IV - B:

**Declaration
of absence of conflict of interests and of confidentiality**

Title of contract:

Reference: (Call for tenders No):

I, the undersigned, having been [appointed to the opening board] [appointed to the evaluation committee] for the abovementioned public contract, declare that I am aware of Article 57 of the Financial Regulation, which states that:

"1. Financial actors and other persons involved in budget implementation and management, including acts preparatory thereto, audit or control shall not take any action which may bring their own interests into conflict with those of the Union.

Where such a risk exists, the person in question shall refrain from such action and shall refer the matter to the authorising officer by delegation who shall confirm in writing whether a conflict of interests exists. The person in question shall also inform his or her hierarchical superior. Where a conflict of interests is found to exist, the person in question shall cease all activities in the matter. The authorising officer by delegation shall personally take any further appropriate action.

2. For the purposes of paragraph 1, a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person, as referred to in paragraph 1, is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with a recipient."

I hereby declare that, to my knowledge, I have no conflict of interests with the operators who have [requested to participate in the procurement procedure] [submitted a tender] for this procurement, including persons or members of a consortium, or the subcontractors proposed.

I confirm that if I discover during the [opening] [evaluation] that such a conflict exists, I will declare it immediately as indicated above. If a conflict of interests is found to exist, I shall cease all activities related to the [board] [committee].

I also confirm that I will keep all matters entrusted to me confidential. I will not communicate outside the [board] [committee] any confidential information that is revealed to me or that I have discovered [or any information relating to the views expressed during the evaluation]. I will not make any adverse use of information given to me.

Date:

Signature:

(Approval may be given via a workflow in ARES in place of a handwritten signature)