

**Decision of the Management Board
concerning
the terms and conditions for internal investigations in relation to the
prevention of fraud, corruption and any illegal activity detrimental to
the Union's interests**

The Management Board

Having regard to Article 66 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council establishing the European Insurance and Occupational Pensions Authority (the "Regulation")¹

Whereas:

- (1) Regulation (EC) No 1073/1999 of the European Parliament and of the Council² and Council Regulation (Euratom) No 1074/1999³ concerning investigations conducted by the European Antifraud Office (the "Office") provide that the Office is to initiate and conduct administrative investigations within the institutions, bodies and offices and agencies established by or on the basis of the Treaty on European Union or the Euratom Treaty;
- (2) The responsibility of the European Anti-fraud Office as established by the Commission extends beyond the protection of financial interests to include all activities relating to the need to safeguard Union interests against irregular conduct liable to give rise to administrative or criminal proceedings;
- (3) The scope of the fight against fraud should be broadened and its effectiveness enhanced by exploiting existing expertise in the area of administrative investigations;

¹ OJ L 331, 15.12.2010, p.48

² OJ L 136, 31.5.1999, p. 1.

³ OJ L 136, 31.5.1999, p. 8.

- (4) Therefore, on the basis of their administrative autonomy, all the institutions, bodies and offices and agencies should entrust to the Office the task of conducting internal administrative investigations with a view to bringing to light serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials and servants of the Union, as referred to in Articles 11, 12, second and third paragraphs, 13, 14, 16 and 17, first paragraph, of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities (hereinafter referred to as the "Staff Regulations"), detrimental to the interests of those Union and liable to result in disciplinary or, in appropriate cases, criminal proceedings, or serious misconduct, as referred to in Article 22 of the Staff Regulations, or a failure to comply with the analogous obligations of the Members, managers or members of staff of the institutions, bodies and offices and agencies of the Union not subject to the Staff Regulations;
- (5) Such investigations should be conducted in full compliance with the relevant provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union, in particular the Protocol on privileges and immunities, of the texts implementing them and the Staff Regulations;
- (6) Such investigations should be carried out under equivalent conditions in all the Union institutions, bodies and offices and agencies; assignment of this task to the Office should not affect the responsibilities of the institutions, bodies, offices or agencies themselves and should in no way reduce the legal protection of the persons concerned;
- (7) Pending the amendment of the Staff Regulations, practical arrangements should be laid down stipulating how the members of the institutions and bodies, the managers of the offices and agencies and the officials and servants of the institutions, bodies and offices and agencies are to cooperate in the smooth operation of the internal investigations,

Has adopted this decision:

Article 1 – Duty to cooperate with the Office

The Chairperson, the Executive Director and any other staff member of EIOPA as well as contract agents, national experts seconded at EIOPA and trainees (further referred as "EIOPA Staff" for the purpose of this document) shall be required to cooperate fully with the Office's agents and to lend any

assistance required to the investigation. With that aim in view, they shall supply the Office's agents with all useful information and explanations.

Without prejudice to the relevant provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union, in particular the Protocol on privileges and immunities, and of the texts implementing them, EIOPA Staff shall cooperate fully with the Office.

Article 2 – Duty to supply information

An EIOPA Staff, who becomes aware of evidence which gives rise to a presumption of the existence of possible cases of fraud, corruption or any other illegal activity detrimental to the interests of the Union, or of serious situations relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials or servants of the Union liable to result in disciplinary or, in appropriate cases, criminal proceedings, or a failure to comply with the analogous obligations of the members, managers or members of staff not subject to the Staff Regulations, shall inform without delay his/her Head of Service or Executive Director or, if s/he considers it useful, the Chairperson or the Office direct.

EIOPA Staff shall transmit without delay to the Office any evidence of which they are aware from which the existence of irregularities as referred to in the first paragraph may be presumed.

EIOPA Staff must in no way suffer inequitable or discriminatory treatment as a result of having communicated the information referred to in the first and second paragraphs.

Members who acquire knowledge of facts as referred to in the first paragraph shall inform the Chairperson or, if they consider it useful, the Office direct.

Article 3 – Assistance from the Director of Operations

At the request of the Director of the Office, EIOPA's Director of Operations shall assist the Office in the practical conduct of investigations.

Article 4 – Informing the interested party

Where the possible implication of an EIOPA Staff emerges, the interested party shall be informed rapidly as long as this would not be harmful to the investigation. In any event, conclusions referring by name to an EIOPA Staff may not be drawn once the investigation has been completed without the interested party's having been enabled to express his/her views on all the facts which concern him/her.

In cases necessitating the maintenance of absolute secrecy for the purposes of the investigation and requiring the use of investigative procedures falling within the remit of a national judicial authority, compliance with the obligation to invite an EIOPA Staff to give his/her views may be deferred in agreement with the Chairperson or the Executive Director respectively.

**Article 5 – Information on the closing of the investigation
with no further action taken**

If, following an internal investigation, no case can be made out against an EIOPA Staff against whom allegations have been made, the internal investigation concerning him/her shall be closed, with no further action taken, by decision of the Director of the Office, who shall inform the interested party in writing.

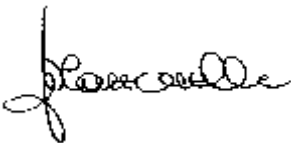
Article 6 – Waiver of immunity

Any request from a national police or judicial authority regarding the waiver of the immunity from judicial proceedings of an EIOPA Staff concerning possible cases of fraud, corruption or any other illegal activity shall be transmitted to the Director of the Office for his/her opinion. If a request for waiver of immunity concerns a Member of EIOPA, the Office shall be informed.

Article 7 – Effective date

This Decision shall enter into force immediately after their approval.

Done at Frankfurt am Main on 10 February 2010



Flavia Mazarella

Chairperson of the Management Board Meeting on 10 February 2011

For the Management Board