



RULES OF PROCEDURE OF THE REGULATORY SCRUTINY BOARD¹

Article 1 **Composition**

1. In accordance with Article 3 of Decision P(2020)2 of the President of the European Commission ("the Decision") modified by the Decision P(2022)1 the Regulatory Scrutiny Board ("the Board") shall be composed of nine members: the Chair, four Commission officials ("internal members"), and four temporary agents ("external members"), all appointed by the Commission. The Chair of the Board shall be ranked as Director-General, one member of the Board shall be ranked as Director, and the remaining members of the Board shall be ranked as Principal Advisors. The name and curriculum vitae of each of the members of the Board will be made public.

Article 2 **Secretariat**

1. In accordance with Article 5(5) of the Decision, the secretariat of the Board shall be provided by the Secretariat-General of the Commission.
2. The Secretary of the Board shall be designated by the Chair, in agreement with the Secretary-General of the Commission.
3. The Secretary of the Board and the staff he/she shall designate to work for the secretariat of the Board ("the supporting staff") shall faithfully support the activities of the Board and in all related matters only take instructions from the Board.
4. The Secretary shall manage the Board's short-term rolling activity plan in consultation with the Board. At the start of each year, the Secretary shall provide a tentative long-term plan of reports expected to be submitted for the Board's review in the course of the year. The Secretary will support the Board in selecting main evaluations for Board scrutiny.
5. For each report reviewed by the Board, the Secretary shall prepare draft quality checklists and, based on the Board's instruction, draft opinions for the Board's revision and finalisation.

¹ Adopted pursuant to Article 5(3) of the Decision of the President of the European Commission on an independent Regulatory Scrutiny Board (P(2020)2 of 23.1.2020).

6. For each meeting of the Board, the Secretary shall prepare, under the responsibility of the Chair, the agenda and a summary record of the proceedings, which shall be presented to the Board for approval at a subsequent meeting.
7. The Secretary shall be responsible for the custody of opinions, summary records of the proceedings and all other documents related to the deliberations of the Board.

Article 3

Independence and collective responsibility

1. In the performance of their tasks and in offering advice to the political level of the Commission, the members of the Board shall act independently and in the interest of the European Union. They shall not seek or take instructions, they shall act in their personal capacity, on the basis of professional expertise and shall be collectively responsible for the decisions and the opinions adopted by the Board.
2. In accordance with the principle of collective responsibility, Board members shall refrain from calling into question any decision taken by the Board.
3. The members of the Board, its Secretary and the supporting staff shall maintain the confidentiality of the deliberations of the Board and shall communicate within the Commission and with external stakeholders in accordance with the provisions set out in these Rules.

Article 4

Ethics and Conduct

1. Without prejudice to the provisions of these Rules and the provisions of Article 4 of the Decision concerning the disclosure of any potential conflict of interest, the members of the Board, its Secretary and the supporting staff shall be subject to the rules of conduct and obligations deriving from their status as Commission officials or temporary agents, as laid down in the Staff Regulations and the Code of Good Administrative Behaviour, including those regarding conflict of interest, the exercise of outside activities, relations with the public and the obligations after leaving the service.

Article 5

Meetings

1. The meetings of the Board shall be chaired by the Chair. In accordance with Article 5(4) of the Decision, those meetings shall not be open to the public. The Board shall submit “quality checklists” with preliminary remarks and main issues to be discussed at least two working days ahead of each meeting to the concerned Commission department(s).
2. In accordance with Article 3(3) of the Decision, where the Chair is prevented from exercising his/her functions, he/she shall be replaced by the member of the Board ranked as Director. If the Secretary of the Board is unable to attend a meeting, he/she shall designate another member of the secretariat to act on his/her behalf.

3. Meetings of the Board shall be called into session by the Chair, as the scrutiny activities of the Board may require. As a rule, the Board meets fortnightly.
4. Outside its regular sessions, the Board may also meet in special session, at any time, at the initiative of the Chair or at the request of at least two Board members, if in their opinion circumstances so require.
5. The Board shall meet at the Commission premises unless it decides that a particular meeting shall be held elsewhere.
6. Five members of the Board shall constitute a quorum for the Board to take decisions, including the Chair, or where the Chair is prevented from exercising his/her functions, the member of the Board ranked as Director.
7. In addition to the Chair, the members of the Board and the Secretary, meetings of the Board shall be open to attendance only by the designated representatives of the Commission departments concerned by the agenda items under consideration, members of the secretariat and such other persons that the Board may invite. At the request of the Chair, of at least two Board members or of the Commission department concerned, meetings on highly confidential or politically sensitive matters may be restricted to the members of the Board, its Secretary and two other officials specifically named by the Commission department concerned.

Article 6
Agenda

1. In view of the requirements of the scrutiny activity of the Board, an Agenda for each meeting shall be prepared by the Secretary of the Board, under the instruction of the Chair. Any member of the Board may request that any other matter upon which the Board has power to act be included on the Agenda.
2. For well-justified reasons and taking into account the Commission's political priorities, the Board may postpone discussion or decision on any matter it has power to act for such period as it deems appropriate.
3. Any agenda item for a meeting, consideration of which has not been completed, shall be included on the Agenda of the Board's next meeting, unless the Board decides otherwise.

Article 7
Functioning

1. The Board shall assess the quality of draft impact assessment reports, fitness check reports and major evaluation reports ("reports"). It shall issue an opinion on each draft report that has been submitted to it and where necessary shall make recommendations on how the quality of the report should be improved. The Board's opinions should be guided by the Commission's Better Regulation Guidelines and Toolbox.

2. At least once a year, the Board shall establish a tentative list of major evaluations it intends to consider and shall communicate this list to the concerned Commission departments. Services shall always submit a separate report (staff working document) for all fitness checks and those major evaluations selected for Board review. In principle, fitness check and selected evaluation draft reports shall be submitted for Board consideration well in advance of any related impact assessment report. In case a fitness check or an evaluation draft report is submitted to the Board in parallel with the corresponding impact assessment, the Board may consider both reports at the same meeting, but shall examine them in two separate slots. In such cases, the Board shall in principle issue two separate opinions, but may decide to issue a single opinion.
3. In order to ensure a smooth planning of the activities of the Board, the Commission department(s) responsible for a report subject to Board scrutiny shall inform the Secretary of their preferred date for Board consideration at least three months in advance and shall make available the draft report and all the required accompanying documents not later than four weeks before the scheduled Board meeting. The Board shall only assess reports which include complete documentation and meet the key minimum requirements set out in the Commission's Better Regulation Guidelines. The Secretary shall inform the Board of any agreed exemptions at the latest when the draft report is submitted to it for scrutiny.
4. The Board may decide that the draft report should be revised and, if considered necessary, re-submitted to the Board. As a rule, the opinion of the Board on a resubmitted draft report shall be final.
5. At the request of the Commission department concerned, the Board may, at its discretion, meet with services upstream on planned impact assessments, fitness checks or evaluations. These meetings should be timed at a stage when the DGs are in a sufficiently advanced stage of reflection of what they intend to do, while still being at an enough early stage of the process to allow for the discussion with the Board to be taken into account. At these sessions, Board members provide preliminary remarks in their personal capacities. The advice given shall not prejudice or bind the Board in its subsequent opinion on the concerned cases.
6. Upon request or on its own initiative, the Board may also offer advice to the Secretariat General of the Commission regarding the application and interpretation of the Commission's Better Regulation Guidelines, methodological and horizontal issues relating to the further development of the Commission's policy on better regulation.
7. When assessing individual reports, the Board, acting through its Chair and bearing in mind the need to preserve the confidentiality of its deliberations and avoid any potential conflict of interest, may call upon any Commission service and official, or where appropriate an external expert, for ad hoc technical advice.

Article 8 **Voting**

1. The Board shall seek to reach as many decisions as possible by consensus, with the Chair ascertaining the sense of the meeting without the need to take a formal vote.

2. If no consensus can be reached, the Board shall decide by a simple majority of the members present, including the Chair and excluding members abstaining. In the event of a tie, the Chair shall hold the casting vote. In the latter case, if the Chair is prevented from exercising his/her functions, the member of the Board ranked as Director shall have the casting vote.
3. Any member of the Board may require that his/her views be recorded in the summary record of the proceedings of the meeting.

Article 9

Decisions by written procedure

1. The Chair may decide to submit certain matters to the Board for decision by written procedure. In this case, the necessary documentation and draft written decision are sent to Board members who are requested to respond, with their agreement, disagreement or comments, within the deadline set by the Chair. The quorum must be reached for any decision taken by written procedure.
2. At the initiative of the Chair or of at least two Board members the written procedure may be interrupted at any time, in which case the Chair shall convene a meeting of the Board as soon as possible.

Article 10

Opinions and Records of Proceedings

1. The Board shall issue opinions on individual reports submitted to it. Board opinions shall be sent to the concerned Commission department(s) no later than three working days after meetings. These opinions shall be signed by the Chair on behalf of the Board.

Article 11

Transparency

1. The opinions of the Board shall be made available, as soon as they are adopted, to the Commission department(s) primarily concerned, the Secretary General and the Cabinets of the President, of the Vice-President for Interinstitutional Relations and Foresight, of the responsible Vice President(s) and of the other member(s) of the Commission primarily concerned. They will accompany the reports associated to any related initiatives, when such initiatives are circulated to Commission services for inter-service consultation. The Board's opinions shall also be part of the documentation submitted to the College of Commissioners prior to the adoption of decisions concerning any related initiatives.
2. In accordance with Article 6(2) of the Decision, the Board's opinions shall be made public at the same time as the report concerned and, in the case of impact assessments, once the Commission has adopted the related policy initiative.

3. Without prejudice to paragraph 2, the Board shall make public a list of the draft reports that have been considered by the Board at its meetings.
4. The Board shall each year submit to the President and the Vice-President for Interinstitutional Relations and Foresight of the Commission a report on its activities during the previous year. This report, which will also include any broad conclusions or recommendations the Board may wish to draw from its regulatory scrutiny work, shall be made public.

Article 12

Outreach

1. Bearing in mind the requirements of confidentiality of the deliberations of the Board and the principles of independence and avoidance of conflict of interest, the Board may organise or take part in outreach activities in consultation with the Secretariat-General and, where appropriate, the Vice-President for Interinstitutional Relations and Foresight. This may include consultations and exchanges of views on better-regulation horizontal, sectoral or methodological issues, with other Union and Member States' institutions concerned, think-tanks and international organisations, relevant institutions in third countries and other stakeholders involved in regulatory impact analysis and evaluation.
2. Any meetings with external parties or participation in external events of individual Board members shall be organised through, or in agreement with, the Chair and in full transparency with the Board and the Secretariat General.
3. As a rule, in the exercise of their functions, Board members shall not meet with organisations which are not listed in the Transparency Register. The Board shall not discuss individual files with directly concerned stakeholders.

Article 13

Final provisions

1. The present Rules are established and may be amended by the Chair in consultation with the members of the Board and with the agreement of the President having heard the Vice-President for Interinstitutional Relations and Foresight.

The present Rules replace and supersede the Rules of Procedure of the Regulatory Scrutiny Board of 15 April 2020².

Done at Brussels, 31 January 2023

The Chair of the Board

² (Ares(2020)2060246)