Terms of reference for the EMA/FDA cluster on Orphan Medicinal Products

23 February 2026

The European Medicines Agency (EMA) and the US Food and Drug Administration (FDA) agree on the following:

1. Objectives and goals

The EMA/ FDA cluster on orphan medicinal products should fulfil the following objectives:

- Achieve a common understanding of each Agency's regulatory approaches to orphan drug designation as based on internal policies, guidance documents and regulations
- Provide a forum for discussion of orphan designation including issues such as:
    - regulatory flexibility
    - designation criteria (condition, scientific plausibility, prevalence, major contribution to patient care)
    - incentives and how they work
    - legal challenges to decisions on orphan designations
    - paediatric considerations regarding orphan designation
    - orphan similarity or sameness.
    - Guidance, communications, new procedures, patient advocate impact and changes in the legislation
    - Grants systems and outcomes which improve the understanding and availability of treatments for rare diseases.
- Offer a confidential forum for exchange of draft documents, policies in development, and more detailed information supporting the scientific basis for decision making.

The primary goal of this orphan cluster is to share experiences and decisions which have set a precedence in the manner in which a designation is granted in the United States and Europe.

The main mechanism to achieve these goals will be regularly scheduled teleconferences, for exchange of information and experiences.

It may be appropriate to agree to additional in-depth discussions on specific topics during separate *ad hoc* teleconferences or at the rare disease cluster (RDC) when it might be relevant to include participation of appropriate EMA/FDA staff members.

Cluster participants will discuss and determine which topics will be discussed at this cluster and which will be deferred to the RDC.

2. Participants

From the EMA side, participants will include EMA staff members (from Orphan medicines, who will also be providing the cluster secretariat), and members form the Committee of Orphan medicinal products (COMP).

The FDA will involve colleagues from the Office of Orphan Products Development (OOPD).
Depending on the topic and issue to be discussed, colleagues from other areas of the agencies could also be invited, as appropriate.

The teleconferences will be co-chaired by the EMA and the FDA, with acting chair responsibilities alternating between the two agencies.

It is not foreseen that observers from regulatory authorities of other regions will participate in these cluster activities.

3. Timing

It is anticipated that teleconferences will occur every three months, subject to need and predefined in advance, each meeting to be conducted for approximately 1 hour.

Ad-hoc teleconferences, on product-related assessments, of a more pressing nature can be held at any mutually agreeable time. As appropriate, some discussions will be moved to the RDC to expedite review.

4. Working Arrangements

The EMA and the FDA will work together to prepare teleconference agendas and minutes/action points of each meeting, including mutually agreed topics for discussion in alignment with the objectives described under section 1. Minutes/action points are prepared after every meeting.

A proposed draft agenda conforming to the template will be sent by the FDA about one week in advance of a teleconference to verify topic proposals for mutual agreement. Urgent topics may be added shortly before the teleconference by mutual agreement.

Once the agenda has been agreed upon, the need for additional ad hoc teleconferences may be identified for in-depth discussion of specific issues, and a specific agenda for such ad hoc teleconferences will be set. Attendees for these ad hoc meetings will be limited to those actively working on the topic, subject matter experts and core Cluster members as needed.

5. Confidentiality

- Confidentiality of the information shared within the cluster is covered under the bilateral information sharing Confidentiality Arrangements (CA) that exist between members and observers. Cluster members and observers are responsible for the implementation and maintenance of these arrangements.
- Cluster members, as well as observers and guests, shall not disclose publicly or do anything that would lead to the disclosure of information shared or discussed during meetings without prior authorization of the members that provide such information.
- The chair will inform meeting attendees if there are participants from outside of member or permanent

observer organizations.

6. Reaching Agreement

The cluster will come to final decisions using the process of consensus, defined as general verbal agreement, to the greatest extent possible.

7. Workplan and Reporting

No specific document other than agendas and agreed upon action points will be routinely generated, although cluster member may decide to create documents that may be shared, as appropriate, with other clusters. The teleconferences may be supported by already existing EMA or FDA documents.