



EBA BS 2020 226 rev. 1

Board of Supervisors

31 March 2020/09:30 – 11:30

Location: teleconference

EBA-Regular Use

Board of Supervisors meeting – Final Minutes

Agenda item 1: Welcome, approval of the agenda and Declaration of conflict of interest

1. The Chairperson welcomed the Members of the Board of Supervisors (BoS).
2. None of the BoS Members declared any conflict of interest.

Conclusion

3. The BoS approved the agenda of the meeting.

Agenda item 2: Draft Guidelines on public and private moratoria on loan payments applied in light of the COVID-19 crisis

4. The Chairperson introduced the item by summarising a discussion during the previous BoS conference call on 23 March 2020 related to the implementation of the definition of default, forbearance and the accounting framework and an accompanying public statement which was published on 25 March 2020. He mentioned that many Members introduced payment relief schemes or so called moratoria and as agreed during the previous conference call, the EBA drafted guidelines in order to provide a framework for not only public/legislative but also private/non-legislative moratoria.
 5. The EBA Director of Prudential Regulation and Supervisory Policy Department (PRSP) continued by clarifying that the guidelines have been defined as a COVID-19 measure only, in order to avoid broader implications with the overall framework. The guidelines set out criteria for similar payments moratoria, either legislative or non-legislative, to be sufficiently general in so that the days past due trigger can be switched off against this background in light of the crisis. The GLs also provide details on the information regarding key features of the measures to be collected and shared with supervisors. They will be accompanied by reporting and transparency measures to be soon set up.
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6. The BoS was supportive of the guidelines. Several Members commented on Article 10 of the draft guidelines, in particular with respect to paragraph b) and on the interaction between paragraphs c) and d). One Member suggested to delete examples in paragraph a). With regard to paragraph g), many Members suggested more flexibility on the June 30 deadline, either in the form of a review clause, an automatic extension or a roll over dependent on the market developments.
7. On private moratoria, some Members suggested to include an obligation for institutions to pre-notify supervisors about their intention to introduce this measure. One Member proposed to amend the drafting of the notification obligations to include “if available” in relation to information to be provided to competent authorities. One Member stressed that transparency was very important and that financial institutions/banks should be forced to be transparent vis a vis supervisors. This should be conveyed to the banking industry in a clear message in the respective EBA statement stressing that there was a strong expectation of supervisors that transparency requirements as well as documentation requirements were to be met by the banking industry which used payment reliefs based on moratoria. Other Member pointed out that the information to be provided, as set out in Article 17, was not detailed enough.
8. One Member questioned whether the intention of the guidelines was to promote private moratoria. The Chairperson clarified that the aim of the guidelines was to address already existing national measures, provide a framework for these measures and help banks to overcome the COVID-19 crisis by also extending to private moratoria in a similar manner the existing GL that apply to legal moratoria.
9. Several Members proposed to include more flexibility in the draft guidelines so as to also include private bank-specific initiatives of individual banks which met all criteria to also be considered as included in these guidelines. One Member stressed that private Moratoria should be comparable with public moratoria with respect to the coverage of possible obligors (that is industry wide or at least a significant part of it).
10. Some Members requested clarification on application of the guidelines to new loans granted after the launch of moratoria. Also, several Members referred to further clarification in the interaction between the determination of the eligible obligors and their creditworthiness.
11. In her response, the Director of PRSP stressed that with the guidelines, the EBA wanted to address current developments in a speedy manner but should be ready to face the future developments too with a review clause if necessary, particularly regarding the period of implementation. She acknowledged a need for FAQ on implementation issues.
12. The Chairperson concluded by asking the Members to send their drafting suggestions until cob on 31 March 2020.

Conclusion

13. The BoS supported the work on the Draft Guidelines on public and private moratoria on loan payments in light of a speedy publication.

Agenda item 3: Discussion and draft statement on possible restrictions to dividend distribution, share buybacks and variable remuneration

14. The Chairperson reminded the Members that in its statement on actions to mitigate the impact of COVID-19 on the EU banking sector published on 12 March, the EBA conveyed the message that banks should follow prudent dividend and other distribution policies, including variable remuneration, at a time capital buffers were being released. Many authorities have followed up providing further guidance to banks.
15. The EBA Head of Supervisory Review, Recovery and Resolution Unit (SRRR) briefly focused on the scope and content of the draft statement on retention of dividends and on review of variable remuneration policies.
16. While supporting the publication of the statement, some Members were of the view that the beginning of the statement was too formal and bureaucratic and the statement could be shortened.
17. One Member requested clarity on the scope of the statement and whether it was intended to include both banks and investment firms as well as requesting the narrowing of the reference to share buybacks to those designed to remunerate shareholders only. Other Members asked for more clarity what capital distributions the statement was tackling (dividend and share buybacks) to avoid ambiguity in particular on AT1 instruments.
18. On the issue of intragroup dividends, several Members stressed that the distribution of dividends should be prudent, kept within the group and the EU banking systems. Several members also stressed that the impact of intragroup distributions on subsidiaries should be duly considered as it was fundamental in the current situation to assure the adequate provision of credit and lending for local economies. One Member pointed out that any (EBA) communication in this context towards the industry had to be carefully considered given its complex dimension. It was also suggested by this Member that EBA might consider to issue an internal recommendation that supervisory colleges should seek to find a consensus within the banking group (subject to a supervisory college) in this respect.
19. Some Members proposed to send a clear message to banks to revert to CAs in case they considered themselves legally required to pay-out dividends or make share buybacks.
20. One Member suggested to include a reference to awards to be revised together with remuneration policies and practices.

21. The Chairperson concluded that the focus of the statement should be on refraining the capital from leaving the banking system in order to ensure adequate availability of capital for the provision of lending and liquidity in the local and European economies, preserving the Single market and asked the BoS to send their further comment in writing by 14:00 on 31 March 2020.

Conclusion

22. The BoS supported the publication of the statement on restrictions to dividend distribution, share buybacks and variable remuneration.

Agenda item 4: Discussion on a statement on supervisory actions on reporting and Pillar 3 disclosures in light of COVID-19

23. The Chairperson informed that as a follow up on the statement published on 12 March, the EBA has drafted a statement clarifying actions on supervisory reporting and on Pillar 3 disclosures in light of the current situation. This statement has been coordinated with ESMA and their recent statement on Transparency.
24. The EBA Director of Banking Markets, Innovation and Consumers Department (BMIC) explained that the EBA was proposing to give banks some leeway in the remittance dates for some areas of supervisory reporting, without putting at stake the crucial information needed to monitor closely banks' financial and prudential situation. He clarified that the proposal was to give up to one additional month for complying with the reporting requirements. He concluded by mentioning that the statement would ask the CAs for flexibility when assessing institutions' compliance with the deadlines for publication of Pillar 3 disclosures.
25. The BoS supported the work. One Member proposed to include a footnote referring to the EBA Guidelines on LCR disclosure and to mention that LCR values were disclosed as an average value of month-end observations for the twelve months preceding the disclosure reference date.
26. One Member suggested to extend the period of application of the guidance to the reports with reference date up June 2020. The same Member also objected the proposed submission of data to the EBA without prior quality assurance on national level – given that these data were not helpful for supervisors and that direct submission would imply additional burden in order to change existing processes – and requested to maintain the well-established sequential approach. The Director of BMIC clarified that a review would be done in May to take into account the evolution of the situation.
27. One Member questioned whether the EBA was delaying other deadlines than for reporting and the Chairperson confirmed that some deadlines were delayed already regarding ongoing consultations, hearings, and ad hoc data requests, and the information was published on the EBA website.

28. The Chairperson concluded that the statement was supported with an amendment to add a footnote on LCR disclosures. As the issue of direct data submission was not mentioned in the statement but only in the background note, this issue did not have to be decided now and would be further discussed.

Conclusion

29. The BoS supported the publication of the statement on supervisory actions on reporting and Pillar 3 disclosures in light of COVID-19.

Agenda item 5: Draft statement on actions to mitigate financial crime risks in the COVID-19 pandemic

30. The Chairperson introduced the item by stressing the EBA's view of the importance of ongoing vigilance against Financial Crime.
31. The Director of BMIC continued by emphasising a need for placing and maintaining effective systems and controls to ensure that the EU's financial system was not abused for money laundering or terrorist financing (ML/TF) purposes. He noted the importance role that supervisors can play in this regard by supporting credit and financial institutions by for example keeping them abreast of new and emerging risks and exercising flexibility in their approach. He concluded by summarising the main points of the statement.
32. The ESRB representative suggested to include further reference to the importance of systemic cyber risks by customers and employees and the Director of BMIC clarified that the statement focused on key issues of financial crime but that we agreed cyber risk generally is absolutely important and more work may be done on this.

Conclusions

33. The BoS supported the publication of the statement on actions to mitigate financial crime risks in the COVID-19 pandemic.

Agenda item 6: AOB

34. The Chairperson informed the BoS that the planned April BoS meeting would be in a form of a Webex teleconference and that the EBA staff was planning to organise a test meeting in order to avoid any technical issues.

Participants of the Board of Supervisors' conference call

31 March 2020

Chairperson: Jose Manuel Campa

<u>Country</u>	<u>Voting Member/High-Level Alternate</u> ¹	<u>National/Central Bank</u>
1. Austria	Helmut Ettl	Karin Turner-Hrdlicka
2. Belgium	Jo Swyngedouw	
3. Bulgaria	Stoyan Manolov	
4. Croatia	Martina Drvar/Sanja Turkovic Petrinic	
5. Cyprus	Stelios Georgakis	
6. Czech Republic	Zuzana Silberová/Marcela Gronychová	
7. Denmark	Jesper Berg/Thomas W. Andersen	Niels Bartholdy
8. Estonia	Andres Kurgpold	Timo Kosenko
9. Finland	Anneli Tuominen/Jyri Helenius	Katja Taipalus
10. France	Dominique Laboureix/Emmanuelle Assouan	
11. Germany	Raimund Roeseler	Karlheinz Walch
12. Greece	Spyridoula Papagiannidou	
13. Hungary	Csaba Kandracs/Gergely Gabler	
14. Ireland	Gerry Cross	
15. Italy	Andrea Pilati	
16. Latvia	Ludmila Vojevoda	Vita Pilsuma
17. Lithuania	Marius Jurgilas/Jekaterina Govina	
18. Luxembourg	Christiane Campill	Christian Friedrich
19. Malta	Pierre Paul Gauci	Oliver Bonello
20. Netherlands	Maarten Gelderman/Sandra Wesseling	
21. Poland	Artur Ratasiewicz	
22. Portugal	Ana Paula Serra	
23. Romania		
24. Slovakia	Tatiana Dubinova	
25. Slovenia	Primoz Dolenc/Damjana Iglic	
26. Spain	Angel Estrada/Alberto Rios	
27. Sweden	Karin Lundberg	Camilla Ferenius

Jose Rosas (Banco de Portugal); Phil Evans, Nigel Fray (Bank of England); Kleanthis Ioannides (Central Bank of Cyprus); Eida Mullins (Central Bank of Ireland); Davy Reinard (CSSF); Peter Hintos (National Bank of Slovakia); Ada Ziemytie, Rafal Chylinski (SRB); Malte Jahning (ECB)

<u>Country</u>	<u>Member</u>	<u>Representative NCB</u>
1. Iceland	Finnur Sveinbjörnsson	
2. Liechtenstein		
3. Norway	Ann Viljugrein	Sindre Weme

<u>Observer</u>	<u>Representative</u>
1. SRB	Sebastiano Laviola

<u>Other Non-voting Members</u>	<u>Representative</u>
1. ECB/SSM	Korbinian Ibel, Carmelo Salleo
2. European Commission	Martin Merlin
3. EIOPA	Kai Kosik
4. ESMA	Roxana De Carvalho
5. EFTA Surveillance Authority	Marco Uccelli
6. ESRB	Toumas Peltonen

EBA Staff

Acting Executive Director, Director of Operations	Peter Mihalik
Director of Banking Markets, Innovations and Consumers	Piers Haben
Director of Economic Analysis and Statistics	Mario Quagliariello
Director of Prudential Regulation and Supervisory Policy Department	Isabelle Vaillant

Philippe Allard; Dirk Haubrich; Lars Overby; Jonathan Overett Somnier; Meri Rimannen; Francesco Mauro

Tea Eger; Dorota Siwek

For the Board of Supervisors

Done at Paris on 30 April 2020

signed

José Manuel Campa

EBA Chairperson