



EBA BS 2018 007rev1

EBA Staff

11 December 2017

Location: London

EBA REGULAR USE

Board of Supervisors – Final Minutes

Agenda item 1.: Approval of Agenda and Minutes

1. The Board of Supervisors (BoS) approved the agenda of the meeting and the minutes of the 24-25 October 2017 meeting.
2. The BoS approved the Report on simplified obligations and waivers under the BRRD, and the Report on equivalence of professional secrecy and confidentiality regimes, both under Section Two of the agenda. It agreed to discuss the Opinion and Report on the use of 180 days past due criterion under AoB.
3. The Chairperson referred to the endorsement by the Group of Central Bank Governors and Heads of Supervision (GHOS) of the outstanding Basel III post-crisis regulatory reforms. He also informed the BoS that, following the decision of the General Affairs Council of 20 November 2017 to move the EBA's seat to Paris, France, he had met with French authorities to discuss various aspects of the relocation. Further discussions on the EBA's relocation would be held at upcoming BoS meetings. The EBA's budget would reflect the relocation-related costs. And he noted that the Management Board had discussed the internal reorganisation of the EBA, which would be presented at the BoS meeting of 28 February 2018.
4. The Chairperson informed the BoS of a breach of Union law (BUL) case concerning the Dutch supervisory regime governing local investment firms. The BUL Panel had decided to terminate the investigation without proposing a recommendation for adoption by the BoS further to the announcement by the Dutch supervisor (DNB) of the immediate termination of the regime at stake. The Chairperson said that the correspondence with the DNB would be shared with the BoS; and thanked the DNB BoS member and high-level alternate for the steps taken to address promptly the situation.
5. Finally, the Chairperson informed that the BoS would discuss, at an upcoming meeting, compliance issues with regard to the SREP Guidelines.

Agenda item 2.: Discussion on Brexit-related Issues including Risks

6. EBA staff led a discussion on Brexit-related matters, where they presented an assessment of risks, of institutions' contingency planning and of CCP access and exposures of EU banks. They also presented an analysis of various regulatory and contractual issues.
7. The Chairperson added that the BoS should now narrow down the list of topics on which EBA's added value could be provided given the time constraints; and noted that the focus should be on coordination at supervisory level, and on providing input to the Commission.
8. The Commission representative praised the EBA's work. He noted that market complacency was the main risk following the withdrawal deal between the Commission and the UK's government, and that a 'hard Brexit' was still possible given the time constraints to negotiate a trade deal before March 2019. In his view, the main actions needed were, a) continue monitoring firms' contingency planning, as preparedness appeared insufficient; and b) ensure timely supervisory guidance and communication to stakeholders, for which a consistent strategy by the Commission, the ESAs and CAs was deemed necessary.
9. Members agreed with the Chairperson that the focus should be placed on actions with an added value and on coordinating with the Commission to complement its work. They also agreed that further work should be carried out on improving contingency planning, and on intensifying, where necessary, supervisory coordination.
10. On incoming branches, it was noted that further analysis of the current situation was needed before taking up further work in view of legal competence at an EU level in this area; in this regard, a stocktaking exercise to ascertain the differences among jurisdictions was requested. On outgoing branches, it was suggested that engagement with the Commission would be needed to clarify their scope of action under the freedom to provide services, but the EBA could act to enhance convergence in supervisory practices with respect to these structures. Members welcomed and encouraged more work on regulatory warnings.
11. Contract continuity was viewed as an important area on which further work should be conducted, given the challenges that it would pose for supervisors and the fact that firms themselves might not be able to cope with all types of risks.

Conclusion

12. The BoS agreed to refocus the EBA's work on areas for which short-term solutions would be needed, e.g. intensifying the pressure regarding contingency planning and carrying out further work on outgoing branches. For incoming branches it would be necessary to find out more about the approaches across Member States. The EBA would liaise with the SSM on the 'back branching' issue in order to decide what additional work could be done. Further work on contract continuity would be undertaken before suggesting possible solutions, for which coordination with CAs would be needed. On regulatory warnings, the EBA would liaise with

EIOPA, who had started work on possible drafting, and the Commission. Furthermore, the EBA would also start work on supervisory agreements and supervisory cooperation post-Brexit, for which a paper would be submitted for the 28 February-1 March 2018 meeting.

13. The Chairperson reminded members of the importance of submitting timely information to the EBA for the work on Brexit-related matters to progress adequately.

Agenda item 3.: Single Programming Document 2019

14. The Executive Director presented the Single Programming Document 2019. He noted that relocation-related costs had been included in the budget, and explained their impact in the final budget. He also said that the costing of new tasks and activities as set out in the Commission's proposals on the ESAs review had been included; however, such costing would be adjusted in view of the changes that could still happen as a result of the ongoing legislative procedure in the Council and Parliament. He then explained the specific funding for both the relocation and ESAs review-related activities. He noted that the costs related to the lease of the new premises in Paris would be more accurate once the EBA had clarity about the property chosen and its lease conditions.
15. Some members viewed as too premature the inclusion of tasks and activities related to the ESAs review in the SPD 2019 and asked to do so only towards the conclusion of the legislative procedure. It was proposed to split the document between activities within the current setting and those from the Commission's proposals on ESAs review. The Executive Director explained that, in the past, the EBA had integrated in its proposals new activities which, although not yet approved, had a *fiche financière*, and that the approach should be the same this time; adjustments could be integrated later on once the final outcome of the ESA's Review legislation would be known.
16. On the budget increase related to the relocation, the Executive Director explained that the current assumption was that it would be part of the normal budgeting process, i.e. paid for by national CAs and the EU using the 60:40 funding key. In general, he explained that the budget increase from 2019 to 2020 consisted mainly of two major one-off costs, namely dilapidation expenses for the current premises, and the refund of half of the 32 months of rent-free subsidy received at the beginning of the lease, in view of the triggering of the break clause included in the current lease agreement.
17. Responding to a question on the possible impact that the relocation could have on current projects, e.g. data infrastructure, the Executive Director noted that the EBA was working on the assumption of a seamless migration of the data centres and that there would not be any such impact.

Conclusion

18. The SPD 2019 would be submitted for approval of both the Management Board and the BoS prior to its transmission to the Commission before end-January 2018.

Agenda item 4.: NPLs Templates

19. The EBA Director of Oversight presented the EBA's work on NPLs templates following the Commission's mandate, and the Council's conclusions of July 2017, to develop data templates to reduce information asymmetries between potential buyers and sellers of Non-Performing Loans (NPLs). He explained that the templates would be a foundation for all secondary market initiatives (AMC, NPL platform) and clarified that they were not meant to be mandatory for banks nor a supervisory reporting requirement. He asked for BoS support to publish the EBA NPLs templates; and suggested a coordinated communication from all CAs highlighting their support to the NPLs templates.

20. Members welcomed the initiative and expressed their support to the NPLs templates. They queried whether there was a process for assessing their use and effectiveness; it was confirmed that a discussion to this effect would be held during the second half of 2018. On ensuring the consistency of definitions included in the templates, it was noted that they were as aligned as possible with COREP, FINREP and AnaCredit, but still retaining some degree of flexibility. On a suggestion to communicate that the templates would be improved going forward, the EBA Director of Oversight cautioned against it as it could undermine the efforts of promoting their wide use. He also clarified that the information provided by banks would remain confidential and only provided to interested investors upon agreement of both parties.

21. With regard to the envisaged communication, there was support, but a note of caution was expressed. One member asked that the NPLs templates could be revised after a first implementation stage taking into account difficulties and costs incurred by banks in filling the different data fields. The EBA Director of Oversight noted those concerns, and clarified that the templates did not amount to supervisory reporting, that the EBA would not be collecting the information contained in the templates, and that they would not apply to all banks but only to those selling NPLs. It was agreed that BoS members would be able to send comments before the publication of the press release.

Conclusion

22. The EBA NPLs templates were endorsed by BoS. The draft press release would be shared with the BoS for written comments prior to its publication on Thursday 14 December afternoon.

Agenda item 5.: 2018 EU-wide Stress Tests – Preliminary Scenario

23. The Chair of the ESRB's ATC Task Force on Stress Testing presented the adverse macro-financial scenario for the 2018 EBA stress test exercise. He explained the process, which envisaged its

approval by the ESRB's General Board by 10 January 2018 and transmission to the EBA for final approval prior to its publication by end-January. He then explained in detail the main four risks for the EU financial system on which the scenario was focused as well as the main differences with respect to the 2016 stress test exercise (notably, more severe and persistent financial shocks and stronger decline in property prices).

24. The EBA Director of Oversight praised the credibility of the draft proposal, which in his view represented a balancing act between the capture of main risks and country relevance.

25. Members commended the work done and noted the severity yet plausibility of the scenario. But some expressed their concern that the scenario was too severe for their jurisdictions, and that in general the dispersion among countries was too large. They opined that it would be advisable to narrow that gap, noting that, e.g. banks in countries with low funding costs, or performing quite strongly economically, were disproportionately affected. As a way of addressing this while maintaining the overall severity of the scenario, some members said that repricing the risk premia could be a way forward. One member clarified that the final severity of the scenario would depend on the elasticity of PD, LGD, etc., too. Another member pointed out that the additional shock for countries with positive cumulative growth in GDP in the adverse scenario was not based on the methodology used in scenario calculations.

26. The Chair of the ESRB's ATC Task Force on Stress Testing, in response to those concerns, noted that the use of add-ons for countries with positive cumulative GDP growth was necessary to ensure the credibility of the exercise and sufficient severity for all banks in the sample. He clarified that the scenario did not take into account national specificities, and explained that the excessive severity for some countries was the result of the application of the common methodology, with models and range of elasticities provided by national CAs themselves. He agreed that it might be necessary to provide further explanations on the use, and disclosure, of add-ons to address concerns of inconsistency and prevent confusion among market participants. He also agreed that a good communication strategy would be necessary, highlighting the severity of the scenario as compared to the 2016 EU-wide stress test exercise. The EBA Director of Oversight added that such communication should stress that the adverse scenario was an assessment tool of the stress test exercise, and agreed that a communication package would be part of the next BoS submission. In view of future EU-wide stress test exercises, one member recommended a thorough lessons-learned exercise, including the interaction of national model elasticities with a common methodology.

Conclusion

27. The BoS took note of the preliminary adverse macro-financial scenario. The final scenario would be provided to the BoS by 19 January 2018 and then submitted for approval by written procedure, such that it could be published at the launch of the stress test exercise by end-January.

Agenda item 6.: Final Report on the Implementation of the EBA Guidelines on Methods for Calculating Contributions to DGS

28. EBA staff presented a report on the implementation of the EBA Guidelines on methods for calculating contributions to Deposit Guarantee Schemes (DGS). Amongst other things, the report assessed if the risk-based method ensured adequate differentiation between institutions based on their risk profile; whether a sufficient balance had been achieved between a consistent application of the guidelines and the necessary flexibility to accommodate national specificities; and whether the methodology was objective, transparent and proportionate. The report also aimed to identify shortcomings in the application of the Guidelines.

29. Members agreed with the publication of the report. One member raised a concern with language in the report suggesting that DGSs should provide contributing institutions with tools or statistical data of their relative riskiness to enhance the transparency of the Guidelines. This member noted that the methodology of the Guidelines was sufficiently transparent and robust and, in this vein, it was requested to tweak the executive summary and other parts of the report which could be read as giving banks an enhanced right to request more information from CAs.

Conclusion

30. The report would be slightly amended to take into consideration the comments raised. It would be submitted to the BoS for a final fatal flaw check before its publication.

Agenda item 7.: Final draft RTS on Central Contact Points under PSD2

31. The Head of Consumer Protection, Financial Innovation and Payments Unit provided an update on the state-of-play of deliverables under PSD and on the work carried out by the EBA on other PSD2-related topics.

32. EBA staff introduced the final draft RTS on central contact points under PSD2, setting out criteria for assessing the appropriateness of the appointment of a central contact point under PSD2, and the functions of those contact points. It was explained that the RTS would apply where a host Member State had implemented the option in Article 29(4) PSD2 to require a central contact point to be appointed by payment institutions (Pis) and electronic money institutions (EMIs) that provide cross-border payment services through agents under the freedom of establishment, and not under the freedom to provide services.

33. The Chairperson noted that the EUR 3 million threshold included in the RTS for assessing the appropriateness of the appointment of a central contact point may need to be reviewed in the future, given the lack of material evidence to support such a threshold.

Conclusion

34. The BoS approved the final draft RTS for publication and submission to the European Commission for endorsement.

Agenda item 8.: Final Guidelines on the Establishment, Implementation and Monitoring of Security Measures under PSD2

35. EBA staff presented the final Guidelines on the establishment, implementation and monitoring of security measures under PSD2. It was explained that, after submission of the Guidelines to the BoS, a request had been made to set their application date at least six months from their publication date. However, according to Article 5(1) of PSD2, the subset of legal entities that seek authorisation as payment or electronic money institutions would be required to take these Guidelines into account when applying for authorisation as of 13 January 2018. For that reason, it would not be possible to delay their application beyond that date. Given that Payment Service Providers (PSPs) would still require time to implement the Guidelines, they would not be expected to comply with them until the EBA's publication in all official EU languages, publication of the compliance table, and their implementation into CAs' national regulatory or supervisory frameworks.

Conclusion

36. The BoS approved the final Guidelines for publication.

Agenda item 9.: Final draft RTS and ITS on the EBA Register under PSD2

37. EBA staff introduced the final draft RTS on the development and operation of the EBA register of payment institutions (PIs) and electronic money institutions (EMIs), and the final draft ITS on the details and structure of the information to enter into the EBA register.

Conclusion

38. The BoS approved the final draft RTS and ITS for publication and submission to the European Commission for endorsement.

Agenda item 10.: EBA Opinion on the Transition from PSD1 to PSD2

39. EBA staff explained that a number of changes, e.g. new types of services that would be regulated and new requirements for all payment service providers, would take place as of the date of application of PSD2 (13 January 2018). However, on that date some PSD2 provisions would not be applicable as yet. For that reason, and in view of the uncertainties that this could cause, it had been decided to address some of those issues via an EBA Opinion, the content of which was presented to BoS.

40. Members supported the Opinion as a means to provide clarity to the markets.

41. A clarification was sought as to whether the grandfathering clause explained in paragraph 29 of the Opinion, per reference of Article 115(5) PSD2, applied to Account Information Service Providers (AIPS) or PIS-like services in the Member State of establishment as well as to those providers operating in other Member States on the basis of their freedom of establishment. EBA staff confirmed that that was the correct reading of the paragraph.

42. One member queried the reference to the advice for CAs to identify grandfathered providers. EBA staff explained that this reflected discussions and suggestions voiced by some members at the supervisory workshop organised by the EBA; and clarified that this was an advice 'on a voluntary basis'.

43. Some opposition was expressed with regard to the reference on the use of 'web' or 'screen' scraping during the transitional period and the grandfathering clause for providers that had been offering AIS or PIS-like services before January 2016. EBA staff noted that this had been discussed previously and that the views presented were supported by the Commission and reflected the EBA's interpretation of PSD2. EBA staff also explained that, where possible, the Opinion reflected potential divergences, in particular with the inclusion of the reference to Member States being able to not allow screen scraping if this was prohibited in their territories before January 2016.

Conclusion

44. The BoS agreed to a short written procedure for members to submit non-material comments, following which the Opinion would be submitted for approval of the BoS.

Agenda item 11.: Discussion Paper on FRTB and SA-CCR Implementation

45. The Chairperson introduced the Discussion Paper (DP) which would roll out the EBA's work on the implementation of the revised market risk (FRTB) and counterparty credit risk (CCR) (Standardised Approach (SA)). He noted the GHOS agreement on 7 December on the Basel reforms, which included a FRTB calibration that could slow down its implementation at international level. The EBA Director of Regulation noted that, in any case, the DP contained some practical issues that needed to be addressed by the EBA and were independent of any progress at the Basel table. In particular, she explained that the DP included some options for possible ways forward for various implementation issues in the EU.

46. Members welcomed the DP and agreed with their publication.

Conclusion

47. The BoS approved the publication of the Discussion Paper for a 3-month consultation period.

Agenda item 12.: Discussion on the EBA's Response to the Commission's Call for Advice on Statutory Prudential Backstops

48. The Chairperson referred to the Commission's call for advice of 10 November on statutory prudential backstops for newly originated non-performing exposures. Given the tight deadline to respond to the call, he said that it would not be possible to carry out a new data request from institutions or CAs, therefore the EBA had developed instead a methodology to quantify the impact of the proposal making use of existing datasets. He stressed the importance of this piece of work ahead of a possible Commission's legislative proposal to amend the CRR with regard to the possible introduction of statutory prudential backstops in the form of compulsory and time-bound prudential deductions of NPLs from own funds with a view to dealing with potential under-provisioning of newly originated loans that could become non-performing. The EBA Director of Regulation presented some preliminary figures of the quantitative impact, although she called members to be cautious on drawing conclusions given the limitations of the sample and the need for further clarifications of a number of elements of the proposal. BoS members were asked to share their views on the approach and on the preliminary findings with a view to informing the finalisation of the advice prior to its submission to the Commission.

49. Members welcomed the direction of the work presented. The Commission representative noted that it was necessary to have quantitative estimates to help the Commission decide on a possible legislative amendment, a decision not yet taken but that, if approved, should be adopted by the College of Commissioners no later than end-March 2018. In view of the limitations of the quantitative analysis, he expressed his interest in the caveats accompanying such data. The Chairperson confirmed that preliminary data would be shared with the Commission services.

50. The ECB representative, noting the work carried out on provisioning by the ECB, said that market reactions on the EBA report should be managed, and that it should therefore clearly state that it was an impact assessment on the Commission's proposal and not on the ECB's addendum. He noted that, in view of the complexities and the sources of potential bias, additional clarifications should be included on the static balance sheet assumption, the missing forward-looking assumption in the analysis and the impact on profitability.

51. One member opined that the concerns on the application of the prudential backstop to newly originated loans only were overstated and requested additional results on the impact on profitability. And another member expressed his preference for the deduction approach over the linear approach, as the latter would interfere with accounting.

52. Members asked for the possibility to provide comments, and to have the results of the sensitivity analysis, before the approval of the report.

Conclusion

53. The EBA would finalise the report, which would include an analysis of the approaches not yet assessed. It would then be sent to the BoS for approval by written procedure.

Agenda item 13.: Consultation Papers on draft RTS on Risk Retention and on draft RTS on Homogeneous Underlying Exposures

54. The EBA Director of Regulation introduced two consultation papers, developed on the basis of the draft Regulation on Simple, Transparent and Standardised (STS) Securitisations, on draft RTS on risk retention, which would partially repeal the current Commission delegated Regulation (EU) No 625/2014 on risk retention, and on draft RTS on the definition of homogeneity of underlying exposures in STS securitisations.

55. Members agreed with the content and publication of both consultation papers.

Conclusion

56. The BoS agreed with the publication of the consultation papers on draft RTS on risk retention and on draft RTS on homogeneous underlying exposures in STS securitisations for a 3-month consultation period.

Agenda item 14.: Reports from Standing Committees

57. The BoS took note of the reports.

Agenda item 15.: AoB

58. The EBA Director of Regulation introduced an Opinion and Report on the use of 180 days past due (DPD) criterion on risk weighted exposures amounts, where it was suggested to remove the 180 DPD criterion in favour of the 90 DPD criterion, with a transitional period in view of the impact that the change could have on institutions using the 180 DPD criterion.

59. There was a request to ensure anonymity of the institutions using the 180 DPD criterion, as well as of institution-specific data. Another member requested a change in view of the current legislative changes in her Member State on the use of the 180 DPD criterion in line with the ECB Guidelines of April 2017 on the exercise of options and discretions for LSIs, as a result of which the 180 DPD criterion was not allowed anymore.

60. It was agreed to submit the Opinion and Report to the BoS for a final fatal flaw check, including the relevant changes, before its submission to the Commission and publication.

61. One member enquired about the application of the draft RTS on simplified obligations, in particular with regard to the choice of resolution strategies and tools in jurisdictions with concentrated banking markets. The Chairperson took note of the request and would revert to the member with a response.

Andrea Enria

Chairperson

Participants at the Board of Supervisors' meeting

11 December 2017, London

Chairperson: Andrea Enria

<u>Country</u>	<u>Voting Member/Alternate</u> ¹	<u>Representative NCB</u>
1. Austria	Michael Hysek	Karin Turner-Hrdlicka
2. Belgium	Jo Swyngedouw/David Guillaume	
3. Bulgaria	-	
4. Croatia	-	
5. Cyprus	Stelios Georgakis	
6. Czech Republic	-	
7. Denmark	Anne-Sophie Reng Japhetson	-
8. Estonia	Andres Kurgpõld	-
9. Finland	Jyri Helenius	-
10. France	Édouard Fernandez-Bollo	
11. Germany	-	Karlheinz Walch
12. Greece	Spyridoula Papagiannidou	
13. Hungary	-	
14. Ireland	Gerry Cross	
15. Italy	Andrea Pilati	
16. Latvia	Gunta Razāne	Vita Pilsuma
17. Lithuania	Renata Bagdonienė	
18. Luxembourg	Martine Wagner	Norbert Goffinet
19. Malta	Marianne Scicluna	Oliver Bonello
20. Netherlands	Olaf Sleijpen	
21. Poland	Andrzej Reich	-
22. Portugal	Pedro Duarte Neves/José Rosas	
23. Romania	- ²	
24. Slovakia	Tatiana Dubinová	
25. Slovenia	Marko Bošnjak/Damjana Iglič	
26. Spain	Jesús Saurina Salas/Alberto Ríos	
27. Sweden	Martin Noréus	Camilla Ferenius
28. UK	Sasha Mills	-

¹ Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Kurt Van Raemdonck (National Bank of Belgium); Marek Sokol (Czech National Bank); Constantinos Botopoulos (Bank of Greece); Mary Burke (Central Bank of Ireland); Maurizio Trapanese (Banca d'Italia); Laura van de Werfhorst (De Nederlandsche Bank); Jakub Zakrzewski (Polish Financial Supervisory Authority); Nigel Fray and Chiara Orlandini (Bank of England's PRA)

² Represented by Lucretia Niculina Paunescu

<u>Country</u>	<u>Member</u>	<u>Representative NCB</u>
1. Iceland	Jon Thor Sturluson	Örn Hauksson
2. Liechtenstein	-	
3. Norway	Morten Baltzersen	Sindre Weme

<u>Observer</u>	<u>Representative</u>
1. SRB	-

<u>Other Non-voting Members</u>	<u>Representative</u>
1. SSM	- ³
2. European Commission	Martin Merlin ⁴
3. EIOPA	-
4. ESMA	- ⁵
5. ESRB	- ⁶
6. EFTA Surveillance Authority	Frank Büchel

EBA Staff

Executive Director	Adam Farkas
Director of Oversight	Piers Haben
Director of Regulation	Isabelle Vaillant

Mario Quagliariello, Dirk Haubrich, Jonathan Overett Somnier, Philippe Allard, Christopher Mills, Larisa Tugui, Laura Díez Pérez, Antonio Barzachki, Hélène Öger-Zaher, Christian Moor, Santiago Barón Escámez

³ Accompanied by John Fell

⁴ Accompanied by Olena Loboiko

⁵ Represented by Mette Sicard Filtenborg

⁶ Represented by Tuomas Peltonen