

EBA MB 2024 091 rev. 1

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Management Board

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25 September 2024 / 09:30 – 11:45

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Location: teleconference

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# Management Board

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## Minutes of the conference call on 25 September 2024

### **Agenda item 1: Welcome and approval of the agenda (for decision)**

1. The Chairperson welcomed the Members of the Management Board (MB). He reminded the Members of the conflict-of-interest policy requirements and asked them whether any of them considered themselves as being in a conflict. No Member declared a conflict of interest.
2. The Chairperson informed that the Minutes of the 23 May 2024 MB meeting were approved by the MB in the written procedure.
3. The Chairperson announced that one of the recently elected BSG Members representing academics – Mr. Luis Morais, had passed away.
4. The Members did not raise any comments on the agenda.

### **Conclusion**

5. The MB approved the agenda of the meeting by consensus.

### **Agenda item 2: Administrative and Operational Status Report (for information)**

6. The Executive Director presented the Administrative and Operational Status Report. He noted that the tabled report covered the period from May to August 2024. He also highlighted that the report reflected the first changes initiated by a small internal Task force on Accountability, Synergies and Consistency launched in Q2 2024 by the Executive Director, to better integrate the suite of documents produced by the EBA for planning and accountability purposes, especially, the annual Work Programme definition and execution documents, the Single Programming Document, the Annual and Consolidated reports, the IT operational plan, ERM documents. While the report covered the same areas as in the past, it has been enlarged to include update on the work programme, data activities, equivalence work, institutional engagement, as well as enriched, and partially streamlined to incorporate more quantitative indicators, including KPIs for each area. He
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invited the Members to comment on the new format which would be further refined in the coming months. The Executive Director then continued by summarising the main areas of the report. He said that a new section on the execution of the EBA 2024 Work programme has been added with an aim to provide concise updates on the execution of the Work programme beyond the current twice-per-year detailed accounts to the MB. The execution of the 2024 Work programme was at 77% and the Executive Director explained that several projects would be finalised in the coming weeks and that the EBA was planning to achieve over 90 % execution by December 2024. On HR matters, the Executive Director mentioned that in line with the HR transformation strategy, there have been an increase in internal mobility; reclassification exercise was concluded, and the EBA also identified key priorities for the action plan following the 2024 Staff engagement survey. Furthermore, the EBA was implementing various HR tools for managers. With regard to Finance and Procurement, the Executive Director said that the EBA was forecasting high-level of execution before the end of the year 2024. On Information Technology, the Executive Director informed the Members that due to the rejection of the ITS on the Register of Information, the DORA CTPP IT project was delayed. Other projects were progressing according to the planning and the EBA did not observe any major security incidents in the past months. The business continuity plan was updated and one of its scenarios successfully tested and the EBA also implemented a monitoring system of the cloud consumption. He briefly referred to clarifying discussions with an IT provider which has been requesting the EBA for further work to be allocated to it under a framework contract in what could appear as a rather pressing manner. Another new section of the report on data collections was, as the Executive Director clarified, mainly factual and descriptive but with the aim to be more KPI orientated. The Executive Director continued by noting that while there were a few ongoing audits, there were no overdue findings from previous audits which the EBA had not addressed. With regards to another new section - engagement with stakeholders, the Executive Director summarised that the EBA took a high-level proactive and reactive engagement approach on key files, while keeping missions and meetings in line with environmental commitment and that the EBA's equivalence work has been expanding. He concluded by briefly mentioning EBA's involvement in colleges and a number of trainings organised and said that the EBA has launched the Training Needs Analysis 2025.

7. The Members welcomed the updates and the new format of the report which provided a more streamlined and transparent summary of the EBA's activities within the discussed period. One Member asked if the EBA collected data on the number of CAs' staff attending the trainings. The Member also queried further details on the phishing exercise.
8. In his response, the Executive Director explained that the phishing exercise was an internal initiative during which phishing emails were sent to staff members with an aim to observe their reactions to this type of emails.

9. The EBA Head of Governance and External Affairs Unit (GEA) explained that the trainings were aimed at the staff of the CAs and that only some limited trainings were open to other stakeholders. Therefore, the EBA primarily collected participation data per Member State.
10. The Chairperson concluded by noting the Members' comments and their support for the new form of the report.

**Agenda item 3: Risk management – Strategic risk register update and risk appetite statement (for discussion)**

11. The Chairperson reminded the Members that as agreed in the EBA's Enterprise Risk Management framework / lifecycle document, the EBA was tabling for the MB's discussion an update on proposed changes to the strategic risk register and to the risk appetite; and an update on the progress made to the risk mitigation measures agreed for certain risks in the MB March meeting. He added that following interviews with the EBA Heads of Units and the Directors, as well as discussions with the Executive Director, 16 risks (down from 17 last year) have been proposed for the strategic risk register and 6 shortlisted risks (down from 11 last year).
12. The EBA Head of Legal and Compliance Unit (LC) explained the rationale for the risk identification, how the risks have been mitigated and weighted against the risk statement and what the EBA's risk tolerance has been in relation to the identified risks. He noted that in the view of the EBA, the risk appetite statement which had to be reviewed and adopted by the MB annually, appropriately reflected the EBA's current risk appetite and did not require any updates at this point in time.
13. The EBA Legal Officer continued by clarifying that the main input for the proposed updates of strategic risk register stemmed from interviews held first with all the Heads of Units taking into account tasks set for 2025 and their views on the risks within their units and subsequent interviews with all the Directors. Based on these discussions, the EBA was proposing a reduction of the strategic risks from 17 to 16 considering the fact that while risk 4 (Hampering of output due to changes in working practices) remained relevant in terms of ongoing priorities and work to be completed, some of its elements had evolved and did not completely fit under the umbrella of that particular risk and its designated risk category anymore and were better reflected individually under other risks. He added that the shortlisted risks would be the focus for identifying how to treat each risk in the next phase of the process. Finally, on the risk mitigation plans, the Legal Officer noted that five risks had been identified for the 2023/24 cycle as needing additional mitigation measures. The specific mitigation measures per risk had been discussed and agreed with the respective risk owners and laid out in the document submitted to and agreed by the MB in March. A stock take of the progress made so far has been concluded in August/September 2024. Most actions were completed or on track, with some minor delays.

14. The Members supported the work. One Member mentioned that similar risks as identified by the EBA have been observed at the national level. He welcomed the EBA's flexibility to react to the changes in terms of updating its risks management. Another Member questioned how the EBA considered legal risk arising from, in particular, its new legislative mandates from the risks management perspective.
15. In his response, the Legal Officer stressed that the risks have been closely aligned with the expected EBA's deliverables set out in the EBA Work programme and considered from the risk tolerance perspective.
16. The Head of LC explained that in the past, the EBA took few binding decisions on individual organisations. However, this would change with the upcoming new supervisory powers and as result, the EBA may reconsider legal risks which were not specified per se in the current risk register but rather form an element of the broader risks set out in the register.
17. The Executive Director added that risks related to new legal mandates would be considered partially under the Risk 1: Risk of not fulfilling mandated obligations or tasks due to limited / unaligned resources and Risk 10: Inadequate knowledge management tools and procedures impact effectiveness and accountability.
18. The Chairperson concluded by noting the Members' support and noted that the Members agreed with the EBA's proposal not to amend the risk appetite statement.

## **Conclusion**

19. The MB approved the strategic risk register for 2024/25 by consensus.
20. The MB approved the risk appetite statement by consensus.

## **Agenda item 4: Management of notifications (for discussion)**

21. The Chairperson informed the Members that the EBA has been collecting, as per various EU regulations and directives, around 150 different notifications. The existing system has shown inefficiencies such as data consolidation and authorities struggling to maintain process knowledge. Therefore, the EBA was proposing to review the notification framework and improve notifications channelling, streamlining and use at the EBA.
22. The EBA Director of Prudential Regulation and Supervisory Policy Department (PRSP) continued by clarifying that the notifications to the EBA served as a formal communication initiated by a Competent Authority (CA) to inform about specific situations or actions concerning regulatory implementation options with regarding specific instruments, transactions or institutions and supervisory decisions within the European Union. These notifications were intended to play a crucial role in maintaining transparency and convergence as well as paving the ground on collective actions as needed. However, some notifications, initially required by Level 1 legislation to inform the

EBA for monitoring purposes, have become less useful over time. While they were still used in EBA reports, many could now be reported on an ad-hoc basis or discontinued to reduce the burden. Discontinuing these notifications would require specific communication to the EC and co-legislators. They support monitoring and peer reviews duties of the EBA, ensuring compliance and facilitate effective crisis management with regards to systemic risks. On the channels, the Director of PRSP said that the eGate platform was used for most of existing notifications requirements. She added that the EBA was expecting a large bulk of new notifications following the revision of the CRD-CRR and the DORA-MICA implementation. She summarised basic statistical data on the notifications and submissions and the processes for existing tools and channels. As a conclusion, the Director of PRSP stressed that a more detailed evaluation of notification practices with a focus on efficiency, compliance and resources would be required before any decision on the use of a new channel(s) and amendments to the existing processes.

23. The Chairperson added that given the upcoming increase of notifications expected under MiCAR and DORA, the proposed assessment should focus on the effectiveness of the system, its flexibility and how the information received from the CAs has been further used.
24. The Members supported the EBA's proposal for the assessment of notification process. The Members acknowledged that the current process was burdensome and sometimes, the information provided was limited. They also welcomed this initiative mentioning that, in some cases, the purpose of the notification and usefulness of provided data were questioned at the national level. One Member stressed that only data relevant for the EBA's work should be notified. Other Member said that while the CAs have been asked to be transparent and notify the EBA, the EBA should also clearly inform on the information provided by the CAs and the use of the provided data. The Members agreed that the main aim should be simplification and reduction of complexity. On the technology to be used for the notification process, the Members highlighted that it should be manageable and suitable for both the EBA and CAs. One Member suggested discussing with other ESAs and maybe some CAs on the technologies used. Other Member was of the view that only one channel should be used for all communications on the notifications. One Member suggested considering modern technologies available on the market. Another Member said that the technology could be used to balance the safeguards as the main aim of the notifications, by providing a system for the CAs, and simplification and operability.
25. The EC representative stressed that notifications have been introduced by various legislative acts for different reasons and therefore, it was not advisable to consider them together but rather per individual legislation. He pointed out that the main reason of the notification was to serve as safeguards on CAs' actions and rather than limiting them, they should increase for additional transparency and supervisory convergence purposes. He was of the view that the EBA could consider rationalising the system of notifications and focus on identifying which notifications provided more relevant information than others.

26. The Chairperson concluded by noting the Members' support for the assessment which should focus on the process and usefulness of notified information; in particular types of notifications, how the CAs notify to the EBA; how the EBA was using the information from the notification and how effective the entire process was. He added that the EBA may engage on this topic with various CAs through existing working structures.

#### **Agenda item 5: Peer reviews (for discussion)**

27. The Chairperson introduced the item explaining that two reports have been tabled for discussion: the follow-up report on supervision of management of non-performing exposures by credit institutions and a peer review report on tax integrity and dividend arbitrage (a follow-up to the cum-ex action plan published in 2020).
28. The EBA Head of Legal and Compliance Unit (LC) presented the mandatory follow-up peer review on supervision of management of NPLs that focused on the assessment of the CAs that had not 'fully applied' the provisions at the time of the initial peer review in 2022. 21 CAs were found to not fully apply in at least one of the 9 areas reviewed in light of the original peer review reference period (June 2019 and June 2021) as well as on the implementation of the wider general recommendations by all prudential CAs. He said that there had been significant further implementation efforts, and so the EBA observed that only a small number of assessments remained unchanged for some CAs and were still viewed as 'partially applied' with no particular pattern or concern about individual CAs. He noted that given the rise in NPLs as identified in the 2024 July EBA Risk assessment report, in the conclusions of the report the EBA stressed that the CAs should remain vigilant with regards to developments in the credit quality and to address early NPE growth in their jurisdiction. The latter is of particular importance considering the recent increases of the share of NPLs across all segments and banks own expectations for further growth of NPLs for households and corporates in 2024.
29. The Members supported the work. They stressed the progress made in the area of NPLs and were of the view that the EBA should emphasise the findings of the report in its public communication. One Member suggested that although they agreed that the report itself did not need to be discussed in the next BoS meeting before being sent for approval, it would be useful to discuss the positive findings conclusions.
30. The EC representative supported proactive communication reflecting on the fact that many actions mentioned in the report were essential for keeping the banking sector safe as well as led to sound and solid lending practices on the market.
31. The Head of LC confirmed that the EBA was planning to publish the follow up peer review report.
32. The Chairperson concluded by noting the Members' support and that the report should go for approval by written procedure with the positive outcomes being flagged during the

next BoS meeting in October. He also acknowledged a need for proactive communication on the topic.

33. The Head of LC continued by summarizing the main aspects of the Tax integrity peer review report. He reminded the Members that in April 2020, the EBA published an action plan on dividend arbitrage trading schemes such as Cum-Ex and Cum-Cum with an aim to enhance the regulatory requirements applicable to such schemes within the scope of action of prudential and AML/CFT supervisors. With regard to the peer review report, the Head of LC explained that the peer review was carried out in order to assess the effectiveness and degree of supervisory convergence of issues relating to tax integrity and dividend arbitrage trading schemes and in particular of the way that supervisors check compliance by financial institutions with the requirements adopted under the action plan. The aim was not to review national systems for identifying/investigating tax fraud, nor placing expectations on CAs for doing so, but rather to identify how supervisors used the information they have to consider tax integrity in their various assessments. The Head of LC said that the CAs in six Member States have been reviewed and the peer review committee's findings suggested that overall the picture was positive with some specific areas for improvement and follow-up measures, as well as a number of best practices identified. He concluded by listing the next steps and said that after integrating the conclusions of the MB discussion and considering the feedback received from targeted CAs, the peer review report was planned to be discussed at the upcoming October BoS meeting.
34. The Chairperson added that four years ago, when the topics of tax integrity materialized in the EU, the EBA reviewed a number of its Guidelines and concluded that from the supervisory perspective, the requirements for banks were sufficient. He stressed that it was not for banking supervisors to assess tax integrity but rather for other national authorities and that this aspect had to be clearly communicated in the on-going peer review given that its findings would be shared with the public.
35. The Members supported the work. Some noted that they were planning to send specific written comments in order to better reflect their institutional AML framework and to modify some of the conclusions from the benchmark assessment. They also highlighted that, in some countries, the assessment of tax compliance was not within the framework of prudential and/or AML supervisory authorities and asked for specific reference in the report to the fact that this falls in other responsible authorities. One Member mentioned national measures implemented in response to the CumEx cases and emphasized the importance of the work in this area.
36. The Head of LC welcomed additional information that the Members would provide in writing.
37. The Chairperson concluded by noting the comments by the Members and agreed that the report should highlight the sensitivity of the topic and the limited responsibility that

supervisory authorities had in terms of tax crimes. He also raised questions related to how peer review recommendations could be articulated in peer reviews with a view to ensuring that findings based on the sample of CAs strengthen supervision in CAs across the Union.

#### **Agenda item 6: Provisional Agenda of the BoS meeting (for discussion)**

38. The Chairperson reminded the Members that the next BoS physical meeting will take place in Paris, at the EBA on 16 October (in the afternoon) and on 17 October 2024 in the morning. The joint BoS/BSG meeting was scheduled to take place on 16 October 2024 in the morning. He informed that an additional item would be added to the agenda related to the EBA response to the European Commission's consultation on macroprudential policy for Non-bank Financial Intermediaries (NBFIs).
39. The EC representative referred to the discussion during the BoS conference call earlier in September on Basel III implementation and said that following the developments in the USA, the EBA may want to consider postponing discussion with the BoS until a legislative proposal by the US authorities was available.
40. One Member mentioned specific national environmental issues and questioned whether the Guidelines on moratoria prepared during the Covid-19 pandemic would be applicable in similar situations.
41. The Chairperson concluded by noting the Members' support on the draft BoS agenda and said that any further implementing discussions on the Basel III were dependent on the US proposal. With regards to the Guidelines on moratoria, he clarified that their scope and application were limited to the specific Covid-19-related cases.

#### **Conclusion**

42. The MB took note of the draft Agenda of the 16 and 17 October 2024 BoS meeting.

#### **Agenda item 7: AOB (for information)**

43. The Members did not raise any concerns.

## Participants at the Management Board conference call on 25 September 2024

**Chairperson** Jose Manuel Campa  
**Vice-Chairperson** Helmut Ettl

**Member** Kamil Liberadzki  
**Member** Heather Gibson  
**Member** Angel Estrada  
**Member** Kristine Cernaja-Mezmale  
**Member** Csaba Kandrac  
**Alternate** Adam Ketessidis

**European Commission representative** Almoró Rubín De Cervin

**EBA**

Executive Director

Francois-Louis Michaud

Directors

Peter Mihalik  
Isabelle Vaillant  
Meri Rimmanen  
Marilin Pikaro

EBA Heads of Unit

Philippe Allard  
Jonathan Overett Somnier

Experts

Tea Eger  
Alex Herr  
Margarita Steinbach-Shmeljov  
Adrienne Coleton

For the Management Board,

Done at Paris on 07 November 2024

[signed]

José Manuel Campa

EBA Chairperson