

EBA MB 2024 118 rev. 1

Management Board

19 November 2024 / 09:30 – 13:30

Location: EBA premises, Paris

Management Board

Minutes of the meeting on 19 November 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 25 September 2024 MB meeting were approved by the MB in the written procedure.
3. The Chairperson announced that Kamil Liberadzki has been appointed as the EBA Director of Economic Risk and Analysis Department and therefore has resigned from the EBA Bos and MB. The EBA was planning to launch a call for candidates to replace him in the MB.
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 September to October 2024. He also highlighted that the first changes initiated by a small internal Task force on Accountability, Synergies and Consistency launched in Q2 2024 by the Executive Director have been further refined with a view to cover the entire spectrum of the organisation in a streamlined and more factual way. He continued by summarising the main areas of the report. He clarified that given that there was a separate item on the MB agenda on the execution of the EBA 2024 Work programme, the report did not provide a detailed overview of this issue. On HR matters, the Executive Director mentioned that the
-

management team was now complete and that a one-day management retreat had just been held. He informed about new swap staff arrangements and said that the EBA hosted the 47th General Assembly of the 58 EU Agencies' Staff Committees. With regard to Finance and Procurement, the Executive Director said that 95% of budget was already committed and that the EBA was expecting a close to 100% execution by the end of the year. He referred to the combined effect of end-October's Eurostat salary indexation increase, and Paris correction coefficient decrease and explained that while these would not require 2024 budget revision, the 2025 budget would be slightly higher. On Information Technology, the Executive Director informed the Members that various projects were progressing well while the DORA CTPP IT project had to take into account the EUID and LEI duality, and the MICAR reporting feasibility study was underway. The EBA did not observe any major security incidents in the past months. Regarding data collections, the Executive Director noted that the publication time of the Risk dashboard more than halved compared to 2023 and that timeliness, completeness and accuracy of reporting was at very high levels. On Risk and controls, he followed up on the MB discussion during September's conference call and said that there were no overdue audit recommendations, no court cases, inquiries or access to document requests. He also mentioned that the EBA had only limited responses on EDPS's request to EC regarding the use of Microsoft 365. 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. The work on the 3rd countries equivalence has been progressing. He concluded by saying that the EBA was proposing to communicate on a 12-month Q&A pause on answering new questions relating to CRD/CRR due to ongoing transposition process and development of Level 2 as well as coordination of answers to Member State questions by the European Commission (EC).

7. The Members welcomed the updates. Two Members requested clarification on answering new questions relating to CRD/CRR, noting that non-answering of L1 text Q&As could increase market uncertainty.
8. The EC representative supported the EBA's proposal regarding the Q&As and stressed the importance of sequencing. He said that the EC was actively working on the transposition of the CRD, including organizing workshops with a next one scheduled for February 2025. He also referred to their exercise focused on the transposition of CDR V and said that following the feedback from 27 Member States, any transposition issues could be addressed when transposing CRD VI.
9. The EBA Head of Legal and Compliance Unit (LC) explained that the EBA was considering various policy options regarding the Q&As and stressed that categorisation of the questions was one of time-consuming issues.
10. The EBA Director of Prudential Regulation and Supervisory Policy Department (PRSP) stressed the importance of L1 Q&As and said that these have been addressed by the EC.

11. The Chairperson concluded by noting the Members' comments. He said that the EBA would clarify in a communication in its webpage that Q&As related to L2 and 3 texts to be developed with regard to CRD3 / CRR VI, should be aware that their questions may be addressed by that material, and that with regards to Level 1 questions wording would be developed jointly with the EC which would not commit to answering within 9 months given the transposition process. Greater flexibility should be developed for categorisation so that EBA staff can screen such questions and make decisions without needing to go through subgroups.

Agenda item 3: Execution of the EBA Basel III roadmap (for discussion)

12. The Chairperson reminded the Members that the EBA published its Banking Package Roadmap on 14 December 2023 and therefore, it was a good time to reflect on the progress made, considering also that the CRR3 was about to enter into force at the beginning of 2025. Furthermore, he acknowledged that some external circumstances in have also changed since its publication.
13. The Director of PRSP continued by noting that the execution of the Roadmap was one of the key elements in the EBA work programme and an important strategic part of EBA's overall work. She provided an overview of the overall execution and highlighted the potential risks to the completion of the roadmap, which were likely to materialise during 2025. She said that 32 mandates had to be delivered by mid-2025 and a further 43 mandates to be delivered by mid-2026. Overall, the progress was positive as regards the execution of the mandates in phase 1, as EBA staff and competent authorities (CAs) had the ability to initiate the work on the mandates, already once the negotiations were finalised by mid-2023 – ahead of the final publication of the Banking Package in the Official Journal in December 2023. This allowed the work to progress well, and the vast majority of phase 1 mandates would be delivered on time. In addition to the more regulatory deliverables, some of the phase 1 deliverables, especially the development of the Pillar 3 hub, were also work in progress. It would, however, be a challenge to maintain this pace, at least in all areas, for phase 2. Resource challenges have become increasingly apparent, especially in the areas where a significant number of mandates were expected, i.e. in the area of credit risk and market access/3rd country branches – the latter representing a completely new area for the EU. The Director of PRSP also referred to external circumstances which had impact on the Roadmap and said that the issue was discussed by SCRePol which concluded that it was important to maintain a prudent line, but actively monitor developments and certainly also focus on the inner EU complexity or opaqueness. Very much beyond the given list of mandates may be simplifications of the rulebook and supervisory practices which could be pursued with the intent to lighten burden and processes in particular. In some areas such as the output floor, the SREP guidelines or the validation of models approaches, the EBA may have some good opportunities to go into the direction of burden alleviations. In some other areas, especially in the area of market risk, there may even be a need to re-open the EBA's

previous work, depending on the EC course of action considerations regarding the FRTB implementation in EU. Also, in the area of operational risk, the work programme may have to be amended, if the operational risk taxonomy would be successfully tabled at the Basel Committee as now possible.

14. The Members supported the work and highlighted the need to continue to ensure a robust prudential framework, financial stability and proportionality. They acknowledged the importance of implementation of stable legal requirements rather than their continuous review. With regards to competitiveness, there was a shared view that currently no concerns existed on possible credit crunch restrictions in the EU and it remained the supervisors duty to keep financial stability risks at bay while considering the need for less complexity and simplify supervisory burden.
15. The EC representative praised the 2023 EBA Roadmap and its transparency. He clarified that compared to previous Basel standards cycles the main difference was caused by global uncertainty, in the US in particular. Aspects related to competitiveness, complexity and conservativeness of the framework should be considered in the future work.
16. The Chairperson concluded by noting the Members' comments and said that it was important to continue assessing the implementation of the Banking Package provisions.

Agenda item 4: 2024 EBA Work Programme execution (for discussion)

17. The Chairperson introduced the item by mentioning that the tabled update on the 2024 work programme was the second of the two regular updates made to the MB each year – the other one having been given in May. Overall, the EBA has made good progress, but it has also been facing challenges in a number of areas which was reflected in tasks being at risk or delayed.
18. The Executive Director continued by saying that the progress report provided an overview and a lot of detailed information about the situation with a view to being transparent. The report has benefitted from the latest round of the twice-yearly exchanges organised by the Executive Director with the EBA Heads of Units and Directors to discuss progress, difficulties and the planning, which complemented the information drawn from the work programme planning and monitoring database. He noted that while the execution of the 2024 work programme was broadly on track (for 77% of active tasks – compared to 70% in May), the number of tasks that were at risk or delayed has increased. He noted that this broad measure included all tasks delivered and on time on which EBA staff were currently working, including those to be delivered in coming exercises. Under a narrower measure focussing on tasks due in 2024, the execution rate stood at 84%. Given that the year-end was approaching, reaching the 90% execution rate target could pose a challenge. Among the reasons for this were the high number of mandates as well as their complexity, and the fact that resources were fully engaged with bottlenecks in certain areas. There were nevertheless also several positives, such as: well advanced progress of preparations for

2025 stress test; timely delivery of regulatory mandates for DORA and MiCAR, and good progress on many of the phase 1 banking package mandates. Own initiative work was kept to the strictest minimum and focused on a few areas where circumstances would require it. Among the many challenges, he mentioned the following: work on the banking package, in particular for mandates related to credit risk, securitisation and covered bonds, market risk, but also market access, mainly due to insufficient resources; complications encountered with the set-up of the infrastructure for the DORA Register of information of TPP – given the possible need to accommodate EUID; uncertainty around the entities to fall under MiCAR supervision and DORA oversight. He also referred to areas of future work which already require some engagement – notably incoming mandates revised payment services framework on CMDI (BRRD, DGSD); the future of stress test. The Executive Director noted that a summary of the challenges by activity has been provided in the annex. Overall, he retained that the picture for 2024 was already relatively difficult, but that 2025 may prove even more challenging.

19. The Chairperson noted in relation to own initiative work that this was indeed fairly limited whereas most of resources were devoted to regulatory mandates or to mandates stemming from the EBA Regulation. He also pointed to an asymmetry in terms of resources and timelines between mandates that come in the form of calls for advice or from legislative frameworks.
20. The Members welcomed the update.
21. The EC representative clarified that legislative progress in some areas (notably CMDI) may take time before it would give rise to concrete mandates. With regard to own initiative work, he stressed that the EC welcomed when authorities identify and address issues on the market. On the other hand, he noted that in the context of prioritisation, own initiative work by the EBA would not be considered by the EC with the highest urgency. The work on prudent valuation was given as an example of work that in the EC's views was not required. He agreed that regulatory mandates would take precedence over calls for advice, and he highlighted flexibility regarding timelines for responses to the latter, noting also that further analysis or research may prove beneficial for the final input.
22. The Chairperson concluded by noting the Members' support.

Agenda item 5: EBA priorities and draft SPD 2026 - 2028 (for discussion)

23. The Chairperson introduced the item by explaining that the tabled item covered the EBA priorities cycle, with a first proposal based on management discussions, and the first draft of the next Single Programming Document (SPD).
24. The Executive Director introduced the item on the basis of the presentation submitted for the meeting, noting that the SPD was work in progress and that the next step would be a discussion during the December BoS conference call and finalisation by end-January

2025. Feedback from the MB was sought on the priorities for the 2026-2028 horizon, on the related planning and resources request and on the draft work programme for 2026. He mentioned that this had been discussed with EC which provided a positive preliminary support on priorities at the beginning of November. The Executive Director then briefly summarized the general context which drove the planning - structured in four parts: the EC priorities (currently not yet fully known beyond the mission letter President Von der Leyen addressed to Commissioner designates), the main legislative files, the EBA's evolving roles as well as a broader context of uncertain economic and financial outlook. With regard to the EBA multi-annual priorities for 2026-2028, he explained that they represented a more substantial change, and a simplification compared to the five priorities in previous years, fitting for the start of a new stage in the EBA's development, with changes in responsibilities and the uptake of new activities. After the transition in 2025, the EBA expected to fully settle into this new stage in 2026. For this reason, the EBA was proposing for the 2026-2028-time horizon to regroup and refocus around three priorities – Rulebook, Risk assessment, and Innovation. Notwithstanding these changes and the reduction in number, the proposals were still deemed to be consistent with previous priorities. For the single rulebook, he indicated the notion of simplicity as an additional dimension to potentially cover. Furthermore, the order in which presenting the priority blocks could still be reviewed. For the 2026 priorities, rather than to tweak the multi-annual priorities as in previous years, the EBA was proposing to keep the multi-annual priorities unchanged, with a very limited discussion in the draft annual work programme section, highlighting areas of focus for that specific year as this would help to avoid repetition with the multi-annual section. Regarding the USSP, the EBA proposal was to keep the priorities adopted in June 2023 (and confirmed in December 2024) for 2024-2026 largely unchanged, with only a small adjustment to reflect that the interest rates context was evolving. The Executive Director then continued by setting out the levers for planning and programming. In addition to setting out the measures taken to ensure strategic and tactical use of existing resources, he noted with regard to complementing resources that filling the allocated SNE posts was challenging. Additional mandates should preferably be subject to financial fiches. While this was the case for EMIR, even though no allowance was made for preparatory work, the payment services mandates did not give rise to additional posts or resources. The third lever would be to make adjustments to the Work programme. The Executive Director then proceeded to setting out the remaining challenges (as per slide 8) and the EBA resource requests needed to overcome these: i.e 11 posts, 5 FTEs temporarily and 6 FTEs permanently, as well as funding for early recruitment of future EMIR to carry out preparatory work for the IMM validation.

25. The Members supported the proposals. One Member was of the view that it was important for the priorities and the work programme – as is already the case – to reflect and be flexible to external changes and their implications, such as the implementation of Basel III in third countries, developments in the areas of digitalisation and AI. Another Member stressed that the unknown priorities of the EC pose an important challenge which was

difficult to factor into the planning. Other Member suggested the possibility of accounting for available resources in case the regulation needed to be changed depending on the US acts.

26. The EC representative noted that there have been a lot of initiatives in the area of banking and – from his perspective – the EC was not planning to introduce major legislative changes in the foreseeable future, although simplification could become important. The focus should be on the implementation of existing requirements and mandates. Particular challenges included the work on the regulatory perimeter as well as the evaluation of the framework in terms of proportionality. He stressed the need for flexibility and expressed willingness to support the resource requests put forward by the EBA in its proposal all the while noting possible budgetary constraints.
27. The Chairperson concluded by noting the Members’ support and stressing the need for flexibility.

Conclusion

28. The MB supported the proposed multi-annual priorities for 2026-2028, priorities for 2026 and the proposed adjustment to the USSP by consensus.

Agenda item 6: Replacement of BSG Members (for decision)

29. The Chairperson introduced the item by saying that in September, Luis Morais, Banking Stakeholder Group (BSG) member in the category representing ‘independent top-ranking academics’, passed away. Furthermore, on 23 October 2024, Lyubomir Karimansky, BSG Member in the category representing ‘users of banking services’, informed the EBA on the early termination of his mandate following a change in this employment. In order to identify candidates who could replace these two BSG members, the EBA staff has performed an analysis of the reserve list for the replacements using the same criteria used for the selection of the 28 current members.
30. The EBA Head of Governance and External Affairs Unit (GEA) continued by clarifying that the EBA staff assessed the professional experience and expertise (“professional quality”) of potential candidates, the level of seniority of their role and their contribution to an adequate geographical and gender balance in the BSG. He reminded Members that according to Article 37 of the EBA founding Regulation, the Banking Stakeholder Group (BSG) was composed of 30 members appointed by the EBA Board of Supervisors, following an open and transparent selection procedure. The BSG members represented different constituencies, that were financial institutions (13 members), their employees’ representatives (2 members), consumers (6 members), users of banking services (4 members), independent top-ranking academics (4 members) and SMEs (1 member). Based on the available candidates on the BSG reserve list, EBA staff had identified Mr.

Fotios Pasouras (independent top-ranking academics) and Mr. Christophe Nijdam (users of banking services) as the best candidates to fill the vacant BSG positions.

31. The Members supported the proposed candidates.
32. The Chairperson concluded by noting the Members' support.

Conclusion

33. The MB supported the appointment of Fotios Pasouras as BSG member in the category 'independent top-ranking academics' and Christophe Nijdam as BSG member in the category of 'users of banking services by consensus.

Agenda item 7: Targeted Review of EBA's Conflict of Interest and Ethics Policy (for discussion)

34. The Chairperson introduced the item by acknowledging that ethics was topic on which EU bodies, including the ESAs, remain under scrutiny. He referred to the annual declarations of interest process for BoS Members and other 'non-staff' and clarified that the ESAs would need to consider how to adjust the process to take account of DORA/MiCAR potential conflicts but also ensure consistency, efficiency and proportionality across the ESAs.
35. The Head of LC continued by explaining that the EBA, as well as the other ESAs, had to review their rules on Conflict of Interest (Col) and Ethics policy to reflect regulatory developments (DORA and MiCA) by identifying new entities that could create conflict of interests and to continue increasing consistency for clarity and transparency across the three ESAs and adapt to current practices and ensure proportionality in collecting information. As a first step, ESMA and EIOPA aligned to EBA's practices in streamlining the declarations of interests of non-staff using an online tool to collect relevant information – EU Survey - and ESMA aligned further with EBA and EIOPA in relation to expectations of its non-staff members. The Head of LC then focused on the regulatory developments and said that under the Digital Operational Resilience Act (DORA), critical ICT third-party service providers (CTTPs) would become subject to the ESA's joint oversight as of January 2025. Therefore, the ESAs were considering including in their Col policy a prohibition of direct financial investments issued by or related to CTTPs and to require in the staff and non-staff declarations to identify investments in IT funds which could lead to a Col depending on their structure, if predominantly invested in CTTPs. With regard to Markets in Crypto-Assets Regulation (MiCA), the Head of LC said that the declaration would include crypto assets, held, bought or sold be it in the form of financial interests or other types of interests in the definition of economic interests, including virtual currencies and that there would be a limit to holding account, hence excluding amounts held for immediate payment in line with the current approach – not aligning with deposits/payment accounts, treating crypto assets more as investment assets than as

funds. In this regard, the EBA Senior Legal Officer provided a brief overview of categories of interest to be declared and published on the EBA website and a number of proportionality amendments, including reduction of the period covered by the annual report, or definition of close family members. She concluded by referring to general peer reviews and soft convergence measures address to CAs and said that as a next step, the EBA would refine the proposal and present it to the BoS ahead of launch of next annual declaration of interest process and in the case of staff declarations, review current complex Ethics Guide prohibition/ex-ante approval/ex-post information requirements for personal trading and incorporate DORA/MiCA changes.

36. The Members supported the proposals but asked for cautious considerations of proposed limitations which should be proportionate and within the scope of the EBA's mandate. In particular, they referred to investments in technology related assets, crypto assets but also peer reviews. One Member noted that BoS Members should have an opportunity to comment in peer reviews and on the final report prepared by the peer review committee.
37. In his response, the Head of LC said that the EBA would further analyse how to address investments in 3rd countries, in tech funds and in crypto currencies.
38. The Chairperson concluded by noting the Members' comments and said that an exact convergence with the other ESAs was not necessary given that each ESA had a different mandate. He also stressed that the policy should be proportionate and cautious, should not automatically be extended on the members of various EBA's sub-structures and should provide clear indications with regard to the scope of investments to be declared, and those that may be subject to limitations due to conflicts of interest.

Agenda item 8: Peer Review on application of proportionality under SREP (for discussion)

39. The Chairperson reminded the Members that as part of the Peer Review Work Plan, the EBA has conducted a Peer review on the application of proportionality in the SREP and the application of the EBA SREP Guidelines on this topic. The ad hoc Peer Review Committee (PRC) has prepared a draft report summarising the outcomes of the peer review.
40. The Head of LC introduced the report noting that overall, the report's findings were positive in terms of the peer review assessment methodology, since no material risks were left unaddressed. However, he noted that since the peer review was focusing on use of proportionality provisions in the SREP Guidelines, not using those provisions could lead to the same assessment. Indeed, the PRC found that CAs reviewed had in general not implemented these aspects of the Guidelines in a consistent way and were not making use of some of the proportionality tools, and so follow-up measures were considered to be needed despite the apparently positive picture.
41. The EBA Senior Policy Expert continued by noting that the peer review was conducted as a targeted peer review on six CAs and was focused on the general application of

proportionality in the SREP and on the application of proportionality for the area of liquidity risk assessment under the SREP. She then presented preliminary conclusions of the peer review and said that proportionality in the SREP and in the liquidity assessment under the SREP was largely implemented by the CAs under review though with some adaptations to the local context and the risk profile of the institutions under their supervisory remit. She explained the supervisory approach and engagement were also to be seen against the background of the supervisory landscape and the scope of institutions under direct supervision which varied considerably across the different CAs as explained in the background section of the report. In addition, the PRC identified best practices such as, the use of benchmarking tools, ‘pilot inspections’, and spot checks on the quality, accuracy and reliability of information provided by institutions. While the overall results were positive, the PRC observed that some tools for the application of proportionality in the SREP have not been used in practice and strongly encouraged all CAs to make use of the existing tools in the SREP Guidelines for the application of proportionality in the SREP. In addition, some deficiencies were identified concerning consistency of implementation of the SREP Guidelines, with regards to the SREP categorisation and implementation of the minimum supervisory engagement model. In the area of liquidity risk assessment, some deficiencies were observed in the area of the supervisory liquidity stress testing. The PRC was of the view that while these did not affect the overall effectiveness, they undermined the aim of the SREP Guidelines of having a more consistent approach across the EU as to how SREP was applied by CAs and could lead to similar credit institutions being treated differently across jurisdictions without good reasons. The Expert added that follow-up measures were set out in the Report and that these were applicable to all CAs and not just those CAs reviewed. The measures included the incorporation of the CRR classification of ‘large’ and ‘small and non-complex’ institutions into the SREP categorisation of institutions; alignment to supervisory engagement model, and, with regard to liquidity risk assessment, the use of supervisory liquidity stress testing, as well as the provided room for proportionality, as an independent tool to assess short- and medium-term liquidity risks. Moreover, the Report also identified recommendations for the EBA including taking into account the implications of the minimum frequency set out in the supervisory engagement model and to consider whether more clarity would be needed on the scope and level of assessment to be performed. The Expert concluded by mentioning the next steps and saying that in addition to feedback from the MB discussion, the PRC would take into account the comments received from CAs and would, where appropriate, prepare a revised draft of the Report. The resulting Report would be submitted by the EBA for discussion during the December BoS conference call and would then be finalised by the PRC for adoption by the BoS via written procedure.

42. The Members supported the work. One Member asked whether the EBA could send targeted recommendations to respective CAs reviewed in order to help them identify issues and improve them. Two Members referred to the context of the so-called risk-tolerance framework and strategy of CAs and one Member explained that they assess all

SREP elements every year. One Member was of the view that the findings suggested that the risk appetite of CAs did not currently support the approach set out in the SREP Guidelines to proportionality and this tone needed to be set from the top within CAs.

43. The EC representative pointed at various national practices identified during the peer review and noted that some common practices, or definitions were not used by all CAs.
44. The Senior Policy Expert acknowledged different national SREP assessment practices.
45. The Head of LC explained the EBA's approach of selecting a group of CAs which were reviewed and as result, the peer review report included general recommendations as the focus should be on all CAs considering and implementing the recommendations, not just those that happened to be selected for the review. However, the Report could include cross-references, or the EBA could liaise with respective CAs under review and said the EBA staff would consider how best to implement this.
46. The Chairperson concluded by noting the comments by the Members as well as the fact that while there were several proportionality provisions in SREP, many CAs were not applying or fully applying them which should be reflected in the Report, and that the issue of risk appetite in this area was one which could usefully be discussed and communicated by supervisors.

Agenda item 9: Provisional Agenda of the BoS conference call on 10 December 2024 (for discussion)

47. The Chairperson reminded the Members that the next BoS conference call was scheduled for 10 December 2024.
48. The Members did not raise any comments on the provisional agenda.
49. The Chairperson concluded by noting the Members' support.

Conclusion

50. The MB took note of the draft Agenda of the 10 December 2024 BoS conference call.

Agenda item 7: AOB (for information)

51. One Member announced that he would be stepping down from his position in the MB in the coming weeks and thanked the EBA and other Members for cooperation during his mandate.

Participants at the Management Board meeting on 19 November 2024

Chairperson Jose Manuel Campa
Vice-Chairperson Helmut Ettl

Member Heather Gibson
Member Angel Estrada
Alternate Laszlo Vastag
Alternate Adam Ketessidis

European Commission representative Almoró Rubín De Cervin

EBA
Executive Director Francois-Louis Michaud

Directors Peter Mihalik
Isabelle Vaillant
Meri Rimmanen
Marilyn Pikaro
Kamil Liberadzki

EBA Heads of Unit Philippe Allard
Jonathan Overett Somnier
Laurance Caratini
Fergus Power

Experts Tea Eger
Guy Hass
Lot Anne
Adrienne Coleton
Patricia Rosochowicz

For the Management Board,

Done at Paris on 09 January 2025

[signed]

José Manuel Campa

EBA Chairperson