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Board of Supervisors

09 December 2020/09:30 – 17:30
10 December 2020/09:30 – 13:00

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. One Member declared an interest in relation to item 3. The Chairperson informed the BoS that the Member informed the BoS in advance and after legal analysis, the EBA considered that there was no conflict of interest and therefore, this Member could participate in the discussion and vote. No other Members declared any conflict of interest regarding any other agenda items.

3. The Chairperson informed that the Minutes of the 28 and 29 October 2020 meeting had been approved in the written procedure.

4. The Chairperson also welcomed a new BoS Member and Alternate from Cyprus, Mr Constantinos Trikoupis and Mr Kleanthis Ioannides.

5. Finally, the Chairperson thanked Mr Erich Loeper (Bundesbank) for his contributions and welcomed his successor, Mr Karlheinz Walch.

Conclusion

6. The BoS approved the agenda of the meeting.

Agenda item 2: Update from the EBA Chairperson

7. The Chairperson reminded the Members that the purpose of this item was to inform the BoS about various events and issues that took place between the meetings.

8. The Chairperson informed the Members that as part of changes being implemented to enhance the information provided to them in preparation for BoS meetings and with an aim to provide an overview of items to be discussed during the BoS meetings in 2021, the EBA staff was preparing agendas for all 2021 meetings and these will be shared, as draft agendas, with the BoS at the beginning of January.

9. With regard to the recent inquiry of the Ombudsman into the EBA's post-employment restrictions, the Chairperson informed Members that the Ombudsman had closed the inquiry in November considering the measures taken by the EBA as adequate. The Chairperson reminded the Members that the EBA adopted extensive guidance on how it would make use of its ability to impose prohibitions and restrictions, including specific examples of how they would apply in relation to senior staff. EBA also formalised its process of how it restricts access to confidential information for staff who were leaving the EBA to ensure that it can take swift action once it became aware of a staff member's plans to leave. Those policies and procedures were published on the EBA's website and vacancy notices included reference to post-employment obligations, ensuring that future applicants are aware of the expectations on EU civil servants in this area.

Agenda item 3: Election of the EBA Vice-Chair

10. The Chairperson introduced the item by mentioning that as of June 2018, Mr. Jo Swyngedouw has been the EBA Vice-Chairperson and that his first term was to expire on 31 December 2020. The EBA launched a call for expression of interest on 20 November 2020 by means of written procedure to fill the position. At the same time, Jo informed the EBA that he would like to extend his term. Within the deadline, none of the other BoS Voting Members expressed their interest to fill the position of the EBA Vice-Chair.

11. Members acknowledged the work done by the Vice-Chair during the interim period after the resignation of the previous EBA Chairperson.

Conclusion

12. The BoS approved the nomination of Jo Swyngedouw as the EBA Vice-Chair as of 1 January 2021 by consensus.

Agenda item 4: 2022 Single Programming Document

13. The Chairperson introduced the item by reminding the Members that the Single Programming Document (SPD) was an annual exercise whereby the EBA designed its multi-annual work programme, drafted the first version of its annual work programme (2022), programed its financial and human resources to accomplish these and outlined EBA internal policies on several areas.

14. The Executive Director continued by clarifying that the draft SPD 2022 defined strategic priorities for EBA based on the expected evolution of its mandates, the resulting human and

financial needs for years 2022 – 24 and for year 2022, it defined a more detailed draft Work Programme and budget. In his presentation, he focused on three main topics: the draft multi-annual priorities for EBA at the 2024 horizon; key considerations when formulating the resources request, and overview of EBA's resources needs. He also outlined the next steps which included a written procedures with the Management Board (MB) and BoS in January and the transmission of the SPD to the EU institutions by 31 January 2021.

15. The BoS supported the work. Several Members acknowledged an improved format of the document, a greater emphasis on core business of the EBA and a good balance when presenting the impact on the EBA of the MICA and DORA proposals.

16. One Member was of the view that the EBA should firstly use all data available via EUCLID before embarking on any additional data requests. Other Member believed EBA should be transparent on the challenges accompanying the digital finance strategy. Another Member suggested considering policy and risk learning from the crisis, in particular from a strategic angle and discuss these, in conjunction to ideas such as climate change and risk, and how the EBA and supervisors would like to operate in the future. He also suggested to reduce the number of physical meeting by 50% in 2022 and contribute to EMAS project to reduce the carbon footprint. He pointed out that the supervisory community had an extensive experience with remote working conditions given the Covid-crisis. Other Members supported the proposal to reduce travels both by the EBA and competent authorities' (CA) staff.

17. The EC representative welcomed the document, in particular reflecting on the Covid-19 crisis throughout the SPD. He highlighted the importance of displaying the staff allocation for MICA and DORA as tentative given that the legislative proposals were at their preliminary phase. Two Members acknowledged that while these proposals were at the early legislative stage, the EBA needed to start preparing for any such new mandates.

18. In his response, the Executive Director confirmed the EBA strengthened focus on the Single Rulebook and the impact of the Covid crisis, and outlined a number of issues in the policy area in this regard. On the future of the EBA's work, meetings and travels, the Executive Director clarified that there would have to be further discussions with the MB and BoS and that some indications would be introduced in the next version of the SPD.

19. The Chairperson concluded by asking Members to send their written comments and reminded the BoS about the MB and BoS written procedures on the SPD to be launched in January.

Agenda item 5: Risks and vulnerabilities in the EU

20. The EBA Head of Risk Analysis and Stress Testing Unit (RAST) updated the Members on current risks and vulnerabilities in the EU banking sector and focused on the Q3 2020 preliminary data. He mentioned that capital ratios further increased by around 40bps due to both decreasing RWAs as well as increasing capital. The fully loaded CET1 ratio reached 15.1% (up from 14.7% in the previous quarter). Outstanding loans only slightly increased, mainly due to the effect of

increase in cash / deposits with central banks. SME loans also increased marginally (around EUR 30bn helped by public guarantee schemes). Public guaranteed loans reached 284bn in September 2020, up by more than 100bn compared to previous quarter. The use of public guarantees have facilitated the observed decrease in RWAs, being presumably one of the reasons for the rise in reported capital ratios. Asset quality ratios seem to have further improved, also helped by a small decrease in NPL volumes. Forborne loans ratio remained stable at 2%, despite increasing volumes of forborne loans. Due to substantial expirations (close to 350bn expired in the last quarter), as of September 2020, loans under non-expired current EBA-compliant moratoria reached around EUR 580bn (compared to close to EUR 800bn in the previous quarter). Around 55% of moratoria (close to EUR 320bn) were to expire in December 2020, and around EUR 165bn by March 2021. He also said that profitability slightly recovered from the very low levels reported in Q2 2020. Lower cost of risk (74bps vs 86bps in Q2 2020) helped in this respect.

21. Presentations by BoS Members from Greece and Croatia followed. The Croatian Member focused on credit risk and asset quality in the Croatian banking sector, concentration and impact of the Covid crisis. The Greek Member presented asset quality indicators and preliminary data on Greek banks as of September 2020.

22. The ESRB representative asked if there was any link between the increase of capital ratios and the EBA's recommendation on distribution policies.

23. Some Members updated on their national developments. Two Members noted the impact of the Covid-crisis on the economy but said that the impact on banks was unexpectedly low. Other Member mentioned additional national measures to address latest developments and increased provisioning policies. One Member suggested to further analyse asset encumbrance. This Member also suggested to build a note explaining the provisioning differences between Europe and the US.

24. The Head of RAST informed that the EBA was finalising its Asset Encumbrance report and confirmed that the EBA has identified some increase in this regard. He also agreed to build a note on differences of provisioning.

Agenda item 6: Decision on rendering mandatory the Basel III monitoring exercise

25. The Chairperson introduced the item by clarifying that the EBA prepared a proposal aiming at rendering mandatory the Basel III monitoring exercise and, at the same time, introduce a less frequent exercise, as a response to some of the Member States' requests to make it mandatory.

26. In his presentation, the EBA Head of Economic Analysis and Impact Assessment Unit (EAIA) further clarified that the proposal would better address various types of institutions' sizes and business models given that the extension of the reporting for a number of institutions, which have so far not been included, should ensure a better assessment of the potential impact of BCBS supervisory standards, and as a result a better information to the European legislator. Also, to ensure that impact assessments can take into account all banking sectors of Member States, irrespective of the structure of each banking sector, and to enhance the level playing field across Member States, as to their participation in the conduct of impact assessments, the sample of institutions participating in the exercise should represent a minimum percentage of risk-weighted assets or a number of institutions per Member State. The aim would be to reach an 85% RWA coverage or a maximum number of 30 participating banks in the country sample. The 85% RWA coverage was reached by half (14/28) of the participating jurisdictions, and few other (5/28) close to (81.5% - 84.9%), this threshold, with the inclusion of Global and the Other Systemically Important institutions from their jurisdictions. Finally, the Head of EAIA noted that the EBA was expecting to render the exercise more effective, as the impact assessment of the proposed regulatory revisions will rely on a more stable and representative sample over time and across EEA and to become less burdensome for CAs and participating institutions.

27. The views of the Members were mixed.

28. Some Members did not support the proposal. They highlighted that there were additional ad hoc data requests from various institutions over the year; that Basel templates were not in line with the European templates used in practise or that EUCLID already included a number of data that would be collected under this proposal. Furthermore, they were of the view that the sample was too ambitious and should be lowered.

29. The ECB Banking Supervision representative supported the proposal and noted the benefits of collecting the relevant data. On the other hand, he acknowledged the proportionality issue and questioned the 85% RWA coverage which could be lowered to help smaller banks and smaller countries. He suggested 70% as used in the stress test exercise and also to allow CAs to nominate more banks based on their national situation.

30. Several Members supported the proposal. They agreed with annual frequency but also highlighted the proportionality issue. Some Members suggested introducing targeted data collections for smaller banks and considering extended periods for preparation for the exercise. Other Members proposed including an escape clause for those banks for which the participation would be too burdensome.

31. One Member questioned legal references with regard to the mandatory character of the exercise.

32. The Chairperson concluded by noting the concerns and said that the EBA would further elaborate on the sample to achieve a good representation in the exercise.

Agenda item 7: Opinion on interplay between AMLD and DGSD

33. The Chairperson reminded the BoS of the task to propose improvements to two important pieces of EU legislation – the Anti Money Laundering Directive (AMLD) and the Deposit Guarantee Schemes Directive (DGSD) as per the EC's request.

34. The EBA Head of Conduct, Payments and Consumers Unit (COPAC) further explained that the EBA fulfilled the mandate conferred in the DGSD to support the EC's review of that Directive by developing three EBA Opinions, published between August 2019 and January 2020. It has also responded to the EC's request for technical advice on improvements to the AML/CFT framework in the EU by developing its advice on 10 September 2020. Building on these aforementioned publications, EBA staff considered it of added value to provide further, more detailed advice on two key aspects of the interplay between the AMLD and the DGSD that could not be sufficiently addressed in the aforementioned publications and drafted an opinion on the roles and responsibilities of various type of authorities to mitigate ML/TF risks, and the potential cooperation required between these authorities, as well as the gathering and sharing of information, and the information provided to depositors in DGS payouts.

35. He also mentioned that the draft opinion set out a number of proposals addressed at the EC on how to improve the EU legal framework, including on ways to enable and enhance effective cooperation between relevant AML and DGS authorities in the run up and during bank failures where there were money laundering concerns; what information credit institutions should submit to the FIUs ahead of a DGS payout; what relevant authorities ought to do to minimise the risk of repaying money launderers in the course of DGS payouts, including the possibility for an FIU to instruct a DGS to suspend a payout in relation to certain depositors, and the requirement for that DGS to implement the FIU's instructions, and ensuring traceability of funds in DGS payouts.

36. The BoS supported the work. One Member asked if an EBA Opinion can include proposals addressed to national competent authorities. The Head of COPAC and the Head of the Legal Unit explained that the EBA Regulation allows it, also noting that proposals in an Opinion are not legally binding.

37. One Member also asked if requiring credit institutions to submit information on high-risk customers to the FIUs is not too burdensome. The Head of COPAC explained that credit institutions are obliged to hold such information, and so the submission to the relevant authorities would not be burdensome to the credit institutions – especially since the requirement applies only to cases of bank failures. Secondly, the FIUs should be put in a position to have as complete information as possible, and are then free to decide to what extent it is necessary to analyse information on high-risk customers, depending on the circumstances of each case.

38. The Chairperson concluded by noting the support of the BoS with regard to the draft opinion.

Conclusion

39. The BoS approved the draft opinion by consensus.

Agenda item 8: Report on the functioning of AML colleges

40. In his introduction, the Chairperson highlighted cooperation and information exchange between supervisors as one of the key elements of an effective AML/CFT framework.

41. The Head of COPAC reminded the BoS that in December 2019, the ESAs published guidelines on cooperation and information exchange for the purpose of Directive (EU) 2015/849 between competent authorities supervising credit and financial institutions. The guidelines required that in respect of firms that operate on a cross-border basis in at least three Member States, cooperation between AML/CFT supervisors, and with prudential supervisors and 3rd country supervisors, should happen in AML/CFT colleges.

42. Since publication of the Guidelines, EBA staff have participated in 10 newly established AML/CFT colleges between December 2019 and October 2020. The Head of COPAC thanked the lead supervisors for having organised the colleges ahead of the application date of the Guidelines later in 2021. The first observations from these colleges have now been summarised in the tabled report.

43. One Member informed that they had four new colleges and asked whether the report could be updated to consider these. Another Member suggested that future reports should focus more on substance. One Member questioned legal aspects of the exchange of information and said that relevant agreements would have to be signed before the colleges were set up. She also noted the complexity of colleges and that in some cases, they could become very large groups.

44. The Head of COPAC confirmed that there were indeed additional colleges in several Member States that the EBA attended in recent months and that have not been included in the tabled report. This, the Head of COPAC explained, is due to the fact that the EBA assesses each college and sends a feedback letter to the lead supervisor, and only then uses the observations for the report. The four colleges mentioned by the Member would therefore be considered for inclusion in the next report.

45. With regard to the content of the report, he agreed that the focus should be more on the substance of what is discussed during the colleges. He confirmed that this is envisaged to be done in future reports, but that most of the issues the EBA observed so far were of an organizational nature.

46. On the legal aspects, the Head of COPAC explained that the requirements are set out in the guidelines. If CAs identify issues in following the Guidelines, then the report is not a suitable vehicle to address the issues by clarifying the guidelines or by adding requirements in the

report. Rather, the report should limit itself to factual observations, and the EBA and the CAs should separately consider revising the Guidelines in view of the experiences gained.

47. The Chairperson concluded by noting the comments and overall support for the report.

Conclusion

48. The EBA approved the Report on the functioning of AML colleges by consensus.

Agenda item 9: Methodology on AML risk assessments under Art. 9a of the EBA Regulation

49. The Chairperson introduced the item by reminding the BoS that Article 9a(5) mandated the EBA to perform risk assessments 'of the strategies, capacities and resources of CAs to address the most important emerging risks related to money laundering and terrorist financing at Union level'. The same article required the EBA to develop a methodology for this risk assessment.

50. The EBA Policy Expert summarised the work done by the EBA staff with regard to the development of a methodology on carrying out 9a Risk Assessments. The methodology sets out how EBA staff will identify emerging risks for the assessment and how to define the scope of that assessment, including how to identify the CAs that will form part of the assessment. It also explained the information sources that would be used when carrying out the assessment and the process for communicating the outcomes of the assessment.

51. The BoS supported the work. One Member acknowledged that the risk assessment was a forward looking tool and that contributions from the CAs, in sense of participation, would be necessary.

52. The EC representative noted that the methodology offered a good compromise and would be a good starting point for the EC's work on the single rulebook. He also mentioned that the EBA should consider also other sources of information than the EC's analysis of emerging risks.

53. The Chairperson concluded by noting the support for the Members.

Conclusion

54. The BoS approved the methodology on AML risk assessments under Art. 9a of the EBA Regulation by consensus.

Agenda item 10: EBA work on equivalence in 2020 and work plan for 2021

55. The Chairperson introduced the item by summarising the EBA's work in the assessment of the equivalence of third country frameworks, both in relation to the confidentiality provisions

applicable to third country supervisory authorities to facilitate their attendance to EU supervisory colleges; and in relation the regulatory and supervisory framework, providing its technical advice to the EU Commission, as an input to the Implementing Decision on Equivalence.

56. The EBA Head of Banking Markets, Innovation and Products Unit (BMIP) continued by noting that in 2020, the EBA has conducted the assessment of the regulatory and supervisory framework of four jurisdictions, including the update of confidentiality provisions of the respective authorities with a view of negotiating appropriate cooperation agreements in the future. Other assessment of professional secrecy and confidentiality provisions of third country authorities have been conducted with a view of facilitating the negotiation of cooperation arrangements. She also highlighted that after the ESAs review, the EBA Regulation also acknowledged that the ongoing evolution of the regulatory and supervisory framework implied that the evidence on which equivalence decisions have initially been taken needed to be constantly monitored. In light of that, the EBA has been entrusted with an explicit and direct role in the monitoring of equivalence decisions. The Head of BMIP concluded by explaining that the EBA was planning to start monitoring activities in 2021.

57. The BoS supported the EBA's work in the area of equivalence.

58. One Member suggested that the EBA's monitoring activities should be focused on more recent developments of previously assessed countries in order to analyse if there were any major changes with respect to the previous assessment, noting in particular that the impact of Covid-19 could also affect the evolution of the banking sector in third countries and thus should be given appropriate consideration. Another Member asked whether consideration has been given to start assessing third country AML regimes for cooperation in 2021.

59. In her response, the Head of BMIP explained that the EBA developed a dedicated methodology for the monitoring that allowed to consider the most recent developments in the banking sectors, as well as of the regulatory and supervisory framework of third countries. With regard to the AML, she noted that - in the context of monitoring - the EBA was also assessing confidentiality regimes.

60. The Chairperson concluded by noting the support of the BoS with the EBA's work.

Conclusion

61. The BoS supported the planned work on third country equivalence in 2021.

Agenda item 11: Feasibility study on integrated reporting - Update

62. The Chairperson reminded the BoS that Article 430c of the CRR 2 mandated the EBA to prepare a feasibility report for the development of a consistent and integrated system for collecting statistical, resolution and prudential data, as well as to involve the relevant authorities in the preparation of the report.

63. The EBA Head of Reporting, Loans Management, and Transparency Unit (RLMT) provided an update on the feasibility study, stressing that due to the nature of the project, the wide scope of data and the authorities to be involved, the project was rather complex and potentially resource intensive. She outlined a structure of the EU-Integrated Reporting System which aimed at streamlining the reporting process complexity by the creation of a common standard dictionary and a central data collection point. She added that to guarantee the system' sustainability and success over time, it should leverage on the state of the art of the technology developments. The Head of RLMT also presented the four key areas of the feasibility study – stock take, data dictionary, including data granularity, central data collection point with its traffic light system, and governance. She concluded by saying that the EBA was planning to provide the draft report on feasibility study by beginning 2021, and have discussions on the feedback with the industry on Q1 2021. The Final report is expected to be delivered on the second half of 2021.

64. Several Members stressed that there should be more flexibility on the timeline and some said that the timeline was too ambitions given that there was a number of issues still open for discussion. Many Members asked for a more comprehensive cost benefit analysis that would also help in choosing the most appropriate way forward. Some Members were skeptical with regard to the introduction of the traffic light approach and how the CAs would manage their national reporting requests and satisfy ad hoc data needs. One Member suggested a stepwise approach for introducing the traffic lights by first addressing legal concerns, secondly introducing the approach but limited to non-urgent national data request and lastly expanding the scope to also include other national data requests. Othere Member stressed that the study focused on traditional approaches in terms of how data is collected from banks and that this might be considered as contra productive in the digitalisation area. A number of Members raised concerns related to integration and centralisation. One Member was of the view that the study might underestimate costs and resources needed. Another Member questioned practical issues, such as ownership and accessibility of data. A number of Members asked for a close cooperation with the ECB and CAs.

65. The ECB Banking Supervision representative mentioned that the ECB has provided input last year but that not all of their suggestions were considered. He also said that the timeline for the implementation and the whole architecture of the reporting would require further discussions.

66. The EC representative stressed that the EBA was asked to provide a feasibility study which would be used in further discussions and that it was not expected to find final solutions. However, it should include considerations of all options, costs and benefits.

67. The SRB representative highlighted their specific reporting requirements.

68. The ESRB representative supported the need for alignment with the ESCB and SRB and emphasized the importance of these types of projects in the era of digitalisation. He

mentioned that it is also in line with the ideas of the EC study ”fitness check on supervisory data reporting”.

69. The Head of RLMT confirmed close cooperation with the ECB and ESRB in the preparation of the study and clarified that the ESCB input will be taken into account for the draft report.

70. The Chairperson concluded by noting the concerns raised by the Members and said that the draft study would be referred back to working group level. There should be only one place where supervised entities should report and once they report, the information should flow from there among CAs without further need for requests. He acknowledged that the study should avoid setting up who should be the reporting hub and confirmed a good cooperation with the ECB.

Agenda item 12: Cost of compliance study on supervisory reporting – preliminary findings

71. The Head RLMT updated the BoS on the state of play with the work on the study of the cost of compliance with supervisory reporting requirements and presented preliminary results of Phase 1 of the study (mapping of institutions into CRR proportionality categories), and observations from the industry regarding reporting requirements and possible recommendation to address the identified industry concerns. The overview was based on the analysis of qualitative questionnaire for the industry, and the analysis still needed to be complemented by the analyses of the quantitative information, in particular cost impacts, and supervisory views on the benefits of various reporting requirements, as well as case studies the EBA has received.

72. In reaction to the presentation, many Members appreciated the work done so far and encouraged to continue the analysis also considering the quantitative elements and views of the users of supervisory reporting. Furthermore, the Members pointed out to the interlinkages between the cost of compliance study and feasibility study of integrated reporting noting that some recommendations from the cost of compliance study (e.g. regarding the use of technology) could be further explored in the feasibility study.

73. With respect to the proposed recommendations, the Members noted that small-and non-complex institutions could not be exempt from individual-level reporting, as prudential and other requirements applied at individual level, but there might be a room for streamlining of reporting requirements (reduction of data points and introductions of some thresholds). Potential areas for such streamlining could be investigated, for example in sovereign exposures, asset encumbrance, ALLM or leverage ratio reporting. Some Members, however, expressed scepticism regarding reducing ALLM reporting frequencies for small and non-complex institutions noting that current quarterly frequency was already proportionate.

74. The BoS noted the importance of retaining flexibility regarding ad hoc information requests, although were open for potential ideas regarding their better coordination in order to minimise the risk of double requests.

75. Some Members also noted that a degree of stability in the reporting and bundling and reducing frequency of changes in the reporting requirements could be also pursued as this would help reduce the implementation costs. Others noted in this regard, that longer implementation timelines might be also considered, although recognising the limits imposed by the implementation timelines of underlying prudential requirements.

76. The Head of RLMT agreed that more in-depth analysis was still to be performed and supplemented with quantitative information and the views of the users of supervisory reporting allowing a better analysis of any reporting reduction options against the benefits of reporting. On the basis of the BoS feedback, the EBA would approach its relevant technical expert groups to identifying specific cost reduction options in the areas identified (e.g. ALLM, asset encumbrance, leverage ratio etc.). In terms of next steps, a draft report with more elaborate recommendations and their analysis was to be presented to the BoS at the February 2021 meeting with a view of finalising the report later in March.

77. The Chairperson concluded by noting the comments by the BoS Members and overall support for the work.

Agenda item 13: EBA policy work on ESG disclosures

78. The Chairperson introduced the item by mentioning that the EBA has been working on specifying proposals for banks' disclosures of information on taxonomy-aligned activities, following the disclosure requirement included in Article 8 of the Taxonomy Regulation and the EC's call for advice on relevant KPIs and methodology; and for prudential disclosures on ESG risks by large institutions, in accordance with Articles 434a and 449a CRR.

79. The EBA Director of Banking Markets, Innovation and Consumers Department (BMIC) continued by further specifying legislative initiatives on ESG related disclosures and EBA mandates. He summarised the main details of the EBA's proposal on the scope of disclosure; risk mitigations as well as on how to facilitate quantitative disclosure requirements. He concluded by presenting the timeline and relevant legislative milestones.

80. The BoS was very supportive of the work done.

81. The ECB Banking Supervision representative suggested to include information on financial KPI and allow more time for discussion of some templates, particularly the template on climate change transition risk.

82. One member questioned the inclusion of the green asset ratio in institutions Pillar 3 disclosures. Regarding the specific questions included in the cover note, the Members generally supported the EBA approach for disclosures related to non-EU exposures given the

challenges in terms of availability of data for business outside the EU. On the proposal for the trading portfolio, the Members acknowledged the issues in terms of data for this portfolio, given its volatile and short term nature, but there were split views: While some Members agreed with the EBA proposal for a general disclosure on the overall composition of the trading portfolio, trends and limits, other Members asked for an extra effort in trying to define a more specific disclosure, at least for those institutions where the trading book is more relevant.

83. The Director of BMIC explained in the case of the Pillar 3 disclosures, information on mitigating actions would not be limited to the green asset ratio. He concluded that the EBA was planning to present to the BoS in February the advice to the EC and the Consultation paper on draft ITS on Pillar 3 disclosures on ESG risks taking into account the technical feedback and proposals received.

Agenda item 14: Investment Firms framework - Final draft RTS prudential requirements for investment firms

84. The Chairperson introduced the item by reminding the BoS that the Investment Firm Directive and Regulation (IFD/IFR) mandated the EBA to develop around 30 technical standards, the first bulk of which had deadline for this December.

85. The EBA Head of Risk-based Metrics Unit (RBM) continued by summarising that the tabled final report included seven technical standards, focusing on capital requirements for investment firms and one on the information to be provided for authorisation of investment firms reclassified as credit institutions. He also mentioned that, with regards to the draft RTS on the methodology for calculating the EUR 30bn threshold, following the end of the consultation period, the industry raised concerns on the chosen approach for the scope of total assets considered in the consolidated group (which, in their view, would seem to favour 3rd country groups), suggesting to exclude non-EU assets from the calculation. This would however incentivize moving some assets of EU entities outside of EU. The EC representatives expressed their preference for changing the scope of the assets included in the calculation of an entity or group's total value of assets, with a view to include global assets in the calculation of the threshold. Based on this, the EBA prepared two options for the way forward: 1) maintain the current scope of assets (as proposed in the consultation paper) and ensure the avoidance of regulatory circumvention relying on the level 1 text provision that allowed the consolidating supervisor discretion in deciding which entity should be required to apply for the authoritisation as a credit institution; or 2) amend the RTS to expand the scope of application considered in the group test to non-EU parents and subsidiaries of non-EU parents and find amenable ways forward regarding the implementation and further monitoring of this option, especially as far as the reporting framework is concerned.

86. The BoS supported the final report, with one Member reiterating some concern on the treatment of fixed overheads. However, on the discussion regarding the threshold methodology, there were mixed views on the two options. Majority of the Members preferred Option 2, even if this choice would imply some delays in the submission to the EC of both the

draft RTS on the threshold methodology, as well as the draft RTS on the monitoring of the threshold under Article 55(5) of the IFR. Some Members also highlighted the need for having a second public consultation, should Option 2 be the proposed way forward.

87. The EC representative acknowledged that the submission of the final report to the EC at the beginning of 2021 would be preferred. With regard to the options, he restated that the Option 2 was the one which would avoid creating regulatory arbitrage and would not incentivise companies to move their assets outside the EU. The EC provided a legal opinion in this sense to the EBA.

88. The Chairperson concluded by noting the support of the BoS for Option 2 and confirming that the EBA would further consider if any work was to be done with regard to that option in reviewing the RTS.

Conclusion

89. The BoS approved the final draft RTS prudential requirements for investment firms by consensus.

90. The BoS supported further work as result of applying option 2 for the methodology for the calculation of the threshold.

Agenda item 15: EU-wide Stress test – Update on the scenario of the EU-wide Stress test

91. The Chairperson introduced the item by mentioning previous BoS discussions on the stress test scenario.

92. The Chair of the ESRB Task Force on Stress Testing updated the BoS on the calibration of the 2021 adverse scenario. He said that the ESRB General Board was planning to approve the macro-financial scenario during its meeting on 15 December and the full package containing the macro-financial scenario and market risk scenarios should be transmitted to the EBA by 25 January 2021. He provided preliminary findings of the impact assessment and an overview of evolution, severity and cross-country heterogeneity of key macroeconomic and financial variables of the latest version of the scenario. He highlighted that the calibration of the 2021 adverse scenario followed the methodology of the 2020 scenario which drew upon the “lessons learnt” from the EBA 2018 exercise and addressed the concerns on severity, plausibility and cross-country heterogeneity.

93. The BoS welcomed the update on the scenario. Several Members were of the view that the scenario was appropriately severe and addressed the concerns on cross-country heterogeneity. Some Members considered the scenario as being too severe given the current situation and starting points.

94. Some Members referred to the severity of the shocks on commercial real estate prices in some countries.

95. One Member questioned whether it would be possible to make any changes to the scenario between the approval of the scenario by the ESRB General Board and the publication of the scenario by the end of January if there were any significant developments.

96. The SRB representative considered the scenario as being rather severe. He also underlined the importance to take into account the potential materialisation of cliff effects once the extraordinary supporting Covid-19 measures provided by public authorities end and emphasised the need for consistent communication of the different authorities after the publication of the results.

97. The Chair of the ESRB Task Force on Stress Testing clarified that the ESRB would further discuss open issues, such as the shocks on commercial real estate prices and the overall communication strategy. Besides, at the request of one Member, he clarified that the adverse scenario would not be modified as a result of the update in the baseline scenario to be published late December/early January.

98. The Chairperson concluded by noting the broad support of the BoS and welcomed improvements introduced in the scenario and narrative. He also stressed that any developments were difficult to predict but that the narrative should be consistent over-time.

Agenda item 16: EU-wide Stress test - Discussion on the principles of the long-term changes to the stress test

99. The Chairperson reminded the BoS that based on the discussion at the BoS meeting in September, the relevant working group identified 11 key principles which should form the guidance for working on the methodology of the future stress tests in the course of 2021.

100. The EBA Director of Economic Analysis and Statistics Department (EAS) explained that the key principles were divided into four areas. The first area elaborated on how the hybrid approach could work for projecting results; the second area focused on improving the balance between the constraints in the methodology and the quality assurance; the third dealt with increasing information value of results; the final one concentrated on the possible adjustments in transparency. He also briefly summarised a preliminary roadmap of work and considerations on the timeline.

101. Members broadly accepted the principles presented.

102. The ECB representative stressed that the competent authorities (CAs) should own the results of the exercise as opposite to the current situation. He also supported other principles presented by the EBA.

103. The ESRB representative asked what the consequences of a potential failure of a bank in the stress test were. He was of the view that the exercise would be more robust if the CAs would own the results.

104. Several Members supported the presented hybrid approach which should be gradually phased in. A number of Members also supported the parallel calculations made by banks, even if covered by the top-down approaches. Some Members emphasized that bottom-up elements should not be eliminated because of the granularity of the data. They also highlighted that the work involved in incorporating top-down models should not be underestimated.

105. Some Members highlighted a need for cooperation on the EU-level centralised approach and a clear coordination role for the EBA. When developing an EU solution it should also possible to rely or build on existing work at the CAs' level.

106. A number of Members asked for more discussions at the technical level on the details of this hybrid approach. One Member suggested to establish a specific group with expertise on top-down modelling.

107. The EC representative supported the work, including the step by step approach and the EBA's coordination role.

108. The Director of EAS clarified that one of the principles was setting out the ownership of results by the CAs. He mentioned that there were already some mechanistic elements in the stress test methodology and this feature was not new. He said that once there is sufficient confidence that some top down or mechanistic elements could work well, then those elements should be carefully incorporated into the methodology. He also said that there was a need to develop a EU centralised approach in coordination with the CAs.

109. The Chairperson noted the broad consensus of the Members on the usefulness to develop a hybrid approach. The Chairperson concluded that the working group should start developing a roadmap on how and when some selected elements would follow a centralised approach while the exercise would remain inherently bottom-up. He agreed that the dialogue with banks was very important and that there should be a clear governance to elaborate the EU centralised approach. He highlighted that the results of the EU-wide stress test should be informative and that the link with supervisory actions should be made clearer. The Chairperson confirmed the mandate given to relevant working groups to develop the new approach based on these principles and to come back to the BoS later in 2021.

110. On the side of the discussion on the stress test, the Chairperson informed about the changes to the 2021 EU-wide stress test sample. In the anticipation of a decision on the merger of two Spanish banks, BFA Tenedora De Acciones S.A.U. and Caixabank, S.A., the two banks' shareholders have approved the merger at their December shareholder's meeting. Therefore, in line with the decision from the November BoS written procedure, the two banks would be

dropped from the 2021 EU-wide stress test sample and replaced by the following three banks: Bankinter, S.A. (ES), Mediobanca – Banca di Credito Finanziario S.p.A. (IT) and Banco Comercial Português, SA (PT).

Agenda item 17: Strategic discussion on possible options for setting P2G

111. The Chairperson reminded the Members that at its meeting in September, the BoS agreed, in the context of the revision of the EU-wide stress test methodology, to mandate the EBA to work on the interaction between stress test capital depletions and P2G.

112. The EBA Director Prudential Regulation and Supervisory Policy Department (PRSP) explained that the ongoing revision of the SREP guidelines was considered an opportunity to improve the alignment between the stress test's outcomes and P2G setting.

113. The Director of EAS continued by summarising different issues regarding the link between stress test's results and P2G and put forward some preliminary ideas of how to tackle the sense of false precision of stress test's results and how to improve the link between stress test's capital depletion and final P2G levels, while meeting the requirements from CRD V (e.g. P2G should be bank-specific and should not overlap P2R). The improvements to the current framework should be finalised by Q1 2021 in order to be implemented in the revised SREP guidelines and in parallel be consistent with the ongoing work on the revision of the EU-wide stress test methodology.

114. The BoS supported the work and the objectives. While a number of Members welcomed the initiative, they stressed that some flexibility should remain to take into account the specificities. Also, many Members raised concerns regarding one of the examples presented as it was not institution specific and could further weaken the link between the outcome of stress tests and the P2G. One Member stressed that the approach would be dependent on the scenario and the future framework which would be used in future stress test exercises.

115. Some Members suggested to extend the deadline until June 2021 and one Member questioned a need for the discussion on this issue before any changes to the SREP guidelines were made.

116. The ESRB representative announced that the ESRB and EBA were planning to set up a working group which should aim at avoiding overlaps between P2G and the countercyclical capital buffer and this might contribute to the discussion on P2G.

117. The EC representative was of the view that the deadline might indeed be challenging and supported the need for flexibility, in particular with regard to smaller institutions.

118. The Director of EAS noted the concerns related to the timeline and said that the EBA would reconsider the tentative milestones.

119. The Chairperson concluded by confirming a need to move to an approach that does not give the false sense of precision of stress test results, while allowing for some flexibility when setting P2G. He noted the BoS support to continue the work on the topic along the lines described in the EBA staff presentation.

Agenda item 18: EBA statement on distribution policies

120. The Chairperson introduced the item by referring to the discussion during the BoS conference call on 26 November when the BoS agreed on the need to have a well-coordinated approach with the ESRB regarding prudent distribution policies in light of the continuing Covid pandemic. To that end, the EBA liaised with the ESRB and prepared a statement aiming at continuous application of prudent distribution policies and close supervisory scrutiny to distributions that would be made. In the statement, the EBA would also clarify its supervisory stance that should lead to a preservation of sound capital levels, while allowing for limited flexibility. Such an approach would prevent the stigmatisation of European banks compared to other financial markets where dividend distributions can be made and would also cover, as in the past statement, the variable remuneration, while also trying to avoid unintended consequences in the area of remuneration in this area, where a shift to higher levels of fixed remuneration could happen in particular for newly recruited risk takers, which would be detrimental to the risk alignment achieved via variable remuneration.

121. The ESRB representative updated the BoS on the upcoming steps with regard to their recommendation on the distribution policies, mentioning the steering committee meeting on 7 December and the General Board' vote on 15 December.

122. The ECB representative proposed deleting the reference to the exceptional circumstances as this might suggest that the possibility of having a general prudent threshold as a rule was excluded. He also stressed a need for good coordination on the communication.

123. Several Members asked for flexible approach and some room for maneuver to allow distributions. They also said the exceptional circumstances should be removed and any stigmatization of banks should be avoided. Many Members were of the view that the careful approach of banks should be highlighted and that more responsibility should be given to the banks in this regard.

124. The Members expressed their preference for re-extending the previously stated conservative approach but could accept the compromise if the exceptional circumstances were taken out.

125. The Chairperson concluded by noting the support of the BoS with the publication of the statement after considering the raised concerns. He also asked the BoS to send written comments by 11 December.

Conclusion

126. The BoS agreed with close cooperation and good coordination in the communication and with the publication of the statement on distribution policies, amended following the comments raised by BoS Members

Agenda item 19: AOB – Update on the Basel III call for advice

127. The Chairperson informed the BoS that based on the request from one Member, the EBA added the update on the Basel III call for advice as a separate item.

128. The Director of EAS updated the BoS on the comments received during the written procedure. He explained there was an overall agreement with the document and the comments received were mainly drafting suggestions that resulted in minor drafting changes. However, some suggestions were not implemented as they would have changed the overall balance of the document and/or the policy guidelines. Given that the Members agreed with the document in general, the EBA did not accept these drafting suggestions. He also mentioned that the final version of the document would further be circulated to the BoS for approval in the following days.

129. One Member suggested to elaborate more in the Executive summary on the fact that the Covid-crisis was likely to have short to medium term impact while Basel changes were a structural change that would remain in the long term.

Participants of the Board of Supervisors' conference call

09 and 10 December 2020

Chairperson: Jose Manuel Campa

Country	Voting Member/High-Level Alternate[1]	National/Central Bank
1. Austria	Helmut Ettl, Michael Hysek	Markus Schwaiger
2. Belgium	Jo Swyngedouw	
3. Bulgaria	Radoslav Milenkov/Stoyan Manolov	
4. Croatia	Martina Drvar	
5. Cyprus	Constantinos Trikoupis/Kleanthis Ioannides	
6. Czech Republic	Zuzana Silberová	
7. Denmark	Jesper Berg/Thomas W. Andersen	Peter E. Storgaard
8. Estonia	Andres Kurgpold	Timo Kosenko
9. Finland	Jyri Helenius	Katja Taipalus
10. France	Dominique Laboureix	
11. Germany	Raimund Roeseler	Erich Loeper
12. Greece	Spyridoula Papagiannidou	
13. Hungary	Csaba Kandrács/Gergely Gabler	
14. Ireland	Gerry Cross	
15. Italy	Andrea Pilati	
16. Latvia	Santa Purgaile/Ludmila Vojevoda	Maris Kalis
17. Lithuania	Marius Jurgilas/Jekaterina Govina	
18. Luxembourg	Martine Wagner	Christian Friedrich
19. Malta	Pierre Paul Gauci	Oliver Bonello
20. Netherlands	Maarten Gelderman/Sandra Wesseling	
21. Poland	Kamil Liberadzki	Olga Szczepańska
22. Portugal	Ana Paula Serra	
23. Romania	Adrian Cosmescu	
24. Slovakia	Tatiana Dubinova	
25. Slovenia	Primoz Dolenc/Damjana Iglic	
26. Spain	Angel Estrada/Alberto Rios	
27. Sweden	Karin Lundberg	Camilla Ferenius

Country	Member	Representative NCB
1. Iceland	Finnur Sveinbjornsson	
2. Liechtenstein		
3. Norway	Morten Baltzersen	Sindre Weme

Observer	Representative
1. SRB	Sebastiano Laviola

Other Non-voting Members	Representative

[1] Pascal Hartmann (FMA); Matthias Hagen (OeNB); Kurt Van Raemdonck (NBB); Marek Sokol (CNB); Stina Mander (Finantsinspektsioon); Julia Blunck, Christian Elbers (BaFin); Eida Mullins, Fionnuala Carolan (CBI); Anne-George Kuzuhara (CSSF); Brita Hrenovica (Finanstilsynet); Jose Rosas (Banco de Portugal); Michele Lanotte (Bank of Italy); Izabella Szaniawska (PFSA); Paweł Gąsiorowski (NBP); Petroula Georgaraki, (SRB); Vincent Woyames (ECB);

1.	ECB/SSM	Korbinian Ibel, Giuseppe Siani, Carmelo Salleo, John Fell
2.	European Commission	Martin Merlin, Nathalie Berger
3.	EIOPA	Kai Kosik
4.	ESMA	Tomas Borovsky
5.	EFTA Surveillance Authority	Marta Margrét Ö. Rúnarsdóttir
6.	ESRB	Tuomas Peltonen

EBA Staff

Executive Director	Francois-Louis Michaud
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; Lars Overby; Jonathan Overett Somnier; Slavka Eley; Francesco Mauro; Angel Monzon; Olli Castren; Dirk Haubrich

Tea Eger; Carolin Gardner

For the Board od Supervisors

Done at Paris on 25 January 2021

[signed]

José Manuel Campa

EBA Chairperson