

EBA MB 2020 044

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Management Board

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11 March 2020/09:30-15:30

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Location: Teleconference

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EBA – Regular Use

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# Management Board meeting – Final Minutes

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## Agenda item 1: Welcome and approval of the agenda and the Minutes

1. Given the EBA's restrictions related to physical meetings, the Management Board (MB) meeting was held as a videoconference.
2. The Alternate Chairperson welcomed the Members. He mentioned that the Chairperson was attending the ECB Supervisory Board conference call and therefore, he would chair the first four items.
3. None of the MB Members declared any conflict of interest regarding the agenda items.

### Conclusion

4. The MB approved the Agenda of the meeting and the Minutes of the January MB meeting.

## Agenda item 2: Administrative and Operational Status Report (A-Point)

5. The Director of Operations presented the Administrative and Operational Status Report. He explained that the EBA has introduced a new format of the Report, which was concise, shorter with focus on the most relevant information for the MB. The Members welcomed the new format of the Report.
  6. On budget execution, the Director of Operations explained that the shortfall in the budget execution and planning was driven by the costs of the London premises. In this regard, he
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informed that discussions with the UK governmental agency as a potential tenant were not successful and that due to political decisions, the UK agency pulled out from the negotiations. With regard to the dilapidation costs, he clarified that there were two options, a tender for dilapidation works, or a financial settlement with the landlord. Canary Wharf have presented a draft financial claim for dilapidations that was GBP 130 000 higher than had been budgeted based on the two independent estimates previously obtained by the EBA. The GBP:EUR exchange rate and the rent review also contributed to the shortfall of allocated funds in the budget. The priority is to mitigate the shortfall through scrutiny of planned expenditures rather than budget amendment.

7. One Member questioned whether further discussions on dilapidation with the landlord would have any budgetary implications. The Director of Operations explained that the financial claim could be lower, if successfully negotiated with the landlord.
8. On the HR issues, the Director of Operations explained that due to discussions with the budgetary authority, the EBA had to freeze publications of new vacancy notices until clarification on conversion of some posts from AST to AD. He also mentioned that the appraisal exercise was planned to be closed by 5 March. Finally, he stressed that due to travel restrictions, training activities have been reduced.
9. The Director of Operations briefly summarised the findings of the staff engagement survey. He mentioned that the previous survey was conducted in 2016 and that it was a standardised survey delivered to all EU agencies in order to allow comparisons between agencies. The results were communicated to staff during a town hall and as a follow up, the EBA was planning to hold workshops separately with staff and managers to address some of the issues from the survey.
10. On the IT related issues, the Director of Operations summarised that all projects were progressing according to their timelines.
11. On the Corporate Support activities, the Director of Operations mentioned the ongoing EMAS project which was the environmental review aimed at identifying and analysing significant direct and indirect environmental aspects of the EBA activities and their impact on the environment.
12. One Member asked if the results of the staff engagement survey could be shared in full with the MB. He also asked whether there were any major issues identified during the appraisal exercise and whether there was any follow up on the rising number of sick leaves of staff discussed during the previous MB meeting. The EBA Head of Human Resources Unit (HR) explained that due to late submissions of appraisals, the exercise was still ongoing. On the sick leave, she clarified that all medical records were directly reported to the EC medical services and therefore, the HR did not have an overview whether the sickness was related to work. On the other hand, the HR was monitoring requests by staff, such as those related to seating conditions, which might indicated sicknesses related to work. In this regard, she also

mentioned that each year, HR noticed higher number of sick leaves during winter months. The Staff Engagement Survey results would be shared with the MB members after the meeting.

13. The EC representative questioned whether similar Reports were prepared by the other two ESAs and whether any follow up work was done with regard to the resignation of the Executive Director (ED).
14. In this response, the Director of Operations said that the other ESAs were using different formats for reports and that similar reports were not submitted to every meeting. With regard to the ED resignation, the EBA Head of Legal Services (Legal) summarised that the instructions for staff were in place and that the liaison with AFME in order to provide necessary information to monitor activities of the resigned ED was sufficient.
15. The Alternate Chairperson concluded by noting the support for the new format of the Report and a need to further analyse the issue of raising number of sick leave days.

## Conclusion

16. The MB took note of the Administrative and Operational Status Report.

## Agenda item 3: Decision on the non-application of the Commission Decision on procedures for dealing with professional incompetence (C-Point)

17. The Head of HR introduced the item by explaining that on 9 October 2019, the EC informed the EBA of the adoption of the implementing rule (Decision) on procedures for dealing with professional incompetence. The EC's implementing rules should apply by analogy, or by way of derogation, the EBA might decide not to apply certain rules and can request the non-application of them to the EC. Given that the Decision only applies to officials and the EBA does not employ officials; the underperformance of temporary or contract agents could be addressed within the existing legal framework (appraisal, termination of contract) and also in order to avoid confusion for the EBA's staff, the EBA would like to opt-out from the rules set out by the Decision. The Director of Operations concluded that the other ESAs were planning the same approach.
18. The EC representative noted that there were no officials employed by the EBA. However he stressed that the EC's view was that the Decision should enter into force and apply by analogy after the nine-month period. This would mean that nothing had to be done procedurally by the EBA or the EC. Given that there were no officials at the EBA, the Decision could not be applied to the EBA staff. He acknowledged potential confusion between the staff but said that this could be addressed with a clear communication. He mentioned that the current practice at the EBA seemed to be more flexible and favourable for staff than the rules applicable on the basis of the Decision. He concluded emphasising that the EC's position was for the EBA to adopt the decision by analogy.

19. One Member questioned the current procedure and the Head of HR explained that in case of an unsatisfactory appraisal, there were several tools that the EBA could use, such as supporting the staff member through mentoring, shadowing, and training, to help the relevant employee reach the required level of performance. She also clarified the procedure for termination of contract which required a lot of steps and administrative procedures.
20. Another Member mentioned that if the rules in the Decision were not applicable to the staff, the EBA should opt out and argue that its given practices were already addressing the issue in an effective way.
21. The Alternate Chairperson concluded that based on the discussion and to be in line with the other ESAs, the MB supported the EBA's request to opt-out of the EC implementing rule on procedures to deal with professional incompetence, for its non-application at the EBA.

### **Conclusion**

22. The MB supported the EBA's proposal to opt out from the EC Decision.

## **Agenda Item 4: Appointment of Accounting Officer (C-Point)**

23. The Director of Operations reminded the MB that MB appointed Jordi Climent-Campis as acting accounting officer at its meeting on 4 June 2019. He successfully passed the probation period on 29 February 2020, which was confirmed by the acting Executive Director in his capacity as Appointing Authority. Therefore, he asked the MB to confirm the appointment of Jordi Climent-Campis as accounting officer.

### **Conclusion**

24. The MB approved Jordi Climent-Campis as accounting officer.

## **Agenda Item 5: Workprogramme progress report (A-Point)**

25. The Chairperson introduced the progress report by mentioning that based on the discussion at the last MB meeting, the EBA amended the report taking into account suggestions from the MB Members. The EBA Head of the Policy Coordination Unit (PAC) elaborated on the work done since the last meeting to improve data quality, pointed out at the introduction of a colour coding system and informed that the report represents another layer of quality control to the EBA's work.
26. The MB welcomed the usefulness and detail of the report. One Member suggested to add an additional colour code for those projects with a minor delay. Another Member said that the workload seemed challenging and there was room for a more even distribution of tasks; he enquired how this report was being used to mitigate risks of deviation.

27. The EC representative intervened to welcome the improvements made and relay a few corrections and enquired whether the EBA plans to report on ongoing tasks in the future.
28. The Chairperson concluded that the additional colour code would contribute to the diligence of the EBA in meeting deadlines.

### Conclusion

29. The MB supported the work and agreed to add the additional colour code to indicate minor delays.

### Agenda Item 6: Update on Cost of Compliance exercise (B-Point)

30. The Chairperson reminded the MB of the discussion in June 2019, when the MB discussed the overall approach to the study of the institutions' cost of compliance with supervisory reporting requirements, which was mandated by the CRR Article 430(2).
31. The EBA Director of Banking Markets, Innovation and Consumers Department (BMIC) continued by explaining that the study was one of the cornerstones of the EBA work on proportionality aimed at understanding the institutions' reporting costs and seeking ways to reduce them by 10-20% for the small and non-complex institutions. The work has been identified as priority in the EBA 2020 work programme. He updated the MB on the progress and stressed that the study was at an important juncture – launch of the phase 2 of the exercise focusing on the reporting costs and interaction with the industry. In this regard, he introduced the planned approach for the exercise, including developing questionnaires for the institutions and supervisors, conducting structured interviews with a sample of institutions/associations and specification for the case studies. He also explained the tentative timelines for the exercise. The plan was to have informal passage with the industry associations before the launch in April.
32. The MB raised concerns related to the timeline which they considered ambitious and challenging, especially considering the current developments with Covid-19 situations. Furthermore, Members suggested to extend the timeline for the developing and agreeing on the final report, and consider anticipating some of the planned structured interviews and not to follow fully sequential approach waiting for the results of the questionnaires. The Members noted the need to have a good questionnaire for the industry and have it appropriately discussed and tested with the industry before the launch. One Member suggested that the EBA should also consider the interaction between this exercise and the feasibility study on supervisory reporting and utilise the synergies between the two.
33. The Director of BMIC clarified that the EBA would consider both mentioned studies and their impacts. On the timing, he mentioned that the majority of work was to be done at the EBA level and therefore, some timelines might be shortened. The impact of Covid-19 situation should also not be underestimated as banks were likely to require more time to answer the questionnaires, this would also push the timeline further.

34. The Chairperson concluded by noting the concerns related to the timeline and agreed that the EBA would focus on the quality of the questionnaire for the institutions.

### Conclusion

35. The MB noted the progress and supported the work on the Cost of Compliance exercise, in particular the challenges around the overall timeline, especially considering the Covid-19 situation, and need to have good preparations and proper interaction with the industry before the launch of a questionnaire.

## Agenda Item 7: STS securitisation framework – status of implementation and functioning of market (A-Point)

36. The Chairperson introduced the item by referring to the new securitisation package that was prepared as part of post crisis reform and the EBA played an important role in designing it at the EU and also global level.
37. Considering that the new securitisation package has been in place for only one year the finalisation of all the legislative elements of the package was still ongoing, the EBA Head of Unit Banking Markets, Innovations and Products (BMIP) explained that the EBA could not fully evaluate the impact of the new framework on the revival of the securitisation market but data suggested that the EU's securitisation issuance in the last 10 years has been significantly below its peak issuance in 2008 whilst, by contrast, the U.S. securitisation market has largely recovered to close to pre-crisis levels. She mentioned key EBA's deliverables from the new securitisation framework, and also key challenges identified so far (uncertainties about new legislation, supervisory divergence and prudential treatment). To address the challenges the EBA is planning to focus in 2020 on completing the SRT report, finalize the EBA proposal on STS synthetic and to support the implementation of the securitisation regulation (through Q&As and engagement with stakeholders) and supervisory convergence (training, workshops). The EBA will continue monitoring the securitisation market and reflect key findings in the report on the functioning of STS. Regarding the prudential treatment, she referred to the possible explorative work on the treatment of securitisation in the LCR that could be initiated by the EBA. She also outlined that going forward, the medium-term priorities for the EBA in securitisation should aim at supporting the new strategy for CMU and the Green Deal.
38. The Members stressed that given a good amount of alternative sources of cheap financing, it was difficult to precisely specify how big the securities market was. They were reluctant to work on the treatment of securitisation in the LCR as well as on any work that would not be Basel compliant. One Member supported the workplan and highlighted the complexity of the securitisation framework.
39. The EC representative stressed the need to have appropriate resources allocated to the topic, was of the view that the EBA should further monitor and analyse the market, and supported

the explorative work on LCR provided it would not lead to significant deviations from the Basel framework.

40. The Chairperson noted that the overall way forward was supported and highlighted the reluctance expressed by several Members with regard to work on LCR.

## Conclusion

41. The MB took note of the EBA work on the securitisation.

## Agenda Item 8: European crisis simulation exercises, a role for the EBA (A-Point)

42. The EBA Head of Supervisory Review, Recovery and Resolution Unit (SRRR) informed the MB that some Resolution Authorities (RAs) have started to test crisis management capabilities, procedures and MoUs relying on simulation exercises. To that end, he presented a scope and options for the EBA to support or deliver crisis management efforts or simulation exercises, in a consistent manner across the EU. He listed reasons why EBA might be in a good position to deliver this and the benefits that might come both for RAs and competent authorities (CAs), and for EBA mission.
43. Some Members brought into discussion the rationale behind the EBA's proposal, in particular with regard to the impact on resources. They stressed the importance of liaison with the SRB and SSM on the issue. The Members that intervened, while supporting the proposal, in principal, for its benefits, indicated they saw this as a nice to have rather than a key priority.
44. The Chairperson concluded by clarifying the EBA's intention which was to help the CAs and RAs to be prepared for potential crisis situations. The project could proceed but with minimum staff resources from EBA.

## Agenda Item 9: EBA organisational structure of AML/CFT work (A-Point)

45. The Chairperson reminded the MB that the revised EBA Regulation has conferred on the EBA an extended mandate on AML/CFT.
46. The Director of BMIC continued by setting out details on the EBA's organisational structure that would have to change given the extended mandate. The change would require also an increased headcount, including a separate unit and Head of Unit in 2021.
47. The MB welcomed the update on the planned AML/CFT work, including establishment of a specific coordinator, an EBA wide taskforce and the high level steering committee chaired by the EBA chair. One Member question whether the AML steering committee would stay in place and the Director of BMIC confirmed that this committee should have a longer term strategic role.

48. The EC representative supported the work and informed that the EC was planning to publish their action plan by the end of March. He stressed a need for the EBA structure to be flexible and able to respond to new developments. Finally, he referred to a call for advice sent to the EBA recently on the legislative proposal.

### Conclusion

49. The MB took note of the EBA's proposal on the revised organizational structure.

### Agenda Item 10: ECA EU Agencies audit (A-Point)

50. The Director of Operations informed that the European Court of Auditors has not finalised its EU Agencies performance audit report by the date of the MB meeting and therefore, it would be presented during another MB meeting. The ECA Audit on Commission's staff reform was shared for information. One of the conclusions of the audit was that the reduction of headcount across the agencies resulted in an increase of CA posts. However, given that the CA contracts could have long term impact on EU budget (e.g. pensions) this issue was being increasingly scrutinised across all agencies, including EBA. Although the EBA was a start up agency for the audited period, the decision of the agency was to assign temporary agent (TA) post to the core business activities and allocated contract agent (CA) posts to the support functions to the maximum extent possible within the available budget. This resulted in the existence in the EBA of a higher number of CA posts than indicated in the establishment plans. In addition, interim contracts that the EBA relied upon in the UK were not longer possible under the French labor law and this will put additional pressure on the EBA headcount.

### Agenda Item 11: IT operational plan (C-Point)

51. The EBA Head of IT presented the IT operational plan. He explained that it established a yearly plan of the IT investments for 2020 to achieve the strategic objectives, as defined in the IT Strategy approved by the BoS in December 2019.
52. The MB supported the IT operational plan. One Member stressed the importance of the EBA collaboration platform.

### Conclusion

53. The MB approved the IT operational plan.

### Agenda Item 8: Provisional Agenda BoS 28 -29 April 2020 Meeting (B-Point)

54. The Chairperson reminded the MB that the next BoS meeting was scheduled for 28 – 29 April.



55. One Member proposed to include an agenda item on the EBA BoS Away Day that might be postponed given the current situation.

### **Conclusion**

56. The MB took note of the draft Agenda.

### **Agenda Item 12: AOB**

57. The Chairperson informed the MB that the BoS would hold an extraordinary conference call that afternoon to discuss impacts of Covid-19, including a discussion on the postponement of the EBA stress test exercise.
58. The interim ED updated on the measures introduced by the EBA in order to limit the spread of Covid-19, such as cancellation of all external meetings, meetings with stakeholders, missions and, as of 11 March, the mandatory teleworking for all staff. He also mentioned that if the French government declared stage 3, further measures would be introduced.

## Participants at the Management Board conference call

11 March 2020

**Chairperson** Jose Manuel Campa

**Alternate Chairperson** Jo Swyngedouw

**Member** Sissy Papagiannidi

**Member** Maarten Gelderman

**Alternate** Peter Lutz

**Alternate** Sanja Petrinic Turkovic

**Alternate** Sean Hove

**European Commission representative** Dominique Thienpont

### **EBA Staff**

Director of Operations

Peter Mihalik

Director of Banking Markets, Innovations and Consumers

Piers Haben

Philippe Allard; Jonathan Overett Somnier; Tea Eger; Erika Sole; Slavka Eley; Radu Burghilea; Meri Rimmanen; Oleg Schmeljov; Gabriel Mitache; Francesco Mauro

For the Management Board,

Done at Paris on 08 April 2020

[signed]

José Manuel Campa

EBA Chairperson