



EBA MB 2020 077 rev. 2

---

Management Board

---

28 May 2020/14:00-18:30

---

Location: Teleconference

---

EBA – Regular Use

---

# Management Board meeting – Final Minutes

---

## 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 Chairperson welcomed the Members.
3. One MB Member declared his conflict of interest with regard to item 7: Selection of the Banking Stakeholder Group. He said that one of the selected candidates represented an institution that has been receiving contributions from their national bank. Therefore, he abstained from any interventions and did not participate in the discussion on item 7. Other Members did not declare any conflict of interest regarding the agenda items.

### Conclusion

4. The MB approved the Agenda of the meeting.

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

5. The Director of Operations presented the Administrative and Operational Status Report. With regard to financial and procurement issues, he explained that while the budget execution showed a shortfall, the improvements in the EUR:GBP exchange rate reduced the final amount. Furthermore, the EBA was expecting savings across its operational budget lines, mostly related to operational missions and meetings, and on staff costs due to the Covid-19 crisis. Even if
-

there were extra costs driven by the pandemic, which included buying personal protection equipment, and deep cleaning and setup of the premises, the EBA was expecting a surplus which would be shared with the European Commission (EC) and the Member States.

6. On the HR matters, the Director of Operations highlighted that since the first day of the lockdown, the EBA staff have been very flexible, cooperative and that the transition from working in the office to teleworking was smooth and without any major disruptions. He mentioned that while the recruitment was suspended for some time, in particular due to difficulties with conducting written tests over Skype/Webex, the situation has been resolved and the EBA was planning to fulfil its establishment plan by the end of the year. In this regard, he mentioned that the EC informed the EBA that the past practice of converting AST positions to AD posts could not be considered as a permanent solution. The Director of Operations also informed that the EBA issued two internal surveys related to staff performance and well-being during the Covid-19 crisis and that the results showed that the staff considered the tone from the top, which was one of the main areas for improvement in the staff engagement survey, has improved. Finally, he noted that the number of absences decreased significantly during the last two months what could be the result of extended teleworking rather than due to any structural changes.
7. With regard to the IT matters, the Director of Operations informed the MB on the implementation of the IT strategy and stressed that the EBA was planning to keep all the deadlines as envisaged in IT Operational Plan for 2020. He also updated on the upgrade in IT support for Colleges that was finalised some weeks ago; preparations for EUCLID to go live in June and on the progress on the collaboration platform which would be built on Microsoft Teams.
8. The Director of Operations informed on the preparatory work for the reopening of the office on 8 June. He mentioned that as result of the crisis, some teams under the Corporate Support, in particular dealing with missions, have been redeployed. Furthermore, and also to address some of the MB concerns related to trainings, resources from HR and PAC joined forces to work on training offerings for EBA staff during this period. Finally, he highlighted a good communication strategy both internal and external, related to addressing the Covid-19 measures.
9. The Director of Operations mentioned that there were two new sections in the Report, one on anti-fraud issues and one on legal and data protection. With regard to the anti-fraud issues, he informed that the EBA was planning to update its anti-fraud policy in order to address new risks arising in the current situation. On the legal issues, the EBA Head of Legal Services Unit (Legal) updated on ongoing litigation related to the EBA's product oversight and governance (POG) guidelines; on the status of Board of Appeal cases; and on the status of the response to the inquiry by the European Ombudsman related to the former Executive Director (ED).
10. One Member asked about the outcome of the Board of Supervisors' (BoS) written procedure related to the BoS decision on the second notification of employment sent by the former ED.

The Head of Legal informed that the procedure closed on Wednesday, 27 May and that the EBA was planning to send the outcome of the vote to the BoS after the MB meeting.

11. Another Member asked about the POG guidelines case and the Head of Legal explained that the French Banking Association had challenged the decision of the ACPR to comply with the POG guidelines and this had been referred by the French courts to the European Court of Justice for a preliminary ruling, including a question on the validity of the guidelines which the EBA would defend in its observations. This Member also questioned whether, as a part of the discussion on the response to the European Ombudsman's findings, the EBA would present changes to its practices, mainly related to the access to confidential information. The Head of Legal explained that the EBA's response would be discussed in the June Board of Supervisors meeting, including measures being developed to address the Ombudsman's recommendations on criteria for the measures to be taken when senior staff leave the EBA and on restricting access to confidential information.

### Conclusion

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

### Agenda item 3: Adoption of the Annual Accounts (C-Point)

13. The Director of Operations introduced the item by clarifying that because the European Court of Auditors' report has not been submitted to the EBA yet, the item was for the MB not for approval but rather for discussion only.
14. The EBA Accounting Officer continued by reminding the MB that the annual accounts were comprised of the financial statements and the reports on implementation of the budget. The financial statements (accrual basis) showed the charges and income for the financial year. He mentioned that in 2018, the EBA accounted for many of the provisions related to the London premises, which had a significant negative impact in the expenditure recognised in 2018, whereas in 2019 a significant part of the provisions in the books at the start of the period were reversed against costs incurred. The works in the Paris premises came to an end, considerably increasing the fixed assets (fittings and fixtures) of the EBA. He also specified total assets and total liabilities and concluded by noting that the accounts reflected a negative net equity at the end of 2019 of 5 million euro.
15. One Member asked if the EBA was in a better position in terms of negative net equity than in 2018 and the Accounting Officer confirmed it (net equity went from negative 7 million euro in 2018 to negative 5 million euro in 2019).
16. The EC representative observed that, in the past, the opinion of the MB was required according to the EBA Founding Regulation before submission of the annual accounts to the Board of Supervisors (BoS) for approval. However, after the changes introduced by the ESAs review, such an opinion from the MB was not longer mandatory. He nevertheless proposed to continue, as a good practice, to ask the MB for an opinion on the annual accounts.

17. The Chairperson concluded by informing that the EBA would submit to the MB the European Court of Auditors' report together with a draft opinion for approval which, if approved, would be also submitted to the BoS.

## Agenda Item 4: 2021 EBA Work programme – Strategic priorities (A-Point)

18. The Chairperson reminded the MB that according to the EBA Founding Regulation, the BoS needed to adopt, before 30 September of each year, the work programme for the coming year.
19. The EBA Head of Policy Coordination Unit (PAC) continued by adding that the annual priorities for 2021 were already defined at the end of 2019 in the context of the Single Programming document 2021. However, in the light of the Covid-19 crisis, the EBA senior management had reviewed the defined strategic priorities and was proposing some minor changes, the most relevant being a new horizontal priority 'addressing the aftermath of Covid-19'.
20. One Member asked for a clarification on the EBA's expectations regarding the feedback from the competent authorities (CAs) in relation to the Union Strategic priorities. He also questioned how these Union Strategic priorities in particular, should be reflected at national level and in general, and how these would be evaluated. Finally, he suggested to prepare a more content-oriented guidance for the CAs.
21. The MB supported the changes in the 2021 strategic priorities.
22. The Head of PAC agreed for the EBA to further clarify modus operandi regarding the Union Strategic priorities, and provide guidance on the interaction between the EBA work programme, its Union Strategic priorities and the national work programmes.

### Conclusion

23. The MB approved the proposed changes to the 2021 strategic priorities.

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

24. The Chairperson introduced the progress report by reminding the MB that based on discussions at previous meetings, the EBA amended the report taking into account suggestions from the MB Members.
25. The Head of PAC elaborated on the used colour coding. He said that projects marked as green were projects with no delay, in yellow were those projects with less than 3 month delay; orange were those projects, which had 3-12 month delay; and red were those projects that had over a 12 month delay. Most of the projects were on track. For those projects with a delay, the EBA has informed, on a technical level, the EC.

26. The EC representative acknowledged the timelines and commented on several projects related to macroprudential issues as well as related to technical standards under CRR and CRD. He also mentioned that some of these projects were of particular interest for the other institutions (notably the European Parliament (EP)), so that the EBA should consider communicating clearly on the reasons for and implications of the delays envisaged..
27. One Member suggested whether we could identify those projects of importance to EP so as to effectively prioritise and communicate on those. The Head of PAC clarified that the EBA was reconsidering all projects on an ongoing basis. The EBA Director of Economic Analysis and Statistics (EAS) highlighted that some projects were delayed because of the Covid-19 crisis and one specifically reprioritisation was made in light of the EC letter on which some tasks were put on hold without specific timelines.
28. The Chairperson concluded by stressing that all delays should be well explained and clarified. As a way forward, he proposed to amend the progress report to show changes to previous editions, i.e. to show changes in deadlines, work progress etc.

## Conclusion

29. The MB supported the work and noted the progress on the ongoing projects.

## Agenda Item 6: Peer reviews (C-Point)

30. The Chairperson introduced the item by reminding the MB that the BoS endorsed during its conference call on 28 April the amended Peer Review Methodology in accordance with the Article 30 of the EBA Founding Regulation and the framework for ad hoc peer review committees.
31. The Head of PAC continued by presenting peer review topics discussed at the BoS meeting on 19 September 2019 - a peer review on a package of guidelines on non-performing exposures; a peer review on a set of Guidelines addressing ICT risks, and a peer review on the Joint ESAs Guidelines on the prudential assessment of the acquisition of qualifying holdings. He mentioned that the BoS selected the Joint Guidelines for the first peer review, followed by the other two.
32. The MB supported the list of peer review topics. One Member suggested to identify more topics in the future. Other Members questioned the order of the peer reviews and were of the view that the peer review on ICT risks should be done last in order to allow a longer period between the implementation of the Guidelines at national level and the peer review exercise.
33. The Head of PAC confirmed that for the next round of peer reviews, the EBA would prepare a reserve list of technical standards and Guidelines that could be subject to peer reviews. With regard to the order, he explained that since the peer reviews on qualifying holdings and on ICT risk would be supported by the same Unit and such support required a lot of work, the EBA

would start with the review on qualified holdings, followed by non-performing exposures and the ICT risks would be the last one.

34. The Chairperson concluded by noting the MB agreement on the peer review work programme.
35. As the second part of the discussion, the EBA Head of Conduct, Payments and Consumers Unit (COPAC) summarised the work on the peer Review on DGS Stress Tests which started in September 2019 and should be submitted for final approval to the BoS in the coming weeks. This peer review was mandatory according to Article 4(10) of the Deposit Guarantee Schemes Directive and shall take place at least every five years. He also mentioned that the revised peer review process resulting from the ESAs review would normally require that an ad hoc peer review committee was established. However, given the two different timelines, it was not possible to apply the new framework and methodology to the ongoing peer review on DGS stress tests. He concluded by saying that the Peer Review on DGS Stress Tests would be as well included in the two-year Peer Review Work Plan 2020-2021.
36. The MB supported the work. One Member questioned whether the upcoming peer reviews would be using new methodology and composition. The Head of PAC explained that the peer review on DGS stress test was an exception given the late approval of the amended methodology and that as of now, all peer reviews would follow the new methodology and composition.
37. One Member suggested to further reflect the amount of work involved and that, in the future, the executive summary of peer reviews should be more explicit about its findings.
38. The Chairperson concluded by noting the MB's support and clarified that the next step would be a submission of the Report on DGS Stress Tests to the BoS for approval.

## Conclusion

39. The MB approved the peer review work programme. The MB also supported the work on the DGS peer review.

## Agenda Item 7: Selection of the Banking Stakeholder Group (C-Point)

40. The Chairperson introduced the item by referring to the ESAs review, based on which the EBA had to renew the composition of the Banking Stakeholder Group (BSG). To set up a new BSG, EBA launched a call for expression of interest on 6 March 2020.
41. The Head of PAC informed that the EBA received 92 applications of which approximately 1/3rd were female. He said that the EBA staff assessed all applications focussing on the professional experience and expertise of the candidates, while trying to maintain an adequate geographical and gender balance. To ensure a certain degree of continuity in the BSG and while considering the fact that the mandate of the current BSG members was terminated before its end, EBA took into account the experiences it had with the current BSG members. Based on these

considerations, EBA has drafted a proposal for the composition of the next BSG, including a reserve list for BSG alternates. Finally, the Head of PAC mentioned that the first meeting of the new BSG would be on 7 July.

42. Two Members questioned the decreased number of academics compared to the previous composition. The Head of PAC explained that the number of academics was set out in the EBA Founding Regulation and as result of the ESAs review, the number had to be lower. In this regard, one Member proposed to clarify, also to the new BSG, that lobbying activities toward the EBA should be avoided.
43. One Member questioned whether the reserve list followed any specific order. The Head of PAC explained that there was no specific order and that when there was a need for a new BSG Member, the list should be used and a Member with a needed background, taking into account the gender and geographical balance, should be selected.
44. The Chairperson concluded by noting that the MB Members did not express any concerns related to the proposed composition of the BSG. He mentioned that the proposed list of the BSG Members would be further discussed at the next BoS meeting/conference call.

## Conclusion

45. The MB supported the proposal for the new composition of the BSG.

## Agenda Item 8: Strategy paper on data protection (C-Point)

46. The Chairperson informed the MB that following the adoption of the new Data Protection Regulation applicable to the European Union institutions, bodies, offices and agencies (EUDPR) the EBA had to take further steps to achieve full compliance with requirements stipulated by the EUDPR.
47. The EBA Acting Data Protection Officer continued by highlighting that the new Data Protection Regulation has been adopted in December 2018. It required the EU bodies to adopt implementing measures, (i) on the role of the Data Protection Officer and (ii) On restrictive measures. He also presented the Data Protection Action plan for 2020 that stipulated further steps in order to achieve compliance with the EUDPR, in particular (i) the set-up of a new register of processing operations and the process of updating records on processing operations (ii) training to the EBA staff members, (iii) raising the awareness on handling of personal data breaches (iv) establishing a data protection network and risk assessment process.
48. The Members did not raise any comments and supported the actions proposed in the Action Plan.
49. The Chairperson concluded by noting the approval of the presented Data Protection Action plan 2020.

## Conclusion

50. The MB supported by consensus actions proposed in the Data Protection Action plan 2020.

## Agenda Item 9: Future of the EU Agencies – Preliminary observations (ECA audit) (A-Point)

51. The Director of Operations presented the preliminary observations from the European Court of Auditors' (ECA) report on the Future of EU agencies. He mentioned that the report included both general and agency-specific findings and the EBA submitted its preliminary comments, particularly related to the specific comment on the 2019 Breach of Union law (BUL) case and missing references to the Joint Committee of the European Supervisory Authorities (ESAs). The Director of Operations invited the MB to provide their comments as the final comments could be submitted to the ECA by 15 June.

52. The Members were of the view that the wording related to the 2019 BUL case was regrettable. One Member noted the missing reference to the Joint Committee of the ESAs and, given the reference to the BUL case, was of the view that governance issues would be a topic of the coming years.

53. The EC representative suggested to comment on the resources issue and proposed to refer to improvements relating to the past practice of the EBA of using external resources which has not been further applied since the EBA's move to Paris. In his response, the Director of Operations confirmed that since the relocation to Paris, the EBA has been using service-based contracts and mentioned that the ECA raised some concerns in this regard as well in the context of annual accounts audit.

54. The Chairperson noted the MB's views on the reference to the BUL case, in particular given that the EBA has been involved in several other BUL cases which were not mentioned. He asked the MB to send their specific comments directly to the Director of Operations.

## Conclusion

55. The MB took note of the ECA's report on the Future of the EU agencies.

## Agenda Item 10: Provisional Agenda BoS 17 June 2020 Meeting (B-Point)

56. The Chairperson reminded the MB that the next BoS meeting was scheduled for 17 June 2020 in the format of a conference call rather than a physical meeting.

57. One Member suggested to discuss with the BoS a preparation of the BoS Away Day in Dubrovnik, Croatia, mainly to collect their views on organising a physical meeting. The Chairperson informed that the EBA would assess the opportunity of maintaining the Away Day as planned in the coming days.



## Conclusion

58. The MB took note of the draft Agenda of the 17 June BoS conference call.

## Agenda Item 12: AOB (Decision on home office contributions, C-Point)

59. The Director of Operations introduced the item by stressing that the EBA had a duty of care towards its temporary agents, contract agents, seconded national experts and trainees and their health and wellbeing. In line with Article 1e(2) of the Staff Regulation, staff should have adequate working conditions complying with appropriate health and safety standards. Given the teleworking imposed on all staff and considering the findings of the staff survey that showed that not all staff had adequate working conditions at home, the EBA proposed a contribution to staff, based on which they could receive contributions up to 350 EUR to cover the cost of purchasing office equipment defined in a draft decision. The contributions would be time-limited for the month of June only and the equipment would remain in the staff's ownership even after the end of the Covid-19 crisis and their return to the office. The Director of Operations mentioned that the contribution would not be available for senior management. The preparation of the draft decision was coordinated with the other ESAs who agreed to follow the example of EBA and plan to adopt very similar decisions based on EBA's template.
60. While the MB supported the draft decision, some Members questioned the ownership of the purchased equipment and asked if the staff members which would leave the EBA, could be asked to return the equipment. One Member asked if an agreement from fiscal authorities was required.
61. The EC representative appreciated the discussion and indicated that the EC was discussing similar issues as well. He indicated that the EC was not in a position, pending any own decision on related matters, to consider such EBA contributions v as desirable from a budgetary perspective. He proposed to postpone the EBA decision until the adoption of any EC's own decision that was expected in the near future. .
62. The Director of Operations clarified that from the accounting perspective, the equipment worth 350 EUR was not considered as an asset and that from the contribution would not have any fiscal implications. He also explained that the EBA considered various other solutions, such as purchasing additional office equipment and distributing them among the staff but these alternatives were discarded as for being either too expensive or time consuming.
63. The Chairperson concluded that by noting the MB support and informed that the EBA would circulate the final decision to the MB.

## Conclusion

64. The MB agreed with the proposed draft decision to provide Covid-19 related contribution to EBA staff.

**Participants at the Management Board conference call**

**28 May 2020**

**Chairperson**                      Jose Manuel Campa

**Alternate Chairperson** Jo Swyngedouw

**Member** Sissy Papagiannidi  
**Member** Maarten Gelderman  
**Member** Raimund Roeseler  
**Member** Martina Drvar  
**Alternate** Thomas Worm Andersen

**European Commission representative** Dominique Thienpont

**EBA Staff**

Director of Operations	Peter Mihalik
Director of Banking Markets, Innovations and Consumers	Piers Haben
Director of Economic Analysis and Statistics	Mario Quagliariello

Philippe Allard; Jonathan Overett Somnier; Tea Eger; Erika Sole; Dirk Haubrich; Ine Vekeman; Ivy Jeuken; Tijmen Swank; Stefan Nebesky; Jordi Climent-Campis

For the Management Board,

Done at Paris on 19 June 2020

[signed]

José Manuel Campa

EBA Chairperson