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Board of Supervisors

07 December 2022

Location: teleconference

Board of Supervisors 07 December 2022 – 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). He reminded the Members of the conflict of interest policy requirements and asked them whether any of them considered themselves as being in a conflict. No Member declared a conflict of interest.

2. The Chairperson asked the BoS whether there were any comments on the draft agenda. There were no comments on the agenda.

3. The Chairperson informed that Maarten Gelderman and Sandra Wesseling representing Dutch National Bank and Dominique Laboureix representing ACPR would be stepping down from their BoS and Management Board (MB) respective positions by the end of 2022. He thanked them for their contributions and work in the past years. As result, the BoS would have to elect two new MB Members and a call for candidates would be launched after the BoS conference call.

4. Finally, the Chairperson reminded the BoS that the Minutes of the BoS meeting on 18 and 19 October 2022 were approved by the BoS in a written procedure.

Conclusion

5. The BoS approved the agenda of the meeting.

Agenda item 2: Update from the EBA Chairperson and the Executive Director

6. The Chairperson updated the Members on two items.

7. Firstly, the Chairperson informed about the ECON annual hearing which took place on 24 October 2022. As usual, the JC Chair was the first to speak followed by each ESAs' intervention.

The Chairperson noted that he focused on topics related to the completion of the single rulebook, ESG, pillar 3 as well as the work on MICA and DORA and AML/CFT. He mentioned that due to its timing on a Monday afternoon, only few MEPs were present at the ECON hearing and the majority of their questions were on insurance and markets related matters The EBA-specific questions related to mortgages and payment difficulties by vulnerable debtors, digital finance, in particular implementation of DORA and remuneration.

8. Secondly, the Chairperson updated the BoS on the work on integrated reporting and said that after the publication in December last year of the EBA feasibility study on an integrated reporting system, the EBA, in cooperation with ECB and all authorities, has continued with the preparatory work on integration. During 2022, the EBA focused on the three key priorities identified in the study - i) a common data dictionary ii) the need for strong governance arrangement, including setting up a joint banking reporting committee (JBRC) for cooperation among authorities and iii) industry involvement. The work has been discussed in two workshops organised by the EBA and the ECB in the last two weeks, one with authorities and the second with both industry and authorities. Both workshops were a success, with very high participation, lively discussions, and good proposals. Finally, groups of experts from the EBA, ECB and other authorities have been assessing the possibility to extend the use of DPM, the dictionary that the EBA has been using, for statistical reporting, and the path towards semantic integration, with very promising results so far. In parallel, the EBA have continued the work to improve our reporting tools, in cooperation with EIOPA, to make the reporting process more efficient.

9. The Executive Director updated on three items.

10. Firstly, the Executive Director informed that the budget execution was high and that after the conference call, the BoS would receive a written procedure on the second amendment of the 2022 budget.

11. Secondly, the Executive Director reminded the Members that the EBA implemented by analogy on 1 July 2022 the European Commission (EC) decision on hybrid work. The EBA Staff committee conducted a survey between the staff on the hybrid work and the results showed that 70% of the staff was satisfied with the implementation of the decision.

12. Thirdly, the Executive Director referred to the Basel Committee meeting on 17 and 18 November 2022 and said that there was a number of topics in the Basel Committee’s pipeline which were relevant to the EBA and the EBA was planning to contribute to the work, in particular on ESG aspects and digital finance.

13. Finally, the Executive Director mentioned that following the publication of the EBA 2023 Work programme which received a lot of attention from external stakeholders, the senior management has been invited to a number of speaking events in the area of ESG, DORA and MiCA but also stress test and in particular the planned future climate risk stress test.

14. The Latvian BoS Member informed about the upcoming organisational changes. The Finanšu un kapitāla tirgus komisija (the Financial and Capital Market Commission, FCMC), the national supervisory authority and national resolution authority, would be incorporated as of 01 January 2023 into Latvijas Banka. As result, The Latvian BoS Member would step down from her BoS position by the end of 2022. The Chairperson thanked her for her contributions and work in the past years.

Agenda item 3: EU-wide Stress test

15. The Chairperson introduced the item by clarifying that under this item, two topics were to be discussed by the BoS – stress test scenario and a way forward for implementing the top-down NFCI model.

16. The Chairperson informed Members that the 2023 EU-wide stress test methodology had been published together with draft templates and template guidance. Furthermore, he noted that the participating banks tested the templates and based on their feedback, EBA staff have been finalising the templates and the template guidance. The final documents would be shared with the participating banks and published on the EBA website at the launch of the exercise at the end of January 2023. He also noted that in the meantime, the ESRB and the ECB have been working on the stress test scenario and prepared a new vintage of the macro-financial scenario.

17. The ESRB representative continued by presenting the key elements of the stress test scenarios. The scenarios included a sharp and prolonged rise in commodity prices (energy and non-energy), higher wages reflecting second-round effects and dwindling business and households' income and confidence weighing on spending as key drivers. He noted that the scenario already included country-by-country projections. Next steps were the finalisation of sectoral scenarios and final approval by the ESRB General Board on 23 January 2023.

18. The Members supported the work. While a number of Members welcomed the narrative for the stress test exercise and its severity, Several Members were of the view that there might be some disconnection between the monetary policy and the rest of the scenario. Several Members stressed that future rebalancing of the scenario would need careful considerations in light of potentially deteriorating baseline to avoid double counting of shocks. One Member pointed that the impact of shocks would be much higher in the EU than in the US and questioned whether the scenario should reflect it, as well as the impact on emerging markets. Some Members mentioned differences between countries' shocks which had to be considered. One Member asked for clarification on the sectoral analysis and how it would feed into the stress test. Another Member noted that sovereign bond spreads were higher than in the previous stress test exercise.

19. The EBA Head of Risk Analysis and Stress Testing Unit (RAST) clarified that the stress test methodology provides information on how sectors should be considered in the stress test and

the ESRB representative confirmed that there would be further discussions on the countries' specificities.

20. On the implementation of the NFCI model, the Chairperson reminded the Members that at the June BoS meeting, the BoS decided to adopt the top-down NFCI model for the 2023 EU-wide stress test subject to a model overlay approach. The BoS also agreed that the decision regarding the final calibration of the "corridor" that would cap and floor the projected growth rates of NFCI should be taken during the February 2023 BoS meeting.

21. The Head of RAST summarised discussions and proposals at the subgroup level on the implementation of the model, in particular related to the treatment of banks with non-significant NFCI contribution; the treatment of "new banks" in the 2023 EU-wide stress test sample; the calibration of the model and the corridor; the computation of final NFCI projections, timing and modality of transmission to banks, and the transparency document to be published for the NFCI model. He said that for banks that were excluded from the calibration sample of the model, the proposal was to set NFCI projections to the corridor floor (i.e., the largest admissible NFCI reduction). For the 11 new banks that were not included in the NFCI model sample, the proposal was to add them to the model sample and update the model calibration (list of explanatory variables, values of the coefficients, etc.). With regard to the calibrations, the Head of RAST clarified that NFCI projections were to be based on the calibration of the model relying on data up to Q3-2022, because Q4-2022 data would not be available in February 2023 when the decision on the calibration of the corridor should be taken by the BoS. On the projections, he explained that they would rely on the same model calibration (list of explanatory variables, values of the coefficients, weighting scheme of macro variables) as the one used for the BoS February 2023 meeting. However, the reported end-2022 starting points that would be available in early March 2023 would be used instead of annualised Q3-2022 values. As a result, the prescribed NFCI projections would be updated because of the update of the lagged dependent values. Finally, he mentioned the industry asked for more clarity and transparency on the NFCI top-down model and therefore, the proposal was to publish a transparency document to disclose some key elements on the characteristics of the model.

22. The Members supported the work. On the inclusion of new banks, one Member asked if the new banks from the SSM would be added as well. Other Member was of the view that were data availability constraints, data quality would decrease and therefore proposed -20% as a second line of defence. Regarding the timing of the publication of the transparency document, one Member proposed to wait until there was clarity on the calibration of the model and the corridor. However, a majority of Members preferred the publication at the launch of the stress test exercise. One Member requested that some additional information is included on the NFCI model in the transparency document. Regarding the model use and the model overlay, one Member stressed that when using models, a qualitative assessment at the end of the process had to be considered and therefore, the overlay was suited. Another Member, alternatively to the corridor, asked for more flexibility when applying the model outcomes. One Member was

of the view that specifications of NFCI top-down model should not to be revealed to banks and that top-down models should be subject to narrow corridor of -10 to -20%.

23. The ECB Banking supervision representative supported the work and the publication at the launch of the stress test exercise.

24. The Head of RAST clarified that the EBA would table for the next meeting in February a proposal with projections from the NFCI model (including the additional banks and the scenario) considering the corridor.

25. The Chairperson concluded by noting the comments and support for the publication of the transparency document at the launch of the stress test exercise. He confirmed that the transparency document would be sent to the BoS for comments in a written procedure.

Agenda item 4: Risks and vulnerabilities in the EU

26. The EBA Director Economic and Risk Analysis Department (ERA) updated the BoS on the latest developments in the EU related to risks and vulnerabilities. He noted that macroeconomic outlook further deteriorated with economic projections expecting a slowdown in 2023 and inflation to remain high. Business and consumer confidence have been further dented while PMI indicators remained relatively at very low levels to historic data. Despite the deteriorating macroeconomic environment, banks managed to deliver good results in Q3. Profitability was helped by increasing NII, mainly due to widening margins as well as loan corporate growth. However, household loans further slowed down, as rising interest rates and consumer confidence weighed on demand while slower economic growth has pushed banks' risk appetite lower. He continued by saying that the asset quality indicators further improved in Q3 (NPL ratio, and forbearance ratio), while Cost of risk moved even lower compared to Q2. This was in contrast to banks' expectations of deteriorating asset quality in mainly unsecured portfolios (e.g., SMEs and consumer credit) and to the highest share of loans classified under stage 2 since data is reported (since 2018). Banks were revising down their expectations for asset quality across all portfolios. Reported capital and liquidity ratios were only slightly down, as capital generation helped mitigate increase in RWAs. Liquidity remained at comparatively high levels, albeit lower compared to previous quarter. Funding conditions deteriorated further. Some banks with low liquidity coverage ratios (LCRs) in foreign currencies may face challenges if market volatility results in difficulties to raise FX funding or to swap currencies. The Director of ERA concluded by summarising market reactions which have been positive to banks' results in Q3 with the ASW spread tightening and the bank equity index outperforming other sectors in the past two months. Analysts remained optimistic on the sector amidst rising rates and NII momentum.

27. A presentation by a Polish BoS Member followed. He focused on a number of aspects impacting the Polish banking sector, namely mortgages in Swiss Francs, interest rates increase and the war in Ukraine. With regard to the mortgages, he noted that since 2008, the PLN/ CHF exchange rate has been gradually increasing and that since 2004, the KNF has been issuing

warnings about the risk of lending in foreign currencies. In 2015, a settlement programme for FX mortgages was proposed by the KNF. However, it was not accepted by banks. In 2020, after a number of court proceedings, another settlement programme was proposed by the Chair of KNF. The proposal was to exchange CHF loans into PLN and recalculate the principal and interests as if the loan had been a PLN loan from the beginning. As result, three banks implemented the proposed settlement programme, 13 other banks offered settlements on different terms and in total, 40 settlements were concluded, as of 30 September 2022. On the increase of interest rates, the BoS Member said that while in 2019 and 2020 both WIBOR 3M and WIBOR 6M remained below 2%, there has been a systematic increase in WIBOR 3M and WIBOR 6M starting in October 2021. He then focused on transition of reference indexes rates and briefly informed on credit moratoria. He concluded the presentation by listing a number of impacts of the war in Ukraine on the situation of banks in Poland, in particular direct impacts related to the exposures of Polish banks to assets and counterparties in Russia, Belarus and Ukraine, and indirect impacts, such as inflationary pressures; increase in market risk due to increased volatility; risk premium upsurge for PLN assets.

28. The Members updated on their national developments. One Member said that microprudential supervisors should focus on banks' provisioning practices and the functioning of these models. Other Member confirmed that they were extremely vigilant on the level of provisioning at the national level. He also suggested to focus on potential risks coming from the volatility of the markets. One Member informed about two national programmes aimed at alleviating mortgage payments for borrowers in difficulties. Some Members stressed that while there was still some resilience in the banking sector, the supervisors should closely monitor market developments, in particular the evolution of inflation and interest rates; moreover, the need for consistent approaches in accounting issues across jurisdictions was emphasized. One Member noted that there were significant differences between sectors and companies when it came to the response to the energy-related impacts. On MREL, one Member mentioned that the banks were optimising their assets as per MREL requirements. Finally, one Member said that beside focusing on provisioning, they were also monitoring banks' preparedness for a high inflow of non-performing loans.

29. The ESRB representative stressed the negative economic prospect with further increase in energy prices. He noted that there has not been a significant rise in the provisioning and that sovereign debt levels have increased.

30. The SRB representative acknowledged increased costs related to MREL.

31. The ECB Banking supervision representative noted that the provisioning and overlays were used by banks and that the banks were declaring enough capital. The SSM issued a questionnaire on overlays and also asked banks to provide them with their financial projections.

32. The Director of ERA added that the EBA was preparing a note on funding costs to be presented to the BoS in 2023.

33. The Chairperson concluded by noting the Members' comments and said that the EBA would further monitor macroeconomic issues.

Agenda item 5: Own funds – A) Updated list of CET1 instruments and final assessment of some CET1 pre-CRR instruments

34. The Chairperson introduced the item by clarifying that as per request by a number of BoS Members, the item was added on the agenda of this BoS conference call after a written procedure launched in October 2022.

35. The EBA Director of Prudential Regulation and Supervisory Policy Department (PRSP) continued by explaining that in the contest of the review of the pre-CRR CET1 instruments, the silent participations issued by five German institutions were assessed. The assessment showed that these instruments were complex and present several issues. The main common concern related to the so-called participation ratio, introduced to make the instruments fully pari passu with common shares. In substance, the ratio created compliance issues. The relevant standing committee discussed two solutions to achieve a pari passu principle, and these would be investigated by German authorities. The Director of PRSP referred also to the written procedure on the updated CET1 list which reflected the inclusion of instruments issued by institutions from EEA countries, the inclusion of a new type of instrument issued by investment firms in Spain, the deletion of instruments from Ireland and amendments to the governing law of other jurisdictions (Germany and Greece). The BoS was further updated on the assessment of some pre-CRR instruments in Germany, Poland and Spain. During the written procedure which took place in advance to the BoS session, one BoS Member expressed disagreement on the proposal to add the instruments from Norway in the CET1 list and on the assessments of some other instruments. In addition, the Member requested clarifications on the assessments of the preferred shares issued by one bank and on the instruments issued by Spanish cooperative banks as well as a specific reconsideration of the previous review of German instruments.

36. The EBA Head of Liquidity, Leverage, Loss Absorbency and Capital Unit (LILLAC) updated the BoS on the latest discussion at the sub-group level. She informed that three aspects were discussed: (i) the deviation from pro rata distribution which was an issue that could be easily solved, (ii) the cap on the dividend which can be considered as a restriction to attract new investors, (iii) the exit rights for which particular focus was put on the fee to be paid in case the IPS leave. In general, the technical assessment should be separated from the supervisory one and regarding the former, there was broad support at subgroup level on the conclusions.

37. The Members welcomed the detailed analysis of the issue. One Member further clarified legal and technical aspects of the discussed instruments. A number of Members supported the assessment of the silent participation and inclusion of the other reviewed instruments in the CET1 list. As a follow-up to the written procedure review the assessment of the German instruments was confirmed. One Member challenged the assessment arguing that the contractual arrangements of the instrument did in fact not violate CRR provisions and that the

specific circumstances under which the instrument was issued would need to be accounted for. Some Members stressed that this was a complicated issue, acknowledging the technical assessment but asking for a pragmatic approach which should remain specific while not setting a precedent for other instruments.

38. The ECB Banking supervision representative acknowledged a unique situation given that at the time of the last review of the instrument by the SSM, it was considered to meet relevant criteria and stressed the need for a substantial assessment more than for a legalistic one. He also highlighted that it might be challenging to reopen the issue.

39. The Chairperson concluded by noting the BoS' support on the assessment of the silent participations. On the CET1 list, he acknowledged that the technical assessment is unlikely to be changed while a pragmatic solution should be pursued by the relevant authorities in a way that would set sufficient boundaries not to create precedents for other instruments.

Conclusion

40. The BoS approved the assessment of the silent participations and the actions identified by consensus.

Agenda item 5: Own funds – B) Final assessment of a legacy instrument

41. The Chairperson introduced the item by informing the BoS that on 27 June 2022, he received a letter on legacy instruments sent by a law firm acting on behalf of investors of three particular instruments (Discos) which expressed strong concerns in particular with regard to announcement to treat the bonds as Tier 2 capital and to keep the bonds as "regular funding" in the event of the bonds being unable to qualify as Tier 2.

42. The Head of LILLAC continued by summarising that the relevant standing committee assessed the compliance of these instruments and identified issues concerning (i) ranking and complexity of the instruments, which created infection risk and impediment to resolution, (ii) tax calls within the first five years of issuance, without limiting them to the specific conditions required by Articles 63(j) and 78(4)(b) CRR, and (iii) incentives to redeem due to tax-gross up on principal. The conclusion of the assessment was that for all these reasons, the Discos should have been considered as ineligible when CRR1 entered into force in Norway and should have been grandfathered under CRR1 and EBA guidance available at that time. Concerning the compliance with CRR2, the Head of LILLAC noted that the instruments were issued under English law, which would require the instrument to be grandfathered in the absence of contractual or statutory recognition of the write down and conversion powers. Nevertheless, given that the instrument should have been grandfathered under the CRR1, it would not benefit from a second grandfathering under CRR2. She also mentioned that given this was a second case where so-called Discos raised concerns, after HSBC Discos assessed by EBA in 2018, the EBA was planning to launch a review of outstanding Discos.

43. The Members supported the work. The representative of the CA assessing the case explained that they were planning to finalise their assessment before the end of January 2023. In light of this, it was asked to postpone the answer by EBA to the law firm to end of January.

44. The Head of LILLAC confirmed that the EBA response to the law firm would follow after the CA's assessment, but not later than the end of January.

45. The Chairperson concluded by noting the BoS' support.

Conclusion

46. The BoS approved the next steps and the tabled assessment by consensus.

Agenda item 6: IRRBB scrutiny plans and reporting

47. The Chairperson reminded the Members of recent discussions on the final regulatory products on IRRBB, which have now been published. In the context of these discussions, a strong scrutiny plan was also agreed by the BoS. The proposed discussion is touching a related aspect, which is reporting, the question being how to equip well supervisors and the EBA with necessary reporting data to supervise and monitor in a timely manner IRRBB risks and support the scrutiny plan.

48. The EBA Head of LILLAC presented the EBA's proposal. She stressed that given the current environment of high inflation combined with recessionary risks contrasting with a long period characterised by very low inflation and interest rates and following the IRRBB scrutiny plan agreed by the BoS, there was a need for relevant data that allow authorities to implement and monitor the agreed scrutiny plans. She clarified that QIS templates would be the short-term solution to bridge the gap to provide these data. The longer-term steady solution would be the reporting ITS, which would provide data with the necessary quality and covering all banks, including small and non-complex institutions (SNCIs). In this context, the proposal is twofold: to accelerate the development of the ITS for finalisation in June/July 2023 and, to further speed up the availability of data, proceed with an advanced data collection, with a reference date of Dec 2023, using the final draft ITS templates for reporting that would be published on our website around summer 2023, based on a more detailed plan, to be developed, that would define, the scope of the final draft ITS templates to be collected in advance and the scope of institutions. . This would allow to gain between nine months to one year in terms of availability of the data. The data would be accompanied with the EBA usual technical package (Data Point Model plus validation rules plus XBRL taxonomy), to support the quality of the data and allow the collection through Euclid. The Head of LILLAC presented the pros and cons of the proposed approach, stressing the need to avoid overlaps between the QIS and ITS templates and have a clear communication to banks. She concluded by saying that is also time to move to a more standardised and automatised way to provide/collect data on IRRBB with a higher level of quality.

49. The views of the BoS members who spoke were mixed. Some Members supported the proposal saying that there should not be any further delays on the developing of the ITS and having EU-wide data, supporting the idea of the advanced data collection given the current rates environment and seeing it as a relevant example for the EBA to be flexible in adapting its priorities, also to pre-empt local initiatives likely to emerge in the same direction. Finally stressing that it was important not to duplicate the data between the ITS and the QIS templates. Others insisted on the need to align the templates used for the advanced data collection to the ones of the future ITS and on the possibility to include smaller banks in the advanced data collection, on the basis of input provided by competent authorities. The governance of the exercise was also judged as an important aspect to discuss in the relevant EBA structures. Others were on the contrary concerned about the implementation costs and the limited time for banks, especially for smaller ones to provide the data and would rather continue to rely on the QIS only, noting that costs might exceed benefits in the current situation of increasing interest rates and that the quality of the data would be low. Some also noted that the proposed advanced data collection would add burden on the banks that already submit data on IRRBB risks in the context of existing local reporting (STE exercise was quoted in particular).

50. The Chairperson proposed to vote on the proposal.

Conclusion

51. The BoS approved the need to accelerate the availability of reporting data in the context of the current rates environment, including the acceleration of the development of the ITS on reporting and the proposed advanced data collection.

Agenda item 7: Guidelines on Overall Recovery Capacity (ORC) in recovery planning – Consultation paper

52. The Chairperson opened the discussion reminding the BoS that increasing usability of recovery plans in order to make crisis preparedness more effective with a specific focus on overall recovery capacity (ORC) was one of the key work plan priorities in the EBA 2022 work programme.

53. The Director of PRSP continued by explaining that ORC was a key outcome of recovery planning providing an indication of the overall capability of the institution to restore its financial position following a significant deterioration of its financial situation. The tabled own-initiative guidelines established a common ORC framework for its determination by the institutions and for the respective assessment and challenge by CAs. As a next step, work would continue to further integrate the ORC into the SREP framework.

54. The Members supported the work. One Member stressed that the proposed guidelines were a major step forward in recovery planning ensuring its consistency considering the current heterogeneity of the approaches to ORC determination. The guidelines were also striking the

right balance between harmonization and flexibility for competent authorities. One Member supported the guidelines and the planned work on the ORC integration into SREP warning however on avoiding any mechanistic approach in its implementation.

55. The ECB Banking supervision representative supported the publication of the consultation paper.

56. The SRB representative noted the importance of including MREL as an indicator to represent ORC.

57. The Chairperson concluded by noting the BoS' overall support for the publication of the consultation paper.

Conclusion

58. The BoS approved by consensus the publication of the Draft Consultation Paper on overall recovery capacity in recovery planning for a three months' consultation.

Agenda item 8: Update on DORA implementation

59. The Chairperson informed the Members that as the DORA final text has been approved by the European Parliament plenary on 10 November 2022, it was expected to be signed in December and enter into force in end January (with 2 years for implementation), the ESAs were advancing with their planning to prepare for the DORA policy work and upcoming tasks.

60. The EBA Director of Innovation, Conduct and Consumers Department (ICC) continued by reminding the BoS that within two years, the ESAs would need to deliver, through the newly established JC sub-committee on Digital Operational Resilience (JC SC DOR), the 16 mandates comprising of 12 policy mandates, including eight Regulatory Technical Standards (RTS); two Implementing Technical Standards (ITS), and two sets of Guidelines; an expected EC call for advice for additional criteria to identify critical third-party providers, and a Call for advice on collection of oversight fees; a feasibility report on further centralising ICT-related incident reporting (EU Hub); and two ESRB Recommendations on EU- systemic cyber incident coordination framework. She also reflected on specific points related to anticipated entry into force of DORA (Jan 2023), possibilities of early delivery of mandates due to EP recess (Q1 2024) and the end of COM term, prioritisation of work in case of potential delays in mandate delivery, IT system security, in particular for oversight tasks, building capacity and experience (ESAs and CAs).

61. The EBA Head of Digital Finance Unit (DF) presented further details on the preparation for the new roles and tasks, in particular the oversight tasks - prepare an oversight framework, adequate structures, methodologies and processes to be in place by Q4 2025; with the first delivery of high level design of Oversight framework presented to ESAs BoS in Q3 2023; ICT-related incident reporting and define processes and procedures by Q1 2025; and to develop financial cross-sector exercises, communication and cooperation frameworks with relevant

stakeholders. She clarified that the joint implementation plan covered the policy development, preparation for the new roles and tasks, implementation of IT systems, supervisory convergence and training for ESAs and CAs, governance and relation with relevant stakeholders. The internal implementation plan covered internal EBA-related aspects such as organisation of work, funding, and allocation of resources for the execution of the tasks under DORA. Finally, she informed that a sub-committee on digital operational resilience (JC SC DOR) under the JC was established and had its first introductory meeting on 07 November 2022 during which they discussed the mandate of JC SC DOR, the governance structure, the joint ESAs' implementation plan, and the policy mandates under DORA, that three Working groups to be set-up under JC SC DOR: ICT risk management (led by ESMA), incident reporting (led by EBA) and oversight (led by EIOPA).

62. The Members welcomed the update. The Chair of JC SC DOR acknowledged the efficient work and processes of the ESAs staff in the preparatory phase. A number of Members stressed the importance of preparatory work, clear timelines and communication given that CAs had to prepare for the implementation at the national level. Some Members asked about resources, both at ESAs level and the national level, in particular involvement of national experts. Some members asked the EBA to conduct a benchmarking on resources needed for the upcoming DORA activities or a collection of best practices in order to support the CAs in efficiently preparing for these activities from an organisational and staff perspective. One Member suggested to gather know how on how similarly significant projects have been implemented at the EU or international level.

63. The Director of ICC informed that the EBA estimated a need of 14 FTEs/year on average across the period 2023-2025 for policy development, set-up of new functions, such as oversight, and IT development. This included internal restaffing (or temporary reallocation of resources) as well as a number of issuance of calls for SNEs.

64. The Head of DF mentioned a stock take on ICT practice on ICT practices and ICT risks that was presented to BoS in December 2021 which aimed at collecting best practices and also information on resources at national level.

65. The Chairperson concluded by noting the comments.

Agenda item 9: First draft of the Single Programming Document 2024-26

66. The Chairperson introduced the item by reminding the Member that as per the EBA Regulation, the EBA had to prepare the Single Programming Document (SPD) on an annual basis in order to inform EU institutions on the EBA's planning in terms of priorities of the work and of resources at the disposal. The tabled draft SPD for the years 2024 -2026 included also a first draft of the EBA activities for the 2024 work programme. The draft continues to be work in progress though it benefitted from a discussion at the 15 November MB meeting.

67. The Executive Director continued by pointing to the ongoing nature of the discussion of programming documents with the work on the SPD for the 2024-2026 cycle following closely the finalisation of the 2023 Work programme. The preparation benefited from efforts made internally to put in place an infrastructure providing a comprehensive overview of all of the EBA's tasks and mandates, and their staffing. The tabled draft would be slightly refined before the finalisation of the draft in January 2023. The first draft of the 2024 Work programme, which covered the main expected deliverables, was to be finalised by September 2023. The objective of the presentation was to obtain feedback from the BoS for the draft SPD's submission to the EU institutions by the end of January 2023. He then introduced the document setting out the cornerstones of the preparation – which benefited from discussions with the EC (DG FISMA) at the end of October and with MB Members during the meeting on 15 November – , before providing more detail on: the general context and the factors driving the programming; the proposed priorities for the three-year and one-year time horizon – which, building on those from the previous SPD, albeit with adjustments, set out the areas of focus, but without prejudice to the EBA's ongoing- responsibilities–; the resources needs, both financial and human; as well as the timeline and process for finalisation. He stressed that in order to achieve these priorities, it would be important to reap all possible synergies from the reorganisation and the regrouping/ streamlining of activities (19 compared to 37 in 2020) but also from improved work force planning and efforts to modernise the workplace. Synergies would also arise from joint efforts and initiatives, such as joint procurements, resource sharing arrangements (already in place with other ESAs), career mobility schemes, and also from opportunities for cross-efficiencies, as illustrated for example by the Supervisory Digital Finance Academy (as a forum that would enable and feed discussions between CAs). The financial and human resources planning remained tentative until the approval of the 2023 budget and the legislative financial statements. The Executive Director then focused on the resources and, while noting that the financial planning reflects the MFF, explained the big changes occasioned by the revenues coming from DG Reform and, from 2025, by the expected collection of fees from supervised or overseen entities, but also from smaller adjustments mainly to reflect inflation. Regarding EBA staffing, he pointed to overall stability in areas other than MICA, DORA and AMLA. For MICA and DORA, the EBA was to receive posts even though the related funding, mostly fee-based, would only be received starting from 2025 - subject to the systems for collection of supervision and oversight fees being in place. At the same time, the EBA was set to lose eight posts in the context of the establishment of AMLA. The Executive Director concluded by summarizing the next steps, which also involved sharing the draft with the ACP and that, after the last adjustments and subject to approval, the final SPD was to be submitted to the EU institutions by 31 January 2023. He mentioned that BoS member would also shortly receive a revised version of the draft 2023-2025 SPD, which has been updated to reflect the final 2023 budget, and in addition that considerations were taking place about whether to publish this revised 2023-2025.

68. The BoS supported the work. One Member, appreciating the opportunity to have an early discussion, wondered whether the priorities setting out the strategic perspective for the 3-year horizon in the SPD and related indicators were focusing on output rather than outcome,

and generally quantitative measures. In addition, the Member stressed the importance of considering consumers' interests, noting that related work could be given more prominence as part of a 'trust and confidence' objective and narrative, also since much of the work in the prudential area can be seen to contribute to this.

69. The ESRB representative enquired about how a deteriorated economic situation can / could be reflected in the SPD and whether it should lead to a review of or adjustments to risk assessments and to the stress test methodology, and under which activity this would take place. In addition, the representative enquired about what the EBA could do to check that provisioning levels were appropriate.

70. The SRB representative noted that much of work comprised areas that were of relevance for the SRB. At the same time, the representative asked for an accelerated revision of the RTS on independent valuers, given that experiences in crisis situations evidenced a number of rigidities occasioned by the existing legislative framework. In addition, he mentioned the importance of reform of the crisis management framework, and even though there was currently a lack clarity around the timeline, it was possible that this would be concluded before the EP recess.

71. In his response, the Executive Director explained that adjustments to the stress test or risk assessments as a result of the deteriorating economic climate would be covered under priority 2, with the draft work programme providing more detail. Provisioning aspects have generally been covered as part of Activity 1 – Capital, loss absorbency and accounting (but could also be covered under the NPL aspect of Activity 3, or possibly Activity 12). He noted that the SPD preparation was fairly codified – in terms of format, but also for example in the sense that KPIs were expected to be quantitative. He noted that priorities and indicators did not only focus on output, and that outcomes were notably pursued in areas where the EBAs developed new regulatory frameworks (e.g., for ICT service providers), or in the context of data sharing. He mentioned that although not featured prominently in the past, significant work on consumer issues has nevertheless been carried out. Going forward there would be increased focus on consumer issues and this could be given further consideration. Finally, he noted that the timing for the review of the RTS on independent valuers would be considered.

72. The Chairperson concluded by noting the BoS' support and said that the SPD would be submitted for the BoS approval in January via written procedure in order to finalise it before its submission to the EU institutions.

Agenda item 10: Thematic review into the transparency and level of fees and charges

73. The Director of ICC introduced the item by reminding the BoS of the EBA's mandate under Article 9 of the Founding Regulation, based on which the EBA, inter alia, collected, analysed and reported on consumer trends by publishing a biennial Consumer Trends Report (CTR). In several editions over the last six years, the CTR has identified fees and charges levied by

financial institutions on retail banking products as a key issue causing detriment to consumers. In order to better understand the magnitude and nature of this issue, the EBA has taken a first step by using its new mandate to carry out “a thematic review’’, while also acknowledging that the task was difficult to accomplish with the desired methodological robustness due to, inter alia, the often confidential nature of the institutions’ pricing policies. Moreover, the EBA and most CAs have no power on price regulation which tends to be within the remit of the pricing competition authorities.

74. The EBA Head of Conduct, Payments and Consumers Unit (COPAC) summarised the findings of the review and mentioned that the EBA collected information in the second half of 2021 covering the previous two years and did so through surveys to three sets of stakeholders, 26 CAs, a sample of 149 financial institutions of which mostly credit institutions, and a sample of five national and one EU consumer associations. The aim of this review was to obtain a detailed insight and a better understanding of market practices that were, or could be, detrimental to consumers. The EBA assessed the responses received and arrived at a number of findings relating to: the regulatory framework, an overview of the level of transparency linked to the application of fees and charges, issues arising for consumers from fees and charges for each of the products under the EBA’s remit, and the importance of fees and charges for financial institutions. He concluded by clarifying that any reference to jurisdictions and entities would be removed and the report fully anonymized for publication.

75. The Members supported the work. Two Members stressed that in the current environment of high interest rates it was important to monitor whether the banks were changing their business models. One Member also noted that while the EBA did not have a remit in assessing pricing policies, it could monitor how banks were liaising with their clients. Two Members referred to written editorial comments they will send after the meeting for potential incorporation before publication.

76. The Chairperson concluded by noting the BoS’s support for the publication of the report.

Conclusion

77. The BoS approved the publication of the EBA report on the thematic review of the transparency and level of fees and charges for retail banking products by consensus.

Agenda item 11: Retail Risk Indicators

78. The Chairperson introduced the item by reminding the BoS that as of 01 January 2020, the revision of EBA Regulation extended the mandate of the EBA in relation to consumer protection. The extended mandate included additional tasks, such as ‘developing retail risk indicators for the timely identification of potential causes of consumer harm’. The BoS was asked to discuss a proposed way to deliver on this mandate, including a list of 11 retail risk indicators, alongside a methodological note, to be published in early 2023. The final proposal would be submitted to the BoS in writing in January 2023.

79. The Director of ICC explained that the aim of the indicators was to identify detriment arising for consumers from the misconduct of all the financial institutions and financial services that were within the EBA's scope of action on consumer protection (i.e. mortgage credit, consumer credit, deposits, payment accounts, payment services and e-money), or that were expected to be part of EBA's scope of action in the future, such as, from 2024 onwards, crypto assets. The indicators were meant to measure the retail risks encountered by consumers, i.e., the potential detriment suffered in the context of the business relationship between consumers and their product/service providers. They provided information that would help the EBA and CAs to prioritise their regulatory and supervisory work in the area of consumer protection but may be of interest to other external stakeholders as well.

80. The Head of COPAC added that one of the key constraints of the fulfilment of this mandate was that the relevant standing committee developed selection criteria to choose from a long list of indicators and those criteria included criterion that the indicators should be developed without incurring additional reporting obligations on either financial institutions or CAs. As a result, very few conduct/consumer-specific metrics could be identified and data was primarily sourced from EBA data that was being received for prudential purposes or from other, non-EBA sources, such as the World Bank. As a result, the indicators were tailored less to consumer protection issues than would ideally be the case. The Head of COPAC also explained that some members of the relevant standing committee questioned whether the reporting of country-specific indicators was in line with the general approach the EBA takes to such publications, which was one of the reasons why the standing committee requested for this to be brought to the BoS for discussion before launching a written procedure for a vote.

81. The BoS supported the work. Some Members supported the publication of the country-specific data while others raised concerns, as some data might give misleading indications of risks, such as the financial inclusion data from the World Bank, which one Member considered more suitable for less developed nations than for the EU.

82. In his response, the Head of COPAC acknowledged that inclusion of some data, in particular the World Bank indicators, might give rise to concerns, given that the data was not limited to the EU, but EBA staff considered them as valuable because they provide a facet of the consumer experience that would otherwise not be covered by the available indicators developed in the EU. The indicator is also one of the very few that allows the EBA to present historic data and it generally showed positive trends for consumers across the EU with regard to access to basic financial services. Finally, the source was reputable and often cited. He also confirmed that it was not the aim of the publication to compare indicators across Member States, and this would be explicitly stated on the EBA website when the indicators were be published.

83. The Director of ICC concluded by saying that the proposed list was a fine compromise between various sometime competing views and considerations and a starting line for future work.

84. The Chairperson concluded by noting the BoS' comments and noted that the final list of the EBA's retail risk indicators would be sent to the BoS for approval in written procedure.

Agenda item 12: Peer Review of authorisations under PSD2

85. The Chairperson introduced the item by noting that this was the first peer review the EBA has done in the area of payments.

86. The EBA Head of Legal and Compliance Unit (LC) explained the approach taken to the report and said that the peer review was originally planned to focus on the implementation of the EBA's PSD2 authorisation guidelines. However, as these related almost entirely to information to be provided by PIs/EMIs to CAs, rather than CAs' supervision, the MB and BoS had agreed to expand the peer review mandate to cover authorisation generally, and so to cover how CAs scrutinise applications. He clarified that the report template has been fully reviewed to ensure that it is concise, sets out clear findings, and focuses on key findings, rather than on the methodology or general descriptions. The draft report clearly distinguished between those recommendations which were 'follow-up measures' for CAs and which the EBA would focus on when preparing the follow-up report in two years' time and 'good practices' which were measures that CAs were encouraged to consider but would not be reviewed by the EBA. The peer review committee found a number of deficiencies across a range of CAs and therefore, the proposal was not to anonymise the report prior to publication. The Head of LC said that the report was shared with the CAs subject to the peer review in order to receive comments on the main findings and discussed at the MB meeting on 15 November. Following the BoS discussion, the final report would be sent for the final approval by the BoS in a written procedure.

87. The EBA senior policy expert summarised the recommendations made in the report to all CAs in relation to CAs' resources, ensuring that applicants had a 'three lines of defence' model and that they were effectively managed and controlled from the jurisdiction in which they were seeking authorisation and carried out business there in order to ensure sufficient local substance.

88. The BoS supported the work. One Member noted that their comments sent in the written procedure were not fully reflected in the tabled draft. Another Member said that a substantial analysis should support the report and that some conclusions were not consistent with the requirements in the EBA Guidelines on outsourcing. He also stressed the question of proportionality. One Member was of the view that there should be a common methodology on authorisation. Another Member considered that some requirements assessed during the peer review were not a part of the PSD2.

89. The Head of LC explained that the purpose of the peer review was to assess the effectiveness of the application of the guidelines by CAs and the peer review committee did not review the consistency of the guidelines with PSD2 or their proportionality. Such issues were better placed to be considered by the relevant standing committee if, in the light of the report and

experience of CAs, it was considered that adjustments to the EBA's policy in this area should be made.

90. The EBA senior expert clarified that all comments received during the written procedure were considered but not all were accepted.

91. The Chairperson concluded by noting the BoS' comments and said that the peer review committee would finalise the peer review report taking into account those comments where it considered appropriate. The final report would be sent to the BoS for approval in written procedure.

Agenda item 13: Final draft SupTech report and Factsheet on key SupTech trends

92. The Director of ICC introduced the item by reminding the BoS of the EBA's activity to monitor SupTech tools developed or deployed by competent authorities across the EU as per the 2022 Work programme. To fulfil this activity, the EBA conducted a one-off survey to take stock of CAs' approach to SupTech. The findings of the survey complemented by desk research carried out regarding the overall SupTech developments, and exchange with the EC Directorate-General for Structural Reform Support (DG REFORM) on lessons learned from SupTech project implementation were summarised in the tabled report.

93. The Head of DF presented an overview of considerations to support development of SupTech among the authorities. Most of them were addressed to CAs and related to the need to set up a well-defined SupTech strategy and the ways to improve SupTech project governance, improve data quality, implement necessary IT system changes, improve internal collaboration and procurement process with third party vendors and monitoring of SupTech tools available in the market. In addition, CAs were also expected to proactively foster discussions on SupTech with their peers. She also referred to the EBA's role and mentioned a number of initiatives to support CAs in addressing SupTech related challenges related to i) knowledge and experience exchange, ii) skills development, and iii) SupTech-enabling resource contribution. She clarified that the EBA intended to facilitate knowledge exchange on SupTech via the established EBA structures. Furthermore, the EBA was planning to work closely with the SSM SupTech Hub to align the knowledge sharing activities to avoid overlaps and duplication of efforts. Addionally, the EBA would contribute to skills development initiatives by steering the design of 2022-2025 EU Supervisory Digital Finance Academy's training curriculum on SupTech and work closely with the EC DG REFORM to facilitate identification of SupTech areas or specific SupTech tools that may benefit from DG REFORM Technical Support Instrument programme. The Head of DF concluded that, while the report was an internal report that would not be published, the short factsheet on key SupTech-related findings could be used as communication material on SupTech, for example, when promoting the EU Supervisory Digital Finance Academy activities or in the EBA Annual Report.

94. The BoS supported the work. While the Members welcomed the work, one Member was of the view that any further work was not a priority. The Member also noted that there was no common definition of SupTech and therefore, any external communication should be carefully drafted. On contrary, one Member considered SupTech as a high priority due to a number of technical issues and asked for a close cooperation between various institutions and the EU and international level and their initiatives. Another Member suggested that the EBA could coordinate various national initiatives and facilitate the adoption of SupTech by fostering the exchange of knowledge or experiences and by supporting the development of skills

95. The SRB representative supported the work and informed that resolution tech models were adopted.

96. The Head of DF clarified that during the exercise the notion of SupTech was clarified and CAs had been invited to update the total number of SupTech tools in their authorities using a 'broad' interpretation of SupTech.

97. The Chairperson concluded by noting the BoS' support and said that further enhancement of cooperation and coordination was necessary, also to avoid duplication of work.

Conclusion

98. The BoS welcomed the report and agreed to use the content provided in the SupTech factsheet as communication material on SupTech by consensus.

Agenda item 10: AOB

99. None of the Members raised any comments.

100. The Chairperson concluded the conference call by thanking the BoS for their work during 2022 and wishing them a happy holiday season.

Participants of the Board of Supervisors' conference call on 07 December 2022[1]

Chairperson: Jose Manuel Campa

Country	Voting Member/High-Level Alternate	National/Central Bank
1. Austria	Michael Hysek	Karin Turner-Hrdlicka
2. Belgium	Jo Swyngedouw/Kurt Van Raemdonck	
3. Bulgaria	Stoyan Manolov	
4. Croatia	Sanja Petrinic Turkovic	
5. Cyprus	Constantinos Trikoupis	
6. Czech Republic	Zuzana Silberova	
7. Denmark	Jesper Berg/Thomas W Rasmussen	Morten Rasmussen
8. Estonia	Stina Mander*	Timo Kosenko
9. Finland	Jyri Helenius	Katja Taipalus
10. France	Dominique Laboureix/Emmanuelle Assouan	
11. Germany	Peter Lutz	Karlheinz Walch
12. Greece	Heather Gibson/Kyriaki Flesiopoulou	
13. Hungary	Laszlo Vastag	
14. Ireland	Gerry Cross	
15. Italy	Andrea Pilati/Francesco Cannata	
16. Latvia	Santa Purgaile/Ludmila Vojevoda	
17. Lithuania	Renata Bagdonienė	
18. Luxembourg	Claude Wampach	Christian Friedrich
19. Malta	Christopher Buttigieg	
20. Netherlands	Maarten Gelderman	
21. Poland	Kamil Liberadzki	Pawel Gasiorowski
Portugal	Luis Costa Ferreira	
22. Romania		
23. Slovakia	Tatiana Dubinova/Linda Simkovicova	
24. Slovenia	Damjana Iglic	
25. Spain	Angel Estrada	
26. Sweden	Karin Lundberg	David Forsman

EFTA Countries	Member	
1. Iceland	Gisli Ottarsson	
2. Liechtenstein	Markus Meier	
3. Norway	Ann Viljugrein	Sindre Weme

Observer	Representative
1. SRB	Sebastiano Laviola

Other Non-voting Members	Representative

[1] Pascal Hartmann (FMA); Matthias Hagen (OENB); Luca Serafini (Banca d'Italia); Eida Mullins (Central Bank of Ireland); Magdalena Wojtacha (KNF); Marek Sokol (CNB); Annemijn Van Rheden (DNB); Jose Rosas (Banco de Portugal); Julia Blunck, Christian Elbers (BaFin); Gordana Ilc Krizaj (Bank of Slovenia); Frida Alvarsson (Finansinspektionen); Emilio Hellmers (ESRB); Iris Taleb (SRB); Iuliana Marinescu (National Bank of Romania)

*Appointed expert representing Finantsinspektsioon without voting rights

1.	ECB/SSM	Carmelo Salleo, Costanza Rodriguez D´Acri
2.	European Commission	Almoro Rubin de Cervin
3.	EIOPA	Fausto Parente, Kai Kosik
4.	ESMA	Natasha Cazenave, Tomas Borovsky
5.	EFTA Surveillance Authority	Marta Margret Runarsdottir
6.	ESRB	Andreas Westphal

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Executive Director	Francois-Louis Michaud
Director of Economic and Risk Analysis Department	Jacob Gyntelberg
Director of Prudential Regulation and Supervisory Policy Department	Isabelle Vaillant
Director of Innovation, Conduct and Consumers Department	Marilin Pikaro
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EBA experts

Tea Eger
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Larisa Tugui

For the Board of Supervisors

Done at Paris on 07 February 2023

[signed]

José Manuel Campa

EBA Chairperson