



EBA MB 2017 034

EBA Staff

24 January 2017

Location: London

Management Board – Final Minutes

Agenda item 1.: Welcome, Approval of Agenda and Minutes

1. The Management Board (MB) approved the agenda of the meeting (document EBA MB 2016 094rev2) and the minutes of the meeting of 10 November 2016 (document EBA MB 2016 003). The Chairperson informed of the state-of-play of the actions agreed at the latest meeting.
2. The Chairperson informed that further to the resignation of the member of the Board of Supervisors (BoS) from the Czech National Bank, a vacancy had arisen at the MB, for which a call for expression of interest would be soon submitted to the BoS to fill it. He also informed that the Executive Director would not attend the meeting as he was participating in a hearing at the European Parliament's Budget Control Committee (CONT) on the discharge of the 2015 EBA's budget, including an exchange of views on the implications for the EBA of the outcome of the UK's referendum on EU membership (*Brexit*).
3. The Chairperson referred to the upcoming European Commission's consultation on the review of the European System of Financial Supervision (ESFS), which could include several proposals on the organisation of the ESAs. He invited the MB to be involved on the EBA's input to this consultation.
4. Finally, he said that, in view of the UK Government's intention to start the opening of negotiations to leave the EU before the end of March 2017, and the invitation from the team of the European Commission's chief Brexit negotiator to receive ESA's input on market implications, he would like to involve some members of the BoS to help shape the EBA's views on this matter. In his view, there were three main issues to look at: potential divergences on the regulatory conditions offered by Member States to attract businesses willing to relocate to the EU; financial stability (e.g. market dislocation, disruption of services, operational issues concerning the transfer of business across countries); and impact on the regulatory framework for cross-border activities between the EU and the UK.

Agenda item 2.: Administrative and Operational Status Report

5. The EBA Director of Operations presented the 2016 administrative and operation status report (document EBA MB 2017 008). He focused on various areas, namely: a) 2016 budget
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execution, which had been below the 2015-level due to GBP-EUR exchange rate fluctuations; b) VAT claims since 2011 on the basis of the EBA seat's agreement with the UK government, showing a prudent management of the EBA's budget; c) state-of-play of staff recruitment. He noted a decreasing trend, since 2014, in the average number of applications received per vacancy, which could be partly explained by the establishment of the SSM; and d) status of IT systems, with some challenges concerning data quality rather than the IT infrastructure itself.

6. The Commission representative noted two minor discrepancies in the report concerning the figures for the 2016 budget and number of candidates interviewed. This would be clarified.
7. The MB welcomed the report and thanked the EBA for such a comprehensive overview of administrative and operational matters in 2016.

Agenda item 3.: EBA Risk Assessment Annual Update

8. The EBA Director of Operations introduced the 2016 annual update on EBA's risk assessment (document EBA MB 2017 007) based on the Risk Management Guidelines adopted by the MB in 2014. The assessment identified risks, their exposures and proposed mitigation actions. He said that a new risk on security of ITS data had been identified as relevant, in light of the project on the upgrade of the data infrastructure; and that included a proposal for one new mitigation measure related to the security of email exchange and of communications where details of data would be exchanged.
9. The MB asked for a list of incidents and actions taken to remedy them to be included in this and future reports, as well as for an improvement of the methodology, since the categories of probability and their description did not appear proportionately measured.
10. A discussion took place on whether the risks associated with Brexit should be reflected in the risk assessment. The EBA Director of Operation said that although they had not been included, the EBA was conducting an internal impact assessment that would be finalised once further decisions e.g. relocation of EBA premises, would be known. Some members said that even if such Brexit-related decisions would be of a political nature, their practical impact would be operational.
11. The Chairperson informed that he had had a meeting with the Executive Director of the European Medicines Agency (EMA), during which they exchanged views on the impact on working processes in both agencies'. He suggested further contacts with the EMA to share information on areas of common concern, e.g. impact on procurement, dilapidation costs of offices, etc. He agreed that such risks should be assessed and reflected upon to minimise risks in the event of a rapid implementation of any Brexit-related decisions.
12. The MB requested drafting an impact assessment taking into account two scenarios, a 6 months' notice and a 18-24 months' notice for EBA relocation, with a view to discussing it at the subsequent MB meeting.

Conclusion

13. The MB approved the risk assessment report subject to the incorporation of the comments raised, i.e. missing risk no. 004 in the summary table, and a new section on incidents in 2016. The risk assessment methodology (EBA Risk Log Guidelines) would be revisited and submitted for approval of the MB by written procedure.

Agenda item 4.: HR Implementing Rules

14. The EBA Director of Operations presented a decision (document EBA MB 2017 002) whereby the EBA would request the Commission the non-application of some of its decisions adopted in implementation of the Staff Regulations, namely on middle management staff, on the function of adviser, on the implementation of the learning and development strategy, on training on own initiative of the member of staff, and on repealing existing rules on training and development. He explained that the EBA would await for model decisions, drafted by the Standing Working Party and targeted more specifically at agencies, to adopt them at the EBA.

15. Members requested that the decision should elaborate in greater detail the reasons why non-application was being requested, and suggested aligning the arguments with those used by other ESAs.

16. The Commission representative suggested that the EBA should contact the Commission's Directorate-General for Human Resources and Security to address issues regarding the content and form of the decision.

Conclusion

17. The draft decision would be amended as per the comments of Members and further to contacts with the Commission's Directorate-General for Human Resources and Security. It would be re-submitted to the MB for approval by written procedure.

Agenda item 5.: Implementation of the Anti-Fraud Strategy

18. EBA staff presented the first assessment of fraud risks at EBA (document EBA MB 2017 016) in implementation of the Anti-Fraud Strategy 2015-2017 adopted by the MB in 2015. The assessment of fraud had been conducted across the EBA according to the methodology agreed by the MB. It had identified a few areas exposed to potential fraud, for which remedial actions had been suggested. Furthermore, EBA staff informed that the draft policy on whistleblowing, currently with the European Data Protection Supervisor (EDPS) for consultation, would be submitted for MB approval upon conclusion of the consultation; and the anti-fraud policy, under consultation of the EBA Staff Committee, would be adopted by the EBA's Executive Director.

19. The EBA Director of Operations explained the differences between the EBA's risk strategy and the EBA's anti-fraud strategy and their assessments; while the former was of a higher-level

nature, focused on business continuity, the latter was more focused on instances of fraud and hence more granular.

Conclusion

20.The MB took note of the anti-fraud assessment. The whistleblowing policy would be submitted for MB approval upon completion of the EDPS consultation.

Agenda item 6.: Expansion of EBA Data Infrastructure – Project Brief

21.The Chairperson referred to previous discussions on the EBA data infrastructure project, in particular the conditions under which the project would be carried out, namely, a) approval of budget, b) reduced quality assurance for smaller banks, focusing only on the official and binding existing validation rules; c) maintaining of the sequential approach, consistently with what was agreed by the BoS in its 6-7 December 2016 meeting; and d) involvement of technical committees (SCOP, SCARA) and the IT Sounding Board.

22.EBA staff provided an update on the state-of-play of the project, which would be delivered through three workstreams, and explained the Project Brief for workstream 1 (document EBA MB 2017 006). The Project Charter for workstream 1 would be submitted for MB approval via written procedure and a report would be provided to the MB by end-March.

23.The Commission representative noted that, for the 2018 budget, the College of Commissioners would be for the first time invited to express an Opinion within two weeks of the EBA submitting its proposed 2018 budget. This Opinion would signal the Commission's stance on the EBA's budget, which would help have an indication on whether the EBA could count on the budget required for the project. But he cautioned that the Opinion could however leave the door open for further discussions on specific issues.

24.One member expressed concerns on the implications that the project could have on the IT infrastructure; and called into question the fact that the project would reduce the burden on competent authorities (CAs). He suggested postponing any decisions until workstream 1 could provide a detailed analysis with a description of the situation, and the tasks necessary to implement the collection of reporting data; and asked for SCARA's opinion. With respect to quality checks conducted for larger and smaller banks, another member added that it would be necessary to act proportionately when conducting such checks at EBA-level, this way avoiding duplications at national level as well as an unnecessary use of resources. The EBA was requested to confirm that any additional quality checks, for which feedback would be provided to CAs upon request, would only be conducted for statistical purposes. The Chairperson confirmed that further information would be provided to the MB on this point.

25.EBA staff confirmed that a first update on the project was provided to SCARA, which would be consulted in order to avoid any unintended additional reporting obligations for banks; but it

was clarified that for CAs the aim was to reduce the reporting burden by addressing some existing inefficiencies, such as duplicated workflows for master data. Regarding IT, it was explained that the project would leverage on the current IT infrastructure, and that the assessment of workstream 1 would merely aim at identifying improvements to some of its components to ensure that it could run the new reporting processes efficiently. The results of this assessment would be included in the final Report, that would be discussed by both the MB and the BoS.

26. Upon a question from a member, the Chairperson noted that the current project did not entail the disclosure of individual bank-level data for the full set of banks. Any decision on the scope of bank by bank transparency should be taken at a later stage by the BoS.

Conclusion

27. The MB approved the Project Brief. Any use of resources would be delayed until having certainty from the Commission on the budget. The Project Charter would be submitted to the MB for approval by written procedure, and the report with conclusions of workstream 1 would be discussed at the MB meeting of 04 April 2017.

Agenda item 7.: Revised 2017 Work Programme

28. The Chairperson presented a revised version of the 2017 Work Programme approved by the BoS in September 2016 (document EBA MB 2017 011). This revision concerned the products delayed from the 2016 Work Programme, plus some legislative reforms that would affect the 2017 planned work, namely a) review of the CRR and BCBS revision of the trading book ; b) TLAC implementation; c) follow-up to the discussions on proportionality in the regulatory framework; and d) securitisation framework in the context of the Capital Market Union. The EBA Director of Regulation added that the EBA should also start planning work on other areas, in particular market risk and IFRS9 implementation.

29. The MB welcomed the revised Work Programme. One member asked the EBA to have a back-up deprioritisation plan to be able to react quickly if needed, as well as a table with the allocation of resources comparing the previous and current year. Another member asked for the EBA's confirmation of whether the work on equivalence of the regulatory and supervisory frameworks had been removed from the 2017 Work Programme. There was a request to consider work in 2017 on guidelines on exposures associated to high risks under Article 128(3) CRR, for which the CRR had not set any specific deadline.

Conclusion

30. The MB approved the revised 2017 Work Programme with the changes suggested.

Agenda item 8.: European Commission Proposal on CRR/CRD/BRRD

31. In view of the Commission's proposals of 23 November 2016 to amend the CRR, CRD and BRRD, members were asked for their views on what policy areas the EBA should focus to try to influence the final outcomes, as well as who should be the addressees of any such EBA's input and how this input could be best conveyed. The EBA Director of Regulation presented a note (document EBA MB 2017 018) with some preliminary ideas. She said that the EBA had expressed in the past its views on some of the topics, but also noted that there were other policy areas of supervisory importance that could depart from such EBA's stances.
32. Members shared their views on what and how the EBA could influence this exercise. One member noted that it would be important to select a few key policy topics on which the EBA should focus; for topics on which the EBA had carried out work and expressed its views, a mere reminder should suffice, but for other areas he said that the EBA should select the most important ones on which a convergence of views among members would be likely, and involve the BoS to form a final stance. Another member added that it would be necessary to identify those areas for which a mandate was missing, and on which the final outcome could actually be influenced by the EBA. All viewed that a letter, rather than a formal EBA Opinion, should be the means to communicate the EBA's input. The involvement of technical groups, before calling a discussion at BoS-level, was also requested.
33. Members expressed their preferences on the topics on which the EBA should focus, namely: a) maximum distributable amount (MDA); b) implementation and phase-in of IFRS9; c) own funds; d) leverage ratio for public development banks and promotion banks; e) supervisory reporting; and f) review of the trading book.
34. The Commission representative advised that the EBA should convey any such stances to the Council and the European Parliament; but he opined that the EBA should discuss with the Commission areas, such as reporting, which would entail changes to the EBA founding Regulation, in view of the coming Commission's consultation on the review of the ESFS. Moreover, he shared his views on different categories of topics with a view to helping the EBA to structure its work for this exercise.

Conclusion

35. The Chairperson thanked the MB for their views. He concluded that an EBA Opinion should be adopted only for policy topics touching upon key EBA responsibilities, and on which the EBA had not yet communicated its stance even if involved in their application, e.g. supervisory reporting, own funds, IFRS9 and interface with prudential aspects.

Agenda item 9.: Draft EBA Opinion on Improving the Decision-making Framework for Reporting Requirements

36. The Chairperson presented a draft EBA Opinion on improving the decision-making framework for supervisory reporting requirements in Regulation (EU) No 575/2013 (document EBA MB 2017 022). He explained that the Opinion intended to address areas where the reporting framework was not delivering as intended due to delays in the endorsement processes creating uncertainty and inconsistencies, as well as the much-debated issue of publication of reporting templates in the Official Journal of the European Union (OJEU). The EBA Head of Legal Unit gave details of the Opinion and the proposal that the EBA be empowered to adopt reporting requirements directly.

37. Members welcomed that the Opinion addressed areas of the reporting framework that needed improvements, but wanted to ensure that the granting of decision-making powers to EBA via an amendment of the CRR would be as legally effective as the current system. The Commission representative added that such powers should be clearly framed, and that a power to adopt decisions of general application should ideally be foreseen in the EBA founding Regulation.

38. The Chairperson thanked members for their views and said that the EBA would reflect on the points raised during the discussion before submitting the Opinion to the BoS.

Conclusion

39. The MB agreed with the overall proposal and submission of an Opinion to the BoS.

Agenda item 10.: AoB

– 2016 Full External Assessment of the Commission’s IAS and IAS Action Plan

40. The MB took note of the results of the full external assessment of the Commission’s Internal Audit Service and its action plan (documents EBA MB 20017 004 and EBA MB 2017 005).

– Draft Terms of Reference of 2017 Peer Review

41. The Chairperson presented the Terms of Reference (document EBA MB 2017 020) of the 2017 peer review. One member asked for flexibility to the peer review timelines where needed.

END OF MEETING

Andrea Enria

Chairperson

Participants at the Management Board meeting

24 January 2017

Chairperson Andrea Enria
Alternate Chairperson Pedro Duarte Neves

<u>Country</u>	<u>Member/Alternate</u>
Denmark	Jesper Berg
France	Édouard Fernández-Bollo
Italy	Luigi Federico Signorini
Poland	Andrzej Reich
Spain	Cristina Iglesias-Sarria

<u>EU Institution</u>	<u>Representative</u>
European Commission	Dominique Thienpont

<u>EBA Staff</u>	
Director of Operations	Peter Mihalik
Director of Regulation	Isabelle Vaillant

Philippe Allard; Jonathan Overett Somnier; Ester Botica Alonso; Gaetano Chionsini; Santiago Barón Escámez