



EBA MB 2017 082

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EBA Staff

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07 June 2017

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Location: London

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## Management Board – Final Minutes

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

1. The Management Board (MB) approved the provisional agenda and the minutes of the meeting of 04 April 2017 (document EBA MB 2017 059rev1).
2. The Chairperson welcomed the member from the National Bank of Belgium to his first MB meeting. He thanked the member from Bank of Spain, who was terminating his second term in the MB, for his contribution to the EBA since its establishment; and informed that a call for candidates had been launched to the BoS to elect a new member.

### Agenda item 2.: Administrative and Operational Status Report

3. The Executive Director presented the report (document EBA MB 2017 068). The Executive Director explained the budget execution status. Concerning HR, he noted that the EBA still received a good number of applications for each vacancy despite the uncertainty caused by Brexit. And on training, he noted that the offer for both EBA staff and Competent Authorities (CAs) had increased, with an increased availability of online courses for CAs.
4. The Executive Director reported on the eGate 2.0 project, for which the MB had recently approved a change of the financial envelope due to the identification of some deficiencies in particular due to the complexity of the requirements on the new functionalities. On the EUCLID project, the Executive Director noted that the EBA was still under discussions with the ECB regarding the enforcement of the sequential approach for the purposes of master data. He confirmed that the MB would be informed at the 11 September 2017 meeting about the progress of the project as well as on any budgetary decisions for 2018..

### Agenda item 3.: Approval of the EBA 2016 Annual Accounts

5. The EBA's Accounting Officer presented the EBA 2016 annual accounts and requested an MB Opinion (document EBA MB 2017 070). He informed that the European Court of Auditors had audited the accounts and the legality and regularity of the transactions underlying them, and had not issued any observations or remarks. He noted that the only question raised by the

accounts was the disclosure of the contingent liabilities resulting from the costs relating to the office lease contract and other potential costs in view of the EBA's relocation.

6. It was explained that the EBA had made provision in its accounts for dilapidation costs in light of its relocation, although with the caveat that the final amount to be paid would depend on the works actually done and the result of further negotiations with the landlord. One member asked for the impact on EBA's assets in case of relocation. It was explained that their current depreciation would have to be re-calculated to reflect the shorted useful life duration of some of the assets; furthermore, the impact would be different for movable and immovable assets: the former would be kept by the EBA whereas the latter would be depreciated or written off.
7. A member asked more generally what the impact of the relocation would be on the EBA's budget. It was explained that it was difficult to estimate it as long as the new location and timing of relocation were not known. It was agreed to have another MB discussion further to the European Council's decision of October 2017 on the new EBA's seat.

## Conclusion

8. The MB approved the decision giving its Opinion on the EBA 2016 annual accounts.

## Agenda item 4.: Renewal of BSG Members

9. The Chairperson explained that the BoS would have to appoint two new members of the Banking Stakeholder Group (BSG) since the mandate of a current member was about to expire, and another member had expressed her initial intention not to stand for a second mandate. EBA staff had prepared a proposal to appoint two members from the subcategory 'cooperative and saving banks' from category 'credit and investment institutions' from the latest public call for BSG members of autumn 2015, while ensuring due regard to geographical and gender balance and representation of stakeholders across the EU in the overall BSG composition. If accepted by the MB, the proposal would be then presented to the BoS for formal appointment.
10. Members welcomed the analysis of candidates and the proposal made. Some questions were raised however with regard to the nationality of the proposed candidates and the overall representation of their countries in the BSG and a suggestion was made to look into candidates of a different nationality. Members had also other questions with regard to the representation of cooperative and saving banks, and gender representation, in the current BSG composition, and how the appointment of the two candidates suggested by the EBA could affect it.
11. On a question as to how to improve the selection of BSG members in the context of the review of the ESAs Regulations, the Chairperson noted that the EBA had expressed its preference for an equal representation of industry, consumer representatives and academics while relaxing the requirement to achieve balanced geographical and gender representation within each category. He also noted that ideally the BSG could be split into three panels consisting solely of

industry, consumer representatives and academics, since the current setting with different constituencies did not always provide an optimal setting for focused and informed discussions.

## Conclusion

12. The EBA would check with the proposed candidates their availability to become BSG members and would put forward the proposal to BoS for final decision. The EBA would also reflect further on the comments by members and decide whether an alternative proposal could be presented to BoS.

## Agenda item 5.: Strategic Objectives for the EBA 2018 Work Programme

13. In view of the finalisation of the 2018 EBA Work Programme, the Chairperson presented a list of activities deemed to be common across the EBA, and noted the key work to be conducted in 2018, notably data analysis and infrastructure, impact of the UK's departure from the EU ('Brexit'), FinTech and training for supervisors (documents EBA MB 2017 066 and 067). A proposal to merge some related activities to streamline the work programme was also made. The views of the MB on the proposals were sought. He explained that in September 2017 both the MB's and the BoS' approval would be sought before final submission to the EU institutions before 30 September.

14. Members welcomed the grouping of activities and priorities for 2018. Some members agreed that the work on Brexit and FinTech was high priority, followed by the CRR/CRD review and work resulting from the BRRD.

15. A number of questions for clarification regarding other activities was raised, notably: a) inclusion of RTS on mortgage lending in the 2018 Work Programme; b) RTS on economic downturn; c) quantification of the impact on small institutions of the Basel reforms and proportionality-related work; d) work on the regulatory framework of investment firms; e) work to be done with other EU institutions concerning the data analysis and infrastructure project; f) alignment of the EBA's Work Programme with the Commission's work on resolution policy for the non-banking sector; g) inclusion of training activities for resolution authorities; h) further details on supervisory convergence activities; i) further details on the expected outcomes in 2018 regarding the stress testing of DGS; and j) cross-references to the Joint Committee's Work Programme.

16. On a question on the merging of some activities, it was explained that it was done to prevent a long listing of activities where such activities were being conducted with the same internal resources, this way reflecting the internal organisation. A member questioned whether this could hamper the development of multiple competencies by EBA staff.

## Conclusion

17. The EBA would fine tune the 2018 Work Programme in light of the comments raised by the MB. A final draft would be submitted for approval of both the MB and BoS in September.

## Agenda item 6.: Internal Report on the Unauthorised Disclosure of EBA Internal Documents

18. The EBA Head of Legal Unit presented a report (document EBA MB 2017 075) with the outcomes of an internal investigation following the leak of a document on RTS on strong customer authentication (SCA) and common and secure communication (CSC) under PSD2.

## Conclusion

19. The MB agreed that the report should be shared with the BoS, whose members would be invited to provide any relevant information they might have that could help the EBA finalise the findings and conclude the investigation.

## Agenda item 7.: Update on SCConFin Supervision Work

20. Further to the pilot workshop organised by the Standing Committee on Consumer Protection and Financial Innovation (SCConFin) on the guidelines on product oversight and governance (POG) and the work recently initiated by SCConFin on supervisory work in the area of consumer protection, the Chairperson presented a note (document EBA MB 2017 076) on the approach to supervision in consumer protection and the outcomes of the pilot workshop. He explained that the feedback received from consumer protection associations, also from Members of the European Parliament (MEPs), included the mention of lack of convergence and the differences between Member States in the area of enforcing and applying EU law on consumer protection. He also noted the differences and specificities for consumer protection regulation and supervision (compared to prudential regulation in particular) in terms of CAs' organisation, resources and expertise, as well as the diversity of CAs with responsibilities in the area of consumer protection. A staff member from the EBA's Consumer Protection, Financial Innovation and Payments Unit explained the specificities consumer protection supervision was facing as well as the outcomes of the workshop and the suggested next steps.

21. In view of the above, the Chairperson sought members' views and steer on how the EBA should take forward work on supervisory convergence in consumer protection.

22. Members were supportive of this work being conducted, and echoed the Chairperson's comments on the differences in terms of CAs' organisation, resources and expertise.

23. Members noted that supervisory convergence in the prudential area had different features than in consumer protection but they were equally of the view that this should not prevent the EBA from commencing work on supervisory convergence. Members agreed that consumer protection supervision should consider and learn from the supervision work that had been

conducted for some years on the prudential side. Members were of the view that existing tools on implementation, such as Q&As, may well suit consumer protection as well, while the supervisory tools used may differ. One member considered that supervisory convergence work should not be synonymous to more guidelines but should rather focus on the practical impact of such supervision.

24. Some members opined that one way to commence such work could be by understanding the differences in regulations and approaches across jurisdictions in the EU; this should facilitate harmonisation in order to promote cross border activities. Members also considered that the exchange of practices and information should be encouraged; this would help find answers to practical questions of implementation. One member said that its CA had developed alternative dispute resolution mechanisms to speed up the handling of consumer protection cases, which was proving popular and effective.
25. On the POG guidelines, the Commission representative held that it was important to know how its implementation was taking place across CAs to learn from this process and outcomes, in particular with regard to the challenges highlighted during the workshop

## Conclusion

26. The Chairperson thanked members for their exchange of views. He concluded that, depending on the particular area, either guidelines or Q&As could be an effective tool to support supervisory convergence. He also noted that the use of tools other than exclusively rule-like ones could be considered, e.g. benchmarks and score cards, and advised to develop a general supervisory methodology with defined criteria and success measures.

## Agenda item 8.: Note on Notification Reports

27. The EBA Head of Credit, Market and Operational Risk Policy Unit presented a note (EBA MB 2017 079) on the current state of the submission of notifications from CAs to the EBA; and sought members' endorsement to request all CAs to submit notifications on the credit institutions register (CIR), notifications and sanctions only via eGATE 2.0 once it would go live by end 2017; and that all CAs resubmit via eGATE 2.0 all notifications submitted via the notifications' mailbox. He said that with this, the EBA could have a better overview of all notifications such that it could advise on simplifications to the CRR/CRD.
28. Members expressed their concern with the request to resubmit past notifications and wondered whether the EBA could do it itself. One member noted that the obligation to notify the EBA did not always rest with the CA, but with other bodies according to the institutional arrangements in place within each jurisdiction. The EBA Head of Credit, Market and Operational Risk Policy Unit said that it was not possible for the EBA to do it itself since the format of notifications differed to one another. However, he suggested assessing a subset of past notifications to find out which ones seemed more relevant, and these would be subject to

resubmission by CAs. With regard to notifications not resubmitted by CAs, the EBA would have to look into alternatives to retain that information once eGATE 2.0 went live.

## Conclusion

29. The EBA would submit a proposal to the MB on resubmission of a set of notifications by CAs and, if approved by the MB, this process would be rolled out to all CAs via BoS.

## Agenda item 9.: Discussion on Future Work on Equivalence Assessment

30. The Chairperson explained that the Commission services had expressed their intention to step up the ESAs' tasks and role in the area of equivalence assessment. In view of this, he asked members for their views on how this possible extended mandate could be taken forward. To illustrate the current situation, the EBA Head of Supervisory Convergence Unit gave a presentation where she highlighted the EBA's experience, notably on assessment of confidentiality regimes and on assessment of equivalence of regulatory and supervisory frameworks, and explained the possible issues that could arise from MiFIR/MiFID for the banking sector and the EBA's role. She asked members on the implications for assessments of consolidated supervision in the case of intermediate EU parent undertakings (IPU), and what could be the potential for investment firms to enter the single market under MiFIR. She also highlighted that the equivalence work had shown to be very resource intensive and going forward should be adequately supported by internal resources and experts from CAs, considering also the need of having closer engagement with third countries and follow up monitoring of regulatory and supervisory framework.

31. Members had an exchange of views on the different matters presented. One member said that equivalence was a level 1 text issue and that as such, it should be addressed by the Commission when reviewing current legislation; but the subject of authorisation of investment firms should be tackled by EBA together with ESMA, an opinion which was not shared by others. He viewed that, in the context of Brexit this was going to be a very important issue to consider going forward given the potential for divergences between the EU's and UK's regimes.

32. On a question regarding the oversight of investment firms authorised under MiFID/MiFIR, the Chairperson noted the EBA's ongoing work on a prudential regime for investment firms, which would attempt to identify three classes of investment firms subject to different requirements and a different level of supervision. In this regard, one member expressed his concern that the very notion of equivalence would change as a result of the emergence of a regulatory framework which would be neither the CRR nor MiFID/MiFIR.

## Conclusion

33. The Chairperson thanked members for their views. He said that the EBA could strive to continue conducting its work on equivalence assessment under the current framework, considering the resources constraints, while liaising with ESMA with regard to the authorisation regimes under the new prudential framework for investment firms. The EBA Report on new prudential framework of investment firms, which would be finalised by September 2017, should clarify the treatment of classes 2 and 3 investment firms in the context of equivalence regime.

## Agenda item 10.: Annual Report on Resolution Colleges

1. EBA staff from the Resolution Unit presented the first annual report on resolution colleges (document EBA MB 2017 077). The report contained EBA staff's observations on the first year of functioning of colleges of 24 banking groups in 2016, but without focusing on college performance. Members were invited to comment on the report and what the EBA could do to address the issues identified.
2. The Chairperson explained that, since the scope of this first report was rather narrow, it was suggested not to publish it. However, noting some findings of the report which pointed at potential issues of compliance with legislation, he noted that it might be considered to publish a summary version of the report as a means of putting pressure on colleges/resolution authorities. One member agreed that it could be a good strategy rather than using other more formal mechanisms such as breach of union law tools, but also cautioned that it was important to step up pressure to prevent such problems from becoming more prominent in the future.

## Conclusion

3. The MB took note of the report, which would be tabled at the BoS meeting of 27-28 June 2017.

## Agenda item 11.: Provisional Agenda for the BoS Away Day 2017

4. The Chairperson informed the MB on the topics that he would like to discuss at the BoS away day meeting of 13-14 July in Tallinn, Estonia. The first topic would be proportionality, on which the EBA had started work some time ago although it had not managed to progress any further. He referred to a proposal drafted by the Austrian FMA as a basis for discussion. The second topic would be non-performing loans (NPLs), noting the Council's June meeting where some mandates for EBA's work could possibly be issued. He also noted the advice that the EBA could provide to the Commission on a blueprint for an asset management company (AMC).

## Agenda item 12.: Provisional Agenda for the BoS 27-28 June Meeting

5. The Chairperson invited members to comment on the proposed agenda for the BoS meeting of 27-28 June 2017 (document EBA BS 2017 171) before its submission to the BoS for information.
6. Members inquired on the EBA's intended approach on the *fit and proper* guidelines.

## Agenda item 13.: AoB

7. The Chairperson sought the MB's agreement on the EBA's Director of Oversight co-chairing the Standing Committee on Oversight and Practices (SCOP) together with a member of the BoS. He informed the MB that the current SCOP Chair had stepped down and therefore the EBA would issue a call for expression of interest to fill the vacancy. MB agreed to the co-chairmanship proposal.
8. The EBA was asked to continue circulating to MB and publishing regulatory dashboards.

**END OF MEETING**

**Andrea Enria**

**Chairperson**



## Participants at the Management Board meeting

07 June 2017

<b>Chairperson</b>	Andrea Enria
<b>Alternate Chairperson</b>	-
<b><u>Country</u></b>	<b><u>Member/Alternate</u></b>
Belgium	Jo Swyngedouw
Denmark	Jesper Berg
France	Édouard Fernández-Bollo
Italy	Luigi Federico Signorini
Poland	-
Spain	Fernando Vargas Bahamonde
<b><u>EU Institution</u></b>	<b><u>Representative</u></b>
European Commission	Dominique Thienpont
<b><u>EBA Staff</u></b>	
Executive Director	Adam Farkas
Director of Oversight	Piers Haben

Yves Lecoanet; Philippe Allard; Jonathan Overet Somnier; Lars Overby; Corinne Kaufmann; Ester Botica Alonso; Hélène Oger-Zaher; Con Horan; Antonella Pisani; Santiago Barón Escámez