



EBA MB 2017 120

EBA Staff

15 November 2017

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EBA REGULAR USE

Management Board – Final Minutes

Agenda item 1.: Conflict of Interests Declarations of Chairperson and Executive Director

1. The alternate Chairperson introduced the discussion on the declarations of interests submitted by the Chairperson and the Executive Director. He explained that, following a change to the Policy on Conflict of Interests applicable to EBA staff¹, the MB was tasked with deciding on the declaration of interests of the Chairperson and the Executive Director. He then gave the floor to the Chair of the Advisory Committee on Conflicts of Interest (ACCI), who gave details of the ACCI's advice on the cases submitted for decision. In the ACCI's view, neither of the interests declared by the Chairperson and the Executive Director would amount to an actual or potential conflict of interests.
2. Noting the time lapse between the submission of declarations of interest and the ACCI's advice, the Chair of the ACCI explained that it was caused by the introduction of amendments to the Col policy for staff and their final approval, and by the survey that the ACCI had conducted with other EU agencies to better understand their approach concerning leave of absence.

Conclusion

3. The Management Board agreed that the interests declared by the Chairperson and the Executive Director did not amount to a potential or an actual conflict of interests. The Management Board agreed that the gifts received could be retained by the recipients.

Agenda item 2.: Welcome, Approval of Agenda and Minutes

4. The Chairperson welcomed members and noted that there was sufficient quorum for the valid adoption of decisions. The Management Board (MB) approved the provisional agenda of the meeting (document EBA MB 2017 105rev4) and the minutes of the MB meeting of 11 September 2017 (document EBA MB 2017 104rev1).

¹ Decision of the Executive Director on the EBA's Policy on Independence and Decision Making Processes for avoiding Conflicts of Interest (Conflict of Interest Policy) for Staff and other Contractual Parties (EBA DC 104rev of 10 May 2017)

Agenda item 3.: Administrative and Operational Status Report

5. The EBA Director of Operations presented the Administrative and Operational Status Report (document EBA MB 2017 106). He noted that, in view of the EFTA's subsidy not being paid into the EBA's budget, an amending 2017 budget removing such a subsidy would be submitted soon for approval of the Board of Supervisors (BoS). He also informed the MB that the EBA intended to fulfil its 2017 establishment plan by the end of year; and that the public hearing before the General Court in case T-229/15 European Dynamics vs EBA would take place on Wednesday 16 November. As a follow up to the previous Administrative and Operational Status Report, he noted that both the 2017 appraisal and reclassification exercises had been concluded.
6. On a question regarding the EBA's training programme and the interaction with the SSM, the Executive Director explained the EBA's earlier plans to create a training hub that would have yielded a great amount of interactions with the SSM and national competent authorities (CAs) in the area of training; however, it was not implemented because of funding difficulties via specific contributions to the EBA's budget within the prevailing Financial Regulations. It was noted that the Commission's proposals on the ESAs review provided for a specific provision that could include an independent budget line to fund training activities.
7. There was a request to reconcile the figures on the statistics regarding the visits to the EBA's webpage.

Conclusion

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

Agenda item 4.: EBA Relocation: Status Report

9. The EBA Director of Operations provided members with an update on the EBA's relocation (document EBA MB 2017 111). He noted that the uncertainty about the exact new location was the main factor limiting the EBA's preparedness, although he also noted that the EBA had started project planning that would be adjusted once the new location had been announced. With regard to IT data centres, he said that they were likely to be moved out of the UK, and two scenarios were being considered, namely a) migration to the new hosting city, and b) migration to the same location of EIOPA's data centres regardless of the EBA's new seat. He also informed that a new service provider would be chosen as of 2019, as the contract with the current one could not be extended any further. The Executive Director explained to the MB that the current project planning was being conducted by the current EBA staff without the use of external resources. To mitigate the risk of potential staff losses in connection with the relocation, reserve lists of candidates for 9 different profiles would be built once the exact location of the EBA was announced. With regard to the impact of the relocation on the current staff, it was explained that a survey would be conducted among staff closer to the date of the relocation to understand staff intentions.

10. It was explained that the EBA had not received any indications as to the actual date of relocation, but the expectation was that it would be the date the UK withdraws from the EU; the EBA's founding Regulation would have to be amended in particular with regard to the provision on the EBA's seat, and the date of its entry into force would determine when the EBA would be expected to operate from the new location.
11. Finally, the Executive Director explained that the Single Programming Document 2019 did not include any relocation-related costs yet; but once the new location is decided, a BoS discussion followed by a written procedure would be run to include such costs in the EBA's 2019 budget.

Conclusion

12. The MB took note of the relocation report.

Agenda item 5.: Discussion on EBA's Internal Reorganisation

13. The Executive Director presented a proposal for reorganisation of the EBA (document EBA MB 2017 114). He described its three main objectives, notably a) to reflect the EBA's role and objectives on supervision and resolution, post-Banking Union and Brexit; b) to define more clearly priorities for the EBA; and c) to foster a common culture and team work. He explained that some small details were yet to be decided. The reorganisation would be implemented after the MB's approval.
14. Members welcomed the changes and expressed their agreement with the objectives of the reorganisation. They valued the possibility of giving staff new career opportunities, and in particular as a mitigating action to the possible departure of staff in view of the EBA's relocation. On a question on whether the EBA's was intending its shift from rule-making to supervision, as per the first objective, the Chairperson explained that it was not the case, but that the EBA intended to focus more intensively on supervisory convergence work which would be closely aligned with the policy making functions in the new organisation.
15. Some concern was expressed with regard to the timing of the reorganisation, in view of the immediate challenges of the EBA, in particular its relocation and the ESAs review. But some opined that the timing was particularly right since it would allow the EBA to integrate into the new structure the new tasks and activities as set out in the Commission's proposal on the ESAs review. The Chairperson noted that the EBA was a larger organisation than when it was established in 2011, and together with the uncertainty of the relocation, an adjustment was necessary to reflect its new reality. With regard to the ESAs review, he explained that although the proposed changes to the EBA were not particularly extensive, its involvement in equivalence work would be much greater, hence the need to adjust the organisation to deal with it effectively.
16. One member asked whether an assessment of suitability of the proposed changes had been conducted in view of the existence of the Banking Union and integration of national supervisors with the establishment of the SSM. The Chairperson noted that the EBA was in continuous

contact with the SSM and the SRB, too, to ensure the alignment of work programmes; and he acknowledged that, going forward, such coordination should be reinforced.

17. The Chairperson explained that the work of Standing Committees would not be expected to be affected by the reorganisation, although it would have an impact on the EBA's internal processes and coordination among lines of responsibility in order to deliver effective working practices. He noted that the coordination function of horizontal activities would be allocated within specific areas, which would ensure an effective coordination across the organisation to maintain a consistent approach. He explained the case of Q&As processes, which were evolving on an ad-hoc basis and whose robustness should be guaranteed.

18. A question was posed on whether the appointment of a fourth Director to head a new directorate could impair the smooth transition to the establishment of the Executive Board, as foreseen in the Commission's proposal on ESAs review; and whether the EBA had sufficient financial resources in 2018 to fund a new Director's position. The Chairperson explained that a smooth transition to the new governance structure should not be impeded, and that it was felt that the creation of a new directorate reflected the right distribution of tasks at this point in time. The Executive Director confirmed that the EBA's 2018 budget included sufficient funding and position for an additional post of Director.

Conclusion

19. The MB approved the proposed reorganisation of the EBA.

Agenda item 6.: Appointment of a Member of the Banking Stakeholder Group

20. The Chairperson submitted for the endorsement of the MB a proposal to extend the term of a current member of the Banking Stakeholder Group representing the 'independent top ranking academics' constituency (document EBA MB 2017 108). His current term would end on 7 January 2018. He said that the member had expressed his wish to continue for a second term.

Conclusion

21. The MB endorsed the proposal, which would be submitted to the BoS for final approval.

Agenda item 7.: Single Programming Document 2019

22. The Executive Director presented the draft Single Programming Document (SPD) 2019 (document EBA MB 2017 113). He noted that the SPD included the tasks and activities set out in the Commission's proposals on ESAs review and the proposed EBA's reorganisation, but not yet the impact of the EBA's relocation. However, he said that by the time of submission to the Commission (end-January 2018) the impact of the EBA's relocation would be included.

23. One member expressed his concerns with the SPD as submitted, noting that the new tasks in the Commission's proposal on the ESAs review were not yet approved by the co-legislators; alternatively, he said that such activities should be flagged in the SPD as 'conditional'. The Chairperson explained that the Commission's proposal envisaged that the ESAs review should be adopted by early 2019, which would justify their inclusion in the 2019 SPD. But he agreed that, for the sake of transparency and certainty, such ESAs' review-related activities and resources would be highlighted in the SPD as being conditional. This clarification was welcomed by members, who noted that November/December 2017 was not the best time to discuss the 2019 Work Programme in view of the many uncertainties in the horizon (Brexit, EBA's relocation, ESAs review) and thus the limitations provided by the document.
24. There were requests to clarify the evolution of the headcount figures; to present the listing of current tasks, new tasks and evolution of current tasks in a more orderly fashion; and to prioritise activities and include a list of EBA's priorities in 2019, with a break-down between policy-making and supervisory convergence activities. Noting that the structure of the SPD document was pre-determined by the Commission and that the EBA had to adhere to it, it was suggested to add an Annex with the rationale of the activities included within, as well as an Annex on the EBA's strategy for a 2-3 years' period.
25. The Commission representative informed that the Commission's intention would be that the new 29 headcount included in the Commission's proposal on ESAs review would be allocated to the EBA in 2019 and 2020; details would be provided so these could be reflected in the proposed SPD. He asked for a correction of the figures concerning the EU's subsidy for 2019 and 2020 as they showed a minor deviation from the ESAs review proposal; and also asked to review the figures of the EBA's 2019 budget in different parts of the SPD.
26. With regard to the budget, it was noted that the impact of the potential future loss of the UK's contribution to the EBA's budget had not been reflected in the document. Also, it was noted that many uncertainties remained concerning the progression of the EBA's budget, notably as of 2021 with the entry into force of the new funding arrangements provided for in the ESAs review, with contributions from financial institutions instead of contributions from national competent authorities. In view of this, it was asked whether contingency planning would be needed should certain activities could not be carried out due to funding shortages.

Conclusion

27. The MB took note of the draft Single Programming Document 2019. The document would be amended to provide indications with regard to activities related to the Commission's proposal on the ESAs review. The cover note to the BoS would explain that the SPD provided a granular description of EBA's activities in the prescribed format for Agencies as sought by the Commission to justify the request of resources for their implementation. The MB meeting of 20 March 2018 would have a first discussion on the EBA's future priorities, noting Brexit and ESAs' review developments, followed by further discussions by the BoS, to enable their inclusion in the EBA's

Work Programme 2019 to be submitted to the Commission, Council and European Parliament by end-September 2018.

Agenda item 8.: Single Rule-Book Q&As – Implementation Review

28. The Head of Capital, and Assets and Liabilities Management Unit introduced a proposal for a review of the implementation of Q&As (document EBA MB 2017 107), the objective of which would be to assess the effectiveness and efficiency of the Q&As process, and the use and implementation of Q&As and their contribution to supervisory convergence. She noted that the initial scope of the review was limited to so-called ‘regular’ CRR/CRD Q&As (i.e. non-reporting Q&As) but that it could be extended depending on the preliminary conclusions of the review.
29. Members welcomed and supported the proposal. Responding to a number of questions, the Chairperson clarified that this review should not be confused with a peer review, for it aimed at obtaining feedback on the functioning of the Q&A process without scoring institutions or CAs or assessing their performance on the implementation of Q&As. He also noted that the review would be beneficial for establishing the practical use of Q&As by CAs and institutions and determining the need for improvements of the Q&As process. It was explained that any possible improvement measures would be first discussed before their implementation.
30. There was a request to clarify whether any possible findings on issues regarding the clarity of Level-2 regulations or of the Q&As themselves were expected to lead to changes. It was noted that that was not expected given the robustness of the process for developing answers; but that corrections could be envisaged should any issues be identified. Furthermore, it was explained that the review should not lead to corrections of the existing Q&As.

Conclusion

31. The MB welcomed the proposal as a means to identify issues on the implementation of Q&As. Any measures resulting from the outcome of the review would be discussed prior to their implementation. Both the BoS and the Standing Committee on Regulation and Policy (SCREPol) would be kept informed of the progress of the review.

Agenda item 9.: Single Supervisory Handbook – Way Forward

32. The BoS representative from the ECB’s Supervisory Board joined via teleconference this discussion, which was conducted in an EBA’s *Supervisory Handbook’s Steering Committee* setting.
33. The EBA Director of Oversight outlined the proposal to relaunch the handbook project by developing a cybersecurity risk module in 2018. This would aim to provide CAs with information on best practices and guidance and tools for day-to-day monitoring and assessment of cybersecurity management in institutions. He also explained that as part of the overall discussions on cybersecurity the Standing Committee on Oversight and Practices (SCOP) supported the idea of developing the Handbook module on cyber (security) risk as part of the

other planned activities and, to this end, he proposed that the drafting of this module be entrusted to a drafting team under the Task Force on IT Risk Supervision (TFIT). Furthermore, the SCOP considered that it would be beneficial first to provide some guidance on cyber security addressed to institutions.

34. Members of the Steering Committee supported the proposal (document EBA MB 2017 112) to relaunch the work on the Supervisory Handbook with the drafting of a module on cybersecurity risk. And they agreed that the sequencing should be, first, adoption and publication of EBA Guidelines addressed to institutions, followed by work on the Supervisory Handbook module, with both projects aimed to be completed in 2018.
35. Regarding the governance model, members agreed with the proposal that a dedicated drafting team under TFIT should be in charge of its drafting, with the SCOP used as a sounding board prior to presenting the draft to the Steering Committee and BoS. Furthermore, they also agreed that it should be joined by two BoS members who would act as a 'sounding board' prior to transmitting the draft module to the Steering Committee.
36. One member noted that there were several initiatives on cybersecurity risk, e.g. by FSB and BCBS, and also ECB plans for the SSM and asked to avoid duplications.
37. More generally, one member said that it would be desirable to have a longer-term perspective for the Supervisory Handbook, including priorities, rather than relying on ad-hoc approaches.
38. The Chairperson recalled that in addition to the work on the Supervisory Handbook, the EBA also considered launching a Resolution Handbook. He noted that practices in the resolution area were still being developed, and thus it might be necessary to delay the start of that work, also considering the possible mandates from the ESAs review. Moreover, the governance structure for the Resolution Handbook would probably need to be different.

Conclusion

39. The Steering Committee agreed with the sequencing and the governance model for the drafting of the Supervisory Handbook module on cybersecurity risk, which would take into account other similar initiatives. To support better coordination it was suggested for the ECB to consider postponing their work and instead contribute to the EBA's work on the guidelines for institutions and Handbook module. The BoS members from the French and Polish CAs volunteered to support the work of the drafting team prior to the submission of the draft module to the Steering Committee. Furthermore, a discussion on longer-term priorities for the supervisory handbook going forward would be held at the MB meeting of 20 March 2018 (see conclusion under agenda item 7).

Agenda item 10.: Discussion on EBA's Efforts to Further the Integration of Banking Markets in the EU

40. The Head of Credit, Market and Operational Risk Policy Unit introduced a note (EBA MB 2017 115) with preliminary ideas on how the EBA could continue contributing to the integration of financial markets in the EU, including concrete measures to better promote a more efficient banking market. Despite the EBA's efforts to advance the completion of the single rulebook, he noted that significant challenges remained, in particular cross-border banking integration, which was impaired by obstacles to cross-border flows and high capital cost. He referred to areas outside banking supervision, such as corporate and consumer laws, and accounting regimes, as posing important obstacles to such integration; further work in other areas such as options and national discretions, macroprudential policies, prudential waivers, and ring fencing required policy advancements to support the integration of the banking market. He sought the views of MB members on what the EBA could do to support this important work.
41. Members agreed that this was an important objective and that significant work was still needed. One view was that the EBA should rather focus on areas directly related to the single rulebook, for its work could yield a greater contribution to the integration of the banking market, whereas attempts to get involved in areas for which the EBA did not have any mandate would hardly lead to any direct results. But still with this approach, and given the divergences across institutional frameworks, the impediments to achieve a greater degree of integration would be significant. To support this idea, it was noted that the EBA should deliver the evidence that removing obstacles to cross-border activities would advance the case for banking market integration.
42. A note of caution was expressed, namely that the regulatory framework remained unfinished and the EBA should step up its efforts to complete its policy agenda.
43. The note was considered by some as not sufficiently balanced: it was argued that future analysis should encompass – and give equal weight – to all relevant dimensions of the problem. The debate should be mindful of the boundaries of the current legal setting, and possible issues in the current framework impeding the integration of financial markets in the EU should be submitted for consideration of the BoS.
44. There was a discussion on the rationale of obstacles. Some members opined that their existence could be, in some instances, justified, and therefore it was necessary to understand their rationale before embarking in initiatives to remove them and to further harmonise the rules.
45. One member said that there was, in general, a retreat of banks to their national markets, justified for the failure of many banks to expand their business globally, and for capital shortages to support such initiatives. He opined that it was necessary to ensure the financial soundness of banks before embarking in ventures beyond their domestic markets. Another reason limiting the integration of the banking market was the different phase of EU banks' business cycles. The integration of macroprudential tools and avoidance of national discrepancies could support the work of banks beyond their borders. In this respect, it was added that it was necessary to

facilitate the expansion of branches by establishing an adequate supervisory framework for them.

Conclusion

46. The Chairperson thanked members for sharing their views. He noted that the discussion intended to identify key points in this important topic to help the EBA focus its efforts, and said that the discussion to be held at the MB 20 March 2018 meeting on EBA's priorities should also support this discussion. He highlighted that it was necessary to identify areas on which the EBA could provide added value, and singled out in particular the area of consumer protection.

Agenda item 11.: Discussion on EBA's Work on Equivalence

47. The Chairperson opened the discussion by noting that, due to Brexit, and with the reinforced role of the ESAs in equivalence assessments as set out in the Commission's proposal on ESAs review, this area of work would become more prominent going forward. He gave the floor to the Head of Supervisory Convergence Unit, who presented an EBA's note (document EBA MB 2017 110) laying down the EBA's approach and way forward with the work on equivalence, in particular in view of the EBA's strengthened role in the assessment and monitoring of third country equivalence and its enhanced role in coordinating national CAs dealing with third country authorities. She explained that the EBA had reactivated the work on regulatory assessment, and that the Commission had requested the full assessment of two jurisdictions, namely Argentina and South Korea. Additionally, the EBA would monitor currently equivalent countries. With regard to the assessment of equivalence of CRDIV confidentiality provisions, the EBA intended to monitor the authorities already assessed, and to assess a limited number of authorities depending on their relevance for the work in colleges of supervisors.

48. Members supported the approach and way forward. They agreed that this was becoming a priority going forward for the reasons explained. They discussed the approach to the assessment of equivalence of the UK's supervisory and regulatory regime once it had exited the EU, noting that it should be different to that adopted in other cases in view of its particularities. In general, it was noted that the approaches should be flexible and reflect the prudential importance of each jurisdiction, e.g. by means of creating ways of association with those jurisdictions to obtain information on a continuous basis to support their assessment and monitoring.

49. The Head of Supervisory Convergence Unit explained that, with a view to revisiting the assessment of equivalence of regimes already conducted, the EBA would group them in tiers based on exposures' risk, thus applying different approaches based on the specific needs and available resources.

Conclusion

50. The MB supported the EBA's approach and way forward. The EBA would prepare a roadmap for discussion by the MB in 2018.

Agenda item 12.: Provisional Agenda BoS 11 December Meeting

51. The Chairperson sought members' comments to the draft agenda for the BoS meeting of 11 December 2017 (document EBA BS 2017 377). He explained that, given the large number of topics and that the meeting would take place in just one day, he had decided to rearrange the agenda such that it would include a section with topics for which the BoS would be asked to give its formal approval without a discussion at the meeting; documents for these items would be submitted to BoS ahead of the meeting, as per the usual process. BoS members would be still given the opportunity to request the Chairperson that a discussion during the meeting be held for any of these topics, should time permit.

52. Members agreed with the approach presented by the Chairperson.

Agenda item 13.: Meeting of the Board of Supervisors and Management Board in 2018

53. The calendar of meetings of MB and BoS in 2018 was presented (document EBA MB 2017 109). There was a request to change the BoS meeting of 20-21 June since it would clash with a Basel Committee meeting.

Agenda item 14.: AoB

54. One member raised an issue concerning divergences in interpretation of some provisions of IFRS9 by auditors in banks in Poland. He wished to know which body was empowered to interpret IFRS9 with regard to their implementation in the EU. A discussion ensued. The Commission representative said that he would look into the matter and get back to the MB.

END OF MEETING

Andrea Enria

Chairperson

Participants at the Management Board meeting

15 November 2017

Chairperson Andrea Enria
Alternate Chairperson Pedro Duarte Neves (teleconference, item 1 only)

<u>Country</u>	<u>Member/Alternate</u>
Belgium	Jo Swyngedouw
Denmark	Jesper Berg
France	Édouard Fernández-Bollo
Italy	Luigi Federico Signorini
Poland	Andrezj Reich
Sweden	Björn Bargholtz

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

<u>EBA Staff</u>	
Executive Director	Adam Farkas
Director of Regulation	Isabelle Vaillant
Director of Operations	Peter Mihalik
Director of Oversight	Piers Haben

Delphine Reymondon; Lars Overby; Slavka Eley; Philippe Allard; Corinne Kaufmann; Guy Haas; Oleg Shmeljov; Marina Cernov; Davide Stroppa; Santiago Barón Escámez

Other
 Fergus Power (Chair of the Advisory Committee on Conflicts of Interest, for item 1 only)
 Korbinian Ibel (BoS member representing the ECB's Supervisory Board, by teleconference, for item 9 only)