



EBA BS 2011 210:

31 December 2011

Minutes of the sixth EBA Board of Supervisors meeting

7-8 December 2011 (13:00-18:30hrs; 8:40-15:30hrs)

Location: Tower 42, London

Agenda item 1: Welcome and approval of the agenda and minutes

1. The Chair opened the meeting and welcomed Aldona Jociene (new alternate member from Lithuania) and Mary Burke (new alternate member from Ireland).
2. The agenda and minutes were approved.

Agenda item 2(i): Taking forward any EBA recap Recommendation

3. The Chair noted that when setting the agenda it had been assumed that the vote on the Recommendation would already have taken place. He ran through the changes that had been circulated the previous evening and these were discussed by the Board, together with several new suggestions raised by members. It was agreed that EBA Staff should finalise the text by incorporating the points agreed.
4. The Chair pointed out that although the formal 2month deadline for 'comply or explain' purposes would be 8 February 2012, given the earlier deadline of 20 January for submission of capital plans addressee members would be urged to make the EBA aware of any likely compliance issues before Christmas.
5. On the related issue of reviewing supervisory plans in colleges, the Chair confirmed that the EBA would stand ready to participate in home/host discussions and that, where necessary, the mediation tool could be activated.
6. The Director Oversight gave an overview of the draft Press Release and Q&As. A few drafting suggestions were proposed on the former and publication time was confirmed for 18:00 CET. It was agreed that an additional Q&A should be drafted about the even distribution of the capital requirements between the 9% ratio, the application of Basel 2.5 and the sovereign buffer.

7. It was confirmed that EBA Staff are working on the templates for monitoring the implementation of the Recommendation which would be sent out to the Board for comments, with circulation of the final document next week. One Board member pointed out that NSAs need longer to comment on the templates and it was agreed that this should be accommodated within the timetable. Members also requested that SCOP be used as a sounding board for the supplementary monitoring tables (Tables 2-4) in order to streamline these.

Conclusion

8. The Recommendation was approved by the Board by QMV with minor amendments to recital 5, paragraph 3(b) and footnote 7.

Agenda item 2(ii): Implementation guidance on BCCS

Conclusion

9. The Board decided that members should be given a week to comment on the contingent capital guidance - any comments received would then be passed to SCRePol.

Agenda item 2(iii): Discussion of risks and vulnerabilities

10. The Chair of SCOP referred to his December letter and noted some particular vulnerabilities. He also noted that that implementation of the Recommendation should be consistent and that care needs to be taken with differences in the calculation of RWAs.
11. The Chair noted that there is work to do on the EBA's role in a crisis. The MB has already discussed and supported the idea that there should be better working level contact lists for effective information sharing. There is also scope for contingency planning, including within colleges, where there is particular role for mediation. It was suggested that a code of conduct, drafted by a small group of Board members and EBA Staff, might usefully outline EBA's role in this context and acknowledge that potential cross-border repercussions of one state's actions on another.
12. The Chair noted that colleagues in Cluster Oversight have alerted him to a few instances where steps have been taken by national authorities in relation to cross-border groups without due consultation and discussion in college settings.¹

¹ Please note that these minutes include information which the EBA cannot disclose under its Access to Documents regime due to (i) the public interest as regards the financial, monetary & economic policy of the EU; and (ii) its own, and the Council's, internal consultations and deliberations in order to safeguard their ability to carry out their tasks.

Agenda item 3: Proposed EBA approach for JC on BoS voting

13. The Board discussed the EBA Staff proposals on how best to (i) deal with interim decisions on rulemaking matters for final QMV; (ii) calculate simple majorities where there are abstentions in the form of no-votes, especially in written procedures; and (iii) communicate the result of votes, both to the Board and publicly.
14. The Board agreed that these matters should, ideally, be aligned across the ESAs and in their RoPs. Concern was expressed by members about simple majority votes preceding QMVs and also about treating abstentions including no-votes as positive approvals in written procedures - although it was generally accepted that there should not be a vote on every issue, not all members agreed with the proposal to skip voting on important interim steps in the process such as voting on mandates and consultation decisions. All voting members have a responsibility to participate in voting procedures. The Board agreed that, particularly since voting members act individually, only the results of votes should be communicated via the published minutes. Individual votes would however be communicated to the Board.
15. The representative from EIOPA mentioned that there, the working groups dealing with technical content usually identify a few key issues for the Board to vote on and confirmed that, for BTS, such vote would proceed by simple majority when the paper is for consultation and by QMV for final approval.

Conclusion

16. The Chair acknowledged the Board's clear preference on issue (i). He noted that the ESAs need to find a way of keeping the technical work going through the consultation so that deadlines could be met. He undertook to bring the issues back to the Board in February after the JC's 14 December discussion.

Agenda item 4: CP on ITS for supervisory reporting

17. On the key issue of contention - namely the extension of FINREP to non-IFRS banks on a solo basis - the Chair proposed that a way forward might be to consult on the IFRS templates for consolidated reporting only for now, noting that if the Commission's proposal to extend this is confirmed in due course, the framework will need to be extended to solo entities, which will take time and require a further EBA consultation in June/July 2012.
18. This approach would mean that the main matters of concern to members, including the application to investment firms, frequency and proportionality, could effectively be postponed for now. But as these

issues are unlikely to disappear longer-term, they should continue to be discussed internally within SCARA.

Conclusions

19. It was agreed that the CP should be restructured to focus on the application of FINREP on a consolidated basis, noting only in passing the proportionality issues which are likely to arise if EU legislators decide to extend this to solo entities.
20. The EBA would also express a clear opinion that the timeline for the solo application, if applicable, will need to be much longer. There will be a further round of comments on the revised paper next week and then the final CP should be on track for release before Christmas.

Agenda item 5: Accomplished College Action Plan 2011 and CAP 2011

21. The Board agreed that colleges should narrow their scope, focus on substance, take a proactive approach and consider crisis management.
22. The EBA's role here should be to identify and develop best practice. The Chair noted that given its Article 25 mandate and the emergence of SIFIs, it is important for EBA to be involved in the preparation of recovery & resolution plans and to work with global processes, avoiding unnecessary duplication.
23. Some members raised the importance of discussing within the college all measures which might have a direct and substantial impact on the economy or financial situation of subsidiaries in other Member States. Without this, mutual trust could be undermined and cooperation between NSAs hindered.
24. In view of the FSB's agenda and impact on non-EU colleges, links to the FSB could usefully be improved and an EBA observer seat at the FSB's regulatory committee table would be helpful.
25. The major obstacle to the EBA's participation in the FSB's Crisis Management Groups was reported to be concerns raised by third countries, in particular the US.

Conclusions

26. Two Board members agreed to take up the FSB observer request on the EBA's behalf.
27. The Chair will contact the US authorities regarding the participation of EBA Staff on CMGs and come back to the BoS on this.
28. The Director Oversight will bring more specific information e.g. on how many colleges have decided on Pillar 2 add-ons and for what reasons to the February Board.

29. In order to ensure that monitoring of colleges is up to date, the EBA will, together with NSAs, review and update the appropriate list of colleges that are required under the CRD, confirming the establishment of the college and indicating the format (fully fledged/non-fully fledged). A brief indication of the progress achieved in 2011 (e.g. joint decision reached) will be included.

Agenda item 6: Emergency situations

30. It was noted that even where an emergency is declared by the Council, the ESAs' powers are limited, especially as little of the current framework is contained in regulations.

Conclusions

31. EBA Staff will try to bring a paper to the February Board on how best to coordinate actions, keeping in mind that EIOPA's crisis management task force is proposing an interim monitoring group to be chaired by its Chair and is currently focussing on Article 18(1) options.

32. In advance of this, one member's lawyers will submit a note of their concerns about the ESAs' role in an emergency for information.

Agenda item 7: EBA 2012 Work programme

Conclusions

33. Subject to the entries on peer review and RWAs being upgraded to priority 1 items, the 2012 work programme as proposed by the MB was approved.

34. The letter to the Commission was also approved, subject to it being clarified that this represents the EBA Staff view.

35. The Chair will write to NSAs to ask for 2/3 national expert volunteers to assist an EBA Staff member on each individual BTS.

Agenda item 8: EU-wide stress test

Conclusions

36. The Board approved the proposal to postpone the 2012 exercise until at least Q3 when the recap exercise will be completed, working up the methodology in advance and linking it to both the 2011 stress test and recap exercises.

37. The Board agreed that the 2011 recommendations should be followed up in a proportionate way by:-

- involving the own funds group in the analysis of capital instruments to be eligible as mitigants;

- asking the ES alternate member to set out the practical way in which dynamic provisions could be considered to be appropriate mitigants, including information on what proportion are left afterwards;
- reviewing the purpose and desired end-result of future stress testing exercises.

Agenda item 9: ESRB update

38. It was noted that (i) ESRB Recommendations to the EBA need to be discussed by the Board and reported back on; and (ii) ESRB Recommendations to NSAs also require discussion in terms of non-compliance. (An example (i) is the Recommendation on foreign exchange lending where EBA guidelines are required by December 2013).

39. Notwithstanding some members' questions about the ESRB's plans for the data including the development of a dashboard, the EBA is legally obliged to provide the ESRB with the information required for the fulfilment of its functions, following a specific procedure in the case of requests for firm-specific data.

Agenda item 10: Developing a more consistent RWA assessment framework

Conclusions

40. The Board supported the suggestion of EBA work towards a more level playing field in model risk, coordinating with - and trying not to duplicate - the efforts of the Basel Committee in this area. It was agreed that the focus should look beyond sovereigns from the outset.

41. A specific EBA mandate in this area should be developed by EBA Staff and members involved in the BCBS's work, including the Chair of SCOP.

Agenda item 11: Monitoring of capital issuances

Conclusions

42. The majority of members supported the reported SCRePol position that 'full' illustrative option 3 (i.e. use of benchmarks) for monitoring was a good starting point for this work, with the possibility of moving toward option 1 in the longer-term. A minority were not in favour of 'full' option 3 but supported 'low' option 3.

43. It was agreed that EBA Staff will take forward this option and work towards its implementation.

Agenda item 12: Liquidity – Uniform format and instruction for reporting of the LCR

Conclusion

44.The Board took notice of the proposal to commence monitoring of this important topic on the basis of the suggested template, which would be voluntary initially and then mandatory post-CRD4.

Agenda item 13: Report on the implementation of Guidelines on operational risk management in market-related activities

Conclusions

45.Given resource constraints and the necessary prioritisation of BTS, the Board agreed that implementation studies on these CEBS 2010 guidelines should remain at priority 3 and be conducted subject to available resource within EBA and the relevant subgroup.

46.All implementation studies already underway (e.g. GL34, 39) will be completed with reports provided for information to the Board. Reports will not be published externally.

47.Implementation studies on EBA outputs in the form of post-2010 Article 16 guidelines and recommendations will be conducted in line with legal requirements for members to notify EBA of their compliance or intention to comply within 2months of publication.

Agenda item 14: SCFI update

Conclusions

48.The Board agreed that the SCFI's Report should be published, subject to a final review by the Committee.

49.The draft EBA opinion on domain names '.bank' and '.fin' was approved, with the suggestion that it should be shared with the other ESAs with a view to a possible common opinion.

Agenda item 15: Approval of EBA draft 2012 budget and treatment of CEBS 2010 accumulated surplus

Conclusion

50.The Board approved the Executive Director's draft 2012 budget, proposed treatment of the CEBS 2010 accumulated surplus (including cash repayment to the ECB), and proposed alignment of observers' ESA contributions for 2013.

Agenda item 16: EBA 2012 Annual training programme

Conclusion

51.The Board approved the proposed training programme.

Agenda item 17: Reports from Committees

Conclusion

52.The various progress reports were approved by the Board, subject to one member's request that SCARA includes in its Pillar 3 work a thematic study on Basel 3 implementation.

Andrea Enria
Chair



Participants at the sixth meeting of the Board of Supervisors
 London, 7-8 December 2011

Chair Andrea Enria

Alternate Chair Matthew Elderfield

<u>Country</u>	<u>Voting member /alternate Representative NCB</u>		<u>Accompanying Person</u>
Austria	Helmut Ettl	Andreas Ittner	Ingeborg Stuhlbacher
Belgium	Mathias Dewatripont	Rudi Bonte	
Bulgaria	Nelly Kordovska		
Cyprus	Costas Poullis		
Czech Republic	David Rozumek		Ivan Zahrádka
Denmark	Ulrik Nodgaard	Sean Hove	
Estonia	Andres Kurgpõld	Timo Kosenko	
Finland	Jukka Vesala	Kimmo Virolainen	

France	Danièle Nouy/Frédéric Visnovsky		
Germany	Raimund Röseler	Erich Loeper	Markus Lixfield
Greece	Patritsia-Maria Adamopoulou		
Hungary	Károly Szász/Laszlo Seregdi		
Ireland	Matthew Elderfield/Mary Burke		
Italy	Giovanni Carosio		
Latvia	absent	Vita Pilsuma	
Lithuania	Aldona Jociene		
Luxembourg	Claude Simon	Norbert Goffinet	
Malta	Karol Gebarretta	Alexander Borg	
Netherlands	Jan Sijbrand/Anthony Kruizinga		
Poland	Andrzej Stopczyński	Olga Szczepanska	Isabella Szaniawska
Portugal	Pedro Duarte Neves		Adelaide Cavaleiro
Romania	absent		Elena Georgescu
Slovakia	Vladimir Dvoracek		
Slovenia	Stanislava Zadavec Capriolo		

Spain	Fernando Vargas Bahamonde		Cristina Iglesias-Sarria
Sweden	Martin Andersson	Olof Sandstedt	Uldis Cerps
UK	Andrew Bailey	Fiona Mann	Cassandra Kenny

Country

Observers

Norway	Morten Baltzersen	Sindre Weme
Iceland	Gunnar Andersen	
Lichtenstein	Rolf Brueggemann (8/12/11)	

Institutions

Representatives

European Commission	Mario Nava
European Central Bank	Panagiotis Strouzas
ESRB	Francesco Mazzaferro, Silvia Pezzini
EIOPA	Carlos Montalvo
ESMA	Stephan Karas

Others

EBA Executive Director	Adam Farkas
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EBA Director Oversight Piers Haben

EBA Director Regulation Isabelle Vaillant

EBA Director Operations Peter Mihalik

EBA Legal Michelle Ewing, Joseph Mifsud