EBA BS 2014 395rev1

EBA Staff

16/17 September 2014

Location: London

EBA Board of Supervisors – Final Minutes

Agenda item 1.: Restricted session

Confidential discussion held only for voting BoS members and SSM, and non-voting BoS members and observers with direct supervisory functions.

Agenda item 2.: Opening and Approval of Agenda and Minutes

1. The Chairperson opened the meeting and informed of the following new nominations: Karin Hrdlicka as representative from the Austrian Central Bank; and Marianne Scicluna and Nelly Kordovska as Malta's and Bulgaria's new BoS Members.

2. The agenda was adopted. The minutes of the BoS teleconference of 16 April 2014 and of the BoS meetings of 13-14 May 2014 and 24-25 June 2014 were approved. The Chairperson reminded BoS Members that their comments to the minutes should be restricted to the extent possible to the focus of the discussion rather than to particular interventions by individual BoS Members. One BoS Member also requested that the minutes should be circulated in a timelier manner.

Agenda item 3.: Draft Consultation Paper on Guidelines on Payment Commitments to Deposit Guarantee Schemes (DGS)

3. The Chairperson opened the discussion on a draft Consultation Paper (CP) on Guidelines (GL) on payment commitments to deposit guarantee schemes (DGS) and welcomed representatives from bodies operating DGSs in Member States; in this regard, he recalled that DGSs whose representatives had been invited to a BoS meeting should be deemed competent authorities as set out in the EBA Regulation and in the DGS Directive.

4. The Chairperson informed BoS Members that the draft CP proposed a threshold of 30% as the maximum share of payment commitments which any credit institution could provide as part of its contributions in a given year; further, he presented three different options to ensure a neutral prudential treatment of payment commitments and corresponding collateral to avoid

that payment commitments be incentivised over cash contributions, whilst ensuring that the option chosen be as legally sound and harmonised as possible. The EBA Director of Regulation also explained that the power to accept payment commitments had to be provided to the DGS and that in this regard it was not a national discretion.

5. The Commission's representative explained that the prudential treatment was not prescribed in the DGS Directive and thus it should be an ancillary element to the GL, however he agreed to the non-discrimination between payment commitments and other contributions to DGS as introduced in the CP.

6. BoS Members raised concerns on various aspects of the CP, namely: a) treatment of payment commitments for accounting purposes; b) the implementation of payment commitments not only via contractual arrangements but also via statutory provisions of national law. A clarification was requested in order to ensure that, if a DGS was entitled to receive cash deposits from members, cash collateral may be provided directly to the DGS by the credit institution. While the proposal in the CP on limiting the DGS exposure to collateral highly correlated to events of payout was not questioned, a number of BoS Members considered that the currency of denomination should not be considered for this purpose as this would place excessive constraints on the ability to provide collateral.

7. With regard to the delivery of collateral by the collateral provider to the DGS, a request was made that in the case of a title transfer financial collateral arrangement, an explicit reference should be made that custodians should not be allowed to dispose of the low-risk assets provided as collateral.

Conclusion

8. The draft CP would be published for a three-month public consultation, to be followed by a further discussion at the BoS meeting in February 2015. Many of the questions raised by BoS Members and DGS representatives could be addressed during the consultation phase; BoS Members were asked to liaise with the EBA over the coming days in order to help fine-tuning a wording on cash deposits; and an open question on geographic concentration and currency risks would be included in the CP.

Agenda item 4.: Draft Discussion Paper on High-Quality Securitisations

9. The Chairperson presented the first draft of a discussion paper on high-quality securitisations following a call for advice from the European Commission; he informed that SCRePol would discuss about it at the end of September before issuing it for public consultation. He mentioned that it would be important to stay as aligned as possible with the proposals that BCBS-IOSCO were preparing on this topic, and which would be ready by end-2014 and February 2015, respectively.

10. The draft envisaged that qualifying securitisations fulfilled two sets of criteria: the first requiring that they should be simple (e.g., excluding synthetic securitisations), standard and transparent, and the second requiring that the credit risk stemming from the underlying assets should be contained.

11. BoS Members raised comments on, inter alia, what treatment would be applicable to covered bonds; on the exclusion of synthetic securitisations, some BoS Members noted that a way should be found to allow them if they met simplicity and transparency criteria.

12. On the recommendation on the implementation of a regulatory treatment for "qualifying" securitisations, some BoS Members mentioned that a risk weight floor to senior tranches of 'qualifying' securitisations of 10% at CQS 1 level was too low and suggested higher risk weights (e.g., 15%); on the requirement that each of the underlying exposures should fulfil a risk weight equal or lower than 35%, BoS Members showed some disagreement. Comments were also voiced on criterion 21 that investors and prospective investors should have readily available access to data on the underlying individual assets on a loan-by-loan level.

13. The ESMA representative asked that due diligence by investors should better not be replaced by a pre-defined set of disclosure criteria. And the representative from the European Central Bank (ECB) suggested that, before publication, the criteria should be harmonised as much as possible with the criteria being developed by BCBS-IOSCO.

Conclusion

14. The Chairperson recalled that the EBA should progress rapidly on this topic by setting out a timeline which should be aligned with the work by the BCBS and IOSCO. The 35% risk weight for underlying exposures would be slightly increased. The BoS supported that the draft discussion paper would now be fully finalised at the end-September SCRePol meeting before prior to publication.

Agenda item 5.: Guidance on Permanent Partial Use on Sovereign Exposures

15. Two different options were presented for the consideration of the BoS: 1) issuing GL to reduce the application of PPU to sovereigns (as allowed for under the conditions specified in Article 150(1) (d) CRR) to either 0% of the bank balance sheet or a higher percentage through a phased-in approach; this GL could possibly be accompanied by an EBA Recommendation for the application of the F-IRB approach for the calculation of capital requirements for sovereign exposures that are currently treated under the SA; and 2) no action at this point in time (i.e. finalise GL on sovereign limits on exposures under permanent partial use by 2018, as mandated under Article 150 CRR).

Conclusion

16. The option of issuing GL in 2015 was ruled out and instead the EBA would adhere to the CRR timelines (i.e. 2018).

Agenda item 6.: Interpretation Issues on Deferred Tax Assets (DTA)

17. The Chairperson presented a paper on interpretation issues of the provisions of Article 478(2) CRR relating to the application of transitional provisions in the field of deferred tax assets (DTAs), the origin of which was a Q&A submitted to the EBA. He explained that Article 478(2) CRR allowed the phasing-in of the deduction treatment of DTAs over a ten-year rather than a four-year period; however, it was unclear as to whether this exemption applied to all DTAs, including those relying on future profitability (first possible interpretation), or just to those arising from temporary differences (second possible interpretation). Depending on the applied treatment, the impact on the capital position could be significant for some credit institutions also in the context of the stress tests, thus the importance to bring clarity to this matter.

18. The Chairperson informed the BoS that the Commission's DG MARKT suggested that both interpretations were possible and stressed his concerns about this position which would lead to significant differences between EU credit institutions, also within the SSM.

19. The Commission's representative confirmed its position and indicated that CAs may still decide to set up shorter periods than 10 years since both possibilities were offered by the CRR according to their interpretation.

20. The possibility to apply the more extensive interpretation only to credit institutions under restructuring was considered, but the Commission's representative clarified that such differentiation would not be legally feasible.

21. The SSM representative expressed concerns about the Commission's interpretation and the quality of the capital that institutions would use to cover the shortfall in the stress test exercise.

Conclusion

22. The Chairperson recommended that CAs took a conservative and prudentially sound approach (i.e., not permitting the 10-year transition period for DTAs depending on future profitability) and that only in Member States that underwent programmes and significant asset sales generating very significant amounts of DTAs, CAs could consider longer timeframes for all types of DTAs.

Agenda item 7.: Report on the Results of the First Monitoring of Additional Tier 1 Instruments

23. A report was presented to the BoS with the results of the EBA first monitoring of additional tier 1 (AT1) instruments, as required under Article 80 CRR, flagging areas where the EBA would consider necessary to revise or avoid the wording of some of the existing clauses for future issuances.

24. BoS Members supported the report presented as a means to foster convergence in the terms and conditions of issuances. A few BoS Members raised some issues, relating in particular to a further alignment with the conclusions of the cover note relating to write-ups, a drafting change relating to the non-standardisation of the triggers and a concern relating to the share conversion clause. Some pointed out that interpretations of level 1 text should be better pursued by means of Q&A process.

25. BoS Members also supported the design of standardised terms and conditions.

Conclusion

26. The report would be published as circulated to BoS, taking into account the remarks relating to the write ups and the non-standardisation of triggers. A discussion table with the industry would be organised and the report would further clarify that the EBA stands ready to discuss in more detail its content in order to assess if further consideration should be given to some aspects as well as to gather views on the areas still under review. SCRePol's Sub-group on Own Funds (SGOF) would work on the design of standardised terms and conditions.

Agenda item 8.: Liability Management Exercises for Instruments in their First 5 Years

27. A paper on how to deal with requests from credit institutions to exchange Additional Tier 1 and Tier 2 (AT1/T2) instruments, a question which had been submitted via the Q&A tool, was presented to the BoS. A previous discussion had taken place at SCRePol which supported such exchanges of AT1/T2 instruments before five years in case there was a replacement with a higher quality instrument, in exceptional circumstances and with prior approval from CAs.

28. A majority of BoS Members supported SCRePol's proposal. In particular, the discussion underlined that the proposal was prudent from a supervisory perspective; and that refusing the possibility to EU credit institutions to exchange capital instruments under the proposed conditions would put them in an uneven situation compared to the Basel III rules which did not even require a replacement of an instrument which would be repurchased before five years.

29. The Commission representative claimed that the legal basis in the CRR was clear and disallowed the treatment proposed by SCRePol and proposed instead that the Q&A submitted be classified as a category 1 Q&A (i.e. to be dealt with by the Commission). The Chairperson however claimed that the proposal was sound from a prudential point of view and should therefore not raise any legal concerns. He also underlined that a legal interpretation would

contradict the prudential objective of improving the quality of own funds where necessary (as the instruments would be replaced by instruments of a higher quality).

Conclusion

30. BoS Members agreed with the formulation of the proposed answer to the Q&A; however, it would not yet be published with a view to discussing with the Commission whether or not it could reconsider its position, otherwise the Commission would deal with this Q&A.

Agenda item 9.: Election of the Chair of the Standing Committee on Consumer Protection and Financial Innovation (SCConFin)

31. The BoS Members from Hungary, Ireland and Italy presented the candidacies they had put forward for the Chairmanship of the Standing Committee on Consumer Protection and Financial Innovation (SCConFin).

Conclusion

32. A secret ballot took place. The candidate from the Central Bank of Ireland, Bernard Sheridan, was elected to become Chair of SCConFin.

Agenda item 10.: Draft Consultation Paper on the Timing of Implementation of Guidelines on the Security of Internet Payment prior to the Transposition of the Revised Payment Services Directive (PSD2)

33. The Chairperson presented a draft CP on the timing of implementation of GL on the security of internet payments prior to the transposition of the revised Payment Services Directive (PSD2), which continued to be under negotiation, following the publication of the Commission's legislative proposal on 24 July 2013. The GL were based on the European Forum on the Security of Retail Payments [SecuRe Pay] recommendations and its legal basis was the Payment Services Directive (PSD1), however taking into account the Commission's proposal as well as the changes subsequently proposed by the Council of the EU and the European Parliament during the legislative procedure.

34. The proposal submitted for agreement by the BoS was whether the EBA should publish the CP immediately or at least no later than 20 October 2014, or whether the EBA should instead delay them until the adoption of the PSD2 by the Council.

35. Different views were expressed by BoS Members, although a majority were in favour of publishing the CP no later than 20 October. The Commission's representative expressed the view that the Council Presidency would welcome a delay to the consultation process until a general approach had been reached at the Council, which was likely to occur by end-October or early November.

Conclusion

36. The CP was approved as presented to the BoS for publication and public consultation on 20 October 2014.

Agenda item 11.: Establishment of the Resolution Committee

37. The Chairperson welcomed the representatives from national resolution authorities who had joined the 17 September session of the BoS meeting to discuss a number of resolution issues. He also asked if any BoS Member would have any objection to the participation of the resolution representative from the Central Bank of Ireland, noting that he still worked for a credit institution although he had signed an employment contract with the Central Bank of Ireland to take up duties on 22 September; the Central Bank of Ireland had informed the Chairperson that they had put in place the necessary arrangements to guarantee the confidentiality of the BoS discussions. The BoS raised no objections.

38. A draft mandate building on the conclusions of the BoS meeting of 24-25 June 2014 was presented to the BoS, according to which a Resolution Committee (ResCo) would be established within the EBA respecting the requirement of structural separation between the ResCo and other functions referred to in Regulation (EU) No 1093/2010, as required by Article 127 of Directive 2014/59/EU (the BRRD). The proposal foresaw that: a) the ResCo Chair would be appointed in the same way as Standing Committees' Chairs; b) only heads of resolution authorities would be ResCo members; c) ResCo would vote on technical standards, guidelines, mediation decisions and breach of Union law recommendations, however the BoS would take a final decision on these instruments by written procedure.

39. Representatives from resolution authorities strongly supported the proposals in the mandate for giving ResCo primary responsibility for approving decisions concerning resolution matters. While in general BoS Members welcomed the structural segregation proposed between supervision and resolution duties, some disagreement was voiced with the proposal to leave to BoS the endorsement of ResCo decisions only by written procedure without the possibility that those matters be brought to the BoS table for a more fully-fledged discussion. Some suggested that resolution authorities should be invited to a BoS meeting where matters voted on by ResCo would be discussed and voted on by the BoS; another option suggested was that the BoS only voted on ResCo decisions where these could pose potential conflicts of interest, otherwise ResCo should simply report to BoS on the decisions taken.

40. On the ResCo membership, the SSM representative was concerned that the proposed mandate did not take into account the supervisory functions that resolution authorities could possibly have in some countries, considering that not all Member States had established their resolution authorities; she suggested that a clause be introduced in the mandate to enable a review of the ResCo after one year of its establishment; in this context, the Chairperson noted that, in order to respect the segregation of functions, it would not be appropriate to have

national supervisory authorities in the ResCo although they could participate in technical groups where appropriate.

41. The ECB representative requested for the ECB to be included as a ResCo observer, but the Chairperson explained that the proposal did not include central banks neither as members nor observers on ResCo, but that, like supervisory authorities, they could participate in technical groups, where appropriate.

42. Finally, it was also requested that a similar segregation of staff working in supervision and resolution within the EBA should be adopted. The Chairperson informed that a proposal for EBA staff reorganisation would be submitted to the Management Board for consideration.

Conclusion

43. A written procedure would be launched to the BoS or another discussion proposed.

Agenda item 12.: Resolution Colleges and the EBA's Oversight Role

44. The EBA Director of Oversight presented a general overview of the EBA's oversight role in resolution colleges, noting that the expertise gained in supervisory colleges was an excellent starting point to establish efficient and effective resolution colleges. While the establishment and the legal form of resolution authorities varied across Members State, he stressed that the EBA could serve as a platform for experience-sharing as well as to provide guidance and assistance in their establishment; further, the establishment of resolution colleges could equally benefit from the EBA's experience, which would stand ready to provide guidance, training and an IT tool to offer a secure web platform for colleges, with a view to, inter alia, a) supporting the implementation of the resolution planning process and of joint decisions in resolution colleges; b) monitoring of selected number of resolution colleges; c) promoting consistency in resolution practices; and d) escalation of matters and resolving disputes (mediation).

45. For the establishment of resolution colleges, in 2015 the following activities would be undertaken: a) the mapping of entities and relevant authorities; b) the drawing up of written arrangements for their functioning; and c) the setting up of secure channels for information exchange.

Agenda item 13.: Draft Final Guidelines on Public Support Measures

46. Draft final GL on the types of tests, reviews or exercises that may lead to support measures under Article 32(4)(d)(iii) BRRD were presented to the BoS for adoption. The features in the GL included a timeline, a scope, a time horizon and reference date, a quality review process, a common methodology and, where relevant, a macro-economic scenario and hurdle rates, as well as a timeframe to address the shortfall. These elements were designed to assist CAs to

conduct such tests, reviews and exercises where institutions may not be able to address the capital shortfall resulting from the test, review or exercise and would, in that situation, be a potential candidate for resolution in accordance with Article 32(4)(iii) BRRD.

Conclusion

47. The draft final GL were adopted.

Agenda item 14.: Draft Consultation Paper on Guidelines on Recovery Indicators

48. The Chairperson presented a draft CP on GL on the minimum list of qualitative and quantitative recovery plan indicators. It was explained that the CP introduced mandatory indicators (capital, liquidity, asset quality, business model and governance) as well as market indicators which could be excluded if institutions and CAs proved that they were not suitable to the business model, size and complexity of that particular institution.

49. It was further explained that the indicators should be established by each institution with the aim of identifying the points at which the escalation process should be activated to assess which appropriate actions referred to in the recovery plan may be taken; such indicators should be agreed by CAs when making the assessment of recovery plans.

50. The Commission's representative noted that, in order to be BRRD-compliant, the categories of indicators included in paragraph 3 of Title II of the GL should also be mandatory to investment firms, thus removing the possibility of a complete waiver for investment firms as provided for in paragraph 8 of Title I.

Conclusion

51. The draft CP was supported by the BoS; the comment raised by the Commission's representative would be taken up before publication of the CP.

Agenda item 15.: Draft Consultation Paper on Group Financial Support

52. The Chairperson presented a draft CP on draft RTS and draft GL specifying the conditions for group financial support under Article 23 BRRD, and draft ITS on the form and content of disclosure of financial support agreements under Article 26 BRRD. Three points were highlighted regarding changes to the version following SCRePol discussion: a) the distinction between non-compliance with different capital buffers due to the intra-group financial support was dropped; b) clarification as to whether the financial support should be considered as any other market transaction or rather as an peculiar transaction in light of the indirect benefit and risks for the receiving entity with regard to the interest of the group as a whole; and c) the call for coordination between the CAs of receiving and providing entities was further enhanced.

53. Some BoS Members requested that, where assessing the financial condition of the receiving entity, a reference to the credit assessment that the respective providing entity would normally conduct when granting a loan to a third party should be included in the RTS and GL, as this would result in the CAs having more elements to decide whether or not to authorise the provision of the support.

54. Some BoS Members asked whether the differentiation between upstream and downstream support might not have an impact on the organisational structure of entities; they thus suggested less restrictive rules for upstream support.

55. It was also requested to clarify whether Article 6 of the draft RTS referred to resolvability on a consolidated basis; finally, further elaboration of chapter two on specification of conditions for group financial support was requested.

Conclusion

56. The draft CPs for RTS, ITS and GL were endorsed for public consultation, including comments raised by the BoS with a view to obtaining more input during the consultation phase, e.g. with regard to the wording of the differentiation between intragroup support and upstream/downstream support; the impact assessment should also elaborate further on the possible impact that the RTS and GL could have on entities situated only within or, respectively, inside and outside the SSM area; the request to further elaborate on Title two of the draft GL would be performed during the consultation phase.

Agenda item 16.: Simplified Obligations

57. The EBA Director of Regulation presented two draft CPs on simplified obligations: a) on draft GL on the application of simplified obligations under Article 4 BRRD, which included indicators, both mandatory and optional in a closed-list form, to be applied by CAs and resolution authorities when assessing institutions against the criteria listed in Article 4(1) BRRD for the purposes of determining whether simplified obligations should apply in relation to recovery

plans, resolution plans and resolvability assessments; and b) on draft ITS on the uniform formats, templates and definitions for the identification and transmission of information by CAs and resolution authorities to the EBA for the purposes of Article 4(7) BRRD; in this case, three reporting templates were included (on quantitative data on the number of institutions to which simplified obligations and waivers have been applied; on the approach of the authorities in relation to the application of simplified obligations under Article 4(1) BRRD; and on their approach to the granting of waivers under Articles 4(8) and (9) BRRD).

58. One BoS Member queried some of the mandatory indicators in relation to the 'scope and complexity of activities' criterion; moreover, a clarification was requested on whether institutions could be categorised (for the purposes of the assessment and reporting exercise) on the basis of size and not only of the SREP outcome.

59. Some BoS Members requested that the draft CP should make clearer that proxies may be used where FINREP data was not available; the EBA staff also underlined the requirement for authorities to submit the names/LEI codes of the institutions to which simplified obligations had been applied or waivers had been granted: names/LEIs were needed in order to help the EBA to assess the approach of the authorities to the application of simplified obligations. However they would not be included in the EBA's report under Article 4(7) BRRD.

60. On the list of optional indicators, some BoS Members requested that it should be an open list in order to take account of any institutional specificities relevant to the determination as to whether simplified obligations could be applied; and that a question should be included to gather feedback on whether or not the list of mandatory and optional indicators was sufficient as regards the full range of investments firms.

61. Finally it was noted that, from a general operational perspective, CAs and resolution authorities should tend towards more, rather than less, planning as the failure of smaller institutions could, depending on market conditions, also have systemic consequences therefore authorities should be cautious in their approach to the application of simplified obligations.

62. A question was posed to the Commission's representative in relation to Article 4(10) BRRD and whether this related to all institutions or only those referred to in Article 4(8) BRRD. The Commission representative confirmed that it was the policy intention that references to institutions in Article 4(10) BRRD were to be interpreted in accordance with Article 4(8) BRRD.

Conclusion

63. The draft CPs were endorsed for public consultation. The possibility of considering the list of optional indicators as an open list would be reconsidered post consultation. A question to obtain feedback on whether the list of mandatory and optional indicators did address the variety of investments firms would be included in the CP on the draft GL; on FINREP, the draft CPs would be checked and further text included if necessary to make clear that proxies could

be used where FINREP was not available; on approaches to categorisation, additional text would be included in the draft GL to make clear that categorisation may be on the basis of size.

Agenda item 17.: Resolution Tools

64. Four draft CPs were presented under this agenda point on: a) draft GL on the determination when the liquidation of assets or liabilities under normal insolvency proceedings could have an adverse effect on one or more financial markets under Article 42(14) BRRD; b) draft GL on factual circumstances amounting to a material threat to financial stability and of the elements related to the effectiveness of the sale of business tool under Article 39(4) BRRD; c) draft GL on the minimum list of services or facilities that are necessary to enable a recipient to operate a business transferred to it under Article 65(5)BRRD; and d) draft GL on the interrelationship between the BRRD sequence of write-down and conversion and CRR/CRDIV.

65. On the draft CP on GL on the interrelationship between the BRRD sequence of write-down and conversion and CRR/CRDIV, a request was made to reconsider the proposed rule to treat all AT1 instruments which ranked equally in insolvency in the same way for the purposes of write down and conversion, without considering other differences between the loss absorbing capacity of these AT1 instruments resulting from their contractual clauses.

66. On the draft CP on GL on factual circumstances amounting to a material threat to financial stability and of the elements related to the effectiveness of the sale of business tool under Article 39(4) BRRD, a request was made to include another question with a view to gathering input during the consultation phase on whether it was feasible to perform an assessment of the impact that the liquidation of a portfolio of derivatives or other assets and liabilities that were legally or economically interlinked could have on central counterparties, and whether this might give rise to liability risks for the CAs.

Conclusion

67. The draft CPs were endorsed for public consultation. The EBA would liaise with the Commission to inquire about the possibility of reconsidering the equal treatment of AT1 instruments for the purposes of write-down and conversion, and a question to that effect could be included in the CP; moreover, a question on the impact on central counterparties would be included also in the relevant draft CP.

Agenda item 18.: Early Intervention and Resolution Triggers

68. The EBA Director of Regulation presented two draft CPs, one on draft GL on triggers for use of early intervention measures pursuant to Article 27(4) BRRD; and a second one on draft GL on the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail under Article 32(6) BRRD. She explained that both draft GL were developed with a view to ensuring continuum and consistency between supervisory, in particular SREP, and resolution/crisis management activities.

69. On the provision established in the draft GL on conditions for resolution triggers whereby the CAs would inform resolution authorities of the outcomes of SREP, in particular where an overall SREP score of "4" or "F" would be granted, some concern was voiced as to whether this could affect the autonomous assessment that resolution authorities ought to perform; in response to such a concern, it was explained that such continuous communication between authorities was an overarching principle underpinning the BRRD as well as a means to achieve a comprehensive use of the SREP guidelines.

70. A few BoS Members requested that further clarification should be brought to the definition of "objective" elements (capital position; liquidity position; and other requirements for continuing authorisation) that should be taken into account by CAs and resolution authorities in determining whether an institution was failing or likely to fail; in particular, that the GL should further specify the meaning of a "significant" decrease in asset value identified by the Asset Quality Review (AQR).

Conclusion

71. The draft CPs were endorsed for public consultation. In the draft CP on the GL on resolution triggers the word "objective" would be removed from the expression "additional objective elements" included in sections related to capital position and liquidity position; moreover, a new question on "significance" of the decrease of asset value identified under the AQR would be added to this draft CP.

Agenda item 19.: Draft Discussion Paper on Derivatives Valuation

72. A draft discussion paper on derivatives valuation, with several possible methodologies for determining the value of liabilities arising from derivatives transactions, was presented by the Chairperson. As required by Article 49(5) BRRD, the EBA should submit draft RTS to the Commission by 3 January 2016, hence the discussion paper tabled at the BoS aimed at starting a preliminary exchange of views before its publication.

73. To note: a) the draft discussion paper included a balanced view on whether resolution authorities should rely on default valuation and estimates provided by counterparties or not; c) the paper adhered to the text of the BRRD (Article 44(2)(f)) on third country central counterparties (CCPs).

74. Some BoS Members suggested that the publication of the discussion paper was premature and should take place only following further analysis and only after the publication of draft CPs on draft RTS on valuation, which were planned by end-October or early November; also, that the work stream on valuation should further work on the discussion paper in order to benefit from its technical expertise.

75. The ESMA representative asked that for the sake of consistency, the paper should be aligned with the technical standards under EMIR, as well as with the joint technical standard on risk

mitigation for derivatives; moreover, that when a CCP was involved, it would be desirable that the valuation was performed on the basis of the CCP process.

Conclusion

76. The draft discussion paper would be aligned as suggested by ESMA; it would also be sent to the work stream on valuation; further, it would also be shared with some external bodies (to be identified) to obtain their technical input with a view to getting a CP as soon as feasible, without publishing the discussion paper. Depending on the progress made, a draft CP could be tabled at the BoS December 2014 meeting such that it could be published in early 2015.

Andrea Enria

Chairperson

Participants at the Board of Supervisors' meeting

16-17 September 2014, London

Chairperson: Andrea Enria

Country	Voting Member or Alternate[1] [2] [3]	Representative NCB
1. Austria	Helmut Ettl	Karin Hrdlicka
2. Belgium	Jo Swyngedouw/Rudi Bonte	
3. Bulgaria	Nelly Kordovska	
4. Croatia	Damir Odak	
5. Cyprus	Argyro Procopiou	
6. Czech Republic	David Rozumek	
7. Denmark	Jesper Meyer (*only 16 Sept.*)	Birgitte Søgaard Holm
8. Estonia	-	Indrek Saapar
9. Finland	Marja Nykänen	Kimmo Virolainen
10. France	Frédéric Visnovsky	
11. Germany	Peter Lutz	Erich Löper
12. Greece	Spyros Zarkos	
13. Hungary	Péter Gábriel	
14. Ireland	Cyril Roux/Mary Burke	
15. Italy	Luigi F. Signorini/Andrea Pilati	
16. Latvia	Jelena Lebedeva	Vita Pilsuma
17. Lithuania	Aldona Jociene	
18. Luxembourg	Claude Simon	Norbert Goffinet
19. Malta	Raymond Vella	Alexander Demarco
20. Netherlands	Jan Sijbrand	
21. Poland	Andrzej Reich	Maciej Brzozowski
22. Portugal	Pedro Duarte Neves	
23. Romania	Adrian Cosmescu	
24. Slovakia	Tatiana Dubinová	

[1] Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Veerle de Vuyst (National Bank of Belgium); Marek Zokol (Czech Česká Národní Banka); Charlotte Jul Rafn (Danish FSA); Ilja Hlebov (Estonian Finantsinspektsioon); Maurizio Trapanese (Banca d'Italia); Izabella Szaniawska (Polish Komisja Nadzoru Finansowego); João Marques (Banco de Portugal); Lisa Robinson-Hammond (UK Prudential Regulation Authority).

[2] Representatives from Deposit Guarantee Schemes (DGS): Marija Hrebac (State Agency for Deposit Insurance and Bank Rehabilitation of Croatia); Josef Tauber (Czech Deposit Insurance Fund); Marjami Kajander-Saarikoski (Finnish Deposit Guarantee Scheme); François deLacoste (French Fonds de Garantie des Dépôts et de Résolution); Georgia Karageorgi (Hellenic Deposit and Investment Guarantee Fund); Andras Fekete-Gyor (National Deposit Insurance Fund of Hungary); Sven Stevenson (De Nederlandsche Bank); Jerzy Pruski (Polish Bankowy Fundusz Gwarancyjny); Antoaneta Geoala (National Bank of Romania); Lars Hörngren (Swedish Riksgälden).

[3] Representatives from Resolution Authorities: Pierre Wunsch (National Bank of Belgium); Petar Pierre Matek (Croatina Financial Services Supervisory Agency); Stelios Kiliaris (Central Bank of Cyprus); Marek Petruš (Czech National Bank); Henrik Bjerre-Nielsen (Danish FSA); Pauli Kariniemi (Finnish Ministry of Finance); Dominique Laboureix (French Autorité de Contrôle Prudentiel et de Résolution); Adam Ketessidis (German BaFin); Maria Mavridou (Bank of Greece); Gábor Gyura (Central Bank of Hungary); John Coyle (Central Bank of Ireland); Roberto Cercone (Banca d'Italia); Janis Placis (Latvian Financial and Capital Markets Commission); Tomas Garbaravičius (Bank of Lithuania); Vincent Thurmes (Luxembourg Ministry of Finance); Aldo Giordano (Malta FSA); Marc Roovers (De Nederlandsche Bank); Jerzy Pruski (Polish Bankowy Fundusz Gwarancyjny); Cristian Bichi (National Bank of Romania); Julia Cilikova (National Bank of Slovakia); Matej Pollick (Bank of Slovenia); Mario Delgado Alfaro (Spanish Fund for Orderly Bank Restructuring (FROB)); Lars Hörngren (Swedish Riksgälden); Andrew Gracie (Bank of England).

25. Slovenia	Matej Krumberger	
26. Spain	Fernando Vargas/Cristina Iglesias-Sarrià	
27. Sweden	Uldis Cerps	Olof Sandstedt
28. UK	Andrew Bailey/Sasha Mills	Fiona Mann

Country	**Observer**[4]
1. Iceland	Unnur Gunnarsdóttir
2. Liechtenstein	Heinz Konzett
3. Norway	Morten Baltzersen

Institutions	**Representative**
1. ECB SSM	Danièle Nouy/Jukka Vesala
2. ECB	John Fell/Panagiotis Strouzas/Eleni Angelopoulou
3. Commission	Erik Nooteboom/Sabino Forníes-Martínez
4. EIOPA	Justin Wray
5. ESMA	Sophie Vuarlot-Dignac
6. ESRB	Francesco Mazzaferro

EBA Staff

Executive Director	Adam Farkas
Director of Oversight	Piers Haben
Director of Regulations	Isabelle Vaillant

Mario Quaglariello; Slavka Eley; Delphine Reymondon; Lars Overby; Stefano Cappiello; Dirk Haubrich; Corinne Kaufman; Jonathan Overett Somnier; Santiago Barón-Escámez

[4] Accompanying experts, DGS and Resolution: Örn Hauksson (Central Bank of Iceland); Sindre Weme (Norwegian Finanstilsynet); Idar Kreutzer (Deposit Guarantee Scheme Finance Norway); Øystein Løining (Norwegian Ministry of Finance-Resolution);