



EBA BS 2015 078rev1

EBA Staff

24/25 February 2015

Location: London

EBA Board of Supervisors – Final Minutes

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

1. The Chairperson opened the meeting and informed the BoS of changes to the membership communicated by Finanstilsynet- Danish Financial Supervisory Authority (Mr Sean Hove replacing Mr Jesper Meyer as alternate) and Lietuvos Banka - Bank of Lithuania (Ms Renata Bagdoniene replacing Ms Aldona Jociene as alternate). He also informed of the appointment of an alternate, Mr Heinz Konzett, to the observer from Liechtenstein's Finanzmarktaufsicht (FMA), and welcomed the Single Resolution Board (SRB) as an observer to the BoS.
2. The provisional agenda was approved. The minutes of the BoS meeting of 10-11 December 2014 were approved.

Agenda item 2.: Re-prioritisation of the 2015 EBA Work Programme

3. The Chairperson informed the BoS that the EBA Management Board, at its meeting of 27 January 2015, had decided not to endorse the Consolidated Banking Data (CBD) project due to the burden of changing reporting formats this would imply for some NSAs. The data would continue to be collected on an EU-wide basis by the ECB.
 4. The Executive Director presented a proposal for re-prioritisation of the EBA's 2015 work programme, including inter alia, changes to the priority level of certain deliverables, changes to deadlines and new deliverables as a result of new legal mandates.
 5. The BoS largely agreed with the changes presented, however requested to retain in 2015 the project on the data point model (DPM) design for the revised ITS on the liquidity and leverage ratio. On the guidelines on suitability of members of management boards, the ESMA representative asked the EBA to reconsider the decision to delay it as it could have implications for ESMA, which intended to carry out a similar project in 2015.
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6. On a request to think about a future strategy post-implementation of CRR/CRDIV and BRRD, the Executive Director agreed to consider it; he also confirmed that the EBA would continue its engagement with the BCBS's work, although the budget for the EBA staff participation at missions outside Europe had to be cut.
7. The Executive Director presented to the BoS an estimate of the EBA staff needed to support the 2015 work programme, as well as the envisaged number of staff to deliver the draft 2016 work programme as per the preliminary draft budget for 2016. Some BoS Members expressed their concern with the proposed budget increase and the costs linked to a headcount increase, and asked the EBA to prepare contingency plans and find new ways to deliver within its current staff levels. In this regard, the Chairperson recalled that the EBA relied heavily on competent authorities (CAs) resources (seconded national experts, project teams, etc.) and regretted that the EU institutions were assigning new mandates to the EBA but limiting an increase of its staff.
8. Finally, the Chairperson sought the views of the BoS on data reporting not yet foreseen in applicable legislation but that could prove positive for the purposes of implementing in advance some technical standards (TS) not yet adopted, such as for SREP reporting, and for reporting of areas for which either no technical standards were in place or the current ones which did not facilitate capture of sought data.
9. The BoS expressed diverging views on how to proceed, noting that supervisors needed a certain level of flexibility to perform supervisory obligations under Pillar 2, however there could be risks of double reporting of institutions in cases where it was already foreseen under Pillar 1. Duplication should be avoided, yet it seemed not possible to be making discretionary reporting requirements to so many institutions. The ECB would collect information on Pillar 2, as highlighted by the SSM representative. Some BoS Members argued that ensuring financial stability called in favour of some additional reporting, although the view that maximum harmonisation of reporting could be put in question by this additional reporting was also voiced by some. The Commission representative expressed his concern about the possibility that this might result in double reporting under the CRR, and informed that it could be anticipated that the Commission would adopt the pending technical standards by May 2015.

Conclusion

10. On the re-prioritisation of the EBA's 2015 work programme, it was agreed to align the delivery of the guidelines on suitability of members of management boards with ESMA's timing, and to allocate resources for the DPM design for the revised ITS on the liquidity and leverage ratio, for which the BoS was asked for resources via secondments to the EBA. The revised work programme would be submitted to the BoS for a final fatal flaw check before its publication.
11. On data reporting, the Chairperson noted the different views expressed by the BoS, stressed the importance of respecting the maximum harmonisation principle underlying the ITS and pointed out that in principle additional reporting needs should be assessed in advance through

SCOP and SCARA, in order to check whether a common framework could be developed for the monitoring of risks not covered in COREP and FINREP.

Agenda item 3.: Mandate of the Task Force on Impact Studies

12.The Chairperson presented the mandate of the Task Force on Impact Studies (TFIS) whose establishment had been approved by the BoS at its meeting of 28-29 October 2014.

13.The BoS requested some clarifications on the skills and qualifications of the TFIS members and its substructures, as well as on the reporting lines. The Chairperson clarified that reporting on pro-cyclicality was not foreseen as one of the TFIS tasks, and agreed to liaise with the ECB in this regard.

Conclusion

14.The mandate would be amended as per the suggestions and submitted to the BoS for final approval by written procedure.

Agenda item 4.: Annex (for internal use) to the Public Impact Study Group (ISG) Report on CRD IV – CRR / Basel III QIS Monitoring Exercise

15.The Chairperson and the EBA staff presented the internal version of the report, and informed that the public version had been approved by the BoS and it would be published the first week of March concurrently with the BCBS.

Conclusion

16.The BoS took note of the report.

Agenda item 5.: Draft Consultation Paper on draft Guidelines on Sound Remuneration Policies

17.Further to the discussion at the BoS meeting of 10-11 December 2014, the Chairperson presented for agreement of the BoS a draft consultation paper (CP) which took into account the legal reading of the Commission services on the application of the proportionality principle, notably with regard to the application of the variable remuneration rules to smaller and non-complex institutions. The possibility to use share-linked instruments in listed institutions was also discussed.

18.A significant number of BoS Members disagreed with the legal reading as confirmed by the Commission Services and expressed their concern about the impact that this approach could have on small institutions; some confirmed that their national implementation of the Directive provided for a different interpretation which allowed the neutralisation of the requirements

(deferral arrangements and pay out in instruments in particular). A few requested to put on hold the consultation while further clarification was sought from the EU legislators; while the majority did not uphold this option for the reputational risks for the EBA and also the need to update the currently applicable Guidelines, it was requested that the EBA provide an own-initiative advice to the Commission on possible legislative changes to enable the introduction of specific exemptions for certain institutions not making extensive use of variable remuneration. It would be necessary to include some additional questions in the draft CP with a view to receiving an estimate of the implementation costs in absolute and relative terms.

19. The ESMA representative asked to consider carefully in the guidelines the treatment of carried interests, and enquired on the application to asset managers.

20. Considering the broad consensus among the BoS, the EBA presented a revised draft CP with the comments suggested, as well as a draft press release announcing the upcoming EBA's advice.

21. The BoS largely agreed with the wording of the changes proposed as well as with the press release, asking for some minor changes to reflect that the Commission Services' legal interpretation was one possible interpretation of the CRDIV requirements. Some BoS Members requested that the EBA's advice also referred to the possibility of neutralising some of the above mentioned requirements to identified staff who received only a low amount of variable remuneration, with a few BoS Members expressing concerns with this option. A request to simplify the definition of significant institution was also made.

22. The Commission representative welcomed the possibility of receiving qualitative feedback from the industry; he also noted that a press release signalling divergences in national laws implementing the CRDIV requirements would not necessarily be welcome by the Commission.

Conclusion

23. The BoS was asked to submit comments in writing to the proposed changes to the draft CP and to the draft press release. The draft CP would be published the following week.

Agenda item 6.: Draft Report to the European Parliament and the Council on the Convergence of Supervisory Practices

24. The Chairperson and the EBA staff presented the annual draft report for submission to the European Parliament and Council of the EU, which summarised the EBA findings on supervisory practices across the EU.

25. The BoS welcomed the report; some members mentioned the limited recourse to EBA's mediation in cases where joint decisions could not be reached; and requested to change the tone of the report with regard to the future EBA work on internal models.

Conclusion

26. The draft would be amended as per the comments and submitted to the BoS for a final fatal flaw before its transmission to the European Parliament and Council of the EU.

Agenda item 7.: Draft Advice on Supervisory Benchmarking Exercise

27. The Chairperson and the EBA staff presented draft technical advice, requested by the European Commission, to assess whether the benchmarking process established in Article 78 of the CRDIV functions properly or whether changes would be needed to resolve any potential shortcomings in the process.

28. The BoS welcomed the direction and key messages of the draft, and suggested some changes or additions, notably reflecting EBA's support for the regular benchmarking of internal models, introducing an explicit reference to the rotation principle, the use of materiality thresholds and the application of less exhaustive benchmarks for exposure at sub-consolidated level, as well as making more factual the language on the proposal by the BCBS to use the standardised capital charges as a floor for the internal model calculations.

Conclusion

29. The draft would be amended as per the comments and submitted to the BoS for approval by written procedure before its transmission to the Commission and publication.

Agenda item 8.: Decision on the EU-wide stress test 2015

30. The Chairperson presented a proposal to the BoS not to conduct a stress test exercise in 2015 but instead a transparency exercise such as to continue ensuring an appropriate level of disclosure. As of 2016, the idea would be to start planning a regular and standard stress test cycle as a means to provide certainty to the market on the intentions of the supervisors. The BoS was asked for guidance on the way forward as well as to express any preference on the three options presented such as to start preparatory work for a final decision at the BoS meeting of 16-17 June 2015.¹

31. The SSM representative informed that the SSM would conduct in 2015 a comprehensive assessment on a small sample of banks. In her view, it was premature to have a discussion on a long-term strategy as the achievements and results of the 2014 exercise were still being evaluated, and some more time was needed to reflect on the three options presented.

¹ The three options were: a) a full top-down stress test by the EBA; b) a constrained bottom-up stress test similar to 2014 which could be either a completely separate exercise from all CAs' supervisory/macroprudential stress tests, or an exercise that would serve the transparency objective for the EBA, and that would involve a detailed quality assurance; and c) a light constrained bottom-up stress test with transparency focus, which would be separate from other CAs' supervisory/macro prudential stress test, would not include defined capital thresholds be based on a smaller sample to focus on the comparison of large banks across the EU and involve a lighter methodology and quality assurance.

32. Some BoS Members considered that it was positive to start thinking about the long-term strategy as a means to inject some predictability to the market, however requested more time to reflect on the frequency of regular EU-wide stress test, on the three options presented, on the sample of banks that should be subject to it, and on the lessons learned from the 2014 EU-wide stress test. Specifically on the three options presented, the BoS expressed diverging preferences, but leaning more towards a bottom-up than a top-down stress test.

Conclusion

33. It was agreed not to run a stress test exercise in 2015 but instead a transparency exercise, a decision which would be communicated to the European Parliament, the Council of the EU and the Commission. On the way forward for the future and a regular stress test cycle, preparatory work would be done, on the basis of the BoS comments, such that BoS could take a decision at its 16-17 June 2015 meeting.

Agenda item 9.: Draft 2014 Annual Report on the Functioning of Colleges

34. The EBA Director of Oversight presented the aggregated findings of the draft report on the functioning of colleges and mentioned, amongst other things, the changes to the institutional setting in 2014 with the establishment of the SSM, the AQR and stress test exercises, and the fact that since the application of CRDIV on 1 January 2014, colleges had to adopt joint decisions on liquidity for the first time in 2014.

Conclusion

35. The draft report, together with the 2015 Colleges Action Plan that was endorsed by the BoS at its meeting of 10-11 December 2014, would be submitted to the BoS for a fatal flaw check before publication.

Agenda item 10.: RESTRICTED SESSION

36. A confidential discussion was held only amongst voting members, and non-voting members and observers with direct supervisory functions.

Agenda item 11.: Update on Risks and Vulnerabilities

37. The EBA Director of Oversight presented an update on risks and vulnerabilities. He noted, amongst others, the persistently low level of banks' profitability, rising worries about geopolitical risks, and the ongoing impact of CHF and other FX movements, e.g. in the (mortgage) retail sector. The SCOP Chair presented a letter focusing on macro-prudential aspects such as risks of deflation, CHF fluctuations following the removal of the CHF/Euro peg, and current political crises.

38. The ESRB representative noted that there were some signals pointing at an increased resilience of the financial sector; in this sense, the use of macro prudential tools had helped stabilise the sector. He also informed that the ESRB was working in a number of areas, including understanding the differences in real estate markets and possible policies needed, and on how to implement capital buffers outside the EU. The ECB representative, for its part, noted that the EBA's and SCOP Chair's assessments were broadly consistent with that of the ECB's, with the exception of the risk of deflation. For the ECB, the main risks were, excessive financial risk taking, persistent weak bank profitability, and difficulties in the shadow banking sector.
39. The Chairperson asked the BoS for their views on what was driving bank profitability down, as well as on the shift from bank-based intermediation to other market-based channels, and enquired whether the EBA should perform any further work on their identification.
40. A change to the procedure for approval of the Risk Assessment Report (RAR) was suggested, whereby after submitting its comments, the BoS would be given one working day before its publication to express any objections, rather than formally submitting it to vote by written procedure.

Conclusion

41. The BoS took note of the update on risks and vulnerabilities; the changes to the procedure for approval of the RAR were approved.

Agenda item 12.: EBA Opinion on Crowdfunding

42. The EBA Staff presented a draft EBA Opinion addressed to the European Parliament, Council of the EU and Commission, recommending convergence of the regulation of lending-based crowdfunding and clarification of the applicability of existing EU law to such activities.
43. One BoS Member noted that, for the sake of legal certainty of crowdfunding activities as well as to have a clear prudential framework, it would be preferable to indicate that a specific comprehensive legal framework would be needed.

Conclusion

44. The BoS endorsed the draft Opinion, which would be transmitted to the EU institutions and published on the EBA's website.

Agenda item 13.: EBA Mandate under the Interchange Fee Regulation

45. The EBA Staff informed the BoS of a new EBA mandate under the upcoming Interchange Fee Regulation (IFR) to deliver RTS on payment card schemes. It was noted the challenging time

line to deliver this RTS, i.e. within 6 months after entry into force of the IFR, and the BoS was asked to agree that the EBA deliver in 12 instead of 6 months.

46.The Commission representative noted that a delay would need to be in line with the general implementation timelines of the IFR.

47.One BoS Member asked for further powers to enable the EBA to ensure that the relevant CAs could address issues that may arise after the TS had been delivered. The Chairperson noted however that, due to the imminent approval of the IFR, the EBA would not have the opportunity to flag this to the EU Institutions.

Conclusion

48.The BoS agreed to deliver the mandate within 12 months of the entry into force of the IFR.

Agenda item 14.: Discussion Paper on the Single Supervisory Handbook Project Plan

49.The Chairperson presented a discussion paper with a proposal for the future work on the Single Supervisory Handbook (SSH) which presented a choice of possible modules and some modifications to the development and governance process whereby the EBA Standing Committees would be involved in the consultation on the draft modules prior to their approval by the BoS or ResCo (for modules on resolution matters). The EBA Director of Oversight introduced the choice of topics suggested for future work (resolution planning, credit risk (AQR or IRB model approvals) and SREP liquidity adequacy assessment) and asked for BoS views.

50.BoS Members expressed their preferences, with a majority favouring work on AQR given the experience gained in 2014 as part of the SSH. The BoS also supported considering work on resolution planning under the separate Resolution Handbook, but requested this matter to be confirmed with ResCo.

Conclusion

51.The EBA would launch work on developing the SSH module addressing AQRs following the proposed governance and operational arrangements. The possibility of developing a Resolution Handbook and a module on resolution planning would be raised at the next ResCo meeting.

Agenda item 15.: Assessment of Equivalence of Professional Secrecy Provisions of Third Countries (CRD)

52.The Chairperson presented a report on the first round of assessment of an initial sample of non-EU supervisory authorities, and a draft recommendation suggesting a consistent treatment to determine which authorities could be invited to supervisory colleges. The EBA staff informed that two additional countries would be included in the recommendation.

53. On the proposed shortened consultation, the BoS largely agreed that it did not appear necessary nor appropriate to consult.

54. The EIOPA representative requested the alignment of approaches among the ESAs even if the institutions covered under the assessment of equivalence were different.

Conclusion

55. The Banking Stakeholder Group would be consulted instead of launching a public consultation. With regard to US and China, the report on supervisory authorities would be sent to the BoS in addition to the Recommendations including all positively assessed authorities; the Recommendations would be submitted for final decision of the BoS by written procedure.

56. The Network on Equivalence would progress its work with the assessment of Equivalence of Regulation and Supervision (CRR). A call for experts would be launched as soon as work needed to commence.

Agenda item 16.: Discussion Paper on the Future of IRB Models

57. The EBA Staff presented a paper outlining an approach for an efficient prioritisation the EBA mandates for TS and guidelines on IRB models and the sequencing of their implementation, noting the planned changes to the IRB approach both in the short and the long term. The proposal was based on the road map in credit risk deliverables.

58. The BoS praised the paper for bringing clarity on how the work of the IRB models would be programmed, also noting that it was in line with the BCBS, and considered that its publication should not be delayed with a view to obtaining feedback such as to continue progressing in this area. Comments were made that it would be important for the scope of the own-initiative Guidelines to be clear, and therefore BoS should agree the scope for each piece of work. Further comments were raised relating to the need to ensure consistency with the advice provided to the Commission on supervisory benchmarking so as to indicate that benchmarking would be carried out in a proportionate manner on material portfolios using a yearly rotation principle. However, there were also comments cautioning that there may be some data quality issues initially and disclosure against existing standardised approach benchmarks could be potentially misleading, therefore flexibility was urged. Finally, there were also comments on the permanent partial use of the Standardised Approach, in particular in view of the 0% risk weight for sovereign exposures, and in general on the need to clarify the IRB regulatory framework with a view to making it more robust.

Conclusion

59. The proposed approach to go out with the paper as soon as possible was supported by the BoS. A few drafting comments would be made to ensure the text was more neutral with regard to permanent partial use, clarification and consistency with the advice on

benchmarking. The paper would be resubmitted shortly, before its publication, to the BoS as a proposed Discussion Paper.

Agenda item 17.: Draft Consultation Paper on draft RTS on Requirements to Maintain Detailed Records of Financial Contracts

60.The Chairperson and the EBA Director of Regulation presented a draft previously discussed by the ResCo.

61.A suggestion was made to include a question to specify which data points should be collected at both 'per trade' and 'per counterparty' level.

Conclusion

62.The draft was agreed by the BoS for public consultation.

Agenda item 18.: Draft Consultation Paper on draft RTS on the Minimum Elements of Business Reorganisation Plans and Minimum Contents of Reports, and on draft Guidelines on the Assessment of Business Reorganisation Plans

63.The Chairperson presented a draft previously discussed by the ResCo.

64.The BoS discussed, inter alia, on the appropriateness of extending the application of the RTS and guidelines to the use of the bridge bank tool, and on the proposed new section of the guidelines on cooperation between competent and resolution authorities.

Conclusion

65. The BoS was invited to submit comments in writing to the EBA on the two modifications suggested, further to which the paper would be published for public consultation.

Agenda item 19.: Reports from the Standing Committees

66.The BoS took note of the Reports

Agenda item 20.: AoB

67.The Chairperson informed the BoS of a request by the ESRB to receive the data on residential mortgages used in the EBA's fourth report on the consistency of risk weighted assets. The data would be provided in an aggregate manner, ensuring in any case that the results of individual institutions could not be identified.

68. The Chairperson asked the BoS to consider a change to their national policies with regard to the duration of unpaid leave of their staff that also hold a temporary agent contract with the EBA, in order to align it with the length of the contracts under the EBA staff rules (3 year temporary contract, renewed once before an indeterminate contract can be offered – i.e., 3+3) or provide for exceptions in such cases. One BoS member asked the EBA to try and align with national policies its staff rules on the duration of unpaid leave.

Andrea Enria
Chairperson

Participants at the Board of Supervisors' meeting

24-25 February 2015, London

Chairperson: Andrea Enria

<u>Country</u>	<u>Voting Member/Alternate</u> ²	<u>Representative NCB</u>
1. Austria	- ³	Michael Boss
2. Belgium	Jo Swyngedouw	
3. Bulgaria	Nelly Kordovska	
4. Croatia	Željko Jakuš	
5. Cyprus	Argyro Procopiou	
6. Czech Republic	David Rozumek	
7. Denmark	Ulrik Nødgaard	Peter Ejler Storgaard
8. Estonia	Andres Kurgpõld	Indrek Saapar
9. Finland	Maria Nykänen	Kimmo Virolainen
10. France	Édouard Fernández-Bollo/Frédéric Visnovsky	
11. Germany	Peter Lutz	Erich Loeper
12. Greece	-	
13. Hungary	Peter Gabriel	
14. Ireland	Cyril Roux/Mary Burke	
15. Italy	Luigi F. Signorini/Andrea Pilati	
16. Latvia	Kristaps Zakulis	Vita Pilsuma
17. Lithuania	Vytautas Valvonis	
18. Luxembourg	Christiane Campill	Norbert Goffinet
19. Malta	Marianne Scicluna/Raymond Vella	Alexander Demarco
20. Netherlands	Jan Sijbrand	
21. Poland	Andrzej Reich	Maciej Brzozowski
22. Portugal	Pedro Duarte Neves/M.Adelaide Cavaleiro	
23. Romania	-	
24. Slovakia	Vladimír Dvořáček /Tatiana Dubinová	
25. Slovenia	Miha Kristl	
26. Spain	Fernando Vargas/Cristina Iglesias-Sarrià	
27. Sweden	Uldis Cerps	Olof Sandstedt
28. UK	Andrew Bailey/Sasha Mills	Fiona Mann

<u>Country</u>	<u>Observer</u> ⁴
1. Iceland	Jon Thor Sturluson
2. Liechtenstein	Rolf Brüggemann
3. Norway	Morten Balzertsen

² Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Veerle de Vuyst (National Bank of Belgium); Julia Blunck (BaFin); Marek Sokol (Czech Česká Národní Banka); Maurizio Trapanese (Banca d'Italia); Joost Passenier and Olaf Sleijpen (De Nederlandsche Bank); Izabella Szaniawska (Polish Komisja Nadzoru Finansowego); Urška Arh (Bank of Slovenia); Lisa Robinson-Hammond (UK Prudential Regulation Authority).

³ Eva-Desiree Lembeck-Kapfer, Head of the Horizontal Banking Supervision Division, attended the BoS meeting representing the Austrian Finanzmarktaufsicht (FMA).

⁴ Accompanying representatives from central banks: Jonas Thordarson (Central Bank of Iceland); Sindre Weme (Norges Bank)

Non-voting Members

1. ECB SSM
2. European Commission
3. EIOPA
4. ESMA
5. ESRB
6. SRB

Representative

Danièle Nouy/Sergio Nicoletti (ECB)/Panagiotis Strouzas (ECB)
Niall Bohan
Manuela Zweimüller
Verena Ross
Francesco Mazzaferro
Dominique Laboureix

EBA Staff

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

Mario Quagliariello; Slavka Eley; Lars Overby; Stefano Capiello; Dirk Haubrich; Corinne Kaufman; Jonathan Overett Somnier; Santiago Barón-Escámez