



EBA MB 2019 133

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Management Board

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19 November 2019/09:00-15:30

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Location: Paris

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EBA – Regular Use

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# Management Board meeting – Final Minutes

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## Agenda item 1: Welcome and approval of agenda

1. The Chairperson welcomed the Members, in particular Martina Drvar and Sissy Papagiannidi, who have been recently elected as new Management Board (MB) members.
2. The Chairperson reminded the Members that there was a vacant position in the Advisory Committee on Conflict of Interest (ACCI). The ACCI was chaired at present by Fergus Power, the Head of the EBA Finance and Procurement Unit. A second member was Jesper Berg who was representing the Board of Supervisors. A third member shall be appointed by the MB. He mentioned that this committee would have a role when the new Executive Director (ED) was appointed and therefore, the EBA would welcome a nomination from the MB.

## Agenda item 2: Executive Director delegation of powers (A-Point)

3. The Chairperson informed that the ED's last day in the office was on 30 October and in line with the BoS decision regarding his future role at AFME, he adopted a decision delegating his tasks as ED. Considering that the formal role of the ED related to internal management, primarily of HR and finance, the tasks of the ED have been delegated to the EBA Director of Operations. His role in representing the EBA on policy had been divided between the policy Directors and EBA staff following notice of his resignation. The Chairperson concluded by explaining that at the next BoS meeting in December, the EBA staff was planning to submit for approval a decision, by which the Director of Operations would be appointed with immediate effect as an interim ED.
  4. With regard to the ED selection procedure, the Chairperson and the chair of the selection committee informed that interviews with shortlisted candidates were taking place on 19 and
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20 November and that after the interviews, the selection committee would select three candidates to be interviewed by the BoS at its meeting on 14 January 2020.

### Agenda item 3: Administrative and Operational Status Report (A-Point)

5. The Director of Operations presented the Administrative and Operational Status Report (document EBA MB 2019 120).
6. With regard to the budget, the Director of Operations explained that, due to the delay in the adoption of the ESAs' review, the budgetary amendment proposed by the European Commission (EC) to reduce the 2019 contribution to the EBA by EUR 2 490 000 was rejected by the European Parliament (EP). However, the EBA expected that a new amendment would be submitted before the end of the year. In relation to the budgetary amendment, he also mentioned that the number of TA positions for 2019 remained the same. He continued by summarising HR activities and mentioned that except for the ED position, the EBA would fulfil the establishment plan. The EBA received 12 resignations from January until the end of October (7 TA, 5 CA) and it was not expecting any further resignation due to relocation. The reclassification exercise was launched on 6 September and closed on 22 October 2019 and 39 staff members were reclassified. He also mentioned that the EBA has signed agreements for the direct payment of the tuition fees for the EBA's staff members' children with four schools and three nurseries in Paris. He concluded by referring to the more detailed section on trainings.
7. The Director of Operations briefly updated on the IT development. He mentioned that all production systems were stable, within the SLA for the reporting period. With regard to the EUCLID, he pointed that workstream 3 (Resolution reporting project) has been initiated. The Feasibility Assessment was approved and the project team was working towards its first delivery milestone; i.e. having Master Data for Supervisory and Resolution completed in January 2020. European Supervisory Platform (ESP), release 12 has been completed in September 2019, as planned. The release aimed to cope with new EBA reporting requirements as defined in ITS package release 2.9, benchmarking module. Finally, the Director of Operations referred to the upgrade on the EBA intra and extranet in September/October 2019.
8. The Director of Operations concluded by stressing that all IAS audit recommendations related to the internal controls addressed to the EBA have been successfully closed.
9. Some Members requested clarification on the budget and the EBA Head of Finance explained that the EBA amended all its financial plans to address the delays caused by the ESAs' review and respective budget amendments.
10. One Member asked about the reclassification exercise and the Director of Operations explained that based on the yearly performance appraisals and follow up reviews by line managers, members of the staff could be proposed for reclassification; i.e. change of their

grade. The appointing authority decided on the reclassification, which resulted in the increase of salary of reclassified staff.

11. One Member proposed to clarify the number of staff, in particular of new staff, and to link the numbers with the tasks in the Single Programming Document.
12. One Member asked for an update on the European School and the Director of Operations explained that the School was created due to EBA's relocation. However, it did not have the accreditation yet (the accreditation process should be completed by December 2019) and classes were open only for some grades due to insufficient capacity. For similar reasons, only French and English sections have been opened and the EBA staff members with children for which the class was not open, had an option to put their children in different schools and had their costs reimbursed up to a pre-defined ceiling approved by the MB. He also mentioned that the School was accepting also local pupils and as result, 2/3 of all pupils were local.
13. Finally, one Member asked about the premises in London and the Director of Operations clarified that due to the Brexit delays, the property market in the UK was not developing well. There was one company that was interested in sub-letting the 45<sup>th</sup> floor. He also noted that the EBA had to give its notice by February 2020 to break the lease and that all costs related to the rental and dilapidations were planned included in the budget.

## Conclusion

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

## Agenda item 4: FinTech – status update and a way forward (A-Point)

15. The EBA Director of Banking Markets, Innovation and Consumers (BMIC) Department noted the importance of technological neutrality in driving all of the EBA's work to ensure that regulatory and supervisory approaches did not inadvertently hinder or favour any one technology or actor. He reminded the MB that the EBA published its FinTech Roadmap in March 2018, taking account of the feedback from the FinTech Discussion Paper published in August 2017 and the COM FinTech Action Plan, which conferred specific mandates on the ESAs. The Roadmap identified six core thematic priorities and the need to establish an EBA FinTech Knowledge Hub. In addition, the EBA identified virtual currencies and other forms of crypto-assets as priority for continuous monitoring and action as required. The Director of BMIC confirmed that the EBA completed all the deliverable set out in the Roadmap, established the EBA FinTech Knowledge Hub and a new structure for sharing information amongst innovation facilitators – European Forum for Innovation Facilitators (EFIF) and that these both aimed at monitoring new technologies and opportunities as well as emerging risks. In this regard, he explained that the monitoring role of the EBA was crucial to ensure a proactive approach to technological neutrality and that the EBA should cover on an ongoing basis monitoring of innovations, regulatory perimeter and licensing, regulatory obstacles to

innovation, supervisory knowledge and consumer awareness. He explained that in addition the EBA would continue to look at specific issues and the key topics for 2020, would include RegTech and SupTech, Platforms, Crypto-assets, and Operational resilience.

16. One Member was of the view that focus should be on the operational resilience in order to challenge management of banks with regard to the platforms they are using, external providers and algorithms. In this regard, she referred to concentration on the market and the Director of BMIC confirmed that the EBA would further focus on the concentration and operational resilience. Another Member mentioned that at national level, they were doing real-time supervision and that they focused on SupTech and RechTech.
17. Other Member echoed requests from their industry, which would like to have more discussions with the EBA on the FinTech topics and suggested the knowledge hub could be used to facilitate such interaction..
18. Some Members pointed that the focus of the work should be on monitoring and the impact of FinTech/innovations on business models of banks and their profitability as well as on RegTech. One Member highlighted the impact of innovations on the core business of banks, use of clients' data by FinTech companies and increasing cyber risks.
19. The EC representative supported the work done by the EBA and informed that the EC was preparing their Digital framework and was considering to create a digital finance unit. He concluded that any overlaps in work should be avoided.
20. In his response, the Director of BMIC clarified that the EBA recently published its Guidelines on cyber resilience and would be assisting with implementation in 2020. He also mention that the EBA would continue its analysis of FinTech's impact on business models as well as coordination and liaison with the other ESAs and international bodies. He concluded by agreeing that the knowledge hub could be used for industry interaction and also referred to online training provided by the EBA, in particular on cloud issues.
21. The Chairperson concluded that the EBA would monitor how the technology affected the business models of banks, their solvency, new risks, resilience, as well as how it affected financial stability and position of consumers. Finally, he mentioned that the EBA would analyse how new technologies were affecting its work, reporting and how it could help doing its work better. He also informed that based on the discussion, the EBA would prepare a note for the BoS meeting in December.

## Conclusion

22. The MB supported the work and next steps on FinTech.

## Agenda Item 5: EBA IT Strategy (C-Point)

23. The EBA Head of IT presented a long-term vision and direction of the IT at EBA, a mid-term IT Strategic Roadmap and specified the EBA's strategic IT objectives. He stressed that the EBA should become a digital agency operating a Data Hub of information with digital dexterity and increased efficiency and transparency for the benefit of EBA's stakeholders and ultimately the European Union's economy, its citizens and businesses.
24. The MB supported the strategy but highlighted that any IT tools should serve, at the first place, to the EBA, then to competent authorities (CAs) and then to the wider audience. One Member pointed out that at national level, IT projects, which had to be set up to address all requirements from the ESAs, were challenging and expensive. He also noted that given the available resource, any future IT projects should be carefully considered. Other Member raised concerns whether there were IT tools that could be used in order to perform all AML tasks that the EBA has been mandated with. In this regard, other Member mentioned that even if there were many data collections, the EBA and CAs still did not have all necessary data, in particular with regard to the AML and that some time should be dedicated for specifying a scope of data collections for this.
25. The Director of BMIC clarified that in 2020, the EBA was planning to populate its AML database on incidents and issues reporting.
26. The Head of IT informed that the EBA's plan was to be more transparent with regard to its operation plans and to present to the MB implementation plans on a yearly basis. The new IT Strategy established business-led decision making on IT investments, starting with BoS approval of IT Strategic Roadmap, following with MB approval of IT Annual Plan and ITPMCC approval of each individual project.
27. The Director of Operations concluded that the EBA's aim was to establish a harmonised approach with the other ESAs, which should also result in less workload for the CAs.

## Conclusion

28. The MB endorsed the EBA IT Strategy (2020-2025).

## Agenda Item 6: Note on possible changes to the Basel monitoring exercise (B-Point)

29. The Chairperson introduced the item by reminding the MB that since the adoption of the final Basel III framework, in December 2017, the EBA has been conducting regular semi-annual Basel III Monitoring (BM) exercises that assumed the collection of supervisory data and other ad hoc banking data. These BM exercises led to the publication of reports, which assessed the impact of the final Basel III on the EU banking sector.
30. The EBA Director of Economic Analysis and Statistics (EAS) Department continued by noting that in conjunction with other data collection exercises, the conduct of the BM exercise, on semi-annual basis, put an additional burden on EBA, NCAs, and banks, alike. As result, some

banks dropped out from the BM exercise, reducing the consistent sample. To that end, the EBA was proposing to reduce the frequency of the BM exercise and, at the same time, make it mandatory for a selected sample of banks, which would be agreed and confirmed by the EBA and CAs. This should result in having a representative and consistent sample over time, without putting additional burden onto banks and NCAs. In fact, this would be beneficial for banks that do not belong to the sample of Basel countries and thus were not committed to submit data for the Basel sample.

31. One Member raised concerns related to the change from voluntary exercise to a mandatory one and requested a legal analysis as well as a robust methodology for the selection of the sample. He noted that the quality of data might not improve and several other Members acknowledged this.
32. Other Members were supportive but were of the view that data collections should be mandatory only for Basel III monitoring templates that are necessary for the cumulative analysis, and not for all other templates requesting additional information and data. They were also of the view that the sample should be stable.
33. The Director of EAS welcomed the proposal to use only the core Basel III templates (those needed for the cumulative analysis) as mandatory. The Chairperson explained that there could be further data collections but that these would be on ad hoc basis. With regard to the sample, the Chairperson concluded that the EBA would prepare a legal analysis and explain criteria for the sample.

## Conclusion

34. The MB supported the proposal to change the frequency and make the exercise mandatory for a sample of banks and for the set core Basel templates to be defined in an objective way.
35. The MB mandated the EBA staff to prepare a concrete proposal, including a legal analysis and specification of criteria for the sample of banks.

## Agenda Item 7: Update on the ESAs' Review implementation (B-Point)

36. The EBA Head of Legal Service Unit (Legal) updated the MB on the ongoing implementation of changes resulting from the ESAs Review and focused on some aspects, such as a conflict of interest policy, transparency and whistleblowing.
37. The Chairperson noted several key areas of coordination with the other ESAs, in particular in relation to stakeholders groups and conflict of interest.
38. With regard to the Minutes of the BoS and MB, the MB was of the view that the current drafting style was detailed and reflected discussions and therefore, it should not be changed.

In addition, the current practice of not naming speakers unless requested should be kept in order to facilitate open discussion.

39. On the peer review process, one Member was of the view that no publications should take place before approval by the BoS. Another Member mentioned that some redrafting might be necessary when the final legislation would be available. Other Members proposed more involvement of the BoS in adopting the peer review methodology.
40. The EC representative noted the concerns about disclosure of differences between the initial reports adopted by review panels and the final report approved by the BoS but stressed that this was the process agreed by the legislators and any flexibility was, at this stage of the legislative process, limited. He supported the proposed drafting on the conflict of interest, transparency and peer review. He appreciated the existing standards applied by the EBA to the Minutes. Finally, he mentioned that the proposal on whistleblowing should at least meet the requirements of the Whistleblowing Directive which is currently being finalised and that the process for the Commission to adopt Q&As which involve issues of interpretation was under consideration and further discussions with the ESAs would take place. He concluded by referring to opinions, which would need to be understood as being subject to the conflict of interest policy even if not part of the non-exhaustive list of acts referred to in any final drafting.
41. With regard to the Q&As, one Member referred to the Q&A Implementation Review, which might be considered when finalising the drafting of the Q&A process.
42. The Members exchanged different views on whether the change in the independence requirements for BoS members meant that Board members' position at their competent authorities could amount to a conflict of interest which could lead to a member not being allowed to participate or vote on an agenda item. Some Members considered that such a change did not result from the legislation, others considered that if such a change was the result of the legislation then it was important to ensure that the BoS continued to be able to hear the views of the conflicted competent authority on the topic. One Member argued for a delay in finalising the conflict of interest policy pending further discussions with the Commission, while others considered that the EBA needed to move ahead to implement the legislation quickly, particularly in view of the external interest in conflicts of interest issues.
43. One Member referred to the advisory committee on proportionality, which should have some external participation.
44. The MB requested to circulate the amended rules of procedure and other documents well in advance of the December BoS meeting. At the same time, one Member was of the view that the EBA should not rush with the finalisation.

## Conclusion

45. The MB took note of the ESAs' review update.

## Agenda Item 8: EU-wide stress test: proposals for addressing the ECA's recommendations (C-Point)

46. The Director of EAS reminded the MB that on 10 July 2019, the European Court of Auditors (ECA) issued a report named "EU-wide stress tests for banks: unparalleled amount of information on banks provided but greater coordination and focus on risks needed". The report included assessment of the implementation of the EU-wide stress test, and in particular examined whether the 2018 EU-wide stress test was fit for purpose. By looking at criteria for selecting banks and the process for identifying risks and for challenging banks' results, the ECA provided five recommendations to the EBA (and one to the Commission) to improve the exercise. Following this report, the EBA staff has produced a paper to assess ways of addressing the ECA's recommendations. The Director of EAS stressed that some of these recommendations might also be addressed as the outcome of the discussion on possible long-term changes to the EU-wide stress test.
47. The MB supported the EBA's approach in addressing the recommendations and on the consequences in terms of additional resources needed. Some Members raised the issue of resources and mentioned that the EBA staff estimates could be too optimistic, but accepted the proposal was a pragmatic way to address some key recommendations. The MB supported an increase of a top down control and the work on top down models at the EBA. One Member suggested having more than one scenario.
48. One Member was of the view that the EBA's role in quality assurance was limited as the CAs did the assurance at the national level. She also mentioned that any changes to the sample of banks would need to be carefully considered because at national level, all internal models were based on the ECB models.
49. The EC representative noted a need for more resources but acknowledged that it would be difficult for the EC to allocate more resources for this purpose. However, he advised to request the increase, when relevant.
50. The Chairperson concluded that the EBA would further analyse any top down approaches and would address them as part of the long term changes to the EU-wide stress test. With regard to the resources, he mentioned that the EBA would also need to prioritise and would request more as part of general resource allocation requests.

### Conclusion

51. The MB supported the EBA's responses to the ECA's recommendations and the proposal to request additional resources to the Commission.

## Agenda Item 9: Work programme progress report (A-Point)



52. The Chairperson introduced the item by mentioning that following request made at the MB meeting in June and the comments made by the Commission in its Opinion to our SPD2020, the EBA has prepared its first progress report on the main deliverables included in the Annual Work Programme.
53. The EBA Head of Policy Coordination Unit (PAC) continued by explaining that the progress report was based on an extract from the EBA's internal project management tool (Genius). He also mentioned that this progress report will be enhanced with further details in the future in order to monitor the completion of EBA tasks on a regular basis.
54. The MB welcomed this first draft providing an overview of EBA deliverables and suggested some improvements for further versions. It was agreed that this progress report will be regularly updated and presented to the MB, but not necessarily at every meeting.

### **Conclusion**

55. The MB supported further work on the progress report.

## **Agenda Item 10: 2021 Single Programming Document (A-Point)**

56. The Head of PAC provided an overview of the annual (2021) and multiannual (2021-2023) Single Programming Document (SPD) which include Work Programmes, Financial resource requirements and HR policies and resource allocation. He explained that the SPD is based on the 2020 EBA Work Programme approved by the BoS in September 2019 and the ESAs' review, AML, and Sustainable Finance legislative financial statements. He noted that details on the financial resources and staff allocation will be included in the final version of the document to be submitted to MB and BoS approval in January 2020.
57. MB members took note of the priorities and deliverables set in the draft SPD which reflect properly the upcoming agenda of the EBA considering its founding regulation and latest mandates. Some members considered that further details on resources prioritisation and allocation should be included in the SPD, in order to better reflect EBA prioritisation and resources allocation in steady state. Regarding priorities, one member underlined that EBA's ultimate priority should be to ensure financial stability by increasing the resilience of the banking sector. Other members underlined cyber risk, business models/profitability analysis and conduct issues as other priorities for the EBA in the short-medium term.

### **Conclusion**

58. The MB agreed to submit the draft 2021 SPD to the next BoS meeting.

## **Agenda Item 11: Provisional Agenda BoS 11 – 12 December Meeting (B-Point)**

59. The Chairperson reminded the MB that the next BoS meeting was scheduled for 11 – 12 December in Paris.

## Conclusion

60. The MB took note of the draft Agenda.

## Agenda Item 12: AOB

### A) EUCLID – update (A-Point)

61. The Chairperson reminded the MB that the 3rd WS of the EUCLID was approved by the MB. The Director of Operations informed the MB that one Member raised comments related to one of EUCLID goals of providing an integrated platform, which may be seen as pre-empting the planned work on the Feasibility Study for Integrated Reporting Framework. Director of Operations explained that the project's goal was to consolidate dedicated IT solutions related to the reporting into one platform within EBA in order to ensure that the platform was scalable to cope with increased sample and future reporting needs. This work was not impacting in any way the planned feasibility study.
62. One Member explained that IT projects in their CAs were expensive and the budget allocation at the national level was limited. Other Members informed that compared to other projects/demands, it was less challenging to obtain budget for the IT projects.
63. One Member requested clarification on whether centralising all data collections into one platform would not increase the risk and the Director of Operations explained that EUCLID's solution architecture is based on redundant nodes that provide backup in case of a failure of a component, to ensure smooth operation of the service.

### B) Conflict of interest (A-Point)

64. The Alternate Chairperson informed the MB that the EBA received letters from three Members of the European Parliament with regard to the EBA Chairperson and his declaration of interest, in which he specified that he was a shareholder in Banco Santander. The EBA staff prepared a draft response to this letter, which was distributed to the Members present at the meeting.
65. The Head of Legal noted that the approach that had been taken in relation to the EBA Chairperson would also be relevant to the future assessment and disclosure of conflicts of interests and measures taken in respect of BoS Members and EBA senior management who have previous work experience in the banking industry and, in line with the remuneration requirements under the Capital Requirements Directive, may not be able to dispose of any holding in their previous employer(s) for a number of years.

## Conclusion

66. The MB agreed that the EBA staff would analyse further the Spanish applicable remuneration law as well as the remuneration policy of the Chairperson's previous employer. The letter would be updated on the basis of this analysis and to set out clearly at the start of the letter the actions taken by the EBA to address the interests declared by the EBA Chairperson. The letter would then be circulated for comments and final approval.
  
67. The MB agreed to specify the number of shares held and the applicable retention period.

## Participants at the Management Board meeting

19 November 2019

**Chairperson** Jose Manuel Campa

**Alternate Chairperson** Jo Swyngedouw

**Member** Jesus Saurina

**Member** Jesper Berg

**Member** Martina Drvar

**Member** Sissy Papagiannidi

**Alternate** Sandra Wesseling

**Alternate** Peter Lutz

**European Commission representative** Martin Merlin

### EBA Staff

Director of Operations

Peter Mihalik

Director of Economic Analysis and Statistics

Mario Quagliariello

Director of Prudential Regulation and Supervisory Policy

Isabelle Vaillant

Director of Banking Markets, Innovations and Consumers

Piers Haben

Philippe Allard; Jonathan Overett Somnier; Tea Eger; Radu Burghelea; Lampros Kalyvas; Erika Sole