



EBA MB 2019 082

Management Board

4 June 2019/9:30-16:00

Location: Paris

EBA-REGULAR USE

Management Board meeting – Final Minutes

Agenda item 1.: Welcome and adoption of the agenda

1. The agenda and the minutes were approved.

Agenda item 2.: Approval of the EBA 2018 Annual Accounts

2. The Executive Director noted that the ECA audit had been completed and no material observations had been made by the independent auditors or by the Court of Auditors. He also explained that the EBA's annual accounts took into consideration the full financial impact of the Brexit and noted that this situation resulted in a negative net equity at the end of 2018 that would be financed by the 2019 and 2020 budgets. It was also indicated that there was no going concern issue identified by the report of auditors.
3. One member noted that an explanatory note would have been welcomed to better understand the reasons for negative equity. The Executive Director confirmed that the EBA would produce a note on this and provided a more detailed explanation.

Conclusion

4. The EBA's 2018 annual accounts were approved.

Agenda item 3.: Appointment of an Acting Accounting Officer

5. The Executive Director explained that due to the retirement of the Accounting Officer as of 31 May 2019, an acting accounting officer was proposed to be appointed. The proposed acting accounting officer had been formerly recruited as a senior accounting expert following a normal recruitment process.
-

6. One member requested that the appointment process is documented with reference to the respective rules and regulations.

Conclusion

7. The appointment of the acting Accounting Officer was approved.

Agenda item 4.: Administrative and Operational Status Report

8. The Director of the Operations Department presented the administrative and operational status report. With regard to the budget execution, he explained that the Commission communicated its decision to reduce its 2019 contribution to the EBA due to the delay of the implementation of the ESAs Review and AML Legislative Financial Statement. Consequently, it was noted that a written procedure on the EBA's revised budget would be sent out once the Budgetary Authority approved the amendment. Contributions by CAs are not going to be affected. Equally, it was indicated that the EBA had updated the annual working plan.
9. In terms of procurement, the Director explained that a large number of procurements were related to the relocation and the continuity of the services provided to the EBA to achieve its mission. He summarised the Human Resources changes, noting that there was a cut of 10 TAs and that the staff loss was well behind the EBA's expectations.
10. The representative of the European Commission explained that the planned resources for AML would not come until the beginning of 2020 as a result of the later approval of the ESAs reform. The Director of Operations explained that the EBA had built a reserve list for AML policy experts to make sure to be ready in early 2020.
11. In terms of IT, the Director listed the most important projects the EBA was running. The migration of the Data Center from London to Hamburg was completed in March 2019 without any disruption to the EBA's operations. With a view to reducing paper work and improving the efficiency of the workflow, it was explained that the EBA had introduced electronic workflows for two operational processes. With regard to the security of the EBA's extranet, a new step is being taken (two-factor authentication) to ensure a higher level of security for dissemination of documents.
12. The representative of the European Commission recommended EBA to provide to the MB regular information about the progress made on the implementation of the annual work plan. As the Management Board is responsible for the implementation of the work plan, the EBA should introduce some systematic tools to enable the Board to exert this function. The Executive Director opined and suggested presenting a regular state of play of the implementation of the work programme in a separate document.

Conclusion

13. MB members took note of the administrative and operational status report.

Agenda item 5.: EBA Relocation - Status Report

14. The Director of the Operations Department noted the actions taken to have all the staff successfully established in Paris as of June 3rd. Mainly: the IT team was able to set up all the services needed in the new premises: Corporate Support team prepared the new premises and performed office move: Finance & Procurement unit conducted all necessary procurements and established contracts with local suppliers: HR team arranged new contracts for all EBA staff. He mentioned that despite high level of complexity and very limited resources the EBA move was done successfully as planned and within the allocated budget, mainly thanks to the great teamwork of all relevant units within EBA. At the same time, he explained that the EBA was trying to reduce the amount to pay in relation to the disposal of the the London offices by hiring a property adviser to explore all the possible options.
15. The representative of the European Commission flagged that the EBA was still negotiating with schools and nurseries in Paris to get some agreements and enable EBA staff to have their education contributions paid. He also raised his concerns about SNEs who did not get allowances to move to Paris and suggested the EBA management to offer the same financial conditions as the EBA staff. The Executive Director agreed and asked DG HR of the Commission to confirm in writing.

Conclusion

16. The MB took note of the Relocation report.

Agenda item 6.: EBA Annual Fraud Risk Assessment

17. The Executive Director presented, for information of the Management Board, the results of the 2018 fraud risk assessment. He said that it was the third assessment since the adoption of the EBA's anti-fraud strategy in 2015, and all units across the EBA had been involved in performing the assessment of fraud risk scenarios.
18. A member of the EBA's anti-fraud team gave details of the methodology and the results of the assessment. He noted that the MB's observation made for the 2017 fraud risk assessment had been incorporated, notably the assessment of risks taking into account the control and mitigating measures for each scenario. Moreover, he said that the assessment of risk scenarios had been conducted by larger groups of assessors from relevant units across the EBA, which had facilitated the streamlining of scenarios (decreased from 97 in 2017 to 65 in 2018) as well as a more robust scoring. This had led, in turn, to alter the scoring of fraud scenarios although no changes had occurred as compared to 2017.
19. The actual fraud risk remained in 2018 medium to low. For eight risk scenarios, the fraud level was deemed material. The 2019 fraud risk assessment would look in detail into those scenarios, and the anti-fraud team would also contact the staff responsible for those scenarios to discuss measures to control and decrease the fraud risk level.

20. MB members satisfied themselves with the 2018 fraud risk assessment. One member asked for the reasons of the change in the scoring of the stress test scenario. It was explained that, because of the sensitiveness of the information handled during those exercises, and the fact that in 2018 fraud risks scenarios had been assessed by larger group of assessors, the fraud scoring had been increased but that no substantial elements had led to that increase.
21. The Commission representative asked to liaise with DG FISMA's anti-fraud team to align the controls and mitigating actions that could be implemented.

Conclusion

22. The MB took note of the EBA's 2018 fraud risk assessment report.

Agenda item 7.: Follow up to the BUL case

23. The Chairperson outlined the communication developed by the EBA regarding the BUL case discussed at the April BoS meeting. He also highlighted that the EBA received some requests to access certain documents related to this BUL case, which to date had been rejected. He outlined the communication developed by the EBA and insisted on the need for stronger coordination with CAs, in particular when national interests are involved, as part of an efficient crisis communication strategy.
24. EBA staff explained the process used to disseminate the draft recommendation, which leaked, and the EBA's security measures applied. Nevertheless, the Chairperson requested EBA staff to open an investigation on these leaks and present a report at an upcoming MB meeting describing the events that led to this leak and offering possible actions to reduce the likelihood of this happening again in the future.
25. The EBA has a range of existing options to deal with cases of supervisory weaknesses, including the intensive use of BUL investigations, the opening of a systemic risk or customer/consumer protection, the investigations under Article 22 (4) of the EBA Founding Regulation or the use of forward-looking and broad AML implementation reviews. Each, however, has its own restrictions or weaknesses. Furthermore, the BUL process has been amended in the context of the ESAs Review changes to the EBA Regulation. The EBA should assess pros and cons of any EBA tools to address perceived weaknesses in AML supervision.
26. All the members opined with regard to the communication challenges, noting that further clarity should be provided to the general public by flagging how limited the scope of the EBA's BUL mandate is. They also deemed important to understand how the different instruments could be used and how to identify when it is appropriate to use the BUL tool. On the latter, MB members expressed mixed views. One member suggested using this tool only for major issues, while other members questioned the application of the BUL instrument for 'past cases'. One member stated that the Commission had itself chosen the venue for the case and found it odd that the Commission subsequently had questioned the outcome. Regarding the application of the BUL case, the Commission representative considered that it could be applied

even for past cases if the potential breach of Union law was still ongoing. Another member stressed the need of a proactive attitude by making proposals about what can be done in terms of AML supervision. This member also stressed the importance of explaining the limits of BuL without refusing to use it if relevant, and that the Commission and the European Parliament should be involved in the discussions.

27. The representative of the European Commission stated that the communication in relation to the BUL case sent a wrong signal to the general public. He noted that the European Commission was excluded from the BoS discussion due to the EBA's reading of the professional secrecy restrictions, although the Commission had a role to play under Article 17 of the EBA Regulation. He welcomed the additional tools presented by the EBA, even though he showed some reservations on their efficiency.

Conclusion

28. It was agreed that the communication would be aligned on the basis of the minutes of the April BoS which were being finalised and to perform further analysis on how to better pursue EBAs activity on AML.

Agenda item 8.: Update on EUCLID

29. The Executive Director presented the state of play of the EUCLID project, noting that the Workstream 2 was about to be completed. He indicated that costs were slightly over budget, mainly due to the addition of the PSD register and the delay in hiring IT contractors.
30. He also summarised the conclusion of the Task Force on EUCLID Implementation (TFEI)'s work with regard to data models, flagging in particular that RIAD system would be mapped into the EBA master data system. He specified that the EBA would come back to the Management Board with the closure report of workstream 2, including the detailed costs, and the launch of Workstream 3.
31. One member asked when the additional costs for phase 3 would be known. The Executive Director explained that a better view on these costs will be provided in September with the project brief of Workstream 3. The representative of the European Commission questioned about the compatibility of EUCLID with the integrated supervisory reporting system. The Executive Director explained that EUCLID would be fully scalable and its development is actually a precondition for establishing an EU data hub.

Conclusion

32. The MB took note of the update.

Agenda item 9. : Cost of compliance study on supervisory reporting (Art 99 of the CRR2)

33. The Director of the Banking Markets, Innovations and Consumers (BMIC) Department presented the mandate given to the EBA by Article 430 (8) CRR. In this regard, the EBA has to assess the costs of the reporting requirements. The objectives are to ensure the effectiveness of the proportionality elements in the ITS, revisit and revise if needed, the understanding of the cost drivers to improve future reporting design. He split the project into two phases, namely a first phase focusing on the data collection from the competent authorities for categorisation of banks and a second phase comprising the measurements of the reporting costs and benefits and the drafting of recommendations. A tentative timeline was also provided, according to which the first phase should be completed by the end of 2019 and the second one by the second half of 2020.
34. He also examined the different challenges in relation to phase 2. As the cost of compliance study should require lots of resources, the EBA might be forced to rely on external help and support from CAs. In terms of methodological challenges, he raised possible issues, in particular on how to determine the ‘incremental’ cost of EU reporting from overall compliance costs, and how to manage banks’ expectations.
35. Members agreed with the proposed way forward. Some suggested liaising with other workstreams in relation to SREP for example. Some members also questioned about the financial implications and the difficulties to estimate costs. Another member considered that the high cost of the reporting framework did not arise from the framework itself but from the regular changes as well as numerous additional data requests outside the EBA framework. Another member suggested to also contact banks for their input on assessing costs in the course of this study.
36. With regard to the phase 2 of the project, MB members mostly supported the qualitative approach, while the representative of the European Commission viewed that a qualitative approach was not satisfactory and this project also required a quantitative approach.
37. The Director of BMIC department confirmed that the cost of the exercise might be high and a proportionate approach should be followed. He suggested to propose variety of concrete actions to reduce the reporting burden and costs instead of focusing only on reducing requirements in the EBA framework.

Conclusion

38. MB members took note of the discussion.

Agenda item 10.: Q&As – Update of the EBA’s Interactive Single Rule book

39. The imminent finalisation of the new CRD5-CRR2-BRRD2 requires an update of the EBA’s current Interactive Single Rulebook (ISRB), and as part of this a review of all relevant EBA Level 2 and Level 3 regulatory products and linked Q&As against the new incoming legislative texts.

EBA staff presented the implications of the Q&A-related work in terms of processes and resources.

40. With regard to the process, it was noted that this work would necessitate significant internal resources and a substantial involvement from the CAs. EBA staff explained the proposed methodology to review Q&As against updated legislative texts. Further to the completion of this identification work and the related approval process additional reflections on how to present the revised legal texts in the ISRB are necessary, not least, as these are expected to have budgetary implications.
41. Members supported this proposed work and asked for clarification on the timeline and the planning for CAs' involvement in the light of the considerable resource implications. [FR: One member also stressed the importance of differentiating between policy and reporting Q&As, which could be subject to different treatments.] The representative of the European Commission questioned the assumption underlying the proposal that the review should be based on a consolidated legislative text, noting that this may not be available for some time. While he recommended starting this work when the final texts will be available[COM: in the Official Journal], a discussion arose linked to the difficulties of undertaking such a review based on a non-consolidated text.
42. With regard to the update of the ISRB it was furthermore suggested to check whether this could benefit from experiences within European institutions in other areas. Although it was clarified that the Q&A are a particularity of the ESAs, possible ways forward will be investigated, e.g. with the EU's publication office or with external providers.
43. Finally, the Chairperson asked the Commission to check if they could provide the EBA with draft consolidated versions of the new texts as soon as possible to start working on this. At the same time, it was noted that the implications of this project would have to be considered from a procurement perspective.

Conclusion

44. The MB approved the way forward proposed by EBA staff.

Agenda item 11.: AoB

A) Update on the consolidated results and follow up of the 2018 IAS stakeholder survey

45. The Executive Director updated on the consolidated results and follow-up of the 2018 IAS survey.
46. This exercise is launched annually in order to assess stakeholders' views on the IAS's work, its impact, deliverables and effectiveness. In 2018, the IAS added a new statement on the added

value of the IAS's work and recommendations in enabling the auditees to improve their internal control systems.

47. The overall results for the IAS stakeholder survey were very positive for 2018, with continued improvement noted in the results for the relevance and added value of IAS recommendations.

B) EBA Policy for Use of EBA data for External Research Purposes and Involvement of EBA staff as Authors

48. The director of the Economic Analysis and Statistics department explained the new policy developed by the EBA with respect to internal research. In this regard, an internal policy has been designed, including the application of confidentiality requirements, and the possible restriction of the use of data. He also explained that the research would be driven by the EBA colleagues working under confidentiality agreement. For the externals, there would be no possibility to use those data outside the EBA premises and the researchers should be in contract with the EBA, in order to ensure a full application of EBA's rules, as requested by one member.

C) BoS Provisional agenda

49. MB members took note of the BoS provisional agenda and did not make any comment.

Participants at the Management Board meeting

4 June 2019

EBA Chairperson Jose Manuel Campa

EBA Vice-Chairperson Jo Swyngedouw

Member Edouard Fernánde-Bollo

Member Jesper Berg

Member Raimund Roseler

Member Maarten Gelderman

Alternate Bjorn Bargholtz

Alternate Alberto Rios

European Commission representative Dominique Thienpont

EBA Staff

Executive Director

Director of Operations

Director of Economic Analysis and Statistics

Director of Prudential Regulation and Supervisory Policy

Director of Banking Markets, Innovations and Consumers

Adam Farkas

Peter Mihalik

Mario Quagliariello

Isabelle Vaillant

Piers Haben

Philippe Allard; Jonathan Overett Somnier; Meri Rimmanen; Gaetano Chionsini; Guy Haas; Yves Lecoanet; Jordi Climent-Campins; Santiago Baron Escamez; Cédric Coraillon-Parquet