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Board of Supervisors

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Board of Supervisors 16 September 2021 – Minutes

Preamble: Exchange of views with Emily O'Reilly, European Ombudsman

1. The EBA Chairperson welcomed Ms Emily O'Reilly, the European Ombudsman.
 2. The Ombudsman presented the main areas of work of the Ombudsman's office, in particular how they deal with complains from individuals, journalists, or various institutions, as well as strategic inquiries carried out on the Ombudsman's own initiative, usually into major systemic issues with the EU's administration. She summarised the Ombudsman's strategic priorities related to ethics, transparent law making, accountability and participatory democracy, and fundamental rights. The Ombudsman elaborated on her work related to so called "revolving doors", using several examples including a case study of the former EBA Executive Director, welcoming the EBA's prompt commitment to implement the Ombudsman's recommendations.
 3. After the presentation, several BoS Members raised questions related to the Ombudsman's views on transparency, engagement between citizens and the EBA, in particular how the EBA could prepare in order to meet increasing expectations from EU citizens and at the same time, ensure predictability as well as understandability of its actions, independence of the BoS Members acting in the interest of the EU, and finally on effective administration. One Member also raised points related to political pressure, in this case, on the EBA, and the existing legal framework.
 4. In her response, the Ombudsman highlighted that in her work, she was primarily focusing on legislation and good administrative behaviour and even if there was some political pressure, her work was not political. She welcomed that the Ombudsman's recommendations were respected, even if not binding. With regard to transparency, she stressed its importance, in particular for the EU agencies as the EBA which was representing the interest of the EU and noted that trust in the EU institutions was of utmost importance. The Ombudsman also
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acknowledged the very good interaction of the EBA as a technical agency with citizens using videos and other interactive tools.

5. The Chairperson outlined that for the EBA, transparency was relevant not only in relation to the supervisory entities but in relation to the EBA itself and its internal procedures and decision-making process.
6. The Ombudsman reminded the BoS of the global financial crisis and the fact that the EBA was set up also to help avoiding similar crisis and to work independently in the public interest. She concluded by acknowledging the importance of good leadership.

Agenda item 1: Welcome, approval of the agenda and Declaration of conflict of interest

7. The Chairperson welcomed the Members of the Board of Supervisors (BoS) and reminded the Members of the conflict of policy requirements and asked them whether any of them considered themselves as being in a conflict. No Member declared a conflict of interest.
8. The Chairperson informed about BoS membership changes and welcomed three new BoS Alternates: Ms Linda Simkovicova (SK), Mr Magnus Eriksson (SE), and Ms Sofia Toscano Rico (ECB). He also mentioned that Mr Vladimir Dvoracek (SK) stepped down and he has been replaced by Ms Tatiana Dubinova (previously his alternate).
9. Finally, the Chairperson asked the BoS whether there were any comments on the draft agenda. There were no comments on the agenda.

Conclusion

10. The BoS approved the agenda of the meeting.

Agenda item 2: Update from the EBA Chairperson

11. The Chairperson updated the Members on four points. As a first point, he reminded the BoS that the EBA launched on 27 July 2021 a written procedure regarding the selection of a senior representative of a national competent authority for the Advisory Committee on Proportionality (ACP). He thanked the BoS for their votes and informed that Primož Dolenc received most of the votes and thus would be appointed as a new ACP member with immediate effect. Furthermore, after the departure of Mario Quagliariello, the EBA co-chairmanship in the ACP was vacant. To fill this position, the EBA had to amend the ACP rules and procedures because when the ACP was established the mandate specified that one of the co-chairs would be the EBA's Director of Economic Analysis and Statistics whose position was, with the reorganisation, split in two Directorates. To that end, the EBA staff have prepared an amended ACP rules and procedures without specifying any precise Director's position and the revised mandate would be submitted to the BoS for approval. Finally, to formalise the

appointment of the new co-chair of the ACP, after approving the revised mandate, an ED decision was required.

12. As a second point, the Chairperson invited the BoS to the EBA's 10 years anniversary conference which was to take place on 26 October. He mentioned that during the conference, the EBA was planning to have keynote speeches from the Commissioner on financial services, Ms Mc Guinness and the French Ministry of Finance, Bruno Le Maire, as well as two panels to reflect on where the EBA is 10 years after its creation, and where it should be in 10 years' time. He also noted that the next BoS and BoS/Banking Stakeholder group meetings was to follow the conference. The EBA was planning to organise the BoS meeting in a hybrid mode.
13. As a third point, the Chairperson informed that the EU's Anti-Fraud Office, OLAF, had recently concluded an investigation into how the EBA reached its decision on the post-employment conflicts of interest of the former Executive Director. The outcome was positive: the investigation found no irregularity, in particular no breach by the EBA of the Staff Regulations requirements on post-employment conflicts of interest. OLAF has made one recommendation to the EBA to "Undertake all necessary administrative actions in relation to, in particular, senior management employment contracts, as the investigation showed that no contractual provisions were foreseen in such a contract in terms of gardening leave and/or a 'cooling off' period". The EBA was to share the full report with the Management Board (MB) and discuss it at the MB meeting at the end of September.
14. As a final point, the Chairperson summarised his attendance during informal ECOFIN and highlighted a particular interest in the EBA's work on innovations.

Agenda item 3: Election of the SCConFin Chair

15. The Chairperson informed the BoS that in July 2021, the second term of the Chair of the EBA's Standing Committee on Consumer Protection and Financial Innovation (SCConFin) ended. To that end, a call for expressions of interest to fill the role was sent to the BoS on 31 August 2021, with a deadline of 7 September. By the end of the deadline, the EBA received an expression of interest from one candidate, Gergely Gabler, Central Bank of Hungary. Given that there was only one candidate, the Chairperson asked the BoS to approve his nomination as a SCConFin Chair by consensus. The Chairperson also informed that Mr Dirk Haubrich, Head of Conduct, Payments and Consumers Unit would be co-chairing SCConFin meeting with the new Chair.

Conclusion

16. The BoS approved Mr Gergely Gabler as the SCConFin Co-Chair by consensus.

Agenda item 4: Risks and vulnerabilities in the EU

17. The Chairperson welcomed Mr Jacob Gyntelberg, the EBA's new Director of Economic and Risk Analysis Department (ERA).

18. The Director of ERA presented to the Members the analysis of current risks and vulnerabilities in the EU banking sector. The focus was on the preliminary Q2 2021 supervisory data results focusing, among other areas, on aspects such as capital, asset quality and moratoria and public guarantee schemes. He summarised that in Q2 2021, banks maintained strong capital levels with the average CET1 ratio standing at 15.8%. Retained earnings, boosted by strong operating results, have supported the capital ratios. Credit growth has been roughly stable overall, with central banks exposures increasing even further. Outstanding loans towards consumer segments have decreased slightly in the last quarter yet they have on a YoY and YtD basis still report positive growth rates. He continued by saying that real estate exposures may pose potential risks, especially in those countries that have signs of overheating housing markets, also driven by low negative rates. With regard to asset quality, the Director of ERA mentioned that it has improved further also due to substantial NPL outflows, but the trends were unclear amid rising forbore loans. Sectors mostly impacted by confinement measures such as hospitality and entertainment sectors reported a further deterioration in their asset quality outlook. He concluded by saying that loans under support measures have further stabilised, yet with PGS loans reporting a slightly deteriorated outlook. Indications were that sovereign exposures remained roughly unchanged in H1 2021 and that there was a certain “home bias”. Related to profitability, cost of risk was even positive in several cases in Q2 2021, showing that some banks released loan loss provisions. No major issues regarding banks’ funding and liquidity were reported.
19. A presentation by the Danish BoS Member followed. He focused on post-Covid national developments and noted that macro-financial key figures have improved. He summarised the main action by the DK FSA during the Covid pandemic considering banks’ operational difficulties, in particular the relaxation of several legal rules and procedures and increased flexibility. He also pointed to widely applied negative deposit rates at DK banks. Another focus was on real estate exposures and supervisors’ reactions to potential market overheating.
20. Several BoS Members updated on their national developments. They noted that despite the Covid-pandemic, the situation in their countries was improving and the profitability of banks have significantly increased. With regards to asset quality, the NPLs ratios were declining across the board, and several Members pointed out that insolvencies were stable or on a decline. Members were of the view that the monitoring of asset quality should continue but rather than on a systemic level focusing on banks that were more exposed to sectors that suffered the most during the pandemic. It was stressed that the originally expected significant deterioration of asset quality has not materialised. Several Members acknowledged raising prices on the real estate market which might be worrying for some banks. One Member noted that despite robust economic recovery, there was still uncertainty especially regarding impact on credit quality. He also said that a number of economic support measures have been phased out and therefore, some risks may materialise. One Member suggested focusing more on markets and market risks and less on credit risks during future the next BoS meeting. Some Members also mentioned that the profitability analysis by business model might be helpful but that it might be too granular / with not many banks by business model. Cyber risk was also referred to.

21. The ESRB representative informed about changes to their risk assessment given the good recovery from the Covid-pandemic in the EU. There was no increase in bankruptcies across the EU/EEA. He also mentioned that many countries which lowered their macroprudential buffers were considering to reactive them and also the application of borrower-based measures. He also referred to increasing housing prices in some countries and mentioned that commercial real estates should be considered.
22. The SRB representative supported monitoring of those banks that were exposed to sectors which were mostly affected by the Covid-pandemic.
23. The ECB representative also noted that the real estate prices were rising and suggested to further focus on financial markets during the BoS discussions.
24. The Chairperson concluded by noting that credit deterioration did not materialise as it was expected during the Covid-pandemic. He mentioned that the focus was shifting on real estate prices and market overvaluation as well as operational resilience and technology including cyber risks. Therefore, these should be topics for some further discussions also during the BoS meetings.

Agenda item 5: Implications of Case C-911/19, FBF v ACPR

25. The Chairperson introduced the item by reminding the BoS that on 15 July 2021 the European Court of Justice (ECJ) issued its judgment in Case C-911/19, FBF v ACPR, establishing the validity of the EBA's Guidelines on Product Oversight and Governance (POG).
26. The Head of Legal and Compliance Unit (LC) continued by summarising the main lessons learnt from the case. He acknowledged that even if the EBA guidelines were not binding and could not be directly challenged by institutions, they could be indirectly challenged in front of national courts. He mentioned that the ECJ noted that the EBA's drafting standards were suitable for this type of legal product, and that national courts had an obligation to take guidelines into account when they are relevant to cases before them. He also referred to the points stressed by the ECJ with regard to the guidelines, in particular that they had to be within the EBA's scope of action, fall within the EBA's framework and be in line with the EBA's objectives. The sectoral legislation did not have to mandate the EBA to issue guidelines; i.e. the EBA could issue own-initiative guidelines if they fulfill all points referred to in the judgment. The Head of LC noted that the ECJ also considered all supporting materials usually prepared when drafting the guidelines. He concluded by saying that the EBA staff's assessment was that there was no need to carry out a general review of current and planned EBA guidelines as a result of the judgment, nor to change its drafting standards. Nevertheless, the EBA staff had developed some internal standards for guidelines which would shortly be shared with staff and working groups and which incorporated aspects of the ECJ judgment to ensure that they are taken into account as guidelines are developed. The Head of LC noted a proposal to write to the EC to raise some technical issues arising from the judgment relating to the EBA's founding regulation which could potentially be taken into account in the ESAs Review.

27. One Member noted that the case was not yet closed at the national level and that they were awaiting the decision of the national court. He also mentioned that there was another case related to another set of EBA guidelines and the courts' response to this case would need to be taken into account before drawing any final conclusions on the implications for EBA guidelines.
28. The EC representative welcomed the judgment but stressed the importance of national judgments in this regard. In relation to the ESAs Review, he said that prior to assessing the need for further amendments to the Level 1 legislation, the EC needed to conclude the assessment of feedback from the public consultation.
29. Some Members questioned the impact of the judgment on non-compliance with guidelines and stressed that non-compliance may be appropriate if there was good legal basis for it.
30. One Member was of the view that national courts should consider the EBA guidelines in their decision-making process and that the EBA Regulation should be amended in this regard.
31. The ESMA representative highlighted the importance of the judgment also for ESMA.
32. The Head of LC stressed that the comply or explain process required competent authorities (CAs) to provide good reasons for non-compliance, which may sometimes include issues of incompatibility with national law. He also pointed that institutions also have their own obligation to make every effort to comply with guidelines but that the judgment did not address how this obligation works in situations where CAs had notified non-compliance with the guidelines. He said that each guidelines had to be considered on a case by case basis.
33. The Chairperson concluded that while welcoming the ECJ ruling, the national judgment had to be considered as well. He also noted that the EC was open to further amendments of the EBA Regulation and that the EBA would write with proposals.

Agenda item 6: Supervisory independence report

34. The Chairperson reminded the BoS that as part of the EBA's new task of fostering and monitoring supervisory independence, the BoS agreed in February 2021 to survey the five types of competent authority within the EBA's scope: prudential, conduct and AML/CFT supervisors, DGS designated authorities, and resolution authorities.
35. The Head of LC continued by noting that ESMA and EIOPA have also been tasked with a similar mandate and that the ESAs have been discussing regularly to ensure a consistent approach and compare emerging analyses. The ESAs agreed on a set of four broad principles of supervisory independence based on existing international standards (operational independence, financial independence, personal independence, and accountability and transparency). The analysis confirmed that the international standards were also very consistent across the securities, insurance and banking sectors, with limited specificities such as the need to separate resolution and prudential supervision. The Head of LC noted that

findings of the survey and the subsequent analysis of the 82 responses from the CAs have been summarised in a draft report tabled for the BoS' approval. He also mentioned that the report set out potential future work that could be carried out considering the information received through the survey.

36. The majority of BoS Members supported the publication of the report. However, several Members were of the view that some aspects comparing staffing levels could be misleading as they covered data for significant banks only while in many countries, there were smaller banks data for which, if covered, would result in different numbers. Therefore, they suggested to remove this aspect. Some Members noted that crucial information was included in footnotes only. Other Members commented on the readability and length of the report, when comparing with reports drafted by ESMA and EIOPA and proposed further refinements in this regard, while another Member welcomed the existing extent of analysis in the report.
37. A few Members commented on the process of preparing the report and stressed that cooperation and coordination between the ESAs was necessary in order to avoid duplication of work. One Member was of the view that there was no need for EU/ESAs specific criteria as there were internationally recognised ones, such as Basel criteria, already.
38. One Member questioned future work on supervisory convergence and stressed that the EBA should rather focus on supervisory independence. In this regard, he mentioned that benchmarking assessment of supervisory independence was very different to an ordinary peer review given that the institutional set up would be reviewed and asked for a cautious approach.
39. On next steps, some Members reminded the BoS of its initial discussion in February, where the BoS agreed to first analyze the findings of the survey and only then agree on the next steps. One Member pointed that there should be a reference in the EBA Work Programme if any further worked was to be conducted, together with an assessment of resources required. Another Member stressed a need for consistent approach with other ESAs to avoid additional workload to CAs and focusing on particular areas.
40. The ECB Banking Supervision representative noted that some graphs related to the SSM resources would have to be further considered.
41. In his response, the Head of LC clarified that the ESAs did not aim at replacing international criteria but to establish a common EU approach across the banking, securities and insurance sectors based on the international criteria which would facilitate more consistent joint work. In relation to the part of the report comparing staffing levels, the Head of LC acknowledged that this had been a difficult part of the report, with various attempts made to resolve the underlying problems of comparability of data, and that adding further qualifications in the report to reflect the concerns raised would also be unsatisfactory and therefore it would be preferable to remove the comparisons. On the next steps, he explained that they had been included for the BoS discussion, following which a work plan could be developed taking into

account resource needs and ultimately integrated into the EBA Work Programme. He also stressed that the style of the report had been aligned with the other ESAs, but that the scope was wider than those of ESMA and EIOPA and therefore, the report was longer.

42. The Chairperson concluded that the BoS supported the publication of the report and joint publication together with ESMA and EIOPA after some re-drafting based on the BoS discussion as well as a subsequent round of written comments. Further work should be carried out to prepare a future work plan on supervisory independence as part of the Work Programme, taking into account potential joint work with the other ESAs.

Conclusion

43. The BoS supported the publication of the report and joint publication together with ESMA and EIOPA after some re-drafting based on the BoS discussion as well as a subsequent round of written comments.

Agenda item 7: Ombudsman inquiry into non-disclosure of voting records in Pilatus and Danske BUL cases [restricted]

44. The Chairperson informed the BoS that following the last BoS meeting in June, there have been some developments on the Ombudsman's inquiry on the non-disclosure of the votes on the Pilatus and Danske BUL case. The Ombudsman has sent her preliminary assessment that there were two cases of maladministration: the failure to disclose the votes to the requester, and the participation of BoS Members in the votes when their national authorities were under investigation. The Chairperson stressed that implications of the BoS decision in this regard had to be carefully considered and emphasised that findings of maladministration could have significant and long-lasting consequences, as seen with the last Ombudsman inquiry. It was also important to draw a line under the AML/CTF BUL cases which were decisions taken 2-3 years ago. Finally, he noted that the BoS had to be able to discuss openly and take decisions without undue external pressure.
45. The Head of LC presented the legal assessment of the issues raised by the Ombudsman.
46. With regard to the disclosure of votes, the majority of Members supported the proposal to disclose the specific voting records in a way which was confined, so far as possible, to the circumstances surrounding those votes. Several Members stressed that at the time of the votes, the EBA Rules of Procedures (RoP) referred to confidential discussion and secret voting and considered that the EBA might be changing its own rules and procedures in order to address the inquiries. Also, they questioned the secrecy rules applicable and the fact that some BoS Members who voted in these cases were not any longer BoS Members and whether by disclosing the vote the EBA would not breach its own Regulation applicable at the time of the vote. One Member noted that they did not disclose any voting done at the EBA level to their national parliaments using the wording of the RoP. Some Members pointed that it was crucial to close these cases and therefore, the EBA should disclose these particular votes as an

exceptional case but keep the option of secret ballot for future cases. A few Members said that not only these votes, but all others should be disclosed in the future with an aim to achieve transparency as well as to be able to explain the votes notwithstanding any political pressure. Other Members expressed concerns that if the EBA disclosed these votes, further requests for disclosure would follow and this would be considered as a precedent. Furthermore, the disclosure would have an impact on future votes. A few Members were of the view that the EBA had to decide on future policy, similarly, as done earlier in 2021 with regard to disclosure of voting results related to legislative proposals; i.e. technical standards. Two Members suggested, as one option, to disclose, in the future, the votes in a more anonymised way. Another Member proposed to disclose votes only on a case-by-case basis.

47. On the participation of the BoS Members in the vote, the BoS supported the EBA's legal assessment according to which the legislation applicable at the time of the BUL cases did not permit to exclude BoS members (and their alternates) from voting on BUL, and therefore the EBA was obliged to allow those Members to take part in the discussion and vote.
48. A number of Members acknowledged the impact on ESMA and EIOPA and asked for a coordinated approach.
49. The Head of LC clarified that the RoP at the time of the votes stated that the proceedings of the BoS shall be confidential, but that the same provisions in the RoP required the MB to adopt rules related to the access to documents. The RoP therefore acknowledged that EBA documents are subject to the access to documents regime and that there was therefore always a possibility that somebody would ask for documents and that request would then need to be assessed.
50. One Member asked about limits to the access to documents as per applicable legislation and the Head of LC explained as general rule, all documents held by the EBA might be accessible, subject to the exceptions in the legislation.
51. One Member questioned the process and next steps and the Chairperson clarified that the EBA staff would prepare a draft response to the Ombudsman for submission to the next MB meeting on 28 September and afterwards, the proposed response would be circulated to the BoS with a view to finalising the letter ahead of the deadline for replying to the Ombudsman on 31 October 2021.
52. The Chairperson concluded by noting the split views on the disclosure of votes and mentioned that the majority of the BoS Members supported the disclosure of the votes of the two BUL cases on an exceptional basis. He said that the EBA was not, by disclosing the votes, changing ex post its own RoP as this was a specific situation. He also noted that some Members were open to full transparency with regard to the disclosure of all votes in the future. Finally, he agreed that the BoS should discuss transparency and what it meant for the BoS in order to address public expectations.

Agenda item 8: Call for Advice on crisis management and deposit insurance framework

53. The Chairperson reminded the BoS that in April 2021, the EBA received the call for advice on crisis management and deposit insurance framework with a short deadline. The objective of this call for advice was to provide input to the EC's impact assessment, including a precise technical analysis.
54. The EBA Head of Supervisory Review, Recovery and Resolution Unit (SRRR) noted that the EC was reviewing the EU's crisis management and deposit insurance regime and that the call for advice focused on the reported difficulty for some small and medium-sized banks to issue sufficient loss absorbing financial instruments (Minimum Requirement for Own Funds and Eligible Liabilities (MREL)); the current requirements to access available sources of funding in the current framework, including in view of the funding structure of the above mentioned banks; and the quantitative impacts of various possible policy options, as specified by the Commission services, in the area of funding in resolution and insolvency and their effectiveness in achieving the policy objectives. He also mentioned that the methodology for this call for advice - descriptive statistic approach (static) and simulation model approach (dynamic) and the specific approach for the analysis on reported difficulty to issue - was developed by the EBA's resolution committee which has also discussed the draft EBA's response.
55. The SRB representative stressed the importance of the findings and noted that the EBA's response covered an extensive range of issues.
56. The BoS supported the work. One Member was of the view that some additional market evidence could be added in the section on reported difficulty to issue. Other Member acknowledged that banks currently under liquidation were excluded from that same section and proposed to include a caveat in this regard. He also mentioned that the sample of banks was limited to banks currently facing an MREL shortfall. One Member proposed to consider macroprudential impacts on national deposit guarantee schemes and to add a qualitative insight on more recent data given that the analysis was based on 2019 data.
57. The EC representative noted the complex request, thanked EBA for the work and acknowledged the EBA's swift response.
58. The Head of SRRR explained that, in consideration of the tight timeline, the EBA was not in the position to update the data, stressed that the final response to the EC would include a caveat regarding non-conclusiveness of some parts of the analysis and clarified that the impact on DGS of the revisions to the framework considered in the analysis was outside of the scope of the CFA.

59. The Chairperson concluded that the BoS supported the work and that the final draft response to the call for advice would be submitted to the BoS in non-objection procedure after the approval by the EBA's resolution committee.

Agenda item 9: Call for advice on digital finance – First findings

60. The Chairperson introduced the item by mentioning that as part of the EC's Digital Finance Strategy, the EC published a call for advice addressed to the ESAs in February 2021.
61. The EBA Senior Policy Expert clarified that the EBA already presented to the BoS interim findings related to one part of the call for advice on the protection of client funds in the DGSD which was a request addressed only to the EBA at one of previous meetings. She continued by summarising the interim findings and initial proposals for recommendations from the requests on value chains, digital platforms and mixed activity groups. She noted that these requests were addressed to the ESAs and therefore, also ESMA and EIOPA were to be discussing them during their BoS meetings. Finally, she mentioned that the slides presented to the BoS would be submitted to the EC to serve as the interim report part of the response to the call for advice.
62. The BoS supported the work and the submission to the EC. Two Members suggested implementing a more ambitious and long-term approach for the next five to seven years. One Member proposed to consider applying consolidated financial regulation on a wide range of market participants and also considering the use of an intermediate parent undertaking for consolidation.
63. Two Members stressed the importance of extensive technical discussions with relevant working groups. They also mentioned that as result of these discussions, some CRR definitions (on ASU and financial holding company inter alia) might need to be updated and that, before finalisation of the final ESA opinion, some recommendations currently included in the interim report may need to be altered and that a caveat in this regard should be included in the slides. They noted that any proposals might have significant impact on various market players and therefore, the definitions should be fit for supervisory purposes.
64. One Member highlighted that competition and data protection issues could not be dealt by financial supervisors and that that further views in this regard should be discussed. Other Member referred to different practices in Member States which needed to be harmonised. Another Member supported consideration of the scope of regulatory perimeter, in particular advocated for a harmonisation of non-bank lending treatment in the EU to avoid regulatory arbitrage and also discrepancies between national regulatory regime and consideration of the types of third-party providers in addition to DORA targeted services.
65. Another member noted that for entity-based regulation there should be consideration of use of CAs.
66. The EC representative acknowledged the interim findings but stressed that the EC would welcome very concrete and specific advice on how supervisory and regulatory issues could be

addressed, what should be fixed in the existing legislation and what could be covered in new or complementary legislation.

67. The SRB representative noted the importance of the recommendations related to operational and systemic risks, in particular on fragmented value chains and growing use of online platforms.
68. The Chairperson concluded by noting the BoS support for the work. He agreed to underline the preliminary nature of the findings and to further tailor recommendations to be more concrete and specific. He also noted Members' support for implementing an ambitious approach in relation to digital finance over the medium to longer term.

Agenda item 10: RTS on taxonomy-related product disclosures

69. The Chairperson reminded the BoS that the Joint Committee of the ESAs (JC) has been developing a draft Regulatory Technical Standards (RTS) on taxonomy-related product disclosures under empowerments in the Taxonomy Regulation through amendments to the regulation on sustainability-related disclosures in the financial services sector ("SFDR"). He also mentioned that when it was put forward for approval through written procedure at the end of July, the EIOPA and EBA BoSs narrowly rejected the draft RTS while the ESMA BoS supported it.
70. The Director of ERA continued and said that following from the feedback received from the BoSs, the ESAs under leadership of the JC have revised the RTS by adding a second KPI which fully excluded sovereign exposures. The KPI which included all investments – including all sovereign exposures – was retained. Both KPIs provided information on the extent to which investments underlying the financial product related to economic activities that qualify as environmentally sustainable under the Taxonomy Regulation. The reporting templates for pre-contractual and periodic disclosures have been simplified to address concerns that they were too complex. He also explained the changes compared to the version submitted to the BoS.
71. The BoS supported the work. A few Members were of the view that even if the proposed changes were complex, they considered them as a good compromise.
72. One Member questioned if the two KPIs were in conflict with the EU Green Bond Standard. Other Member asked for a clarification on next steps and another Member requested a written procedure before finalisation of the draft RTS.
73. The EC representative noted that the agreement by the ESAs Boards was not reached in July and stressed that if no compromise would be found, the EC would need to decide on the RTS itself. He noted that for the EC it was important that the RTS ensured that the information on the extent of taxonomy-alignment of the financial products was at least presented in the form of a KPI that was based on all investments of those financial products, to show alignment with Level 1 and that he deemed it possible and feasible to include a second KPI that would exclude

all sovereign exposures. He mentioned that the proposal for having two KPIs therefore could be the basis for a compromise.

74. The Chairperson concluded by noting the BoS's support and confirmed that there would be a written procedure before the finalisation of the draft RTS.

Agenda item 11: AOB

75. One Member informed the BoS that the EBA's accounting committee was planning to discuss a postponement in reporting of investment firms due to delay in adoption of the final draft ITS on investment firms' reporting and disclosures. He was concerned that this postponement could have impact on the related ITS and stressed the importance of reporting for the proper supervision of investment firms.
76. The EC representative confirmed that the ITS would be updated later due to a number of technical issues which had to be further discussed with the EBA, such as the deletion of reference to other draft ITS/RTS. He noted that also translation took additional time and therefore, as an interim solution, the CAs should use the ITS published on the EBA website.
77. The Chairperson thanked for the update and concluded the meeting.

Participants of the Board of Supervisors' conference call 16 September 2021

Chairperson: Jose Manuel Campa

<u>Country</u>	<u>Voting Member/High-Level Alternate</u>	<u>National/Central Bank</u>
1. Austria	Helmut Ettl	Karin Turner-Hrdlicka
2. Belgium	Jo Swyngedouw	
3. Bulgaria	Stoyan Manolov	
4. Croatia	Martina Drvar/Sanja Petrinic Turkovic	
5. Cyprus	Constantinos Trikoupis	
6. Czech Republic	Zuzana Silberová	
7. Denmark	Jesper Berg/Thomas W. Andersen	
8. Estonia	Andres Kurgpold	
9. Finland	Jyri Helenius	
10. France	Dominique Laboureix/Emmanuelle Assouan	
11. Germany	Peter Lutz	Karlheinz Walch
12. Greece	Heather Gibson/Kyriaki Flesiopoulou	
13. Hungary	Csaba Kandrac	
14. Ireland	Gerry Cross	
15. Italy	Andrea Pilati	
16. Latvia	Santa Purgaile/Ludmila Vojevoda	
17. Lithuania	Marius Jurgilas/Jekaterina Govina	
18. Luxembourg	Claude Wampach	Christian Friedrich
19. Malta	Christopher Buttigieg/Pierre Paul Gauci	Oliver Bonello
20. Netherlands	Maarten Gelderman	
21. Poland	Kamil Liberadzki	
22. Portugal	Ana Paula Serra	
23. Romania	Cătălin Davidescu	
24. Slovakia	Tatiana Dubinova/Linda Simkovicova	
25. Slovenia	Primoz Dolenc/Damjana Igljic	
26. Spain	Angel Estrada/Alberto Rios Blanco	
27. Sweden	Karin Lundberg	David Forsman

<u>EFTA Countries</u>	<u>Member</u>
1. Iceland	Elmar Asbjornsson
2. Liechtenstein	Markus Meier
3. Norway	Morten Baltzersen

<u>Observer</u>	<u>Representative</u>
1. SRB	Sebastiano Laviola

<u>Other Non-voting Members</u>	<u>Representative</u>
1. ECB/SSM	Stefan Walter
2. European Commission	Martin Merlin
3. EIOPA	Kai Kosik
4. ESMA	Tomas Borovsky
5. EFTA Surveillance Authority	Marta Margret Rúnarsdóttir
6. ESRB	Tuomas Peltonen



EBA Directors

Executive Director

Economic and Risk Analysis

Director of Prudential Regulation and Supervisory Policy

Francois-Louis Michaud

Jacob Gyntelberg

Isabelle Vaillant

EBA staff

Philippe Allard; Jonathan Overett Somnier; Francesco Mauro; Angel Monzon; Olli Castren; Dirk Haubrich; Tea Eger; Nicola Yiannoulis

For the Board of Supervisors

Done at Paris on XX October 2021

José Manuel Campa

EBA Chairperson