



EBA MB 2016 019rev1

---

EBA Staff

---

19 January 2016

---

Location: London

---

## Management Board – Final Minutes

---

### Agenda item 1.: Opening and Approval of Agenda and Minutes

1. The Chairperson opened the meeting of the Management Board (MB). He welcomed the two new members, David Rozumek (Czech National Bank (Česká Národní Banka)) and Édouard Fernández-Bollo (French Prudential Supervisory and Resolution Authority (Autorité de Contrôle Prudentiel et de Résolution (ACPR))).
2. The MB approved the provisional agenda (document *EBA MB 2015 098rev2*) and the minutes of the meeting of 16 November 2015 (*EBA MB 2015 099rev1*).
3. The Chairperson informed of the state of play of the actions agreed at the latest MB meeting. In particular, he noted that the early legal review of technical standards (TS) by the Commission's legal services was not working adequately since the approval of TS continued subject to significant delays; this would be discussed with the ESAs on 20 January 2016 with a view to discussing possible improvements with the Commission services. The Commission representative confirmed that the Commission services intended to launch an internal review on whether the early legal review was meeting its objectives.
4. The Chairperson informed the MB that the EBA had not managed to secure a reduction in translation fees by the *Centre de Traduction*.

### Agenda item 2.: Administrative and Operational Status Report

5. The EBA Director of Operations presented the administrative and operational status report (document *EBA MB 2016 010*). He explained that the report presented a general overview of 2015 and provided some statistics for the period 2011-2015.
  6. He noted that the budget execution in 2015 was 99,3%. The budget execution had been improving over the past years, a positive trend that was also noticeable in the case of commitments carried forward. A total of 30 budget transfers took place in 2015, of which one had not obtained the prior approval by the MB. This was noted by the Court of Auditors, who confirmed that no approval a posteriori was necessary.
-

7. The state of play of procurement procedures in 2015 was explained, noting in particular that the EBA had participated in a significant number of framework contracts of the Commission and other agencies. Moreover, some figures and statistics on recruitment in 2015 and general on the management of human resources at the EBA were presented.
8. On translation of EBA documents, the EBA Director of Operations explained that it was very important to receive feedback from competent authorities (CAs) in particular whether there were quality issues with specific translations, such that this feedback could be relayed to the CdT and the Commission services and thus enable the EBA to address those concerns. One member complained that the translation quality of certain TS was rather poor; it should be brought to the attention of the Commission services for it was putting pressure on the resources of CAs to review those translations. The Commission representative confirmed that the possibility of outsourcing certain translations to providers at national level should be first consulted and discussed internally.
9. Finally, he reported on the IT infrastructure, which was delivering as expected to date. He concluded by noting that an internal EBA-wide satisfaction survey had been conducted in 2015 on the services provided by the Operations Department, with a view to mapping customer satisfaction and identify areas for improvement; this initiative would be carried out annually.
10. The MB took note of the administrative and operational status report.

### Agenda item 3.: Extension of the Contracts of the Chair and Executive Director

11. The EBA Director of Operations explained that in light of the confirmation by the European Parliament of the extension of the mandate of the Chairperson, and the approval by the Board of Supervisors (BoS) of the extension of the mandate of the Executive Director, the EBA would propose to the BoS, on the basis of the Guidelines on Staff Policy in the European Regulatory Agencies (ADMIN C(2005)5304 of 16 December 2005), the upgrade of their contracts (AD16 and AD15, respectively). He confirmed that this upgrade had been discussed and agreed with the Commission services and included in the EBA 2016 establishment plan.

#### Conclusion

12. The MB agreed to the proposal being formalised at the BoS meeting of 04 February 2016 for final approval.

### Agenda item 4.: Draft 2017 Single Programming Document

13. The Executive Director presented the draft 2017 single programming document (the 2017 SPD, document *EBA MB 2016 003*) containing the proposed 2017 work programme, budget and establishment plan. He also presented the EBA 2015/2016 Work Programme Roadmap (document *EBA MB 2016 009*) which provided an overview of the regulatory products

delivered by the EBA from 2012 to 2015, the number of main products that the EBA expect to deliver in 2016; in addition, it contained a summary of the reprioritisation exercise in light of the final 2016 budget, including the regulatory products delayed from 2015 to 2016, from 2016 to 2017, tasks that would not be performed and those that the EBA would carry out with less frequency/engagement due to the lack of resources.

14. Members requested a few clarifications, notably on the prioritisation principles followed for the 2016 work programme, and which of the guidelines were of EBA's own-initiative. They also signalled some errors of which EBA staff took note.

15. The Commission representative asked the EBA whether it could reconsider the postponement to 2017 of the RTS on mitigating the risk of third countries prohibiting the application of equivalence for anti-money laundering or financing of terrorism standards under the 4th Money Laundering Directive, and of the ITS on the standardised format of documents and symbols and ITS on the standardised format of fee statements and symbols, both under PAD. The Executive Director explained that due to resource constraints it would be very difficult but that he would double check. The Commission representative also explained that the Commission services were in the process of preparing a response to the EBA's letter on the delay to 2016/2017 of a number of regulatory products due in 2015. He explained that the Commission intended to liaise more closely with the Parliament's ECON Committee, noting that some concerns had been expressed concerning significant delays by the ESAs in delivering some products.

16. Furthermore, he expressed the Commission's rejection to the 2017 SPD for the proposed budget due to it containing a higher number of Temporary Agents posts than under the agreed Multi Annual Financial Framework.

## Conclusion

17. The MB approved the 2017 SPD. The errors noted by members would be corrected and the 2017 SPD submitted by written procedure to the BoS for final approval.

## Agenda item 5.: Renewal of Banking Stakeholder Group (BSG)

18. The Chairperson presented a shortlist of candidates for the new term of the Banking Stakeholder Group (BSG) and sought the MB's views. He stressed in particular the need of a balanced representation (i.e. geographical and gender) within the BSG as well as within the different categories: a) credit and investment banks; individuals representing the interests of b) employees' representatives and trade unions, c) consumers, d) users of banking services and e) SMEs; and f) independent top-ranking academics.

19. In the category of credit and investment institutions, the Chairperson noted that during the next mandate of the BSG the EBA would have to prepare technical standards in the area of payment services and it would be positive to have candidates with expertise in this area. He also noted that it was compulsory to have representatives from cooperatives and savings

banks to comply with Article 37 of the EBA founding Regulation. Members expressed their views on the professional experience and expertise of the candidates, as well as on the geographical and gender balance within the category. It was noted that it would be advisable to short list candidates from institutions with a European/international presence.

20.Regarding top-ranking academics, the Chairperson explained that the EBA had limited the proposed shortlist to full professors employed by universities, and wished to have a full representation of professors from different subject matters. He also underlined the need to ensure their independence. While BSG members were not involved in the decision-making process or had a prominent role as expert groups like in other EU agencies, he stressed the importance to follow some guidance to ensure their independence to the greatest possible degree. However, he also reminded the MB that it was crucial to assess them on the basis of their expertise and knowledge to have the best possible representation of top-academics at the BSG.

21.Members discussed the candidates and the criteria mentioned by the Chairperson. They noted that some suitable candidates had not been included in the proposed shortlist. The Chairperson agreed that it would be reviewed again on the basis of expertise and knowledge, as well as on their independence.

22.The MB discussed the remaining categories of BSG candidates.

### Conclusion

23.The EBA would review the proposed shortlist of BSG candidates taking into account the comments by the MB, and would submit it to the BoS for final adoption at the meeting of 04 February 2016.

## Agenda item 6.: Update of the Document Management Project and its implementation

24.The Executive Director explained the state of play of the implementation of the document management system project (document *EBA MB 2016 012*). In order to improve the project's readiness on the user side, it was considered necessary to introduce a Business Readiness Project, which should enable the implementation of the document management policies and procedures to guarantee a satisfactory roll out of the project among the EBA staff. This aspect of the project was not envisaged in the project brief and charter adopted by the MB; it would be funded with the savings made out of the IT project.

### Conclusion

25.A written procedure would be soon launched to the MB for the approval of the Business Readiness Project, and on the incorporation of the two projects into a Programme.

## Agenda item 7.: HR Audit Report and Action Plan

26. The Executive Director presented the main conclusions of the final report (document *EBA MB 2016 006*) further to the audit by the Commission's Internal Audit Service (IAS) the week of 28 September 2015 on HR management at the EBA in 2014 and 2015. He explained the Action Plan (document *EBA MB 2016 007*) with target dates and responsibilities to address the final report's recommendations.

### Conclusion

27. The MB agreed to the EBA's Action Plan.

## Agenda item 8.: Transparency Exercise 2015

28. The EBA Head of Legal presented the EBA internal report (document *EBA MB 2016 005*) on the publication of individual bank by bank data during the EBA 2015 transparency exercise, as announced by the Chairperson at the BoS meeting of 08-09 December 2015 in light of the publication of an error of the fully loaded common equity tier 1 (CET1) ratio figures of some banks. The report contained a set of recommendations to strengthen existing processes relating to transparency exercises, the reporting Q&A process and the reporting process itself.

29. One member questioned why its competent authority had not been contacted to gauge its views, to which the Head of Legal explained that the report contained an overview of the EBA's internal handling of the incident and when the main decisions were made, and that it was decided not to include an exhaustive list of contacts between the EBA and external parties, while indicating that those contacts had taken place; he had concluded that the material available within the EBA was sufficient to carry out the review without contacting external parties.

30. The decision to publish the Basel fully loaded capital ratios was discussed. It was explained that this decision was taken between the freezing of the data and the submission of the report for comments to the BoS on 11 November 2015, although the Head of Legal's view was that the ratios were always likely to be published since they were already published in the 2014 stress tests exercise. The Chairperson explained that it was not deemed necessary to engage the BoS on this matter since the calculations were based on data made public through the exercise, and could therefore be carried out by any user of the data.

31. In addition, one member considered that it was not possible to calculate the fully loaded capital ratios using the available data from the exercise templates and that there was not any BoS conclusion on the Q&A setting out the relevant formula; furthermore, the aggregate denominator figures for banks in the sample for his country were not accurate. EBA staff explained that the corrected formula did enable an approximated ratio using the data from the templates.

32. With regard to the recommendations contained in the internal report, the MB viewed that that they were comprehensive and sufficiently remedial to address the issues identified in the report. Members noted that the incident had been handled well and that the recommendations were in this regard proportionate. They also discussed the next steps, e.g. whether it would be useful to conduct an internal audit. It was explained that, as a small organisation, the EBA did not have internal audit services and that it relied on the Commission's Internal Audit Services (IAS). The Chairperson added that an internal audit would take a long time, and the EBA had needed to proceed quickly in view of the 2016 EU-wide stress tests and the publication of another set of sensitive data.
33. As an alternative, some members considered that the adoption of an action plan with timelines, as a follow up to the internal report, would be desirable, followed by an independent audit on the implementation of the action plan. Other members noted that it would be better to focus on the key remedial actions, most importantly on the reporting of data by institutions, of this particular incident rather than publishing a plan going beyond it. The Chairperson agreed that it was necessary to react swiftly and in such a focused manner, and also noted a suggestion to communicate how the process had been updated in the context of the future stress test publication.
34. In particular on the recommendation on the reporting Q&A process, one member asked to consider a more structured and transparent process for sharing and circulating comments and/or suggestions by CAs in the drafting/preparation stage of templates and draft reports as a means to minimise the risk of incidents.

## Conclusion

35. The MB praised the internal report and the recommendations contained therein. The Chairperson concluded by noting that the discussion would be reflected in a cover note addressed to the BoS accompanying the internal report; this would be circulated to the MB prior to submission to the BoS. He expressed his preference for a quick reaction where the EBA would explain how it had adjusted its processes in the context of the 2016 EU-wide stress test exercise publications; but a decision on an internal audit on the implementation action plan would be left to the BoS.

## Agenda item 9.: Update on the Business Plan for EBA Training Activities 2016-2018

36. The Executive Director presented a revisited business plan for EBA training activities (document *EBA MB 2016 008*) following the extensive discussion at the BoS meeting of 27-28 October 2015, where members had raised comments on budgetary aspects, financial scenarios and projections, and possible overlaps with other training initiatives across the EU. The new proposal included a budget reduction and presented different alternatives to address funding issues. It also included adjustments to the core curriculum which would refocus on key priorities of an EU dimension in 2016; to the number of physical training sessions; and to the

scope of the online training programme. Finally, he explained the different alternatives on funding presented to the Commission's DG BUDG's services.

37. The Chairperson noted that the revisited proposal represented a significant downscaling in ambition of the initial proposal. As discussed at the BoS away day in 2015, training was an area where the EBA could focus its efforts on supervisory convergence. He acknowledged that funding remained a concern, but should the obstacles identified be not dealt with appropriately, the EBA would consider resorting to e.g. outsourcing to other entities on the basis of the training curriculum, such that the EBA could redeploy resources to other areas. He urged the MB and the BoS to take a decision noting that the needs identified in the business case could disappear and/or replaced by others' due to the failing EBA's action.
38. Members acknowledged that EBA's training for supervisors was much needed to develop a common culture. In this regard, some members considered that outsourcing training was not an ideal solution as external providers would not be in a position to provide a comprehensive EU wide training solution to meet supervisors' needs; moreover, the EBA should benefit from participants' feedback, which would be lost if training was outsourced. The EBA Director of Oversight agreed that training was crucial to share common tools among supervisors, as this could have very positive effects at large to promote supervisory convergence, e.g. decisions in colleges.
39. Some members considered that a stronger business case was needed in order to proceed with the EBA's initiative. Also viewed that the EBA should try to work out the details of the common curriculum; and suggested a re-balancing of the number of online training and physical sessions. In addition, other members opined that the funding of the EBA's training initiative could face some procurement legal issues in their countries; and considered that it might prove difficult to redirect funds from their current training initiatives into those of the EBA.
40. The Commission representative explained that there had been discussions on funding and fees with DG BUDG; and that the Commission would publish a White Paper on governance and funding of the ESAs by end H12016. He noted that the Commission services had looked into the charging of fees in another case, where it had deemed so appropriate as long as fees did not generate a profit. It was also important to take into account whether or not those fees would be charged for core activities.

## Conclusion

41. The Chairperson concluded by noting that members viewed positively that the EBA engage in training activities. The EBA would approach again DG BUDG to clarify the funding issues; and it would discuss further with the European University Institute (EUI) on synergies that could be developed between the two bodies. A revised version of the business plan would be presented for decision of the BoS at its 19-20 April meeting, with two options, each with their budget and financial scenarios, and taking into account DG BUDG input.

## Agenda item 10.: Follow-up to the GHOS meeting in January 2016

42. The Chairperson referred to the meeting of the Group of Central Bank Governors and Heads of Supervision (GHOS) held on 10 January 2016, where it was agreed that the Basel Committee on Banking Supervision (BCBS) should complete its work to address the problem of excessive variability in risk-weighted assets and the design and calibration of capital floors by the end of 2016. In view of these developments, the EBA should now conduct work at technical level to identify areas which could overlap with the work already carried out by the EBA. Furthermore, the Report and Opinion presented to the BoS at the meeting of 8-9 December 2015 would now be adjusted where needed after the GHOS decisions and brought back to BoS before publishing.
43. The EBA Director of Regulation informed the MB that the EBA should now consider adopting a common stance on operational risk in view of the dismantling of the Advanced Measurement Approach (AMA). She suggested a similar approach to credit risk, i.e. a discussion paper to gauge the industry's views.
44. Members agreed that indeed the EBA should now consider the international discussions on operational risk, however noting that there were not any concrete proposals or impact figures. The EBA should not take a stance which could pre-empt the views by the EU legislators.

### Conclusion

45. The MB agreed to circulate the Report on the IRB approach and Opinion to the BoS prior to their publication. It also agreed to wait and see BCBS proposals on operational risk before taking any action in this field.

## Agenda item 11. AoB

- Note on Audit Conclusions on IAS Follow up on the "Limited Review on IT Project Management in the EBA"

46. The Executive Director presented a note from the Commission's IAS on the conclusions of the follow-up audit on the limited review on IT project management in the EBA that took place in November 2015. The EBA had fully implemented the recommendations and the Commission's IAS had thus decided to close them, putting an end to the follow-up audit. One member asked EBA management to continue informing the MB on the start and progress of any audit findings.
47. One member inquired about the work by the taskforce on qualified holdings and acquisitions, in particular on the TS on licensing. EBA staff explained the next steps aimed at resolving the issues encountered during the discussions on the TS.

**END OF MEETING**

**Andrea Enria**

**Chairperson**

## Participants at the Management Board meeting 19 January 2016

**Chairperson** Andrea Enria  
**Alternate Chairperson** Pedro Duarte Neves

| <u>Country</u> | <u>Member/Alternate</u>   |
|----------------|---------------------------|
| Czech Republic | David Rozumek             |
| France         | Édouard Fernández-Bollo   |
| Italy          | Luigi Federico Signorini  |
| Poland         | Andrzej Reich             |
| Spain          | Fernando Vargas Bahamonde |
| United Kingdom | Sasha Mills               |

| <u>EU Institution</u> | <u>Representative</u> |
|-----------------------|-----------------------|
| European Commission   | Dominique Thienpont   |

### EBA Staff

|                        |                   |
|------------------------|-------------------|
| Executive Director     | Adam Farkas       |
| Director of Operations | Peter Mihalik     |
| Director of Oversight  | Piers Haben       |
| Director of Regulation | Isabelle Vaillant |

Lars Overby; Slavka Eley; Mario Quagliariello; Corinne Kaufman; Jonathan Overett Somnier; Cédric Coraillon-Parquet; Santiago Barón Escámez