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EBA Staff

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19/20 April 2016

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Location: London

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# EBA Board of Supervisors – Final Minutes

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## Agenda item 1.: Restricted session

## Agenda item 2.: Welcome, Approval of Agenda and Minutes

1. The Chairperson opened the meeting. The Board of Supervisors (BoS) approved the agenda of the meeting, and the minutes of the meeting of 04 February 2016.
2. The Chairperson informed that the EBA had received two calls for advice from the European Commission's Directorate-General for Financial Stability, Financial Services and Capital Markets Union (DG FISMA): on net stable funding requirements (NSFR) and on the revision of own fund requirements for market risk in the context of the review of the Capital Requirements Regulations (CRR).

## Agenda item 3.: Preliminary Results of the Draft Final Report on the Leverage Ratio Calibration

3. EBA staff gave a presentation with the preliminary results of the report on the leverage ratio (LR) calibration. Members were invited to comment on its preliminary findings, e.g. a 3% level of LR calibration, and on some pending issues, namely: a) the possibility of a higher calibration for global systemically important institutions (G-SIIs); b) a differentiation of the LR for public developments banks, and mortgage banks; and c) treatment of central counterparties (CCPs) and of custody banks.
  4. Members welcomed the findings and conclusions of the report. They considered that, in general, a 3% level of calibration for the LR was a reasonable backstop, and viewed that it should apply as consistently as possible, minimising the exemptions to the greatest possible extent.
  5. On a possible higher calibration for G-SIIs, a majority of members opined that it was well justified; but some members viewed that the exact approach to implement an additional requirement on G-SIIs may need further attention also taking into account BCBS
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developments, as well as the possibility of also extending it to other systemically important institutions (O-SIIs). Moreover, some members opined that such an additional requirement should apply in a proportionate manner and its application should be left at the discretion of the supervisory authority. It was suggested to introduce a cross reference to MREL, as under the draft RTS issued by EBA the MREL calibration would rely on the LR one as a backstop measure.

6. Members exchanged their views on a differentiated treatment of the LR calibration, in particular for public development and mortgage banks. A few argued for such a treatment based on the particular features of their business model, particularly public development banks. But most other members opined that the LR calibration should apply in a simplified manner across the board. One member suggested that transitional arrangements could be considered for particularly constrained business models, instead of a different LR calibration.
7. With regard to a possible full waiver of the LR for CCPs holding a banking license, the views of members were split. Some argued in favour in view of their specificities, as well as for being regulated under Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories (EMIR); other members considered that as long as they could act as banks, the LR should be of application.
8. On central securities depositories (CSDs) and custody banks, some members deemed necessary further details to inform the assessment of whether the LR should apply.

### Conclusion

9. The BoS welcomed the preliminary findings. The EBA would analyse further, where possible, to ascertain the potential application of an additional requirement to O-SIIs and on a transitional period that could be appropriate in case of a non-differentiated treatment of public development bank business models; some further detail would be provided on a possible waiver to CCPs and CSDs. The final report on the LR calibration would be tabled at the BoS meeting of 20-21 June 2016.

## Agenda item 4.: EBA Opinion on the RTS on Additional Collateral Outflows for Derivative Contracts

10. The Chairperson presented a draft Opinion addressed to the Commission to amend the RTS with regard to additional collateral outflows under Article 423(3) of CRR. In the Opinion, the EBA suggested amending the historical look back approach ('HLBA') to align it with the approach specified by the Basel Committee on Banking Supervision ('BCBS').

### Conclusion

11. The BoS adopted the Opinion, with a small amendment concerning the removal of the paragraph on the endorsement process by the Commission.

## Agenda item 5.: Final Draft RTS on Risk Weights for Specialised Lending Exposures

12. The Chairperson submitted to the approval of the BoS the final draft RTS on assigning risk weights to specialised lending exposures under article 153(9) of the CRR. He explained that the early legal review by the Commission's Legal Service had not yet been completed and that comments could still be expected.
13. There was a suggestion to cap at 60% the weight that institutions could assign to each factor, although some members viewed that the impact of such a cap should be first assessed.
14. EBA staff was asked what interpretation should be given to 'remaining maturity' of Article 153(5) of the CRR in view of the removal, in the draft final RTS, of recital 4 of the consultation paper.

### Conclusion

15. In light of the absence of final comments by the Commission's Legal Services, the BoS decided that the draft final RTS would be submitted, within two weeks, for approval by written procedure, thus giving some time to receive and incorporate the comments by the Commission's Legal Service as well as incorporate the comments made by the BoS related to the cap of 60% and the re-introduction of a recital on 'remaining maturity'.

## Agenda item 6.: Follow up to the BCBS Meeting on 9/10 March and Implications to the EBA's Work Programme

16. The EBA Director of Regulation presented a proposal outlining some priorities to inform the EBA's stance on the BCBS's work to reform the regulatory framework. The proposal included suggestions to reprioritise the EBA's work programme on market and operational risk in view of the impact that the envisaged BCBS reforms would have in these two areas.
17. Members expressed strong support to the EBA conducting a quantitative impact study (QIS) and stressed the necessity of a meaningful QIS so as to provide a clear understanding of the impact on EU banks. They opined that the work should also consider the impact per business model, and the impact on banks using the Standardised Approach, in light of the BCBS proposed revision of internal models and the proposals on output and input floors.
18. Members asked for further information on the operational aspects of the QIS and the process governance. The EBA Director of Regulation informed that the Taskforce on Impact Studies (TFIS) had a work stream for this QIS, and that the Standing Committee on Regulation and Policies (SCRePol) could be used to exchange views on the BCBS reform proposals.

19. The BoS supported the EBA proposals on operational and market risk, and called for a clear communication on how to deal with it noting that the Advanced Measurement Approach (AMA) for operational risk continued being applicable in the EU.
20. Members agreed that the EBA should develop own-initiative Guidelines on the treatment of structural exchange rate under Article 352(2) of the CRR although cautioned against being too ambitious given its technical complexities.

### Conclusion

21. The BoS agreed with the proposal presented by the EBA staff, and supported that the QIS sample should be as comprehensive as possible. Members were invited to communicate to the EBA any specific matters they considered that should be included in the QIS. To ensure a successful and prompt delivery of the QIS, the Chairperson asked members to share resources with the EBA to conduct the QIS. Another discussion would be held at the BoS meeting of 20-21 June 2016.

## Agenda item 7.: Discussion on Sovereign Risk

22. The Executive Director presented an overview of the work of the Council's Economic and Financial Committee (EFC) High-Level Working Group on Regulatory Treatment of Sovereign Exposures. He said that the EFC High-Level Working Group was expected to conclude its work by summer 2016.
23. Members expressed their views on the different proposals, e.g. on the most efficient way to breach the nexus between sovereign exposures and institutions, and whether capital requirements, or other measures under Pillar 2 and Pillar 3, could be conducive to address sovereign risks. Members noted the role of sovereign exposures in addressing financial stability, and thus the need to tackle sovereign risks also from a macroprudential perspective. The monetary considerations of sovereign exposures, as well as the impact on an institution's ability to manage liquidity, were other aspects discussed.
24. The Executive Director concurred with the views expressed by members. He considered that there were some lessons from the past that could inform a final decision by the EFC High-Level Working Group, namely the limited ability of internal models to address sovereign risk; and the importance of the level of concentration of sovereign exposures, in particular, within banking groups.

### Conclusion

25. The EBA would continue informing the BoS on the discussions in the EFC High-Level Working Group.

## Agenda item 8.: Supervisory Reaction following Publication of the Panama Papers

26. The Chairperson explained that following the leaks of the so-called *Panama papers*, some competent authorities (CAs) were considering whether or not they should act. He asked members whether there was appetite for a coordinated supervisory action and in that case, what it could be. He said that the EBA stood ready to support CAs.
27. Some members warned that the information at hand was not yet sufficient to draw any conclusions. A number explained what actions were being taken in their CAs, and from what perspective the situation was being approached. Some CAs felt the scandal related to alleged tax crimes, which was the responsibility of their tax authorities. Of those who took action, most focused on banks' compliance with their anti-money laundering (AML) obligations though some considered that this was above all a conduct or prudential issue. In particular, it was noted that the SREP Guidelines addressed the assessment of institutions' governance and risk management framework as part of the supervisory review and evaluation process. A number of members viewed that coordination among CAs was fundamental.
28. It was also suggested to organise a roundtable to share experiences on the approaches that CAs were adopting and what could be expected from institutions in this regard.

### Conclusion

29. The Chairperson concluded that, in view of the investigations underway in several CAs, it would be worthwhile to organise a follow-up discussion once first findings had begun to emerge to discuss whether, coordinated action was warranted. He asked CAs to share their concerns and findings with the EBA to help the EBA decide on the most appropriate form of follow-up action. CAs should also raise any issues in supervisory colleges where appropriate and consider the implications any findings might have on stress tests. He stressed that the EBA stood ready to provide assistance and support if needed, and it would consider how best to facilitate the sharing of information.

## Agenda item 9.: Discussion on Risks

30. The EBA Head of Risk Analysis presented an overview of risks and vulnerabilities of the European banking sector. And the SCOP Chair, in his letter, focused on profitability and asset quality.
31. Members commented on developments of additional tier 1 (AT1) markets in their jurisdictions and on AT1 yields. Some viewed that the existence of some uncertainties in the regulatory regime of AT1 instruments and the understanding of their risk profile were having a market impact. An open question was whether the cost of equity remained at a reasonable level.

32. With regard to bank's profitability, the BoS exchanged their views on what factors could help it recover. Some viewed that restructuring and consolidation of institutions was a necessity, since some institutions appeared to operate unsustainable business models. The current level of non-performing loans (NPLs), with a wide dispersion among countries in the EU, and within types of banks, and impacted by the existence of legacy assets, was another issue to address. The current environment was described as challenging by some members, with limited room for further cost cutting. Conduct risk and the current weak economic growth, were other causes keeping banks' profitability low.
33. The Chairperson then presented a proposal to conduct a transparency exercise in 2016, and then regularly every year, encompassing a larger sample of banks than that of the 2016 EU-wide stress test, and using exclusively COREP/FINREP data with checks with institutions prior to publication.
34. The BoS agreed with the idea of a transparency report as means to enhance data disclosure to the markets. Some members expressed a concern that the data used for the 2016 EU-wide stress test and for the transparency report were inconsistent for the time series. EBA staff responded that the transparency exercise should be viewed as a step towards consolidating the sample of banks and stabilising the data time series over the medium term. It would be important to ensure communication was clear on this point. Some members noted concerns with enlarging the sample for 2016 and queried whether more thought could be given to the proposal. One member requested that the final sample be discussed bilaterally and presented finally at the BoS meeting of 20-21 June 2016.
35. Concerning the fact that data on the LR and sovereign exposures would not be included in the transparency exercise, some members expressed different views, with some calling for the inclusion of detailed sovereign data and the LR in the 2016 exercise. The EBA staff noted that sovereign exposures were only partly covered in COREP and LR data would only be collected as from end-2016, therefore for the sake of efficiency they would not include them in the 2016 exercise but acknowledged that a way should be found to be able to include both in future exercises. To this end the LR data would be available in 2017 and they would work with SCARA to assess the possibilities for including the more detailed sovereign data in regular reporting.

## Conclusion

36. The BoS agreed to a regular, annual transparency exercise published at the same time as the Risk Assessment Report (RAR), for which in 2017 and onwards the sample of banks would be aligned. For the 2016 transparency exercise, EBA staff would discuss with CAs the appropriate sample and submit a proposal to the BoS meeting of 20-21 June 2016.
37. The 2016 transparency exercise would be based on COREP/FINREP data, while for 2017 a solution for sovereign exposures should be found within COREP.

## Agenda item 10.: Follow up on the Commission's Note on Clarifying Pillar 2 Minimum Requirements and Guidance

38. The Chairperson referred to a note from the Commission services' to the Expert Group on Banking, Payments and Insurance setting out proposals to review Pillar 2 requirements and the automatic restrictions on distributions in case of breach of the combined buffer requirements. He invited the BoS to share their views on the differences between Pillar 2 requirements for specific risks and Pillar 2 'guidance' in the case of supervisory reactions to more forward capital planning and stress tests. Moreover, and as a follow-up to the EBA's Opinion on the interaction of Pillar 1, Pillar 2 and combined buffer requirements and restrictions on distributions, the Chairperson sought the BoS views on the treatment of AT1 instruments in the case of restrictions on distributions.
39. In light of the divergences across the EU, a majority of members opined that it was necessary to clarify the differences between Pillar 2 requirements and guidance, in terms of what risks or supervisory concerns each should cover. They agreed that Pillar 2 requirements should cover risks and elements of risks not covered under Pillar 1. In the case of Pillar 2 guidance, they noted that further work was needed to spell out how to capture the forward looking risks around stress testing and capital planning as well as mechanisms of enforcement. This could be addressed in the review of the level-1 text; although the possibility of clarifying those aspects by amending some of the EBA Guidelines was mentioned as a possible alternative or a more immediate option was by issuing a recommendation. Other members noted that capital was not the only measure to be used under Pillar 2 and that the current regulatory framework already provided CAs with a wide range of powers to adopt different measures, and that such flexibility was important. The Commission's work on the introduction of TLAC in the EU framework and its potential consequences in the stacking order of the different Pillars for supervision and resolution were also mentioned.
40. Regarding the treatment of AT1 instruments and the proposed options on setting different triggers for the restrictions of payments or clarify an order in distributions when restrictions would be triggered, some members expressed their preference for clarifying the pecking order of expected restrictions in cases where the maximum distributable amount (MDA) would be triggered rather than setting specific restrictions of AT1 payments. A majority of members viewed on the contrary that determining a pecking order in the distribution could affect the loss absorbency and flexibility of payments of AT1 Instruments, giving the wrong signal that coupons would always be paid. These members favoured keeping consistency with the current regulatory treatment and eligibility criteria of AT1 instruments, and did not welcome the possibility of favouring AT1 instrument holders. In this sense, they viewed that institutions should have flexibility in determining such pecking order. Finally, other members indicated that the MDA issue was more complicated and favoured more technical analysis to be performed.

## Conclusion

41. The BoS agreed, in light of the impending SREP exercise, that the EBA would draft a Recommendation addressed to CAs setting out the rationale for the determination of Pillar 2 capital guidance and the consequences of capital falling below this level. This could also serve to inform the Commission's review of the CRR/CRDIV on the distinction between Pillar 2 requirements and capital guidance, including the instruments available to CAs in cases of breaches of Pillar 2 guidance.
42. Concerning AT1 instruments, the BoS agreed that the EBA's Subgroup on Own Funds should be tasked with the investigation of possible solutions in the context of the regulatory framework for AT1 instruments.

## Agenda item 11.: ECAI - EBA Decision on the Use of Unsolicited Ratings

43. EBA staff presented a draft Decision pursuant to Article 138 of the CRR whereby the EBA confirmed that the quality of the unsolicited credit assessments of the External Credit Assessment Institutions ('ECAIs') set out in its Annex did not differ from the quality of the solicited credit assessments of those ECAIs. A Report describing the outcomes of the analyses carried out by the EBA for ECAIs covered in the Decision was also presented.

## Conclusion

44. The BoS adopted the Decision and Report.

## Agenda item 12.: Draft Consultation Paper on RTS on Disclosures of Unencumbered Assets

45. The Chairperson explained the content of a draft consultation paper on RTS on disclosure of encumbered and unencumbered assets under Article 443 of the CRR. The objective of the RTS would be to provide transparent and harmonised information on asset encumbrance across Member States based on a harmonised definition of encumbrance, and to enable market participants to compare institutions in a clear and consistent manner.

## Conclusion

46. The BoS adopted the consultation paper.

## Agenda item 13.: Final Guidelines on DGS Stress Testing

47. The Chairperson explained the final Guidelines on stress tests of deposit guarantee schemes under Directive 2014/49/EU. The Guidelines set out minimum indicators to be measured by deposit guarantee schemes when assessing their performance in relation to a number of operational and financial capabilities.



## Conclusion

48. The BoS adopted the final Guidelines.

## Agenda item 14.: Stress Test 2016

49. Further to the BoS approval at the meeting of 04 February 2016 to implement non-recurrent adjustments to the stress test methodology, CAs had been collecting them from the sample of banks. The EBA Director of Oversight explained the EBA's assessment of these non-recurrent adjustments and asked the BoS whether CAs or alternatively the EBA should now make a final review and decide what to do especially in the case of adjustments with a small impact. He also sought the BoS' support as to whether the final publication should identify those banks for which non-recurrent adjustments had been applied.

50. Members deemed fundamental to conduct a proper quality assurance in all cases and agreed that CAs should engage with institutions to better understand the rationale of the non-recurrent adjustments reported. CAs should be rather restrictive in their approach to accepting adjustments to ensure a consistent playing field across institutions, in particular in relation to write-offs of goodwill and to contributions to DGS schemes and suchlike. In particular, it was noted that contributions to DGS schemes were particularly likely in times of stress and so it seemed odd to exclude them from the adverse scenario.

51. On the expected conduct risk losses to be included in the 2016 EU-wide stress test, the EBA Director of Oversight asked for the BoS' views on the nature and number of events reported, noting that they seemed exceptionally low given recent experience. Members agreed that their number was quite low, which could be justified for lack of time to report, or for the consequences, e.g. provisioning, they could face should they recognise the existence of such events.

## Conclusion

52. The BoS agreed that CAs would reassess the reported non-recurrent adjustments and the Stress Test Taskforce (STTF) would only review any major non-recurrent adjustments, while ensuring that all those events were strictly and properly mapped. The BoS also agreed to identify them in the final publication. Moreover, CAs would reassess conduct events. The BoS would take a final decision by written procedure.

## Agenda item 15.: Report on Supervisory Response to Conduct Risk

53. The EBA Director of Oversight presented the Report on Conduct Risk. He recalled that the BoS had previously supported the EBA performing this review of supervisory approaches and responses to conduct risk. The report included a stocktake of practices and responses to conduct risk, an overview of conduct risk incidents in institutions across the EU in the period 2013 to mid-2015; also, the approaches and measures taken by CAs, and the cooperation

between prudential and conducts supervisors. He asked the BoS whether they agreed with the content and publication of the Report.

54. The BoS praised the report and agreed that it constituted a comprehensive overview of approaches and measures across the EU. However, members expressed a concern with the comparability of data as well as some data quality issues, and opined that the report should not be published.

### **Conclusion**

55. The BoS agreed to include a section on supervisory response to conduct risk in the Supervisory Convergence Report that would be tabled at the BoS meeting of 20-21 June 2016.

### **Agenda item 16.: Reports from Standing Committees**

56. The BoS took note of the reports from the Standing Committees.

### **Agenda item 17.: AoB**

57. The Chairperson brought to the attention of the BoS the list of topics that the Management Board had considered for discussion at the Bos away day meeting of 7-8 July 2016, in particular: FINTECH and digital banking; NPLs and profitability; and a discussion on the effects that the outcome of the UK referendum on EU membership and the settlement agreed between the EU and the UK Government could have on the EBA, in particular on supervisory convergence. He asked members for other suggestions as well as potential speakers.

### **END OF MEETING**

**Andrea Enria**

**Chairperson**

## Participants at the Board of Supervisors' meeting

19/20 April 2016, London

Chairperson: Andrea Enria

<b>Country</b>	<b>Voting Member/Alternate<sup>1</sup></b>	<b>Representative NCB</b>
1. Austria	Michael Hysek	Philip Reading
2. Belgium	Jo Swyngedouw	
3. Bulgaria	Stoyan Manolov	
4. Croatia	Željko Jakuš	
5. Cyprus	Argyro Procopiou	
6. Czech Republic	David Rozumek	
7. Denmark	Jesper Berg	Peter E. Storgaard
8. Estonia	- <sup>2</sup>	Indrek Saapar
9. Finland	Marja Nykänen	
10. France	E. Fernández-Bollo/F. Visnovsky	
11. Germany	Peter Lutz	Erich Loeper
12. Greece	Spyridoula Papagiannidou	
13. Hungary	- <sup>3</sup>	
14. Ireland	Gerry Cross	
15. Italy	Luigi F. Signorini/Andrea Pilati	
16. Latvia	Jelena Lebedeva	Vita Pilsuma
17. Lithuania	Renata Bagdonienė	
18. Luxembourg	Christiane Campill	Norbert Goffinet
19. Malta	-	Alexander Demarco
20. Netherlands	Jan Sijbrand/Olaf Sleijpen	
21. Poland	Andrzej Reich	Maciej Brzozowski
22. Portugal	Maria Adelaide Cavaleiro	
23. Romania	Nicolae Cinteza	
24. Slovakia	Tatiana Dubinová	
25. Slovenia	Miha Kristl	
26. Spain	Fernando Vargas/Cristina Iglesias-Sarria	
27. Sweden	Martin Noréus	Olof Sandstedt
28. UK	Andrew Bailey/Sasha Mills	Fiona Mann

<sup>1</sup> Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Cool Dries (National Bank of Belgium); Julia Blunck (BaFin); Constantinos Botopoulos (Bank of Greece); Taina Erovaara-Williams (Finnish Finanssivalvonta); Gina Fitzgerald (Central Bank of Ireland); Maurizio Trapanese (Banca d'Italia); Olena Loboiko (De Nederlandsche Bank); Izabella Szaniawska (Polish Financial Supervisory Authority); Damjana Iglič (Bank of Slovenia); Christine Boykiw, Gurmaj Dhillon and Omar Ahmed (UK's Prudential Regulation Authority)

<sup>2</sup> Represented by Maire Otsus-Carpenter

<sup>3</sup> Represented by László Seregdi

<u>Country</u>	<u>Observer</u> <sup>4</sup>
1. Iceland	Sigurður Freyr Jónatansson
2. Liechtenstein	-
3. Norway	Morten Baltzersen

<u>Non-voting Members</u>	<u>Representative</u>
1. SSM	Korbinian Ibel <sup>5</sup>
2. European Commission	Dominique Thienpont
3. EIOPA	- <sup>6</sup>
4. ESMA	- <sup>7</sup>
5. ESRB	- <sup>8</sup>

<u>Observer</u>	<u>Representative</u>
1. SRB	Dominique Laboureix

#### EBA Staff

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

Mario Quagliariello; Delphine Reymondon; Lars Overby; Jonathan Overett Somnier; Corinne Kaufman; Charles Canonne; Santiago Barón-Escámez

<sup>4</sup> Representatives from central banks: Örn Hauksson (Central Bank of Iceland); Sindre Weme (Norges Bank)

<sup>5</sup> Accompanied by Sergio Nicoletti Altimari (ECB)

<sup>6</sup> Represented by Andrew Candland

<sup>7</sup> Represented by Joe Heavey

<sup>8</sup> Represented by Tuomas Peltonen