



EBA MB 2014 125rev1

EBA Staff

19 November 2014

Location: London

Management Board – Final Minutes

Agenda item 1.: Opening, approval of agenda and minutes

1. The Chairperson opened the meeting and welcomed all participants to the Management Board (MB) meeting. The provisional agenda (document *EBA MB 2014 104rev2*) was approved. The draft minutes of the MB meeting of 24 September 2014 (document *EBA MB 2014 105rev1*) were approved.
2. The EBA Executive Director informed that, following termination of the first term of mandate of two Members of the MB, an election by secret ballot would take place at the Board of Supervisors' meeting of 10-11 December 2014 to elect two BoS Members as Members of the MB, following the call for expression of interest issued on 11 November 2014.

Agenda item 2.: Administrative and Operational Report

3. The EBA Director of Operations presented the latest administrative and operational report (document *EBA MB 2014 111*) covering developments since the last MB meeting of 24 September 2014. A request for approval of a transfer above 10% of the appropriations to cover projected salary adjustment and correction coefficient impact was submitted to the MB.
 4. The EBA Executive Director informed the MB on the current status of the budget following disagreement between the European Council and the European Parliament and the likely consequences for the EBA budget 2015, among them the freeze of recruitment of new staff.
 5. Other aspects discussed about the report were, inter alia, a) the financial audit had been outsourced to an independent, external company based on the tender procedure initiated by the European Court of Auditors; b) the need to increase the limited internal resources to carry out a comprehensive media monitoring which could help the EBA to gain greater outreach as well as awareness of the issues discussed in the national media; c) the fulfilment of establishment plan for 2014; d) the main focus of the communications activities had been on the EU-wide stress tests 2014; and e) phase 3 of the European Supervisory Platform (ESP) had been live since October 2014 whereas phase 4 would go live in February 2015.
-

Conclusion

6. The MB took note of the administrative and operational report. The budget transfer request was approved.

Agenda item 3.: Risk Management Process

7. The EBA Director of Operations presented for approval of the MB the EBA Risk Management Process (document *EBA MB 2014 118*). The process would help the EBA to communicate and consult with its stakeholders and monitor and review the risks and the controls that could be modifying those risks.
8. While noting that there would be a log with all risks identified, any critical risks and not only those related to the work programme would be brought to the MB's attention. The MB would also be presented annually with the "Annual Risk Assessment". It was agreed, in this respect, to include a reference to the timeframe to deal with risks as well as the mitigation actions to address them. Furthermore, it was also agreed that the risk exposure matrix should foresee as critical risk any event of moderate probability and severe impact as well as high probability and severe impact.
9. The European Commission's representative queried EBA's progress on the anti-fraud guidelines. EBA management noted that the preparation of the guidelines was in progress.

Conclusion

10. The MB approved the risk management process with the changes as noted (paragraph 8).

Agenda item 4.: Long-term Office Solution Implementation – Financial Update

11. The EBA Executive Director presented a financial update on the long-term office solution implementation (document *EBA MB 2014 120*, *EBA MB 2014 120 Annex 1* and *EBA MB 2014 120 Annex 2*). He mentioned that the EBA was starting the negotiations on the dilapidations cost connected with leaving the current premises in Tower 42.

Conclusion

12. The MB took note of the financial update.

Agenda item 5.: Establishment of the Taskforce on Impact Studies

13. The Chairperson presented a proposed mandate for the establishment of a new Taskforce on Impact Assessment (TFIS) (document *EBA MB 2014 112*) following the agreement at the BoS meeting of 28-29 October 2014 on the dismantling of the Impact Study Group (ISG). The proposal envisaged that, in order to perform its analyses, the TFIS would mainly rely on the

COREP ITS and on the EU QIS data. The TFIS would not have a policy role, however should its reports contain any policy recommendations, these would be first discussed at the relevant EBA Standing Committee and before transmission to the EBA BoS, to incorporate the experts opinion on the topic. Impact assessments accompanying EBA's proposals for draft technical standards and guidelines would continue being developed under the existing EBA Standing Committees.

14. On the possibility of reviewing the application of relevant regulatory and implementing technical standards adopted by the Commission, and of guidelines and recommendations by the EBA, by performing post-implementation studies, it was explained that these remained the principal remit of the EBA Standing Committees, however the TFIS could be involved in such review upon request of the BoS.
15. On the task to carry out impact studies on capital, leverage and liquidity ratios in relation to the implementation of the CRDIV/CRR, including the production of the regular Basel III/CRDIV-CRR Monitoring Report, it was noted that impact studies on Basel III should not be the core of the mandate but that the TFIS should carry them out only as part of its *assistance function*. Furthermore, the Chairs of the TFIS would have the possibility of setting up subgroups on specific matters or involving existing expert groups, e.g. on liquidity. The Chairperson noted however in this regard that the TFIS' main function was to perform quantitative/qualitative impact studies and that this should be the main expertise required for the TFIS.

Conclusion

16. The draft mandate would be amended to make more prominent the continuance of the work performed by the ISG; the function of monitoring work on Basel III would be separated from that of CRDIV-CRR in the mandate; finally, the mandate should also make clearer the expertise of its members taking into account its core functions.

Agenda item 6.: Comply-or-Explain Process for Guidelines

17. The Chairperson presented a paper (document *EBA MB 2014 108* and *Annex*) outlining two changes to the comply-or-explain process for Guidelines adopted by the EBA, with a view to aligning the practice with that of the other two ESAs, in particular by introducing the possibility for competent authorities (CAs) to express also their "intention to comply", and not only with regard with the overall Guidelines but also with parts thereof. In the context of the comply-or-explain process, one of the MB members informed the EBA about the current ECB developments and proposed to align the comply-or-explain procedure within the SSM.

Conclusion

18. The template was agreed, subject to one potential change that EBA staff would make if agreed with the other ESAs in order to maintain consistency.

Agenda item 7.: Issues Note on Stress Tests Guidelines

19. The Chairperson advised the MB that the EBA was in the process of reviewing the EBA's stress test Guidelines with a view to having, inter alia, a better articulation of the different types of supervisory stress test exercises, and to ensure consistency with the new SREP Guidelines. The objective of the Guidelines was not however to set out the methodology for the next stress tests.
20. MB Members discussed about the paper presented (document *EBA MB 2014 116*). It was agreed to reflect further on the organisational governance to conduct the review of the Guidelines, taking into account that they would be relevant for various EBA Standing Committees and thus it would be desirable to have a constructive engagement of these.
21. There were some questions on the timeframe to work on the Guidelines, noting that the most pressing question was to develop a comprehensive, yet clear and concise taxonomy to address issues such as ambiguity and overlap in several terms and definitions as well as the required regulatory requirements and best practices. It was agreed that the priority would be to develop the taxonomy.
22. On conduct risk, it was mentioned that it could be positive to include it in the stress tests, however it was broadly acknowledged the difficulty to convert it into a quantitative measure to be assessed in the stress test context.

Conclusion

23. A broader assessment of the 2014 stress test would take place at the next MB meeting; the taxonomy of the Guidelines would be developed in a first stage as a matter of priority.

Agenda item 8.: Guidance Note on IRB Repair Process

24. The Chairperson informed the MB (document *EBA MB 2014 114*) of the intention to publish a discussion paper setting out the sequencing of the future regulatory products on the use of the internal ratings-based (IRB) approach; since it was acknowledged that such regulatory products would have an impact on the development, scope of use and the results of IRB models, such a discussion paper would be intended to engage in discussions with the industry and the general public with a view to obtaining feedback on the sequencing which could result in the most effective development of those regulatory products.
25. The MB agreed on the importance of such a discussion paper as a means to obtain meaningful feedback to inform an effective schedule for the development of regulatory products, mindful of the existing critical interdependencies. It was stressed that the discussion paper should focus on the regulatory mandates rather than opening the door to a discussion on IRB models.
26. It was suggested to include a timetable for development as well as the deadline for submission of the different mandates. Moreover, the concerns has been raised by Members that IRB

models would need to be changed and approved several times, if pieces of regulation do not entry into force simultaneously. Therefore it has been proposed by a Member to bundle the IRB regulatory products as much as possible.

Conclusion

27. The proposal was approved by the MB with the two suggestions made. The discussion paper would be tabled at the BoS meeting of 24-25 February 2015.

Agenda item 9.: Guidance Note on the Work Related to the Prudential Treatment of Investment Firms

28. The Chairperson explained that the Capital Requirements Regulation (CRR) required the Commission to report by end-2015 on the prudential treatment of investment firms, and recalled that investment firms were subject to both the CRR and MiFID/MiFIR (document *EBA MB 2014 113*). The Commission was preparing a call for advice to both the EBA and ESMA while suggesting a joint EBA/ESMA response thereto. He sought the views of the MB on the matter, and also brought to the MB's attention the fact that not all supervisors of investment firms were EBA members. Finally, he informed of the tight deadlines for the EBA to prepare a response to the call for advice and suggested an interim report should the EBA face difficulties in meeting the deadline to be set out in the Commission's call.

29. The Commission's representative welcomed the possibility of an exchange of views between the EBA and the Commission on the basis of an interim report. He noted the importance to clearly delineate the matters on which ESMA and the EBA could provide input for the report.

Conclusion

30. The MB expressed its preference for a call for advice addressed jointly to the EBA and ESMA, such that the EBA and ESMA could work under two separate work-streams and then reconcile their views in a joint report.

Agenda item 10.: Basel III Regulatory Consistency Assessment Programme (RCAP)

31. The Chairperson informed the MB (document *EBA MB 2014 110*) that the conclusions of the final RCAP report due early December 2014 could be expected not to differ from what had been previously communicated to the BoS. He asked for the MB's views on the possibility of sending a letter to the Commission and possibly to the EU legislators encouraging them to consider remedial action as well as highlighting the prudential risk; and on the proposal to prepare a joint communication between national authorities and the EBA on the response to the report.

32. The majority of MB Members showed their preference to not send a letter while considered beneficial to prepare a joint communication addressing the report's possible negative impact. Besides, a majority of MB members informed to be ready to assist the EBA to fix the deviations.
33. The Commission representative told the MB that the Commission services were considering a message which would focus on the positive aspects. This includes in particular that banks are well capitalized and i.e. that 12 out of 14 areas were found compliant or largely compliant. The communication would also seek to manage expectations regarding legislative change, pointing out that CVA capital exemptions could be revisited once Basel itself has reviewed the design of CVA capital requirements and that regarding partial use of IRB, there is already a concrete way forward in the current CRR. He invited the EBA to join the communication activities devised by the Commission services.

Conclusion

34. The MB agreed that no letter would be sent to the Commission and to the EU legislators. A common message for communication purposes, including a Questions & Answers (Q&A) document, would be prepared. The EBA would engage with the Commission to agree on the arguments to use, inter alia with regard to the 2014 EU-wide stress tests.

Agenda item 11.: Transitional Arrangements for the Resolution Committee

35. The Chairperson warned the MB that not all Member States had established resolution authorities, and this could pose problems in activating the delegation mechanism for decision-making by the Resolution Committee (ResCo) as agreed at the BoS meeting of 28-29 October 2014. A proposal was presented (document *EBA MB 2014 107*) for the transitional period until a sufficient number of Member States had designated their resolution authorities (document *EBA MB 2014 107*). The proposal did not impinge on the establishment of the ResCo, whose establishment should take effect from 01 January 2015.

Conclusion

36. It was agreed that the EBA would prepare a legal note for the MB analysing the legal implications of the transitional governance arrangements as presented; the BoS would be informed.

Agenda item 12.: Management Board Meetings in 2015

37. The 2015 calendar of BoS and MB meetings was presented (document *EBA MB 2014 106*). The 2015 calendar had been already communicated formally to the BoS and MB in July 2014.

Agenda item 13.: Board of Supervisors' December 2014 Meeting – Draft Provisional Agenda

38. The provisional agenda for the BoS meeting of 10-11 December 2014 (document *EBA MB 2014 115*) was presented to the MB, who was asked to send to the EBA any comments in the coming days, further to which the agenda would be sent to the BoS for information.

Agenda item 14.: AoB

- a. The provisional agenda for the joint Board of Supervisors–Banking Stakeholder Group meeting of 10 December was presented to the MB.
- b. The MB was informed that, in the coming days, a written procedure would be launched to the MB for the approval of an amendment to the reimbursement policy as applicable to the Board of Appeal, following a discussion at the Joint Committee where it was proposed to raise the cap of the remuneration paid to the President and Rapporteur of the Board of Appeal, for each appeal case.

Andrea Enria

Chairperson

**Participants at the Management Board meeting
19 November 2014**

Chairperson Andrea Enria
Alternate Chairperson Pedro Duarte Neves (Bank of Portugal)

<u>Country</u>	<u>Member/Alternate</u>
Germany	Peter Lutz
Italy	Luigi Federico Signorini
Netherlands	Jan Sijbrand
Poland	Andrzej Reich
Spain	Fernando Vargas Bahamonde
United Kingdom	Sasha Mills

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

<u>EBA Staff</u>	
Executive Director	Adam Farkas
Director of Regulation	Isabelle Vaillant
Director of Operations	Peter Mihalik
Director of Oversight	Piers Haben

Jonathan Overett Somnier; Lars Overby; Mario Quagliariello; Stefano Capiello; Santiago Barón-Escámez