

Minutes of the EBA BoS meeting 5-6 December 2012

5-December 2012/13:30-19:00

6-December 2012/9:30-16:00

Location: EBA, London

1. The Chairperson chaired the meeting.

Agenda item 1: “Opening, welcome & approval of the agenda and minutes”

2. The agenda and the draft minutes of the 14 November 2012 BoS meeting were approved.

Agenda item 2: “Risks and Vulnerabilities”

3. Under this agenda item the following topics were discussed: Risk Assessment Report of the EBA to the General Board of the ESRB, the SCOP letter on Risks and Vulnerabilities and the EBA Dashboard and the aggregate answers to the risk assessment questionnaire (RAQ).
 4. In relation to the Risk Assessment report, the Chairperson recalled that this is a report for the ESRB as required by the EBA Regulation. The Director of Oversight briefly explained the key messages from the Risk Assessment Report and its future implications. The BoS welcomed the risk analysis package submitted by the EBA staff and noted the significant improvements in the quality of these products and the good use of different data sources. However, some members suggested that the value added of the risk assessment questionnaire would improve significantly if banks were involved directly.
 5. The BoS agreed to publish in January a streamlined version of the risk report, to be prepared by the EBA staff and circulated to the BoS for comments and endorsement separately. This is consistent with the other ESAs’ decision to publish their risk assessments.
 6. Regarding the SCOP letter on Risks and Vulnerabilities, Fernando Vargas, Chairperson of SCOP, informed of the outcome of the SCOP discussion on ongoing risk and vulnerabilities which aims to supplement the risk monitoring and assessment work carried out by the EBA Staff. He also explained the different risks mentioned in the letter: asset quality and
-

forbearance, funding, danger of fragmentation of the internal market and the need for close home-host cooperation.

Conclusion

7. The risk assessment report for the ESRB, already subject to a round of written comments and discussed during the meeting, will be endorsed by written procedure and transmitted to the ESRB Secretariat.
8. Regarding the SCOP letter, relevant comments were raised by the BoS members.

Agenda item 3: “EBA Recommendation on Capital Conservation”

9. An update was provided by the EU COM on the main outcomes of the last ECOFIN meeting.
10. The Director of Oversight introduced this item proposing: (i) that anew EBA Recommendation on capital conservation will replace the 2011 Recommendation on temporary capital buffers as soon as the CRD IV/CRR package enters into force, and (ii) that the reporting template for monitoring banks’ capital plans would be developed and submitted to the BoS at a later stage.
11. The BoS members expressed support for the general thrust of the new EBA Recommendation, and raised comments on: the time schedule for submission of capital plans, main elements to be included in the capital plans, the need to reduce the complexity of the templates, the treatment of sovereign buffer, the monitoring of capital plans and the date till when the recommendation would be valid. The BoS members also expressed the view that the 9% capital preservation recommendation should be considered to be a minimum standard in firms’ base case capital planning, as opposed to a dynamic target.

Conclusion

12. The BoS supported the new Recommendation subject to some amendments that will be incorporated into the text. A revised version of this Recommendation will be circulated to the BoS members by the end of this year.

Agenda item 4: “Asset Quality Exercise”

13. The Chairperson noted that the document on Asset Quality Exercise reflects the discussions held at the November Management Board (MB) meeting. The MB suggested the BoS to consider some pragmatic steps towards a better understanding of asset quality with a focused exercise in three stages. Some member questioned the process followed, suggesting that the technical experts from all national authorities should have been consulted in advance.
14. Given the need to coordinate any initiative with the SSM, the Chairperson invited to have a preliminary discussion on the most adequate way for performing an asset quality review, highlighting that the timeframe could be extended should the BoS opt for a more comprehensive approach.

-
15. Some members voiced their concerns on the tight timeline for the exercise and expressed a preference for decoupling the AQR from the 2013 stress test.

Conclusion

16. The BoS members expressed their preference for focusing on one portfolio, preferably the same for every country. The BoS agreed to wait to take any further decision on this topic until the Single Supervisory Mechanism is approved and to coordinate this exercise with the European Central Bank.

Agenda item 5: “Forbearance and NPL”

17. Following the last BoS decision, SCARA worked in the areas of definition and data collection for forbearance and non-performing loans. Based on this initial work, it is suggested that a limited Task Force under SCARA (with appropriate participation of experts from relevant SCREPOL substructures) prepares a consultation paper covering the definition of both forbearance and non-performing loans, together with relevant new or improved templates for data collection. The Chairperson noted that a similar discussion on disclosure of information regarding forbearance will also take place at the December meeting of ESMA’s BoS.

18. The BoS was asked to confirm the proposed process.

19. The discussions covered data availability, the need for a broad scope for the definitions, the complexity of the project as well as the links to accounting definitions. It was also pointed out that some time might be needed to have the relevant information available according to the new definitions, as banks will have to adapt their internal systems.

Conclusion

20. The BoS members confirmed the mandate given to SCARA at the last BoS meeting and endorsed the set up of a Task Force charged with the drafting of a consultation paper with definitions for forbearance and non-performing loans and related proposals for reporting templates. The BoS agreed that the paper should be ready by January 2012 and submitted for endorsement at the February BoS meeting (at the latest), before the start of the consultation in accordance with the usual due process.

Agenda item 6: “EBA 2013 Stress test”

21. As agreed at the last BoS meeting, the EBA staff drafted a document clarifying some aspects, mostly linked to the interaction of stress results and capital plans assessment. Some members questioned the process followed, suggesting that the STTF should have been more involved in the preparation of the paper for the meeting. The EBA staff explained the paper had been circulated in advance to the STTF members but there was insufficient time between BoS meetings to allow a formal comment procedure. The BoS was invited to express its views on the preparation for the 2013 EU wide Stress Test Exercise, in particular, on the principles indicated in the document, timeline of the exercise and the communication issue.

-
22. Some members questioned the relationship between a static stress test and dynamic capital planning, and benchmarks to be used.

Conclusion

23. The BoS discussed the EBA's staff paper and confirmed the main methodological assumptions (static balance sheet, time horizon, etc.). The BoS mandated the MTF to continue working in order to flesh out the details of the methodology and the related data needs. The BoS also supported the early preparation of the templates for data collection in order to test them with the industry. The MTF was also asked to work on the integration of the stress test outcome and the assessment of banks' capital plans as well as on the identification of the set of benchmarks that NSAs should look at for crafting appropriate supervisory measures.
24. The BoS also agreed that any decision about the timing of the 2013 EU-wide stress test exercise is subject to the developments in the establishments of the Single Supervisory Mechanism and to the possible ECB's decisions to carry out an asset quality review. Several members stressed the usefulness of having a fully joined-up effort with the ECB, adjusting the timetable of the exercise accordingly.
25. On the communication of results, the BoS felt that any decision would be premature and decided to postpone the discussion.

Agenda item 7: "The European Banking Union and the impact on the EBA"

26. The BoS was updated on the main outcomes of the last ECOFIN meeting by the representative from the European Commission. The Chairperson noted that the voting mechanisms at the EBA were at the centre of the discussion in the negotiation on the SSM. Therefore, he suggested discussing at the next BoS meeting, following a preparatory discussion at the MB, how to adjust the decision making procedures within the EBA in light of the new, in all likelihood more complex, voting mechanisms.
27. The Commission Communication on the banking union also mandated the EBA to develop a Single Supervisory Handbook to complement the Rulebook. The BoS was asked to agree on starting the handbook project as discussed at the last MB meeting and to express its views on: a) the project impact on the SCOP/SGRAS work on common procedures and methodologies for SREP and b) creation of a MB/BoS level Steering Committee.

Conclusion

28. The BoS provided a general support to start working on the handbook project, but raised some concerns on the appropriate process, as well as on the legal status and focus of the initiative. In particular, it was shared that work on the project could be initiated only after having clarified the relation with the work under any of the Standing Committees. The project should also be closely coordinated with the work of the ECB. Some members expressed a preference for developing the work towards the identification of best practices. The proposal to

establish a Steering Committee will be further discussed by the MB. At the next meeting the BoS will discuss - a possible outline for the Single Supervisory Handbook, with the sequence for addressing different issues; - coordination issues with the Standing Committees and possible options on the working method; and – a note on the legal status of the Handbook.

Agenda item 8: “Euribor-EBF review and Draft CP on Principles on Benchmark Rate Setting”

29. In September 2012 the Board approved mandates for the three joint EBA-ESMA work streams on Euribor related issues.
30. The Executive Director briefly provided an update on the coordination of investigations of the Euribor panel banks. Some differences in the initiatives taken by competent authorities were noted and BoS members were encouraged to conduct serious investigations on the panel banks, as preliminary results in some countries raise concerns on possible misconduct
31. The Executive Director also introduced the report on the review of the process for setting the Euribor and the two sets of recommendations to Euribor-EBA and to the NSAs. The Board members were also invited to consider the possible role of NSAs in preventing banks from leaving the Euribor panel and even ensuring a broader composition in the future, in order to ensure continuity and stability of the benchmark.
32. The draft consultation paper on principles for benchmark rate setting processes was introduced by the ESMA Executive Director.

Conclusion

33. The recommendations and the report were supported by members. The EBA staff will review the recommendations based on the comments suggested by the BoS members at the meeting. Written comments should be sent by Wednesday, 12 December 2012. The BoS agreed that before publication the report and the recommendations would be shared with Euribor-EBF. The BoS members supported the draft consultation paper.
34. The Euribor review and the draft consultation paper on the principles for benchmark rate setting processes will be discussed by the ESMA Board on 17 December 2012 after which a written procedure for approval of the papers will be organised.

Agenda item 9: “Update on the TCOR Progress Report”

35. The BoS was updated on the work performed by the TCOR Task Force. The BoS was invited to express its views on: a) the top-down analysis conducted on in-house data; b) the preliminary results of the low default portfolio analysis, b) the analysis of the EU data obtained by the Basel Committee’s group on trading book issues (SIGTB) and preliminary conclusions and c) on-going work on Pillar 3 disclosure.

Conclusion

36. The BoS agreed that TCOR should finish the work already initiated before starting new tasks, but a concern was raised on the scope and resource intensity of the work. A document will be circulated to the BoS on resources needs, data requirements and timeline.
37. In the meantime, the TCOR will continue working on the finalisation of the Top-down report, proceed with the analysis on the low default portfolios.
38. In January the TCOR top-down report will be submitted to the BoS for approval and publication, together with a proposal on the way forward on SMEs and Residential mortgages.

Agenda item 10: “Recommendation on the development of recovery plans”

39. The Director of Regulations introduced this item. The BoS members were requested to endorse the draft recommendation which was prepared to launch an exercise on the development of recovery plans by the 40 European banking groups whose supervisory colleges are more closely monitored by the EBA.

Conclusion

40. The BoS supported the draft Recommendation while expressing some concerns regarding the home / host cooperation to monitor the elaboration of the group recovery plan. There was an understanding that bench mark restructuring will not be obliged to fully comply with the Recommendation. The EBA staff will review the wording of the recommendation to further emphasize the duty to duly consider individual recovery plans within the supervisory colleges' examination, if individual plans have been prepared. A revised version of the draft Recommendation will be circulated to the BoS asking for written comments to be submitted by Thursday 13 December 2012, cob.

Agenda item 11: “EBA Opinion on the Commission’s Non-Banking Recovery and Resolution Framework Consultation”

41. The Director of Regulations explained that this draft Opinion was drafted in response to the European Commission’s consultation on a possible recovery and resolution framework for financial institutions other than banks. The BoS was requested to endorse the above mentioned Opinion.

Conclusion

42. The BoS broadly supported the draft Opinion subject to some minor amendments suggested by the BoS members. A revised version of the EBA opinion will be circulated to the BoS for approval via written procedure.

Agenda item 12: “Consumer protection”

-
43. A proposal for a joint EBA-ESMA warning on CfD's was introduced by the Chair of SCConFin. He noted that the joint EBA-ESMA warning is currently being worked on by EBA and ESMA staff. In this regard, close coordination with ESMA is important, given the respective mandates.
44. A good practices paper on ETF's was introduced by the Chair of SCConFin. As agreed at the June BoS meeting, the BoS was presented with a paper describing ETFs and their key risks, outlining good practices for ETF risk management by banks and providing supervisory guidance for NSAs. The BoS was asked to endorse publishing the paper on good practices for ETF risk management for banks and NSA's, after incorporation of the feedback from the industry and BSG.

Conclusion

45. The BoS agreed with issuing a joint warning on CfDs with ESMA. A final proposed text of the joint warning on CfDs with ESMA will be circulated to the BoS for approval via written procedure (in parallel with approval by the ESMA BoS). It was also agreed that after having introduced appropriate cross-reference to the ESMA guidelines on ETFs, received feedback from some market participants and the BSG, the ETFs papers will be submitted to the BoS for final approval.

Agenda item 13: "Functioning of Supervisory Colleges"

46. The report on the functioning of colleges was introduced by the Director of Oversight who proposed SCOP to be consulted on the templates – annexed to the report – and the proposed deadlines indicated in the 2013 action plan. The BoS was requested: to endorse the findings presented in the report and to agree on the EBA Colleges Action Plan for 2013.

Conclusion

47. The BoS welcomed the report and recognised the work performed by the EBA staff on this topic. There was a general agreement that the colleges are working better but there is still room for improvement. The templates and deadlines of the Action Plan are to be consulted with SCOP. An update on the steps of the action plan concerning the closely monitored colleges and the non-EEA cross border banking groups present in the EEA will be provided at the February BoS meeting.

Agenda item 14: "Review of the European System of Financial Supervision (ESFS)"

48. The EBA Chairperson updated the BoS on the EC's proposed process for the review of the ESFS, under Article 81 - Review Clause - of the EBA Regulation and the ESAs' contributions to this process. The self-assessment under way is very factual and aims at describing the EBA's accomplishments to date and will be circulated to the BoS for information.

Conclusion

49. The BoS agreed to discuss possible options for providing a possible EBA opinion to the European Commission, including the possibility of a self-assessment by the Board of Supervisors. In particular, the governance of the EBA will be discussed at the February meeting of the BoS. BoS Members were requested to send to Adam Farkas suggestions for areas in the EBA Regulation which could work better and which could be discussed at the Management Board's next meeting, in order to prepare for the February 2013 BoS discussion.

Agenda item 15: "Update on the EBA 2012 Work Programme"

50. The Executive Director provided the BoS with an update on the EBA's 2012 Work Programme as agreed at the EBA's BoS meeting on 25-26 September 2012. The BoS acknowledged the quantum of work EBA had done to date in 2012 and also the pragmatic approach taken in using the Council's 2012 May text on CRDIV/CRR as a basis for updating deliverables envisaged of the EBA.

Conclusion

51. EBA staff will prepare a revised EBA 2013 Work Programme once the CRDIV/CRR has been agreed, and send to the BoS.

Agenda item 16: "Update on the IT Strategy"

52. The Director of Operations updated the BoS on the IT Strategy.

Conclusion

53. Some concerns were raised by the BoS members regarding the scope of data collections between NSAs and EBA. The BoS agreed to continue the work along the lines described in the IT Strategy and to follow up once the related project approval document will be submitted to the BoS.

Agenda item 17: "Reports from Committees"

54. The BoS took note and the BoS agreed on a new strand of work that is of relevance, directly or indirectly to SCARA / SCREPOL. The work relates to a possible new CRR mandate as well as ESRB data requests and concerns the development of a definition of asset encumbrance and related reporting templates.

Agenda item 18: "AoB"

55. Budget for 2013: The Executive Director noted that there is no formal budget for 2013 approved yet and therefore, a written procedure will be launched shortly to endorse a provisional budget for 2013.

56. Audit processes: The Executive Director provided an oral update on the three audit processes that are taking place at the EBA.



**Participants at the Board of Supervisors meeting
5-6 December 2012**

Chairperson	Andrea Enria		
Country	Voting members or Alternate		Representative NCB
Austria	Michael Hysek		Andreas Ittner/Ingeborg Stuhlbacher
Belgium	Mathias Dewatripont/Rudi Bonte		
Bulgaria	Nelly Kordovska		
Cyprus	Argyro Procopiou		
Czech Republic	David Rozumek		Marek Sokol
Denmark	Ulrik Nodgaard		Birgitte Sogaard Holm
Estonia	Raul Malmstein/Andres Kurgpold		Timo Kosenko
Finland	Jukka Vesala		Kimmo Virolainen
France	Daniele Nouy/Frederic Visnovsky		
Germany	Peter Lutz		Erich Loeper/Markus Lixfeld
Greece	Vasiliki Zakka		

Hungary	Károly Szász/Laszlo Seregdi	Marton Nagy	
Ireland	Matthew Elderfield	Yvonne Madden	
Italy	Giovanni Carosio/Roberto Rinaldi	Maurizio Trapanese	
Latvia	Kristaps Zakulis	Vita Pilsuma	
Lithuania	Aldona Jociene		
Luxembourg	Claude Simon		Norbert Goffinet
Malta	Andre Camilleri		Alexander Borg
Netherlands	Jan Sijbrand/Anthony Kruizinga		Mascha Van der Marel
Poland	Andrzej Reich		Izabella Szaniawska/Maciej Brzozowski
Portugal	Pedro Duarte Neves/Maria Adelaide Cavaleiro Joaquim		
Romania			
Slovakia	Vladimir Dvoracek/Tatiana Dubinova		
Slovenia	Matej Krumberger		
Spain	Fernando Vargas Bahamonde/Cristina Iglesias-Sarria		
Sweden	Martin Andersson		Olof Sandstedt
UK	Andrew Bailey		Fiona Mann/Silvia Pezzini/Rob Price/Russel Jackson

Country

Observers

Norway	Morten Baltzersen	Arild J Lund
Iceland	Luovik Porgeirsson	Jonas Poroarson
Lichtenstein	Rolf Bruggeman	
Croatia		Damir Odak

Institutions

Representatives

European Commission	Mario Nava
European Central Bank	Panagiotis Strouzas
ESRB	Francesco Mazzaferro
EIOPA	Carlos Montalvo
ESMA	Verena Ross

Others

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

EBA Staff Corinne Kaufman, Mario Quagliariello, Joseph Mifsud, Stefano Cappiello, Meri Rimmanen, Philippe Allard, Ben Pott, Efstathia Bouli, Markus Trzeciok, Tea Turcaniova, Patricia Juanes Burgos