



EBA Staff

EBA BS 2011 098 FINAL

9 June 2011

Minutes of the third EBA Board of Supervisors meeting

8th June 2011: 14:00hrs – 17:00hrs
and 9th June 2011: 9:00hrs – 16:00hrs
Location: Tower 42, London

Agenda item 1: Opening and approval of the Agenda and Minutes

1. The Chairperson opened the meeting.
2. The Agenda was approved, but there was agreement to move Agenda Items 12 and 11 to the first Agenda items respectively at the meeting on 9th June.
3. Minutes of the BoS Meeting of 2nd March 2011 and BoS Telco of 30th May 2011 were approved.

Agenda item 2: Roundtable discussion on risks and vulnerabilities

4. A representative from the EU Commission was given the floor to provide an update on the EFSF and European Stability Mechanism ('ESM') after the euro plus act. He referred to the policy response to risk, focussing on instruments created due to the financial crisis, highlighting the fact that the crisis started in the banking sector and ended up as a sovereign crisis.
5. The Chairperson opened the floor: one Member questioned PSI and that we can learn from the past of Eastern Europe and Turkey. He referred to the notion of moral suasion and whether supervisors play a role to exert pressure on the banks. Another Member enquired about the upcoming decision on the implications for banks' liquidity.
6. The ESRB representative commended the work being done by both EBA and EIOPA, and the input for the 22nd June ESRB meeting.
7. Members commented on the proposed European measures to mitigate the effects of the crisis. Some noted that forcing private sector involvement would be dangerous.
8. The importance of appropriate backstop measures following the publication of the EBA stress test results was discussed.

Agenda item 3: EU-wide stress testing exercise 2011

9. The Chairperson noted the complexity of the exercise and the challenge for everyone involved. He highlighted the fact that the results received in the first round had severe credibility issues and it would be impossible to go public with such figures as they are in their present form.
10. The Chairperson noted that based on the analysis of the EBA staff and the task force there were a number of areas where additional guidance was needed which was contained in the note that had been circulated at short notice to the Board. However, the Chairperson noted that the package was based on a thorough review and was put together in a way which would address inconsistencies across the sample population. To that end this was a package and it would not be possible to pick and choose elements of this.
11. The EBA director of oversight introduced the main features of the guidance, noting in some cases they were strong guidance, for example a floor PD and LGD levels for the treatment of sovereign exposures in the banking book, but in other cases these were benchmarks which should be used as a starting point for a discussion, in particular the need for supporting evidence on retail funding costs.
12. The Chairperson referred to collective provisions, noting that the EBA did not intend to downplay such instruments but for consistency these must be kept as mitigating measures.
13. The Chairperson referred to two options: the BoS agrees the package and the quality assurance and peer review continues along the time scales agreed; a lengthier process that involved stronger on-site engagement with the banks with a deadline, potentially sometime in October.
14. The Chairperson noted three other categories of issues:
 - i) Follow up – if results are published. ECOFIN has already answered this, and there is a 3 month period needed for banks.
 - ii) Home host sharing – some authorities say that they aren't kept in the loop. Supervisors must be kept in the loop, informed about the exercise. A protocol for information exists; Members should personally call under confidentiality respective supervisors in the home host relationships.
 - iii) Templates – some members argue that there is too much detail which could cause confusion.
15. Following the discussion Members agreed the peer review has achieved a lot, but that the current situation must be improved. The

choices are to get consistency as a quick fix, or to postpone the publication for more in depth checks. One Member argued that the EBA's credibility and that of the NSAs is at stake, and suggested that exercise is postponed until September.

16. The ESRB representative noted that the Steering Committee fully supported the EBA with going ahead with the package. Otherwise, markets could react that results are not credible. The ECB representative also offered full support, and noted the work that the ESRB supported by a dedicated team of experts of the ECB had done on its top down approach fully respecting the necessary confidentiality requirements.

Conclusion

17. The Chairperson noted that the feedback was generally positive, with some reservations. There was wide agreement on the templates for disclosure, albeit with a change in focus.
18. The Chairperson referred to the support for the package and that postponing for more detailed checks was a general concern for many. He also referred to the concerns raised regarding the treatment of sovereign exposures, and made reference to the strong arguments of pushing forward, and understood that it was difficult for certain countries, but the main aim is to have a credible result. He summed up a general consensus on the package.
19. The Chairperson referred to the communication side of the stress test exercise and that this would be managed by two persons at the EBA. A common language will be drafted in light of potential leakages in the press. What will be communicated is that the BoS followed proper governance and that there was agreement by EBA Members.

Agenda item 4: State of play of the short-term EBA reporting framework and key risk indicators

20. The Chairperson gave the floor to the director of oversight who provided an overview of the state of play. There were some operational challenges in the initial data collection, mainly technical issues, leading to partial data submission only. Members were asked to check data more thoroughly for the next submission. Some members noted the fact that they were wrongly mentioned in the summary report as a country not submitting or only limited submitting the KRI data. In some cases KRI data was delivered to the EBA after the drafting of the BoS documents. In other cases, data was submitted within the agreed time frames, but could not be uploaded to the EBA database for technical reasons.

21. Members were very supportive of the KRI exercise, and agreed that there were technical issues, but would be in a better shape when the technical problems were solved. One Member mentioned that they were in a position to provide data from now onwards, but could not provide data retroactively.
22. One Member agreed with the technical problems, but questioned when the aggregated data could be seen. The director of oversight replied that the EBA only has partial data at this juncture. The Chairperson explained that a reasonable time line to provide this aggregated data would be sometime in September.
23. The ECB representative offered any assistance it could to the EBA in this regard.

Conclusion

24. The Chairperson concluded that there were technical difficulties, but now the EBA must look forward and take note of the ECB offer of support, and aim for September being the month in which the data could be provided.

Agenda item 12: Written Procedure for BoS

25. The Chairperson referred to the issues raised by certain Members vis-à-vis the written procedures, and gave the floor to the EBA's executive director. He explained that if there is a written procedure proposed by EBA staff, and there is a mix of opinions and comments, then these are to be distributed if they are substantive comments and addressed at high level to the EBA. Abstentions are to be counted as an approval of the motion put forward in a written procedure.
26. The executive director noted that the EBA would propose to the other two ESAs to review jointly the voting procedures within their respective rules of procedures to harmonise these rules as far as possible. This proposal will be discussed at the upcoming Joint Committee Meeting.
27. When the EBA represents a position on policy issues towards a third party or during committee meetings of European bodies without a formal position obtained from the BoS through a discussion or written procedure, the EBA will clearly state that the position is an EBA 'Staff position/proposals', and not the official position of the EBA.
28. The Chairperson acknowledged that with regards to the ESRB Advisory Technical Committee, perhaps the EBA could have clearly

indicated that the opinion was an EBA Staff opinion, with a subsequent EBA official position.

29. Members agreed with the positive signals illustrated by the ED, and welcomed the commitment to clearly indicate staff views.

30. The EU Commission representative noted that the EBA has become an authority. When CEBS existed, it was in the form of a Committee, but via a democratic debate, an authority was created. Hence, EBA Staff opinions are absolutely necessary, and the EBA staff must think for the Community. One can move from an EBA staff position to an EBA BOS position, ultimately if a vote is taken, then this is an EBA opinion.

Conclusion

31. The Chairperson noted that the ECB has a well established process in this regard; governing council letters are submitted via the governor, so comments by Members are channelled in this manner. Therefore going forward when the EBA has written procedures formal signed letters from the EBA Board of Supervisors Member would be circulated to the entire Board. Tracked changes to documents would not ordinarily be circulated.

32. The Chairperson noted that whenever sensitive policy comments arise, the EBA would always have written procedures for the BoS. The EBA will establish a procedure to reach a common position in a short time if it will be necessary. However, on many technical issues the EBA staff should be able to present a view as an EBA staff view. In any case, a careful analysis of whether the EBA official position of the BoS is needed will be carried out in each case.

Agenda item 11: Macro-Prudential Tools and Maximum Harmonisation under CRD IV

33. The Chairperson referred to the comments sent to the ESRB Advisory Technical Committee. He presented the different issues at stake and underlined the need to be sure that preferences in each Member State must not lead to too many different situations which would affect the functioning of the single market and the concept of a single rulebook.

34. Members discussed the notion of maximum harmonisation to debate if it is about a harmonisation of the requirements or a harmonisation of the "minimum" requirements.

35. Several Members expressed their preference for flexibility for supervisors to set up higher minimum requirements if needed and stated that maximum harmonisation should not constrain Member

- States to go higher than the minimum. They also supported the possibility to activate macro prudential tools when and if needed.
36. Other Members expressed their support for the single rulebook and harmonised regulation and advocated for the use of the Pillar 2 framework to address specific needs for higher capital requirements. In general, Members supported the idea to have EBA working further on Pillar 2 implementation and convergence but many Members see mostly Pillar 2 framework as an institution specific tool not suitable for country-wide requirements.
37. The ECB representative noted that a constrained discretion for the use of macro prudential tools is desirable and that a better identification of specific tools to be used, as well as a reflection on the monitoring of the use of these tools is also desirable.
38. In general, Members agreed that a strong monitoring review by the ESRB is needed to avoid improper use of macro prudential tools.
39. The EU Commission representative noted that in his views maximum harmonisation of minimum standards *a contradiction in terminis*. Minimum harmonisation means harmonisation of the minimas, but maximum harmonisation means harmonisation of the levels. He also recalled that the EU Council expressed a desire to establish a single rulebook in conjunction with the creation of a European System of Financial Supervision in July 2009. He also indicated that it would be legally very confusing to introduce a general waiver in the legislation for macro prudential needs and that only specific and precise elements could be inserted.

Conclusion

40. The Chairperson summed up the discussion. Based on the exchanges of views, comments for the ESRB General Board will be prepared by EBA Staff and the Chairperson, and sent to Members for comments by written procedure before being sent to the ESRB.

Agenda item 5: Liquidity risk assessment

41. The Chairperson introduced the topic and gave the floor to EBA policy expert on liquidity, who noted that 55 banks were included in the sample, by and large the same participating in the stress Test with the exception of Spanish savings banks. Two scenarios were applied, a mild and a severe, which were tested for market and combined (market + idiosyncratic) factors.
42. The Chairperson noted that this was the first time the EBA tried to assess a specific risk. He said there were two issues, namely that the EBA should bring to the attention of the ESRB a summary note prepared by the EBA Staff, and sent by written procedure. The second issue could be to assess what is done as supervisors, and that the Standing Committee on Oversight could discuss this.

43. One Member asked that the report be amended summarising the key issues. Another member urged caution when going forward with this document. Others pointed out that despite problems with data at bank individual level it appears that some main conclusions on risks and vulnerabilities could well be substantiated.
44. The ESRB referred to a working group on US Dollar Funding, and the next meeting is scheduled for 29th June. Possible recommendations could be expected by end of the year.
45. One member commented that the findings of the paper should be sent to the ESRB, with caveats on difficulty on getting harmonised data. A number of members asked for more transparency in the future regarding the assumptions.
46. Many Members praised the work done by the EBA Staff, and were grateful that the EBA took this step for collection of data, which was the right way forward. However, one should understand that there was a question regarding the data quality. The EBA should work to improve liquidity reporting. NSAs were urged to work with banks especially regarding US Dollar funding.
47. The ECB representative noted US dollar funding is one area where focus and more attention should be allocated. This attention also applies to the reliance on central banks. There were also concerns about the process, and the discussion between supervisors and central banks should be intensified. The key messages should be communicated to the ESRB.
48. The EU Commission representative referred to the data quality issue, interactions between the EBA and the ESAs. He agreed that there should be prudence on how we use this first report.

Conclusion

49. The Chairperson noted that this first attempt was useful, but the process needed to be improved. More technical experts are needed to be involved. The EBA will not publish this paper. The EBA Staff will prepare a short report highlighting the main findings, and give feedback to the NSAs on where the position of each country is with respect to bank's position with all the caveats of quality of data. Furthermore, the EBA will provide a short report to the ESRB with some charts. With regards to supervisory actions, when the EBA goes public on the stress test it can say something about the liquidity risk assessment too. SCOP would take up the main policy actions and outcomes for this by written procedure.

Agenda item 6: Monitoring of capital issuances

50. EBA's policy expert introduced the paper to be discussed with several options to be considered by Members: the use of common templates, the use of benchmarks, the use of a case-library. It was noted that under Option 1, the focus would be put only on the prudential provisions in the contracts in order to ensure proper eligibility of capital instruments for regulatory own funds, and that it was highly probable that full disclosure of the issuances will be required under CRD4/CRR.
51. The Chairperson underlined that, despite all the work done in the past, there are still very different approaches among Member States regarding capital instruments included in regulatory own funds.
52. Members debated on ex-ante processes vs. ex-post processes for the monitoring of capital issuances. Some Members expressed their preference for an ex-post process.
53. Members expressed their support for a strong monitoring but expressed different views on how to achieve this monitoring.
54. Members expressed a general support for the publication of the work done by the EBA when finalised.
55. The Chairperson indicated that Option 1 can result in the designing of clauses in prudential areas in order to ensure eligibility of the instruments as regulatory capital without conflicting with contract rights.
56. The Commission representative indicated that Option 1 reflects the role of the EBA as given by the EBA Regulation and that a more proactive intervention of the EBA could even be expected. In EU COM's view, Option 1 does not preclude freedom of contracts.

Conclusion

57. The Chairperson concluded that all Members agree that a strong monitoring has to be performed and that more work has to be done and published at a final stage. The Chairperson also indicated that there is strict deadline in place now to take a decision on this sensitive issue and that it is desirable that EBA Staff works with the Subgroup on own funds and the Standing Committee on Prudential Regulation in order to present concrete illustrations of how each option would look like in practice. Based on these illustrations of the different options, a new discussion is proposed and a vote will be held during a subsequent BoS meeting, probably in December.

Agenda item 7: Process for the Development of BTS

58. The Chairperson opened the floor for comments. Following the discussions and some comments, the document was adopted.

Agenda item 8: Public Statement on Consultation Practices

59. The Chairperson gave the floor to the executive director who noted that this item would be discussed at the Joint Committee with the objective of having the consultation practices of the 3 ESAs aligned. It was also proposed that a discussion is held on the proposal at the Banking Stakeholder Group.
60. It was agreed that subject to written comments of BoS Members and possible comments by the BSG, if there were any substantial changes of the documents, it would be re-tabled for approval by the BoS in a written procedure.

Agenda item 9: BTS on Reporting

61. The Chair of the SCARA introduced the topic and asked Members for their approval of the main features as outlined in the note.
62. It was clarified that a subset of current FINREP guidelines will be included in draft BTS to the extent needed to verify prudential figures and to cover EBA/ESRB data needs.
63. The ECB representative stressed that FINREP information will be needed for ESRB purposes irrespective of the accounting standard used. Hence IFRS and non-IFRS banks will need to be covered. The Chair of SCARA clarified that the target is to apply the BTS (including financial information) to IFRS groups and non-IFRS banks. The idea of enlarging the reporting population to other institutions covered by the CRD (consolidated or solo level) and to non IFRS banks will be mentioned in the consultation document.
64. According to discussions at SCARA level both COREP and FINREP items included in the BTS shall be reported according to the CRD scope of consolidation.
65. On another note, not specifically within the context of BTS, it was suggested that the Joint Committee could be a suitable forum to discuss the need for reporting by Financial Conglomerates which would need to be based on the IFRS scope of consolidation.
66. The Commission representative confirmed that Article 74 of the CRD could be subject to revision via the forthcoming CRD IV. In particular the application date of uniform formats- and hence the first reporting date – would be changed in order to allow the BTS to cover CRD IV provisions. In case the legal basis for FINREP as part of the BTS would be challenged an amendment of the relevant CRD provision would be possible.
67. Several Members highlighted the need on national level to maintain an integrated approach on reporting in order to reduce reporting burden to banks and to maintain a close link between supervisory and statistical reporting frameworks. The JEGR could be a possible

forum to investigate practical solutions that address concerns regarding integrated reporting approaches.

68. Several Members regarded a quarterly reporting frequency as too restrictive. Especially financial information which would be used for supervisory as well as for statistical purposes monthly requirements for statistical reporting would be in place.

Conclusion

69. Reporting templates and instructions will be amended according to CRD IV provisions and EBA/ESRB data gaps before starting a public consultation. A draft technical standard shall be ready for the December meeting of the BoS and for public consultation soon thereafter.

Agenda item 10: High Level groups on data and systemic risk

70. The Chairperson gave the floor to director of oversight who gave an extensive overview of the work of the High Level groups over the past months. He noted that a general agreement of the High Level Groups for a framework to share data with the ESRB was reached, and that data was shared with the ESRB for the first time. He asked Members to endorse the papers being discussed and pledged further work with the ESFS.

71. The ECB representative noted that this is a challenging task, and progress was achieved; he mentioned that the summary letter of the Chairs of the High Level group on systemic risk seemed long. He agreed that risk dashboards are different for each NSA, and that the ESRB and the ESAs should aim to cooperate as a way forward.

72. The EBA member representative in the data group also updated the BoS on the data work and referred to Annex 3, page 6, Annex 4, and page 49 of Annex 3 of meeting document EBA BS 2011 090. The Chairperson noted that there a number of areas which required further work, and he acknowledged the need for cooperation on this. He noted some concerns raised by Members on the process and content of submission of data to the ESRB, and that all supervisors had sent in their data. Written comments on this could be sent by Tuesday 14th June 2011 latest. Hence the Chairperson noted that there was approval but left a window for written comments by the above-mentioned date.

Agenda item 13: Progress reports from expert groups

73. The Chairperson opened the floor and a short summary of developments of the Standing Committees' work was introduced by the respective chairs of the groups.

Agenda item 14: AOB

74. The Chairperson gave the floor to the executive director who asked Members to reply to the email sent out on 18th May 2011 for approval (or otherwise) of the CEBS Secretariat Ltd 2010 accounts, in order allow the process of winding up CEBS Ltd to continue.
75. The executive director provided an update on the EBA premises and informed Members that Floor 9C in Tower 42 had been acquired in order to accommodate new members of staff. A public procurement process had been initiated to select a property advisor for future premises-related issues.
76. The executive director asked Members to reflect upon the motion raised at the BoS of EIOPA and ESMA whereby some Members urged a move towards 100% EU funding of the ESAs, from the current 60/40% funding key, as there were some concerns expressed by some of these Members that they would not be able to meet their financial obligations as the ESAs grow. He suggested that EBA would inform Members on future developments on this issue.
77. Some Members argued in favour of more EU funding, whilst others strongly opposed arguing that the current funding keys are to be maintained.
78. The Chairperson informed Members and Observers that the BoS Meeting originally scheduled for 27th June 2011 had been postponed to a later date which was still to be determined in line with the final publication date of the stress test exercise.

Andrea Enria
Chairperson



Participants at the third meeting of the Board of Supervisors
 London, 8th & 9th June 2011

Chairperson Andrea Enria

Alternate Chairperson Thomas Huertas

<u>Country</u>	<u>Voting members or alternate</u>	<u>Representative NCB</u>	Accompanying Person
Austria	Helmut Ettl	Andreas Ittner	Ingeborg Stuhlbacher
Belgium	Mathias Dewatripont	Rudi Bonte	
Bulgaria	Nelly Koradovska		
Cyprus	Costas Poullis		
Czech Republic	David Rozumek		
Denmark	Ulrik Nødgaard		Ms Birgitte Soegaard Holm
Estonia	Raul Malmstein	Timo Kosenko	
Finland	Jukka Vesala	Kimmo Virolainen	Anneli Tuominen
France	Danièle Nouy		Didier Elbaum

Germany	Peter Lutz	Erich Loeper	Markus Lixfeld
Greece	Vasiliki Zakka		
Hungary	Károly Szász	Márton Nagy	László Seregdi
Ireland	Jonathan McMahon		Mary Burke
Italy	Giovanni Carosio		
Latvia	Irena Krumane	Vita Pilsuma	
Lithuania	Filomena Jaseviciene		
Luxembourg	Claude Simon	Norbert Goffinet	
Malta	Karol Gabaretta	Anthony Cortis	
Netherlands	Wieteke Numan		Anthony Kruizinga
Poland	Andrzej Stopczyński	Olga Szczepanska	Izabela Szaniawska
Portugal	Pedro Duarte Neves		Adelaide Cavaleiro
Romania	Adrian Cosmescu		
Slovakia	Vladimir Dvoracek	Tatiana Dubinova	
Slovenia	Stanislava Zadavec Capriolo		

Spain	Francisco Javier Ariztegui		Fernando Vargas, Cristina Iglesias-Sarria
Sweden	Uldis Cerps	Olof Sandstedt	
UK	Thomas Huertas	Victoria Saporta	Cassandra Kenny, Shreena Patel, Silvia Pezzini

Country

Observers

Iceland	Ragnar Haflidason		Jónas Thordarson
Liechtenstein	Rolf Brüggemann		
Norway	Emil Steffensen, Srild J. Lund		

Institutions

Representatives

European Commission	John Berrigan (point 2) and Mario Nava		
European Central Bank	Mauro Grande		
ESRB	Francesco Mazzaferro		James Talbot
EIOPA	Patrick Hoedjes		
ESMA	Verena Ross		

Others

Executive Director Adam Farkas

Director Oversight Piers Haben