

Minutes of the EBA Management Board meeting 17 September 2013¹

17 September 2013, 9:30-15:15hrs
Location: EBA, London

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

1. The Agenda, the minutes of the meeting of 12 June 2013 and the minutes of the Conference call meeting of 27 August were approved.

Agenda item 2: “ESFS Review-Follow up to the Away Day Discussion”

2. The Chairperson stated that, on 19 June 2013, the EBA replied to the members of the European Court of Auditors regarding the Preliminary findings on the banking sector crisis. He added that the Court of Auditors should deliver the report by December 2013.
3. The Chairperson updated the MB on the ESFS Review. On 16 September 2013, the ESAs’ Chairpersons and the Executive Directors met at the EIOPA premises to discuss among other issues the review of the ESFS, in particular the EC ESFS draft review report and the preparation of the meeting with EU Commissioner Michel Barnier on 2 October 2013. He also announced the EP ECON Hearing that will be held on September 30th, 2013.
4. The Chairperson suggested drafting a confidential letter to the EU Commission.

Conclusion

5. The MB exchanged views and supported the proposal of drafting a letter to the EU Commission. The draft letter would be sent to the MB for comments and approval.

Agenda item 3: “Interplay between the EBA and the SRM”

¹ Please note that these minutes include information which the EBA cannot disclose under its Access to Documents regime due to (i) the public interest as regards the financial, monetary & economic policy of the EU; and (ii) its own, and the Council’s, internal consultations and deliberations in order to safeguard their ability to carry out their tasks.

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6. The Director of Regulation introduced this topic. The note on the interplay between the EBA and the SRM was focused on the following three issues: a) need for an institutional arrangement to ensure effective and credible coordination of resolution actions between the SRM and the rest of the Union; b) the increasing importance of casting national discretions within a European framework, in particular, with respect to bail-in; and c) possible legal inconsistencies and uncertainties in simultaneous application of the RRD and the SRM.
 7. The MB's view was requested on the: 1) the best approach in order to preserve the Single Market and make cross-border coordination credible between "Ins" and "Outs"; 2) on the issue of national discretion, and possible ways to strengthen ex ante rules and monitoring on their national application; and 3) whether they agree with the interpretation provided in the note on the legal interplay between the SRM regulation and the RRD.
 8. Several MB members noted that an institutional arrangement to ensure coordination of resolution actions between the SRM and the rest of the Union is premature taking into account that the work is still in progress. As regards the second question, some MB members believed that the EBA should focus on ex-ante regulation and that flexibility was required in this field. In addition, further harmonisation in bail-in was desirable. Meanwhile, the EBA should not intervene in Resolution.

Conclusion

9. It was agreed to redraft the document on Interplay between the EBA and the SRM focusing on the role of the EBA and potential changes that may be required; accordingly, a draft EBA opinion would be submitted to the next BoS on this topic.

Agenda item 4: "Draft 2014 Work Programme"

10. The Executive Director introduced the EBA draft 2014 Work Programme (WP). According to the Article 43(4) of the EBA Regulation, the EBA shall adopt before the 30 September of this year, the 2014 work programme on the basis of a proposal by the Management Board. The 2014 Work Programme shall be transmitted for information to the European Parliament, the Council and the EU Commission. He also stated that the EBA draft WP was more stable than that previously proposed for 2013 due the adoption of the CRDIV/CRR legislative framework, albeit the uncertainty of the Recovery and Resolution Directive proposals remains, and as such the priorities of specific tasks of the EBA in 2014 would be affected, where for the highest priority, the majority of tasks relate to those with legislative deadlines falling due in 2014, and work on LCR and RWA.
11. The Executive Director noted that the EBA will try to make an all-out effort to meet all deadlines laid down in the legislation, although some of them could be missed due to the lack of sufficient resources. He added that the EBA is facing difficulties in recruiting SNEs.
12. The Executive Director advised that the EBA would monitor the implementation and progress of the Work Programme.

Conclusion

13. The MB agreed to send the EBA draft Work Programme 2014 to the BoS for endorsement via written procedure.

Agenda item 5: “CRR/CRD Notifications Project”

14. The Director of Regulations explained that the CRD4 and CRR mandated the EBA to receive a significant amount of notifications apart from the COREP/FINREP regulatory reporting. Indeed, the EBA was already receiving some of these notifications but had not developed yet an appropriate set of procedures and a relevant and secured IT solution for that purpose. The CRD4 also requires the EBA to develop a secured data base on sanctions which makes mandatory the development of a secured IT solution to process the information sent by NSAs and create an environment to share this information.
15. For the reasons mentioned above, the EBA staff proposed to launch a Notifications project which would cover all CRD4/CRR notifications and which would be supported by the EBA Task Force on Supervisory Disclosure. The approval of the MB was requested on the proposed notifications project.
16. Several technical questions were raised by the MB members on the suggested Notifications project.

Conclusion

17. The MB approved to launch the notifications project. The EBA staff will prepare a project brief for this project to be discussed with the Supervisory Disclosure task force and presented at the next Management Board meeting.

Agenda item 6: “IT issues in the Implementation of the ITS Supervisory Reporting Obligations”

18. Further to the email circulated to the MB on 20 August 2013 and the exchange of views that took place in August among the MB members regarding ITS on supervisory reporting obligations, some MB members raised the following concerns: difficulties to collect the requested data and to provide the reporting on time; to avoid the problem of inconsistency data, a new detailed instructions manual instructions should be issued by the EBA.
19. The Executive Director noted that, unfortunately, the timeline for publication could not be modified and, therefore, institutions and NSAs should try to meet the foreseen deadline. However, there was full alignment on the understanding that the project was highly risky as regards the timeline.
20. With reference to the production of a new of manual instructions, the Chairperson stated that this was not possible due the lack of resources. In addition, the problem of inconsistency in data could be solved through the Q&A process that is already in place.

Conclusion

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21. The Chairperson concluded that the Q&A process would be explored as much as possible to avoid possible inconsistencies; furthermore, the Chairperson of SCARA would be asked to discuss this item within this Standing Committee.

Agenda item 7: “Selection of Composition of the Banking Stakeholder Group”

22. The Chairperson introduced the proposal for the membership of the renewed Banking Stakeholder Group (BSG) [EBA MB 2013 063], given that the mandate of the current BSG has run out on 11 September 2013 and following a Call for Interest launched earlier this year. He informed that the proposal took into account the informal feedback that had been received by the European Ombudsman, where EBA staff had and tried to address raised concerns the extent possible. Further, the EBA strived to ensure an appropriate geographical and gender balance in its proposed shortlist.
23. Some MB members raised concerns regarding the lack of representation of some countries or proposed reserve candidates to be included instead of some of the candidates shortlisted by EBA Staff. A discussion was held on the merits of the proposed candidates on the shortlist, and some changes to the shortlist were suggested on the basis of relative merits of individuals, more accurate representation of stakeholder categories, gender and geographical balance.

Conclusion

24. The proposal was agreed by the Management Board in line with the above discussions. The proposal of the MB to appoint the BSG would be sent to the Board of Supervisors in written procedure.

Agenda item 8: “Amendment to the Banking Stakeholder Group Reimbursement Policy”

25. The Executive Director presented the changes to the EBA’s Reimbursement Policy regarding the BSG category of “Users of Banking Services” and an increased ceiling for yearly reimbursement in order to reflect changes anticipated in the change to the EBA Regulation and to bring the EBA policy in line with those of the other ESAs.

Conclusion

26. The MB approved the proposed changes to the EBA’s Reimbursement Policy.

Agenda item 9: “Structure of Standing Committees and Selection of Chairs”

27. The Chairperson explained the different proposals on the internal review of the Standing Committees (SC) structures. The objective of this internal review would be to make adjustments if necessary, to further clarify mandates and select the Chairs for the forthcoming period.
28. The MB was invited to discuss the following proposals and provide steer for the next steps towards BoS approval and implementation: Alignment of Standing Committees with internal

organisational structure, Election of Co-Chairs for all Standing Committees and Launch of the election process for the Co-Chairs immediately followed by a short review of the mandates.

29. The majority of the MB members expressed their disagreement with the proposed election of mandatory Co-Chairs for all Standing Committees and dissolving the Standing Committee on Reporting and Auditing. The current status and mixed model of chairing the standing committees was supported.
30. The Chairperson and the Executive Director noted that the proposal of electing Co-chairs for all SCs could reduce the potential tension between the SCs and the EBA Staff and would allow a better selection of workstreams that would require direct BoS steer.

Conclusion

31. It was agreed to issue a call for applications for the positions of SCs Chairpersons. There was no agreement to undertake a review of the structure of standing committees.

Agenda item 10: “Administrative and Operational Status Report”

32. The Director of Operations provided an overview of supporting areas since the last MB meeting held in June 2013.

Conclusion

33. The MB took note of the Administrative and Operational Status Report.

Agenda item 11: “Project Charter: EBA Reporting-Release 1-December 2013”

34. An EBA Staff member introduced this topic. He noted that the objective of the project was to migrate to current data collections from the BdF systems to domestic IT systems at the EBA before 31 December 2013. In his opinion, the time foreseen in the project for data collection should be sufficient. The Executive Director added that the uploading tool would need further releases for the purpose of COREP and FINREP resulting from the ITS.

Conclusion

35. The MB approved the Project Charter, EBA Reporting-Release 1-December 2013.

Agenda item 12: “Proposal for New Organisational Changes - change of name of Consumer Protection Unit to Consumer Protection and Financial Innovation Unit; Creation of a Legal Unit”

36. The Executive Director presented the two proposals for Organisational Changes: a) the creation of a single “Legal Unit” to provide legal services within the EBA and b) changing the name of the “Consumer Protection Unit” to “Consumer Protection and Financial Innovation Unit”. He added that the proposed changes would improve the efficiency of the EBA and better clarify the organisational functions to internal and external stakeholders.

Conclusion

37. The MB approved both proposals as well as their implementation. The creation of a single “Legal Unit” would be effective as of 1 January 2014. As regards the change of the name of Consumer Protection, this change would have immediate effect.

Agenda item 13: “A.o.B”

a) BoS draft Agenda:

38. The draft BoS agenda was tabled at the MB meeting.

Conclusion

39. An email would be circulated to the MB asking for possible comments, in particular, whether some of the agenda items could be moved to be decided via written procedure.

b) Legal Identity Identifier

40. The Chairperson stated that further to the MB conference call held on 27 August, and according to the replies received from the BoS members, the vast majority of NSAs are very much confident that banks could easily obtain their pre-LEI code from one of the existing Local Operating Units (LOUs). Therefore, it was suggested to issue a Recommendation with a view of making the LEI mandatory for institutions with the competence of EBA.

Conclusion

41. It was agreed to circulate the draft Recommendation to the MB for its approval.

c) Q&A on the Single Rule Book: Commission’s request

42. The representative from the EU Commission underlined that a significant amount of Q&A is received in the EBA Q&A process. For this reason, he suggested that the EBA and EU COM make more frequent use of category 3 (ie questions which do not require a reply, for many reasons). In addition, in view of the importance of category 1 questions for markets, he suggested to ensure the involvement of the EBA in the replies drafted by the EU Commission under the category 1. It was agreed that the next SCREPOL meeting would further discuss both suggestions.

Andrea Enria

Chairperson

List of Participants

Andrea Enria	Chairperson
Pedro Duarte	Alternate Chairperson
Danièle Nouy	MB member
Paul Sharma	MB Alternate
Jan Sijbrand	MB member
Raimund Roeseler	MB member
Andrzej Reich	MB member
Fernando Vargas	MB member
Dominique Thienpont	European Commission
Adam Farkas	Executive Director
Isabelle Vaillant	Director Regulation
Peter Mihalik	Director Operations
Mario Quagliariello	EBA Staff
Corinne Kaufman	EBA Staff
Andreas Weller	EBA Staff
Markus Trzeciok	EBA Staff
Patricia Juanes Burgos	EBA Staff