

Final

Minutes of the EBA BoS meeting 16 and 17 October 2013

16 October 2013/13:30-17:15

17 October 2013/8:30-17:00

Location: EBA, London

The Chairperson chaired the meeting.

Agenda item 2: “Opening, welcome & approval of the Agenda and Minutes”

1. The Chairperson welcomed and announced the following appointments, Mr Yiangos Demetriou, as new BoS Member for Cyprus; Mr Cyril Roux, as new BoS Member for Ireland; Mr Alexander Demarco, as new BoS representative from the Central Bank of Malta; Mr Marton Nagy, as new BoS Member for Hungary and Mr Peter Gabriel as the new Alternate for Hungary.
2. The draft BoS agenda and the draft minutes of the BoS meeting of 1-2 July 2013 were approved. The Chairperson announced that from now on those agenda items subject to a formal vote will be classified as Point-D. Due to the large amount of agenda items to be discussed at this meeting, it was decided to split the agenda into Session A and B. Session A for items given priority would be discussed in the first place and agenda items under Session B, would be discussed depending on the remaining time available.
3. The BoS was informed of the appointment of the Banking Stakeholder Group (BSG) members. The suggested list of BSG members had been approved via written procedure by BoS members and published on EBA’s website.

Agenda item 3: “Risk and Vulnerabilities”

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4. The Director of Oversight provided an update on the EBA Staff view on risks and vulnerabilities and presented the Risk Dashboard Q3 2013. He pointed out that the EBA intended to publish the Risk Dashboard from now on beginning this quarter.
 5. The Chairperson of the EBA Standing Committee on Oversight and Practices (SCOP) presented the findings of the SCOP on risk and vulnerabilities. He provided an update on European-wide measures and actions taken in response actions in response to the letter.
 6. The BoS members were requested to comment on the risks for the banking system in the current juncture. The BoS members broadly agreed on the risks noted and expressed their concerns on non EU risks.

Conclusion

7. It was agreed to launch after this meeting a short written procedure to seek approval for publication of the Risk Dashboard

Agenda item 4: “Selection of Standing Committee Chairpersons”

8. The Chairperson recalled that at the last MB meeting, the MB members refused the alignment of the Standing Committees (SCs) with the internal organisational structure.
9. Concerning the selection of the SCs Chairpersons, the Chairperson noted the Chairpersons of the respective SCs were selected with a two year mandate in April 2011 and that the first two year period of their operation lapsed. A call for applications was launched on 25 of September 2013. One application for the selection of the Chairperson of the SC was received for each SC, except for the Peer Review Panel, where no application was submitted.
10. The Chairperson noted that other applications were rejected since they did not fulfil the requirement that the Chair should be a BoS member or Alternate.

Conclusion

11. After the selection of the Chairpersons for the SCs, there will be a quick procedure to renew the mandate of the SCs.

Agenda item 5: “Disclosure Exercise”

12. The Chairperson recalled that at the BoS meeting of 15-16 May 2013, it was decided to undertake a transparency exercise in late 2013. As a result, the EBA staff was mandated to provide a proposal on the structure of the transparency exercise and defined three possible options for disclosure.
13. Consequently, the BoS was requested to express its views on the options laid out and in particular to decide on the scope of disclosure, sample of banks and reference dates. The BoS agreed to discard the most and least demanding options, focusing its attention on two

intermediate proposals. A range of views on scope was then discussed as was timing, notably whether to delay the transparency exercise to 2014.

Conclusion

14. The BoS approved by simple majority voting (see Annex I) the disclosure exercise according to option 2 (medium) in the cover note, but requested also the collection of the extra data under option 3a (maximum without NPL data, but not for bank by bank publication), as regards the relevant sample the Recap sample as of 12/2012; as reference dates December 2012 and June 2013; country coverage in order to cover the minimum of: i) 90% of total EAD of the bank; ii) top 10 countries in terms of exposure. They agreed this should be published in 2013 to avoid any risk of confusion with the 2014 AQRs and stress test. Some members asked to request the minimum level of disclosure needed to ensure consistency with the EBA Capital Exercise so as to minimize the burden for banks, taking also into account the data needs under the SSM Balance Sheet Assessment.

Agenda item 6: “Definition of Forbearance and Non-Performing Exposures”

15. The topic was introduced by the Chairperson. He noted that after the SCARA discussion, there were two main issues to decide on: the implementation date and the past-due criterion for the discontinuation of non-performing classification.
16. He also noted that to provide harmonisation compared to current practices and truly comparable data, there is a need to harmonise both the entry and exit criteria, and to set a past-due threshold for exit.
17. The opinion of the BoS was requested on common definition of default with its link with AQR.
18. The majority of the BoS members supported the below 90 days past-due criterion to alleviate the regulatory burden and avoid confusion between two definitions (default and NPE) using two different exit criteria. A few BoS members supported the 30 days past-due criterion (on the ground that it was more economically sensible and would avoid flip flopping of exposures between the performing and the non-performing categories) and the inclusion of the trading book exposures in the scope of the definitions.
19. As a result, there was broad support on the asymmetric treatment, on the remittance date to end December 2014 and for excluding the trading book.
20. The representative from the Commission supported the suggested common definitions and the common implementation date with other ITS. However, he noted that: the EBA arguments in the feedback to stakeholders responses should be strengthened and asked the EBA to ideally seek all related TS to be submitted in one batch. He also asked to include clearer reference to the legal basis of the ITS.

Conclusion

21. The BoS endorsed by qualified majority voting (see Annex II) the definitions as they were presented, the exit criterion from NPE set at below 90 days past-due and as implementation date September 2014 with a remittance date postponed to December 2014. It was also agreed that the EBA staff would amend the ITS to include the legal source as suggested by the representative from the Commission and strive the arguments in the feedback statement.

Agenda item 7: “Draft Decision on Reporting Phase 2”

22. The Chairperson noted that the draft decision on Reporting Phase 2 would replace the current decision on the reporting of key risk indicators (KRI) and would significantly enhance the EBA’s analytical capabilities. This draft decision would provide a wide set of timely data.
23. BoS members were requested to endorse the decision, including the list of banks. The list will be however subject to final review based on 2013 data in early 2014.
24. A discussion on whether the sample of banks could be expanded took place. The EBA Staff responded that the sample for reporting stage 2 could be expanded subject to a BoS decision as per the draft recommendation.

Conclusion

25. The BoS approved the Decision on EBA Reporting Phase II by simple majority (see Annex III).

Agenda item 8: “Discussion of the Key Elements of Common SREP and GL for Common SREP Procedures and Methodologies”

26. The Chairperson of SCOP underlined that the scope of this note was to describe the key elements of common SREP process without going to the technical details at this stage. He added that the note was focused on the key objectives set when developing common SREP framework and explained the key elements of the guidelines and the common SREP process.
27. The opinion of the BoS was requested on the proposed approach to the objectives and key elements of the common SREP framework and way forward with the developing of the Guidelines as outlined in the discussion note.
28. Whilst supporting the proposed approach, the BoS members requested SCOP and SGRAS to address some issues in the Guidelines. In particular more clarity was requested as to: how elements and findings will interact with each other stressing that there should be no overlaps; the level of details of between the Guidelines and the Single Supervisory Handbook; the rationale for the 12 month forward looking time horizon and how this should be applied and how this would be reconciled with time horizons applied for stress testing purposes; the aggregation of multiple scores for different assessment elements into the overall SREP score, in order to ensure that the latter is meaningful and is not a result of automatic aggregation. Members also expressed preference for the single common SREP process described in the

Guidelines, which would be proportionately applied depending on the type (category) of an institution.

Conclusion

29. The BoS supported the suggested approach to the development of the Guidelines for common SREP and key objectives and elements of the common SREP. The SCOP Chairperson welcomed the comments put forward by the BoS members and would relay them to the group for further reflection.

Agenda item 9: “Discussion of the draft Business Model Analysis, for the Single Supervisory Handbook and Agreement on the next steps”

30. The Chairperson recalled it was agreed by the BoS to start working on the Single Supervisory Handbook by launching a pilot exercise focusing on the Business Model Analysis (BMA) module. As a result, a governance structure was set up: a Steering Committee was established and two drafting co-leaders for the module were appointed.
31. Given the good progress made by the drafting team, the Steering Committee decided to present the BMA module to the BoS for a first discussion.
32. The BoS members welcomed the document and raised a number of comments which would need to be addressed by the drafting team before presenting the document for approval. In particular, it was suggested to reduce the length of the introductory and general sections of the draft module focusing on preparatory and organisational stages; the role of BMA within the common SREP framework should be further clarified, as members feared potential overlaps with other SREP elements; more work should be done on the application of the principle of proportionality to be linked not only to the categorisation of institutions; the application of BMA to the entities of cross-border groups and home-host cooperation aspects should also be further clarified.
33. The Chairperson also reported the recommendation of the Steering Committee to proceed with the second pilot exercise and focus on the topic of assessment of recovery plans.

Conclusion

34. A written procedure would be launched to receive comments from BoS members on the draft BMA module of the Single Supervisory Handbook. The BoS members also supported the idea of the field testing the module and were requested to volunteer to take part in the exercise. The BoS members would be updated by the drafting team at the December BoS meeting.
35. The BoS also agreed to start working on the assessment of recovery plans as the second pilot module under the leadership of the Steering Committee. Further to this agreement, the Chairperson suggested upon completion of the second module to have a brainstorming session at the BoS on the future shape and content of the Handbook in order to ensure that it can be applied as benchmark in peer reviews and address areas of potential disagreements

between authorities, thus offering framework for joint decisions and allowing also for ex-post monitoring.

Agenda item 10: “EBA’s Contribution to the Review of the European System of Financial Supervision”

36. The Chairperson introduced the topics addressed in the draft letter, to be sent to the Commissioner Barnier in the context of the review of the European System of Financial Supervision, under Article 81 of the ESAs Founding Regulations, and sought comments of the BoS on the draft letter.
37. The majority of the BoS members welcomed and were broadly supportive of the draft letter. The sections on EBA regulatory/single rulebook role and consumer protection were supported. As regards mediation, a number of BoS members disagreed with the proposal in respect of EBA’s own initiative mediation power, and suggested to seek clarification of EBA’s mediation role to include facilitation of achievement of decisions between the authorities in case of stalemate in discussions. On EBA supervisory/stress testing role, some BoS members considered too premature to specify details on the conduct of the stress test. On the EBA budget, a BoS member suggested to modify the text requesting 100% funding from the independent budget line, and aligning it to the ESMA’s proposal regarding EU funding. On the Banking Stakeholder Group (BSG), some BoS members suggested to rebalance the BSG composition: while some supported a greater academic input, others were in favour of greater industry involvement.
38. The representative from the EU Commission welcomed the draft letter, and the issues addressed therein.

Conclusion

39. It was agreed to resubmit the draft letter to the BoS for comments via written procedure, and thereafter approval by written procedure. The following BoS comments should be reflected in the draft letter to be sent for comments: EBA own initiative mediation should be dropped; the text on the stress test should be sharpened; the part on budget should be amended and reflect proposals in the ESMA letter; suggestions regarding the composition of the BSG should be considered.

Agenda item 11: Liquidity:

- a) “Draft Report on the Impact Assessment of Liquidity Measures under Article 509 (1)”
40. The Chairperson made some preliminary remarks before opening the floor for discussion. The EBA Staff presented the last amendments and rounds of consultations with the stakeholders. The BoS members were asked to express their views on: to what extent the final report should be published; whether this public version should include country individual references; whether the work need to start relying on internal disclosure of rules applied for consolidation

of data and identifying names of participating banks, in view of the EBA 2014 report; whether they agree with the preliminary findings and recommendations of the report.

Conclusion

41. Several BoS members were of the opinion that a public version of the report should not include references to individual countries. On the contrary, the EU COM representative urged to maintain the current level of disaggregation of data, as this is deemed important as an information basis for the delegated act. There was agreement that in any case it needs to be ensured that country individual references are clearly annotated and not misleading, in particular when they contain both solo entity and consolidated data.
42. It was agreed to revise the draft report and to go for a public hearing. The draft report should be sent to the ESCB and the ESRB for comments.

b) “Draft Report on Uniform Definitions of Liquid Assets under Article 509 (3)”

43. The BoS members expressed their views on the report. In general terms, there was broad support for the policy recommendations and the report. Most members considered the international regulatory framework as a necessary guidance for the final conclusions of the Report. The empirical analysis will be developed on sovereign debts; several members indicated that a differentiated treatment across EU sovereigns would risk crystallising segmentation in the single market and the feedback loop between banks and sovereigns.
44. Concerning publication, the majority of the BoS members agreed on the publication of the final report and to a great extent on the basis of a sanitised version.

Conclusions

45. The final reports would be sent to the BoS for final approval at the December BoS meeting and a conference call of the BoS would be planned in November to prepare for the final reports.
- ### c) 3 Draft CPs in relation to TS on Currencies with Insufficient Liquid Assets and Use of Derogations, and currencies with Narrow CB Eligibility”

The 3 Draft CPs were presented to the BoS by the Director of Regulations.

Conclusion

46. It was agreed that the 3 Draft CPs would be published shortly.

Agenda item 12: “Crisis Management: Draft Opinion on the Recovery and Resolution Framework and the Role of the EBA”

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47. The Chairperson introduced the draft by describing the tasks that were assigned to the EBA in its founding regulation and in the legislative proposals of the Recovery and Resolution Directive (BRRD) and the Single Resolution Mechanism Regulation. The objective of the Draft Opinion was to suggest improvements that would enable the EBA to fulfil these tasks effectively.
 48. While in general BoS members welcomed this purpose, they pointed out a number of issues where they had concerns. One main concern was that binding mediation in the resolution phase could be impracticable due to time constraints, liability risks, political implications and the internal governance of the EBA, or could in many cases have an impact on fiscal responsibilities of the Member States. Other members stated that mediation could be useful, in particular from host Member States' perspective.
 49. Several members underlined that flexibility, i.e., in setting the minimum requirement of eligible liabilities (MREL) and in carve-outs for certain liabilities in the use of the bail-in tool, was needed and therefore criticised the idea of strengthening constraints, in particular, additional veto rights for the Commission. They also opposed the idea of re-opening compromises found in the General Approach to the BRRD. Other members expressed their support for more harmonisation of the MREL, in particular, with the objective to raise loss absorbing capacity, which should have been achieved by level 1 legislation.
 50. BoS Members also questioned the practicability of making joint decisions on resolution plans mandatory and pleaded for more coordination only in the SRM context.
 51. There was widespread support for the section dealing with consistency between the SRM Regulation and the BRRD.
 52. The Chairperson made clear that the draft Opinion does not advocate mediation to be binding, and suggests improvements to make mediation possible and effective in light of time constraints and governance design.
 53. The representative of the EU COM pointed out that the trilogue is ongoing and therefore there is not yet agreement on the legislative proposals, hence an Opinion can still be useful. The Commission upheld their initial position that mediation could be an appropriate means for coordination in numerous cases. At least, the Commission was confident that the co-legislators, in those cases where they did not maintain binding mediation, would introduce technical standards in numerous instances where other means of coordination had been removed.

Conclusion

54. The Chairperson concluded that there was no agreement to send an Opinion of the EBA to the co-legislators.

Agenda item 13: Draft Note on Interactions between Solvency II, CRR/CRD IV and the proposed Recovery and Resolution Directive”

55. The BoS members were invited: a) to discuss the report and identify implications of the interaction of the three legislative regimes which could affect the banking system and bank lending; and b) to identify areas which would deserve further analysis in the report and which

would benefit from additional empirical evidence, and policy messages which should be conveyed.

56. There was broad support from BoS members as regards the work performed. However, several members suggested: a) to further explore some key areas, but to focus on implications for banks, i.e.: implications of legislative regimes on bank funding, implications for derivatives, implications for financial conglomerates, impact on collateral clearing and on ability of banks to issue lower quality capital; different approaches of banks and insurers to risk models; b) to expand the remit to also look at interactions with EMIR and CSDR too, c) to explore possibilities to enhance the work with further analytical/numerical evidence.

Conclusion

57. The BoS broadly supported the Joint Committee to conduct further work in this area. However, it was underlined by the Chairperson that the EBA should be cautious on expanding the remit of this work further since it will be complex to manage. The Joint Committee's Risk Sub Committee (RSC) should be asked to prepare a further analysis on implications for bank funding and bank lending to be discussed at the Joint Committee at its December meeting.

58. It was agreed to launch a written procedure to receive comments from BoS members. The comments submitted for the BoS members would be brought to the attention to the Joint Committee, which would discuss the continued work on the note on interactions of the different legislative frameworks.

Agenda item 14: "Internal Impact Study Group (ISG) report on Basel III QIS monitoring exercise and Basel II capital requirements monitoring exercise"

59. The co-Chair of the Impact Study Group (ISG), Erich Loeper, presented the results reflected in the 4th ISG Basel III monitoring exercise reports. He stated that, according to his latest update, the Basel Committee of Banking Supervision (BCBS) resists strongly the idea of having a unique template that would be submitted by both BCBS EU countries and ISG countries. Instead, the BCBS insists that the templates intended to BCBS EU countries should be kept pure for the purposes of the BCBS QIS monitoring exercises.

60. The BoS members considered that this could imply the need of having different templates for the non-BCBS EU countries that report to the ISG. Some members also indicated that there could be potential double reporting requirement for those EU countries which jointly participate in BCBS and ISG exercises.

Conclusion

61. Since the current production of the ISG reports requires a lot of resources, the BoS agreed that, from the next report onwards, the ISG will produce only the Public Basel III monitoring exercise report, accompanied by an Annex that will describe the developments at national

level. The Annex would not be published and would be accessible only to the ISG and BoS members.

62. The BoS members welcomed the Internal ISG Basel III monitoring exercise report and the CRD III / Basel II capital monitoring report and agreed on discussing further, at the next BoS meeting, the technicalities of the parallel run application on producing the QIS reports which are currently produced by the ISG.

Agenda item 15: “Model Validation: Final Draft RTS on Materiality of Model Extensions and Changes”

63. The Director of Regulation, Isabelle Vaillant, introduced the topic. She noted that final draft put forward two RTS related to internal approaches for respectively credit and operational risk, where the EBA has to specify the conditions for assessing the materiality of extensions and changes.
64. The BoS was requested to endorse the final draft RTS. The BoS members underlined the excessive complexity of the final draft RTS. Several BoS members expressed the concern with regard to introduction of the proportionality clause, which differentiates the quantitative threshold for the IRB Approach. Moreover the BoS members supported to re-introduce the 5% pre-notification threshold for the IRB Approach at model application level.

Conclusion

65. The Chairperson took note of the BoS agreement to simplify the draft RTS and reassess the materiality threshold.
66. It was agreed that a revised version of the final draft RTS would be submitted to the BoS via written procedure.

Agenda item 16: “Asset Encumbrance: Final Draft ITS on Asset Encumbrance Reporting”

67. Two aspect of the final ITS on asset encumbrance reporting were discussed by the BoS members.
68. Firstly, the reporting burden on the industry was a concern raised by some members, who suggested to delete some templates. However, other members argued that the proposed data collection contains valuable information, which will be needed to monitor asset encumbrance going forward, as set out in the ESRB recommendations. Furthermore, it was noted that the templates already contain proportionality measures that will limit the reporting burden for smaller institutions with limited asset encumbrance.
69. Secondly, concerns were raised regarding the implementation date as this may give limited time for institutions to prepare. However, as pointed out by other BoS members, as national

authorities and EBA are obliged to report to the ESRB in 2014 on asset encumbrance as a consequence of the ESRB recommendation, it was considered necessary to start reporting already from 30 June 2014. Again, it was noted that the implementation date to some extent will take this issue into account, as the implementation date of 30 June 2014 would apply only to larger institutions. Smaller institutions would start reporting as of end 2014.

70. In addition, two minor comments were made regarding clarifications to the instructions regarding central bank eligibility and the wording in recital 3. Both of these proposals would be included in the final ITS.

Conclusion

71. The final draft RTS will be resubmitted for a vote via written procedure following the BoS meeting.

Agenda item 17: “Remuneration: Draft CP on the Guidelines on the Discount Rate for Remuneration”; Agenda item 18: “Leverage Ratio: Draft CP on ITS on Uniform Templates for Disclosure of the Leverage Ratio”; Agenda item 19: “Benchmarking: Orientation Note on Usefulness and Outputs for Banks and Supervisors”; Agenda item 20: “Terms of Reference for the Peer Review of the EBA Guidelines on the Management of Concentration Risk under the Supervisory Review Process (Guidelines 31);

72. Due to time constraints and as announced in the draft BoS agenda, the agenda items mentioned above were not discussed.

Conclusion

73. The BoS agreed the following:

- a. **Agenda item 17:** Approval to be sought by written procedure
- b. **Agenda item 18:** Approval to be sought by written procedure.
- c. **Agenda item 19:** A BoS Conference Call would be organised. The BoS would be informed in due time.
- d. **Agenda item 20:** Approval to be sought by written procedure.

Agenda item 21: “Reports from Committees”

74. The Reports from Committees were not discussed. However, the Chairperson of SCOP requested BoS members to submit their comments in writing to the question embedded in the SCOP Progress Report.

Agenda item 22: A.o.B

- a) The Chairperson informed the BoS of some issues related to two of the four batches of Technical Standards that the EBA submitted to the EC COM in July 2013.
- b) Away Day meeting: The Chairperson announced that the BoS Away Day meeting would take place on 10-11 July 2014 in Krakow, Poland. An extra BoS meeting would be scheduled for June 2014.

Andrea Enria

Chairperson



**Participants at the Board of Supervisors meeting
16-17 October 2013**

Chairperson	Andrea Enria	
Country	Voting members or Alternate	Representative NCB
Austria	Helmut Ettl	Ingeborg Stuhlbacher/Philip Reading
Belgium	Mathias Dewatripont/Rudi Bonte	
Bulgaria	Nelly Kordovska	
Croatia	Damir Odak	
Cyprus	Argyro Procopiou	
Czech Republic	Zuzana Silberova	Marek Sokol
Denmark	Yesper Meyer	Brian Andreasen
Estonia	Jana Kask	
Finland	Jukka Vesala	Kimmo Virolainen
France	Daniele Nouy/Frederic Visnovsky	
Germany	Raimund Roseler	Erich Loeper/Julia Blunck
Greece	Vassiliki Zakka	

Hungary	Laszlo Seregdi	Peter Gabriel
Ireland	Cyril Roux/Mary Burke	
Italy	Federico Signorini/Roberto Rinaldi	Maurizio Trapanese
Latvia	Kristaps Zakulis	Vita Pilsuma
Lithuania	Vytautas Valvonis	
Luxembourg	Claude Simon	Norbert Goffinet
Malta	Karol Gabarretta	Alexander Demarco
Netherlands	Jan Sijbrand/Anthony Kruizinga	Olena Loboiko
Poland	Andrzej Reich	Izabella Szaniawska/Tomasz Gromek
Portugal	Pedro Duarte Neves/Maria Adelaide Cavaleiro	
Romania		
Slovakia	Vladimir Dvoracek/Tatiana Dubinova	
Slovenia	Matej Krumberger	
Spain	Fernando Vargas Bahamonde/Cristina Iglesias-Sarria	
	SwedenUldis Cerps	Olof Sandstedt
UK	Katharine Braddick	Fiona Mann/Lisa Robison/Sam Woods
<u>Country</u>	<u>Observers</u>	
Norway	Morten Baltzersen	Arild Lund
Iceland		Jon Thor Sturluson/ Indridi Freyr

Lichtenstein

Rolf Brueggemann

Institutions

Representatives

European Commission

Dominique Thienpont

European Central Bank

Panagiotis Strouzas

ESRB

Francesco Mazzaferro

Andrea Maechler

EIOPA

Manuela Zweimuller

ESMA

Verena Ross

Others

Executive Director

Adam Farkas

Director Regulation

Isabelle Vaillant

Director of Oversight

Piers Haben

EBA Staff

Corinne Kaufman, Mario Quagliariello, Delphine Reymondon, Lars Overby, Stefano Cappiello, Patricia Juanes Burgos