



EBA BS 2015 332rev1

EBA Staff

08 September 2015

Location: London

EBA Board of Supervisors – Final Minutes

Agenda item 1.: Evaluation of the EBA Chairperson and Executive Director's First Terms of Office

1. The alternate Chairperson opened the session. He recalled the different steps in the process for the evaluation of the EBA Chairperson and Executive Director's first terms of office. He invited the Board of Supervisors (the BoS) to comment on the draft evaluation prepared by the Management Board (the MB). Further, on the basis of this draft evaluation and in accordance with Articles 48(4) and 51(4), respectively, of the EBA founding Regulation, he then invited the BoS to decide on the extension of the Chairperson's and Executive Director's terms of office; he recalled that the Chairperson's extension was ultimately subject to the confirmation by the European Parliament.
 2. The BoS widely supported the MB's draft evaluation of the Chairperson and decided to endorse it. Members praised the EBA's achievements under the Chairperson's leadership.
 3. On the basis of this positive evaluation, the BoS decided to extend the term of office of the Chairperson for a further five years.
 4. The BoS widely supported the MB's draft evaluation of the Executive Director and decided to endorse it. Considering the role of the Executive Director in managing the EBA and the changes needed for the new regulatory and supervisory environment, the BoS noted that the Executive Director was well suited to managing those changes, which might require further streamlining of processes and prioritisation of the EBA's tasks, and which all members of the BoS would need to contribute to in order for the EBA to cope with the challenges.
 5. On the basis of this positive evaluation, the BoS decided to extend the term of office of the Executive Director for a further five years.
 6. A letter would be sent today to the European Parliament informing it of the BoS decision. It was explained that the European Parliament's hearing to confirm the extension of the
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Chairperson's term of office was likely to be held in October or November 2015; the European Parliament had also expressed its desire to hear the Executive Director.

Agenda item 2.: Welcome, Approval of Agenda and Minutes

7. The Chairperson informed of changes to the BoS membership of the Bank of Greece (Ms Sissy Papagiannidi would become member) and the National Bank of Hungary (Mr Kornél Kisgergely and Mr Gábor Gyura would become member and official alternate, respectively). He also informed that the observer from Liechtenstein's FMA had stepped down.
8. The BoS approved the draft minutes of the BoS meeting of 16-17 June 2015.

Agenda item 3.: Election of SCRePol co-Chair

9. The Chairperson informed the BoS that, following a call for applications for co-chair of the Standing Committee on Regulation and Policy (SCRePol), two candidates had submitted their applications. An election took place.
10. He also explained that, following a call for applications for Chair of the Resolution Committee (ResCo), a ResCo observer had applied for the position; however, only ResCo members could become Chair in accordance with the ResCo decision. In view of that limitation, and further to having consulted the ResCo, he suggested an amendment to the Decision to enable ResCo observers to become Chair and asked members whether they would have any concerns with such a change.

Conclusion

11. The BoS elected the official alternate from the UK's Prudential Regulation Authority (PRA), Ms Sasha Mills, as SCRePol co-Chair for a renewable two years' term.
12. An amending ResCo Decision would be submitted for BoS approval by written procedure. The decision on the ResCo Chair would be adopted following the approval of the amending Decision.

Agenda item 4.: Update on Risks and Vulnerabilities

Agenda item 5.: Update on Transparency Exercise 2015

13. The EBA Director of Oversight presented the EBA staff's update on risks and vulnerabilities. He also presented an update on the transparency exercise 2015 with focus on non-performing loans (NPL) and forborene loans.
14. Both NPL and forbearance ratios for total loans showed big differences among countries, although not all banks had provided data. The data showed that high NPL have a negative impact on profitability and lending. It was argued that the relationship between capital ratios,

credit and NPL should be further investigated. The Chairperson also asked whether there were regulatory obstacles whose removal could speed up the NPL management process.

15. At the BoS meeting of 28-29 April 2015 some members requested that checks on data quality should be performed before the publication of NPL data for individual banks in the forthcoming transparency exercise. The Director of Oversight recalled the validation rules and quality checks in place, and pointed out that these should provide sufficient reassurance on data quality, as following EBA's analyses a large number of resubmissions of FINREP templates had taken place.

16. The Chairperson noted that, in view of the concerns on market liquidity and recent volatility in financial markets, he deemed necessary to better assess the market trends for market risk. He acknowledged that the debate on the drivers of market liquidity could also affect the finalisation of the framework for the leverage ratio, in particular the treatment of repos. He also called for further analyses on the possible regulatory drivers for the reduced availability of market making services and asked for a reference to this on the NSFR report by SCRePol. It was argued that it was difficult to understand why regulatory reforms affected the overall supply of market making services rather than their price. It was pointed out that the reduction in banks' provision of these services might well be driven by other factors than regulation.

Conclusion

17. The BoS agreed to go forward with the publication of individual data on NPEs, following further checks on data quality.

Agenda item 6.: 2016 EU-wide Stress Test – Update and Decision on Sample

18. Further to the BoS mandate as expressed at the 16-17 June 2015 meeting, the EBA Director of Oversight presented a proposed tentative sample of banks to cover under the 2016 EU-wide stress test and explained the criteria for their selection. He also presented the proposal for the treatment of restructuring banks. The Chairperson observed that, while the decision depended ultimately on each competent authority (CA), it would be ideal to agree on criteria that would stabilise the sample for future stress tests.

19. The SSM representative explained that SSM members broadly supported the criteria but were still discussing specifics. The main discussion had been on the selection of banks under restructuring and on the calculation of the relevant threshold at the euro area level or at the national one.

20. Several members expressed their agreement with the sample criteria, noting that they left some flexibility to CAs to include relevant institutions with a view to avoiding the exclusion of systemically important institutions in individual countries. Members deemed necessary to ensure representativeness while at the same time avoiding a too large sample. The ECB

representative pointed out the importance of retaining the country dimension in the sample selection, in order to capture aspects of systemic risk that would otherwise be lost.

21. The Chairperson noted that the criteria represented a fair coverage of both the EU and national markets, while CAs remained free to run national stress tests including banks falling outside the scope of the EU-wide stress test; he offered to cooperate with those CAs which organised their own stress tests.
22. The Chairperson also held that the criteria for banks under restructuring represented a fair and balanced approach, and stressed that the only binding criterion for CAs was that of the static balance sheet approach, whereas other criteria (i.e., restructuring plans nearing completion) represented guidance for CAs.
23. Members broadly agreed with those criteria. One member requested to allow one-off adjustments to the static balance sheet approach for banks nearing completion of their restructuring plans on a case by case basis. Other members viewed that a consistent approach was needed, which could also help prevent market misinterpretations.
24. It was clarified that the sample for the 2015 transparency exercise (already published) would not be affected by any decision on the sample for the 2016 EU-wide stress test.

Conclusion

25. A final decision on the sample would be taken by written procedure once the SSM had concluded its internal discussions. For banks under restructuring, the EBA should ensure that the sample of banks suggested by CAs would be consistent with those criteria, including that banks ought to be able to apply a static balance sheet approach.
26. The BoS will be invited to take a decision on the draft methodology for discussion with industry at its 27-28 October 2015 meeting.

Agenda item 7.: CRDIV-CRR/Basel III Monitoring Exercise Reports (public and Annex to the public (internal) reports)

27. The Chair of the Task Force on Impact Studies (TFIS) presented the results of the CRDIV-CRR/Basel III monitoring exercise as of December 2014, as well as the work plan for the monitoring exercise as of 30 June 2015, which had been initiated in August 2015.
28. On the net stable funding ration (NSFR) figures, the Chairperson clarified that they may be marginally different to those in the NSFR impact assessment (IA) report to be published in December 2015 due to the different sample of banks on which they had been based. He suggested an explicit mention to this in the report.
29. One member asked to include an explanation that the combined expected effects of a number of national floors had not been reflected in the results of the report. Another member noted

that the liquidity coverage requirement (LCR) analysis was not based on the new definition contained in the Commission delegated Regulation (EU) 2015/61, and as such it was misleading to comment on banks compliance with the LCR Requirements in the EU.

30. There was a request to carry out an IA solely relying on the CRDIV-CRR framework.

31. Finally, the Chairperson suggested the deletion of the part on interactions from the report for publication with a view to aligning with the approach adopted by the Basel Committee on Banking Supervision (BCBS).

Conclusion

32. The BoS approved the report. On the suggestion for an IA on the CRDIV-CRR framework, the TFIS Chair would assess whether the available data would allow estimating the impact.

Agenda item 8.: Draft Opinion on RTS on Mortgage Lending Value

33. Following the conclusions of the BoS meeting of 27-28 April 2015, the Chairperson presented a draft Opinion addressed to the Commission on the scope of application of the draft RTS on mortgage lending value (MLV). The draft Opinion developed the view that the draft RTS on MLV would apply to covered bonds and that therefore the CRR should be amended to carve covered bonds out of the scope of application of the draft RTS. An alternative way forward was also considered in the draft, namely that the valuation requirements on covered bonds collateral could be met on condition that national laws on MLV would lead to a valuation not higher than the resulting from the criteria in the draft RTS.

34. A majority of members expressed their view that the best way forward would be to suggest in the opinion that amendments to primary legislation be considered. The alternative option was considered a second best and less supported for its difficulties in implementation, in particular how to prove that a property value would be lower than MLV by applying national legislation without requiring the application of both valuation methodologies. One suggestion was for the Review Panel to conduct a comparison of the draft RTS and national laws on MLV.

35. The Chairperson noted that the EBA report on covered bonds issued in 2014 presented alternatives for designing the EU framework. He thus viewed that a change to legislation might be considered when harmonisation of covered bond legislation is brought forward. The Commission representative also considered that an advice asking for legislative amendments was more suitable although would not help address short-term issues given the lengthy process for legislative amendments; he also believed that there was a risk of the EBA not being ready to submit the draft RTS on MLV, an event that could perhaps be communicated to the co-legislators while inviting them to tackle the matter via any future covered bonds legislation.

Conclusion

36. The draft Opinion would be amended to reflect the clear preference in favour of legislative changes and submitted for BoS approval by written procedure.

Agenda item 9.: Final draft RTS on CSDs' Capital Requirements

37. The Chairperson presented the main elements of the draft RTS on capital requirements for central securities depositories (CSD) that provide banking-type ancillary services. He asked for BoS views, inter alia, on maintaining the references to country risk on the chapter on collateral and equivalent financial resources; on the definition of relevant currencies in the chapter on liquidity risk; and on the appropriate time horizon for intraday liquidity management. He also explained that the draft was still subject to early legal review by the Commission legal services, and that the BoS would be informed should substantial changes occur as a result.

38. A few members expressed divergent opinions on maintaining references to country risk. Some also considered the proposal on definition of relevant currencies too ambitious; they proposed instead to capture 90% instead of 99% of the sums of all largest negative net cumulative intraday position for each currency, while including an additional threshold of 5% for non-relevant currencies. On this latter point, other members supported the 1% threshold (99% of the sums of all largest negative net cumulative intraday position for each currency) as proposed in the draft RTS, otherwise currencies such as GBP would be considered as 'non-relevant'.

39. On the time horizon for intraday liquidity management, some members requested to maintain the same wording as in the CSD Regulation that collateral should be liquidated in a 'timely fashion' and not be further specified to 'converted into cash on the same day basis' as suggested in the draft RTS.

40. Finally, some members requested to add an additional phase-in of 12 months for capital requirements.

Conclusion

41. The BoS rejected the draft RTS. A revised draft RTS would be resubmitted to the BoS by written procedure incorporating any comments resulting from the Commission legal services review.

Agenda item 10.: Final draft RTS on Assessment Methodology for IRB Approach

42. The EBA Director of Regulation gave an overview of the outcome of the consultation on the Discussion Paper on the future of the IRB approach. She focused on the timelines and implementation of regulatory products. She referred to the intended coordination with the BCBS work on the review of the IRB approach and presented the upcoming internal work.

43. The Chairperson introduced the draft RTS, and presented the proposed measures on how to ensure sufficient convergence in assessment methodologies.
44. Members praised in general the progress that the draft RTS represented. They raised some comments to finalise the drafting, including, a) addition of a cross reference to the definition of default as included in the draft guidelines on default of an obligor. This request was left open to ensure that it was legally possible; b) ensure that the internal governance requirements were aligned with the institutional setting as provided for in Article 189 of the CRR; c) ensure that the conditions for permanent partial use of Article 8.3 of the draft RTS did not go beyond those of Article 150.1. (c) of the CRR. It was clarified that the RTS on joint decisions should be observed in all cases and therefore no specific link to it was necessary in the draft RTS.
45. In terms of ensuring convergence of assessment methodologies, members were supportive of the peer review approach and comparison of supervisory practices; they did not support the concept of a centre of competence on internal models given its resource intensive nature.

Conclusion

46. The BoS approved the draft RTS. The BoS would be informed of the changes resulting from the Commission legal services review proposed to be included in the draft RTS. On the way forward for convergence of assessment methodologies, the BoS agreed to consider further the different proposals with a view to agreeing on the most suitable option.

Agenda item 11.: Guidance Note on a Call for Advice on the Prudential Regime for Investment Firms

47. The EBA Director of Regulation presented a note with the main policy lines in response to the call for advice on the prudential regime for investment firms issued by the Commission to the EBA in December 2014. The advice should be prepared in consultation with ESMA. She referred, in particular, to the proposal for a more risk-sensitive and proportionate categorisation of investment firms.
48. The BoS supported the policy proposal and in particular the new categorisation of investment firms. It welcomed the idea of a more risk-sensitive approach and suggested that market integrity, together with the orderly wind-down of investment firms, should be among the principal objectives of the new prudential regime.

Conclusion

49. The Chairperson invited members to assist the project team on investment firms to ensure a strengthened prudential approach in the final response to the call for advice.

Agenda item 12.: Draft Consultation Paper on Guidelines on Default of an Obligor

50. The Chairperson presented a draft consultation paper, and sought the BoS views on performing a quantitative and qualitative impact analysis (QIS).

51. The BoS supported both the publication for a 4-month consultation and the QIS, for which some preliminary results should be ready by spring 2016. On a question concerning the sale of credit obligations, EBA staff held that once adopted, this paragraph in the Guidelines could be further clarified, e.g. via the Q&A tool. One member expressed concerns regarding the three-month probation period, the so called pulling effect and the SCRA criterion for unlikeliness to pay whose modalities of application should not be discretionary for institutions.

Conclusion

52. The consultation paper would be published for a 4-month consultation; the QIS would be launched alongside the publication of the consultation paper.

Agenda item 13.: EBA's proposed Response to the Commission's proposed Amendment to the draft ITS on Liquidity Additional Monitoring Metrics

53. The Chairperson presented the feedback received from BoS in response to the written procedure of 24 August 2015 on the Commission's request to amend the draft ITS on liquidity additional monitoring metrics submitted by the EBA on 18 December 2013. This amendment concerned, in particular, the removal of the template and instructions relative to the maturity ladder. The Commission had justified this amendment on the basis that the template and instructions would need to be adapted on 1 October 2015 in line with the definition of liquid assets as set out in Commission delegated Regulation (EU) 2015/61 (the LCR Regulation); and that it would help reduce the regulatory burden on banks and avoid the duplication of implementation costs for the banking industry.

54. The Chairperson expressed his concerns about the proposed amendments. Noting the estimated timeline of two years needed to update/adopt/implement the ITS and the IT-related solutions, he stressed that institutions and supervisors would be left without an EU maturity ladder for a long period of time. Moreover, he questioned the immediate necessity of an alignment with the LCR Regulation since they served different purposes. And he emphasized that the maturity ladder still offered significant benefits as proposed.

55. A majority of members underlined the critical role of the maturity ladder tool and expressed a dissenting view with the Commission's suggested amendment. They deemed crucial to maintain the maturity ladder in the ITS, in particular for its usefulness to supervisors to assess the risk profile of institutions. Members noted that given the SSM and other CAs were already requesting the template, the burden argument could not be upheld; furthermore, institutions

had already incurred costs for developing and implementing such data submissions in line with the published draft ITS and would anyway need to report the data to supervisors one way or the other. In addition, the SRB representative supported the maintaining of the maturity ladder as the information could prove essential in the case of resolution of institutions. Finally, several members stressed the importance of a timely update of the ITS once adopted.

56. A few members expressed a different opinion, conceding to the fact that a tool was indeed needed, however that it should be aligned with the definition of liquid assets contained in the LCR Regulation.

57. The Commission representative reiterated the Commission's adopted view that the draft ITS requested too much information and that it went beyond what may be necessary, while not being in line with the LCR Regulation. He invited the EBA to draft an Opinion for the Commission's consideration with detailed, exhaustive justifications as to why it did not agree to the Commission's proposed amendments.

Conclusion

58. Based on the majority of views expressed, the EBA would draw up a draft Opinion for BoS approval by written procedure on the basis of the existence of a majority in favour of dissenting from the Commission's proposed amendment (i.e., in favour of maintaining the maturity ladder in the draft ITS).

Agenda item 14.: PRIIPs Update

59. The Chair of the Joint Committee's Sub-Committee on Consumer Protection and Financial Innovation gave an update on the work carried out by the PRIIPs sub-group on the draft consultation paper on three draft RTS under Articles 8(5), 10(2) and 13(5) of the PRIIPs Regulation. There was agreement on most of the issues, and compromise solutions were emerging for the remaining open issues, e.g. the choice of methodology for risk rating, for the performance of scenarios and the method the use for aggregating costs.

Conclusion

60. An updated version of the note, on how the opened issues could be addressed, would be submitted to BoS for comments by written procedure. Members were invited to request a follow-up discussion should they deemed so necessary.

Agenda item 15.: EBA 2016 Work Programme

61. The Executive Director informed that, as required by the new Financial Regulation, the Work Programme template had been amended to enhance consistency and comparability across different EU bodies. He presented the 2016 Work Programme, which was defined under 8 strategic areas and 34 activities, and asked for BoS views on the prioritisation of tasks. With

the BoS and the MB views, the 2016 Work Programme would be resubmitted for BoS approval before the end of September.

62. Members requested that the EBA identify from amongst its proposed activities, a list of EBA own-initiative activities in order to have a better overview of those non-mandated activities to help on the reprioritisation exercise, noting that some of them could be politically important. They requested the involvement of the MB in this assessment prior to the BoS taking any decisions. There was also a request to discuss the impact on the EBA's future Work Programme were the EBA to increase its training activities; the Chairperson informed that a dedicated discussion on a proposed training business plan would be held at the BoS meeting of 27-28 October 2015.

Conclusion

63. The MB would discuss the 2016 work programme at its meeting of 15 September 2015 including a specific allocation of full-time equivalents (FTEs) per activity based on the EBA's budget as submitted to the Commission in February 2015. The BoS would again discuss the 2016 Work Programme once the budgetary authorities had agreed the final budget (envisaged in December 2015) with the final number of resources for 2016.

Agenda item 16.: Reports from Standing Committees

64. The BoS took note of the reports.

END OF MEETING

Andrea Enria

Chairperson

Participants at the Board of Supervisors' meeting

08 September 2015, London

Chairperson: Andrea Enria

<u>Country</u>	<u>Voting Member/Alternate¹</u>	<u>Representative NCB</u>
1. Austria	Michael Hysek	Philip Reading
2. Belgium	Jo Swyngedouw	
3. Bulgaria	Nelly Kordovska	
4. Croatia	Damir Odak	
5. Cyprus	Argyro Procopiou	
6. Czech Republic	David Rozumek	
7. Denmark	Sean Hove	Peter E. Storgaard
8. Estonia	Andres Kurgpõld	Indrek Saapar
9. Finland	Anneli Tuominen	Kimmo Virolainen
10. France	E. Fernández-Bollo/Frédéric Visnovsky	
11. Germany	Peter Lutz	Erich Loeper
12. Greece	Sissy Papagiannidi	
13. Hungary	Gábor Gyura	
14. Ireland	Cyril Roux/Mary Burke	
15. Italy	Andrea Pilati	
16. Latvia	Jelena Lebedeva	
17. Lithuania	Renata Bagdonienė	
18. Luxembourg	Christiane Campill	Norbert Goffinet
19. Malta	Marianne Scicluna/Raymond Vella	Alexander Demarco
20. Netherlands	Olaf Sleijpen	
21. Poland	Andrzej Reich	Maciej Brzozowski
22. Portugal	Pedro Duarte Neves/M. Adelaide Cavaleiro	
23. Romania	-	
24. Slovakia	Tatiana Dubinová	
25. Slovenia	Miha Kristl	
26. Spain	Fernando Vargas/Cristina Iglesias-Sarrià	
27. Sweden	Uldis Cerps	Olof Sandstedt
28. UK	Sasha Mills	Fiona Mann

¹ Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Veerle de Vuyst (National Bank of Belgium); Marek Sokol (Czech Česká Národní Banka); Julia Blunck (BaFin); Maurizio Trapanese (Banca d'Italia); Mascha van der Marel and Tijmen Swank (De Nederlandsche Bank); Izabella Szaniawska (Polish Komisja Nadzoru Finansowego); Lucretia Paunescu (National Bank of Romania); Damjana Iglíč (Národná Banka Slovenska); Gurmaj Dhillon and Mei Jie (UK's Prudential Regulation Authority)

<u>Country</u>	<u>Observer</u> ²
1. Iceland	Jon Thor Sturluson
2. Liechtenstein	-
3. Norway	Morten Baltzersen

<u>Non-voting Members</u>	<u>Representative</u> ³
1. SSM	-
2. European Commission	John Berrigan/Dominique Thienpont
3. EIOPA	-
4. ESMA	-
5. ESRB	-

<u>Observer</u>	<u>Representative</u>
1. SRB	Dominique Laboureix

EBA Staff

Executive Director	Adam Farkas
Director of Oversight	Piers Haben
Director of Regulation	Isabelle Vaillant

Lars Overby; Delphine Reymondon; Dirk Haubrich; Corinne Kaufman; Jonathan Overett Somnier; Santiago Barón-Escámez

² Representatives from central banks: Jonas Thordarson (Central Bank of Iceland); Arild J. Lund (Norges Bank);

³ Represented by: Giuseppe Siani (SSM) and Sergio Nicoletti Altimari (ECB); Patrick Hoedjes (EIOPA); Jakub Michalik (ESMA); Tuomas Peltonen (ESRB)