

Management Board

19 March 2024 / 09:30 – 11:45

Location: teleconference

Management Board

Minutes of the conference call on 19 March 2024

Agenda item 1: Welcome and approval of the agenda (for decision)

1. The Chairperson welcomed the Members of the Management Board (MB). He reminded the Members of the conflict-of-interest policy requirements and asked them whether any of them considered themselves as being in a conflict. No Member declared a conflict of interest.
2. The Chairperson updated the Members on the gradual replacement of the EBA Extranet with SharePoint Online and mentioned that supporting documents for the next MB meeting in May would be uploaded in the new collaboration environment.
3. The Chairperson informed that the Minutes of the 18 January 2024 MB meeting were approved by the MB in the written procedure.
4. The Members did not raise any comments on the agenda.

Conclusion

5. The MB approved the agenda of the meeting by consensus.

Agenda item 2: Administrative and Operational Status Report (for information)

6. The Executive Director presented the Administrative and Operational Status Report. He noted that the tabled report covered the period from January to February 2024.
 7. With regard to Human Resources, the Executive Director informed that in February, the EBA continued to execute on its HR transformation strategy and adopted the External mobility policy and the first exchanges of experts were planned for the coming months. He also invited the Members to express their interest in these exchanges. He continued by referring to DORA-related activities and said that as the DORA oversight activities required a close cooperation between the three ESAs, the ESAs have decided to establish a Joint Oversight Venture amongst themselves. Staff recruited for the DORA oversight activities would work as part of a single joint ESA team closely liaising with other colleagues at the ESAs. In this regard, the ESAs would join forces for the selection of the staff to be recruited for these new tasks. As first, the head of department and several junior experts' positions vacancies would be launched in order to allow the team to start preparatory work for the oversight activities. The Executive Director
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also acknowledged that the ESAs would not have in 2024 any budget for additional necessary staff given that DORA was planned as a fee-funded project. Therefore, the ESAs have been liaising with the European Commission (EC) on various funding options which seemed to be positively considered by the EC which would be funded as for the normal EBA budget (40/60 split between EC and competent authorities) and could result in an amending budget of the EBA. Finally, the Executive Director informed that the EBA has received results of the regular Staff engagement survey. In this fourth edition of the survey, 85 % of staff responded (compared to 75% in 2022) and the staff satisfaction achieved an 72% total favourable rate (+ 7ppt compared to 2022). He mentioned that there were 10 categories tested in the survey which all displayed “strength” or “clear strength” and following the presentation of the results to all staff, the EBA management has been already discussing potential follow-up actions.

8. The Members welcomed the updates. One Member referred to the recent decision of the European Data Protection Supervisor (EDPS) on the EC’s use of Microsoft 365 and infringements of several key data protection rules and asked if the decision would have any impact on the EBA. Other Member raised concerns related to the use of Microsoft 365 in general and asked for timely updates on the case.
9. In their response, the Executive Director, the EBA Director of Operations Department (Operations) and the EBA Head of Legal and Compliance Unit (LC) explained that the EBA was liaising with the EC to obtain further details on the issue, in particular regarding the personal data transferred outside the EU/EEA which in case of the EBA, in its view, would be related to limited cases, mainly invoicing and escalated IT support during after-working hours. The Head of LC explained that the EBA was using the framework contract between the EC and Microsoft and therefore, it had to follow up on the EC discussions with the provider. The Director of Operations also stressed that all data servers used by the EBA were located in the EU.
10. The EC representative confirmed that the EC has been analysing the issue and would provide their position after the analysis.
11. The Chairperson concluded by noting the Members’ concern and said that the EBA would update the MB on its internal analysis on the data protection concerns.
12. The Head of LC continued by referring to separately tabled report on the progress on the EBA Enterprise Risk Management strategy and said that the EBA’s Risk and Compliance Team since the adoption of the revised / updated strategic risk register for 2024 by the MB in September 2023, has been focusing on the identifying the risks for which specific mitigation measures were deemed necessary, as well the mitigation measures for those risks. He explained that for 2024, the EBA identified six strategic risks for further mitigation measures which have been allocated between responsible EBA Directors who proposed concrete mitigations actions and timelines for completion. The Head of LC summarised these risks and the measures and concluded by saying that further progress on the risk mitigation measures was planned for the September 2024 MB conference call.

13. The Members supported the work. One Member questioned the granularity of the presented risks and their potential interlinkages, in particular between risks related to staff, their wellbeing and recruitment. He also asked why different EBA directors were responsible for similar risks. Finally, he mentioned the introduction of a reverse mentoring initiative within their national authority as part of which the experts were mentoring their managers on innovations, such as the use of AI. Another Member asked whether the newly established Information and Data Committee would also deal with personal data protection issues.
14. The Executive Director explained the existing data protection framework and the role of the Ethics Officer. The Head of LC, also in his role as Data Protection Officer (DPO), clarified that the mandate of the new committee was to centralise development of data management policies and decide on data-gathering within the EBA rather than overseeing data protection which was primarily the task of the DPO. With regard to the risks, the Head of LC explained that there were quarterly meetings planned with the EBA directors on risk management and discussions with heads of unit for the next annual risk cycle would start shortly.
15. The Executive Director also informed the Members that one EBA Director would be leaving the organization and that the EBA had been following very closely its internal procedures applicable for such cases.
16. The EC representative asked how long the cooling off period for the EBA director would be and the Executive Director said that in line with the guidance adopted by the EBA, depending on the role and type of institution, it could be between six to 12 months. The Chairperson also added that the MB would be informed about its developments.
17. The Chairperson concluded by noting the Members' comments on the EBA Enterprise Risks management update.

Agenda item 3: Terms of Reference for the Peer Review on Resilience of Deposit Guarantee Schemes (for decision)

18. The Chairperson introduced the item by saying that as part of EBA's Work Programme 2024, the first peer review to be performed under this work plan was on the resilience of Deposit Guarantee Schemes (DGSs). He also reminded the Members of Article 30 of the EBA Regulation and the EBA Decision on Peer Reviews, according to which the MB should be consulted on the proposed Terms of Reference (ToR) of each peer review.
19. The Head of LC continued by explaining that the aim of the peer review was to assess the resilience of DGSs and to examine how DGSs perform their stress tests pursuant to Article 4 of the Deposit Guarantee Schemes Directive and the Revised Guidelines on stress tests. The peer review report should be published in January 2025. He also referred to the next steps and said that the EBA would consider the feedback from the MB discussion and submit the ToR to the Board of Supervisors for approval in writing.

20. The EBA Senior Expert summarised key aspects of the scope of the peer review, noting that the aim was to assess the performance of all the interventions that DGSs were mandated to perform, including their ability to effectively reimburse depositors, with a particular attention to the new mandatory elements of the Revised Guidelines, such as the performance of DGS stress tests of using DGS funds for failure prevention, contribution to resolution and transfer of a deposit book. Furthermore, the peer review would assess the extent to which effective cooperation arrangements were in place; severity and complexity of stress testing has been increased by the DGS over time and that areas of improvement as a result of assessing their stress testing have been identified by the DGS. The Senior Expert continued by mentioning that the EBA was proposing seven competent authorities (CAs) to be subject to this review and the selection of these CAs took into account the size, geographical balance and participation in other peer reviews as well as other criteria including: the CA's very recent experiences of bank failures in their jurisdiction; the DGS's institutional set-up, to assess cooperation within and with other authorities; the inclusion in the sample of not only public but also private DGSs, to be able to assess the extent to which the requirements in the Guidelines are followed in the same way irrespective of whether a DGS is public or private; and, other considerations, including DGSs previously involved in the mediation cases where EBA noted issues with cooperation among various authorities. The composition of the peer review committee reflected members' extensive experience of deposit insurance, including practical and operational experience of DGS stress testing. The Senior Expert concluded by outlining next steps and said that following discussion at the MB, the EBA would launch the BoS approval of the composition of the committee and the respective terms of reference for this peer review and then proceed with the actual peer review.
21. The Members supported the work but raised concerns related to the timeline and results of previous DGS stress tests. They noted that the 3-year period for the DGSs to develop an adequate plan of stress tests and execute them would expire only in June 2024 while the timeline for the peer review expected for the work to commence already in April 2024 and therefore, the review might be considered as premature. On the results from previous stress tests, the Members asked whether any follow up action were planned and how the findings were considered for the purpose of this peer review. One Member commented on the selection criteria for DGSs and the choice of DGSs to be review.
22. In his response, the Senior Expert explained that while the 3-year period for the DGSs was indeed expiring only in June 2024, the EBA expected that majority of the DGSs have already implemented and executed their stress tests. To address this issue, he said that the EBA would consider amending the reference period and timeline. With regard to the results of the previous stress tests, the Senior Experts explained that the peer review would be focusing mainly on provisions in the revised Guidelines but would also to some extent reflect results of the stress tests under previous Guidelines, where appropriate.
23. The Head of LC added that while the timeline could be adapted, the data collection exercise should not interfere with the summer months.

24. The Chairperson concluded by noting the Members' comments and said that with an aim of ensuring that the EBA had all relevant information at its disposal, the timeline would be amended, where needed, and would allow for the submission of relevant information in the course of the review. On the criteria, he stressed the importance of their representativeness. Finally, he acknowledged a need for continuation and follow up on previous DGS stress tests.

Conclusion

25. The MB support the terms of reference, including the choice of the competent authorities to be subject of the peer review and the composition of the peer review committee.

Agenda item 4: Staff Regulations implementing rules (for decision)

26. The Executive Director introduced the item by explaining the modalities for adopting Staff Regulations' Implementing Rules (IRs). All EU Agencies are bounded by the adoption of the IRs through three different means (1) adoption of the EC decision by analogy (such as the adopted decision on teleworking) (2) adoption of the Agencies' model decision. Agencies model decisions are usually prepared by the EC in close collaboration with the Agencies network with the objective to better fit Agencies' specificities related to internal governance and structure (3) adoption of ex novo rule.
27. The EBA Head of Human Resources Unit (HR) continued by explaining that two Implementing rules are proposed for adoption. The first one related to the EC decision on the prevention of and fight against psychological and sexual harassment, and the second one to the EC decision laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings. For both decisions, the proposal was to adopt the Model decisions for the EU Agencies as recommended by the EU Agencies Network because being better suitable to the needs of the Agency, especially considering the Agency's peculiarities and differences on internal structure between the EC and the Agencies.
28. The Members did not raise any comments.
29. The Chairperson concluded by noting the Members' support.

Conclusion

30. The MB agreed by consensus to empower the EBA Executive Director to request Commission's agreement on the non-application by analogy of Commission Decision C(2023) 8630, on the prevention of and fight against psychological and sexual harassment in view of adopting the model decision for the EU agencies.
31. The MB agreed by consensus to adopt the general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings based on the model decision for the EU agencies.

Agenda item 5: Audit report on human resource management and ethics (for information)

32. The Executive Director introduced the item by informing that the performance Of an audit on Human Resource (HR) management and ethics in EBA was included in the 2022 audit plan of the Internal Audit Service (IAS). This followed an audit risk assessment carried out by the IAS in 2021 as part of the preparation of the 2022-2024 strategic internal audit plan of the EBA during which the IAS had identified risks related to recruitment and staff retention, career development and performance management and compliance with ethical principles. He explained that the objective of the audit was to assess the design, effectiveness and efficiency of the internal control system put in place by EBA to manage its human resources and the adequacy and effectiveness of its ethic framework. The audit focused on the period 2021 to 2023, with the audit work being finalised in November 2023. The final audit report was received on 30 January 2024 to which the EBA submitted a draft action plan to the IAS for review on 28 February 2024. The Executive Director explained that in general IAS could raise three types of findings – critical, very important and important and that in the case of no findings or important findings only, the IAS would conclude to an unqualified adequacy of the setup. There were no findings on the ethics and only five important findings on HR in this IAS report which meant that the internal controls for HR and Ethics were seen as adequate. This recognised the EBA’s continuous efforts to significantly strengthen its Ethics and HR management in recent years and. He reminded that the EBA’s ethics set-up had been reorganized in January 2021 with some further adjustments in subsequent years. An HR Transformation strategy had also been prepared in the second half of 2022 following the recruitment of a new HR Head of Unit, with a gradual roll-out in 2023 and into 2024. The IAS feedback at a still early (and partial) stage of its implementation was seen as very useful, to obtain confirmation of the relevance of the general approach and to identify areas for further improvements or clarifications. The EBA would keep strengthening its setup in these important areas.

33. The Members did not raise any comments.

34. The Chairperson concluded by noting the Members’ support.

Agenda item 6: Provisional Agenda of the BoS conference call on 23 April 2024 (for discussion)

35. The Chairperson reminded the Members that the next BoS conference call was scheduled to take place on 24 April 2024, followed by the Joint BoS/BSG conference call on 24 April 2024.

36. The Members did not raise any comments.

37. The Chairperson concluded by noting the MB’s support for the agenda of the upcoming BoS conference call.

Conclusion

38. The MB took note of the draft Agenda of the 23 April 2024 BoS conference call.

Agenda item 7: AOB (for information)

39. The Members did not raise any comments.

Participants at the Management Board conference call on 19 March
2024

Chairperson	Jose Manuel Campa
Vice-Chairperson	Helmut Ettl

Member Kamil Liberadzki
Member Angel Estrada
Member Kristine Cernaja-Mezmale
Alternate Laszlo Vastag
Alternate Adam Ketessidis

European Commission representative Almore Rubin De Cervin

EBA Directors

Executive Director	Francois-Louis Michaud
Director of Operations	Peter Mihalik
Director of Prudential Regulation and Supervisory Policy Department	Isabelle Vaillant
Director of Data Analytics, Reporting and Transparency Department	Meri Rimmanen
Director of Innovation, Conduct and Consumers Department	Marilin Pikaro

EBA Head of Units

Laurence Caratini
Jonathan Overett Somnier

EBA Experts

Tea Eger
Adrienne Coleton
Slawek Kozdras
Alex Herr

For the Management Board,

Done at Paris on 06 May 2024

[signed]

José Manuel Campa

EBA Chairperson