



EBA MB 2019 081

Management Board

14 March 2019/10:00-16:45

Location: London

EBA – Regular Use

Management Board meeting – Draft Minutes

Agenda item 1: Approval of agenda and minutes

1. The Interim Chairperson welcomed the Members. He announced that Federico Signorini's term expired in February and because he served two terms, he was not able to apply for a third mandate. To that end, a call for expression of interest has been circulated on 4 March with a deadline on 18 March. In addition, he mentioned that Jesper Berg's term would expire on 15 March and that Jesper expressed his interest to continue his mandate for a second term. He concluded by mentioning that the election of MB Members would take place at the BoS meeting on 16 April.
2. The Interim Chairperson reminded the MB that the deadline for comments on the Minutes of 22 January MB meeting was on 11 March 2019. He asked the MB to approve the Minutes circulated after the round of comments.

Conclusion

3. The MB approved the Minutes of the MB meeting of 22 January 2019.

Agenda item 2: Administrative and Operational Status Report (A-Point)

4. The Director of Operations presented the Administrative and Operational Status Report (document EBA MB 2019 036). He pointed out that the report was shorter than in the past because of its focus on particular topics. With regard to financial issues, he stressed that the EBA was not experiencing any difficulties with the 2019 budget execution and that 20% of
-

carry-forward commitments have already been paid. The procurement list was rather long due to the need to replace all locally provided services.

5. On HR issues, the Director of Operations updated the MB that the EBA received three resignations for the period January - February 2019 and that the staff turnover was slightly above 10%. He also mentioned that the appraisal exercise was ongoing and will be followed by the reclassification procedure.
6. The Director of Operations updated on IT projects and mentioned that besides the IT Data Centre relocation to Hamburg, work was progressing on the Wokrstream 2 EUCLID and PSD2 Register. He also said that the EBA has introduced workflow solution for paper-less administrative processes, such as for missions.
7. The Director of Operations concluded by referring to the work of the Communication team related to the Intranet re-design and social media.

Conclusion

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

Agenda item 3: EBA Relocation – Status Report (A-Point)

9. The Director of Operations informed of the state-of-play of the EBA relocation to Paris (document EBA MB 2019 037). He mentioned that the Interim Chairperson signed the headquarters agreement on 6 March.
10. On the issue of premises, the Director of Operations confirmed that works in the new EBA premises were ongoing. He explained that there was a one week delay in fit-out for one of four floors which should not have major impact on any follow-up IT work planned to start as of mid-April, with an actual move scheduled over the last two weekends in May.
11. The Director of Operations informed the MB that EBA Data Centre was moved to Hamburg without major disruptions during working hours. He also mentioned that the EBA should be connected with its data centre with two lines but that, at the moment, there was only one line. The second one should be, however, operational by the time of the move of the EBA to Paris.
12. The Interim Chairperson introduced the discussion on working arrangements by pointing out that due to delayed legislation related to the seat of the EBA, the EBA was not in a position to move from London before the end of May. He stressed that it was important for the business continuity to ensure that the working arrangements were clarified and that the staff was informed about temporary changes during the period when the EBA would stay in London.
13. The Executive Director continued by explaining that based on communication with the European Commission (EC), the EBA has set up working arrangements for senior management and EBA official meetings' organisation for the period 30 March 2018 to 3rd June 2018.

However, in order to clarify EBA's obligations to staff during this two months period, an external legal advice was sought to complement EC's views on the matter. Based on this information, the Executive Director explained the proposal was to maintain all working and financial conditions for all staff except for senior management.

14. One MB Member requested clarification on the financial impact of maintaining these financial conditions for staff. The Executive Director explained that there was an amount allocated in the budget for all financial commitments that would result from this proposal.
15. Another MB Member asked about the possibility to treat staff as being on mission in London during these two months. The Head of Unit Legal Services explained the difficulties of the approach of using mission allowances which had led to the EBA dismissing this option.
16. The EC representative explained that due to late submission of documents related to the working arrangements, the EC was not in a position to submit their detailed views on the external legal advice sought by EBA. He informed the MB that, in those circumstances, the EC position remained the one expressed in recent letters on the topic, and he invited EBA to postpone any decision in this matter until the EC would have formed a view on the external legal advice.

Conclusion

17. The MB took note of the Relocation Status Report.
18. The MB supported the proposal regarding the working arrangements for the period of April-May 2019.

Agenda Item 4: HR-related matters

19. The Interim Chairperson reminded the MB that due to late submission of comments from the EC, the MB could not discuss the tabled HR documents at its last meeting in January 2019.

A) Draft Decision on Nursery/pre-school education contribution (C-Point)

20. The Head of HR Unit introduced the item by explaining that the Decision was to establish a new policy, with a threshold at the level of the European School fee, and a maximum EBA contribution depending on the grade (i.e. level of income) of the staff member according to which the EBA would pay the nurseries directly. She concluded by clarifying that the policy did not increase the existing statutory benefits provided by the Staff Regulations, respected the applicable financial regulations and the budgetary credits and that the proposed threshold was set at the same level as the fees for the nursery cycle at the European school. Finally, she mentioned that the maximum EBA contribution was expressed as a percentage of the proposed threshold for relevant grades in order to reflect the essential purpose of this social

measure, which was to contribute more to the nursery costs to staff in lower grades and with lower income.

21. The EC representative noted that Article 5 of the Decision should reflect that EBA contributions shall be paid directly to nurseries whenever possible.

Conclusion

22. The MB agreed that EBA would insert a 3-year review clause in relation to Article 5 of the Policy.

B) Replacement of Interims by Contract Agents (C-Point)

23. The Interim Chairperson introduced the item by explaining that since the MB discussion in January, the EBA has reviewed the number of additional CA positions needed to ensure business continuity despite the departure of employees under interim contracts. The Executive Director clarified that due to different obligations under French labour law, the EBA could not continue using the current interim staff provider after the relocation to Paris. Given the difficulties to find equivalent resources via interim positions in France, the envisaged approach was to increase the number of CAs position to fulfil needs currently covered by interim positions in London. Since the EBA establishment plan for 2019 foresaw 49 CA posts and EBA was currently employing 40 contract agents (as on 31 December 2018), the proposal was to replace current interims partially by CAs (5) and by using administrative services provider (6). The EBA would need five additional CA posts in 2019 and therefore, the total number of CA posts in 2019 would then come to 56.
24. The EC representative explained that any increase of contract agents' positions would be monitored and possibly subject to limitations by DG-BUDG.

Conclusion

25. The Interim Chairperson concluded that the EBA was significantly reducing the number of additional CA positions requested, whilst trying to find alternative solutions to replace six admin/secretarial support interims. The remaining interim contracts will be included within the existing EBA budget. EBA would present the updated overview of the status at the next MB meeting.

Agenda Item 5: Brexit update (B-Point)

26. The Director of Banking Markets, Innovations and Consumers department (BMIC) updated the MB on the recent Brexit activities. He pointed out that in discussions with Board of Supervisors (BoS); Members did not raised major issues stemming from the institutions' preparedness. Some Member States mentioned concerns over the cliff-edge scenario materialising and surrounding market turbulence. With regard to customer communication, based on the BoS agreement, the EBA published a dedicated communication in December 2018 and organised a

follow-up discussions and stock-takes on the institutions' preparedness. The Director of BMIC also mentioned that based on the BoS approval, the EBA published an opinion on the topic of deposit guarantee schemes (DGS) coverage of the EU branches of the UK institutions.

27. The Director of BMIC continued by summarising the development with regard to MoUs. He mentioned that the BoS approved the Supervisory Template MoU and therefore, Member States could commence their bilateral negotiations. The text of the MoU was slightly changed to address issues related to onward disclosure. With regard to the Framework Cooperation Agreement, the Director of BMIC stressed out that the progress was relatively slow but the EBA was putting significant effort into moving this forward. Finally, he noted that the EBA Institutional MoU could be finalised when the FCA negotiations were completed.
28. The Director of BMIC concluded by explaining working arrangements with regard to the membership of the UK after 29 March, pointing out that these arrangements might be reconsidered based on the Brexit developments, and listing several proposals for future Brexit work that were dependent on deal or no deal scenarios.
29. One MB Member requested clarification on data in the Credit institutions register after Brexit and the Director of Economic Analysis and Statistics department (EAS) explained that the EBA would update the register to take into account the legal status of UK institutions.
30. The EC representative pointed out that the Supervisory Template MoU did not refer to the list of institutions and asked if it would be possible to add a reference. The Director of BMIC clarified that the EBA were in the process of compiling the list as a matter of urgency but it was difficult to add an explicit reference to the list at the current time before it was finalised.

Conclusion

31. The MB took note of the progress update.

Agenda Item 6: Future priorities – Work programme 2020 (B-Point)

32. The Interim Chairperson reminded the MB that the EBA should set priorities for the 2020 Annual Work Programme (AWP) during the first quarter of 2019 so as to allow sufficient time to plan activities and milestones for the said year and define Key Performance Indicators (KPI's) to measure performance and success of the organisation. All these would be shaped in a document to be submitted to EU institutions by 30 September.
33. The Head of PAC unit continued by pointing out that the tabled note reflected the recent changes in the EBA organization and aimed at clear, easy to read and visible priorities. To that end, the note listed six strategic and two horizontal priorities.
34. The MB Members requested clarification on a link between the note, the Single Programming Document recently approved and the 2019 Work programme. The Head of PAC Unit explained the note was to form a basis for the 2020 Work programme, while the Single Programming

Document was a three-years planning document. The purpose of the note was to narrow down the six priorities of the EBA for 2020, in line with the ones defined in the 2020-2022 Single programming document.

35. One MB Member was of the view that there were too many priorities whilst other members considered that stress testing should be more visible and sustainable finance less prominent... Another Member suggested that work prioritisation should be more visible in the strategy of the EBA.
36. The Interim Chairperson proposed that the link between work programme and single programming document is explained in the version of the note that will be submitted to the EBA Board of Supervisors.

Conclusion

37. The MB took note of the EBA future priorities.

Agenda Item 7: BSG renewal (B-Point)

38. The Head of PAC Unit informed the MB that the term of two BSG members would expire on 01 May 2019 and therefore, two new members have to be selected – one in the category of consumers and one in the category of credit and investment institutions. He explained that these new members would be drawn from the reserve list of BSG candidates that was built following the latest call for renewal of BSG membership.

Conclusion

39. The MB agreed to appoint Sébastien de Brouwer (credit and investment institutions) and Monica Calu (consumers).

Agenda Item 8: AML update (B-Point)

40. The Director of BMIC reminded the MB that in December 2018, the Council adopted an AML Action Plan. The Action Plan set out a number of objectives and deliverables that should strengthen the effectiveness of the current EU AML/CFT supervisory framework, in particular better cooperation and information exchange between AML/CFT and prudential supervisors. Most of the Action Plan's objectives and deliverables were relevant to the EBA's work on AML/CFT, authorisation and prudential supervision and the Director of BMIC stressed that the EBA had already started work on these, despite current resource constraints, including launching work in the various EBA and AMLC substructure that would have been involved. He went through the list of deliverables in detail and explained that to effectively deliver the outcomes there needed to be effective sequencing of the fact-finding and analysis stage prior to the finalisation of regulatory products. In this regard, some timelines envisaged in the Action plan did not necessarily reflect the sequencing of the required action. Thus whilst all deadlines

would be met with substantive reports, there may need to be further stages in some of the work streams in order to ensure any guidance was based on the full fact finding and analysis.

41. One MB Member was of the view that cyber risk could cause issues in the future and that the EBA should consider this topic as well as focus on technologies related to AML. One member proposed to establish interim reports. This idea was welcomed by the EBA.
42. The EC representative agreed that work stemming from the ESAs review could not be considered yet because the review was not finalised. He also mentioned that there were several mandates under CRR/CRD relevant for AML that the EBA would have to work on. He concluded that the EC was aware of constraints caused by limited resources and that the EBA should inform the EC and Council if needed to explain the sequencing and timing issues.

Conclusion

43. The MB supported the EBA's work and agreed the need for effective sequencing.

Agenda Item 9: Overview of the EBA's tasks arising from the risk reduction package and the investment firms regulation (B-Point)

44. The Interim Chairperson introduced the item by summarising that a set of proposals to amend the rules on capital requirements was issued by the European Commission to strengthen further the resilience and resolvability of EU banks and investment firms on 23 November 2016 and 20 December 2017, respectively. The Council and Parliament adopted the proposals in January and February 2019 respectively and these proposals would amend CRD, CRR and BRRD. A new dedicated and tailored regime for investment firms was additionally embedded as separate legislation in the form of a Directive and a Regulation. All these would trigger a new and significant stream of work for EBA in order to further strengthen the Single Rule book with a significant number of Level 2 acts to support the Level 1 texts.
45. The Director of Prudential Regulation and Supervisory Policy department (PRSP) continued by mentioning that the legislative process was still ongoing but that the EBA was not expecting further major changes. She clarified that many of these mandates (more than 50) were required to be fulfilled in less than two years with around a dozen to be completed within six months after entry into force and another 20 within nine months to one year. Beyond the two years horizon, the other half of the mandates either had a recurring nature, reflecting the role of the EBA in monitoring the right and convergent implementation of the single rulebook in the EU, or in taking into account a forward-looking perspective where the EBA operates as an agent to observe and advise. While only a handful regulatory mandates had a delivery date beyond two years, the EBA was due to deliver around 30 reports to support the effective and consistent implementation of the single rule book as well as its convergent supervision in practice. The Director of PRSP concluded that the issue was very complex and that the EBA had to further analyse how to tackle the organisation and preparation of work on all the mandates.

46. Some MB Members stressed that the number of mandates was very challenging and that the EBA urgently needed to prioritise and organise the work in order to be able to deliver on all the mandates. The EC representative confirmed that it was an enormous task for the EBA and invited EBA to make sure that at least all key level 2 measures necessary to make the level 1 texts work properly be delivered on time.
47. The Head of Risk-based Metrics (RBM) unit pointed out that with regard to the investment firms' package, the workload and timelines were similar and that in addition, more than 20 mandates had to be developed in close collaboration with ESMA and securities and market authorities (when these were prudential supervisors of investment firms), which added extra issues to this already complex process.

Conclusion

48. The Interim Chairperson concluded that the EBA would prepare an update note on timelines for a MB meeting once the final text is available.

Agenda Item 10: EBA feasibility study on integrated reporting (Art 100 of the CRR2) (B-Point)

49. The Interim Chairperson introduced the item by mentioning that Article 100 of the CRR 2 mandated the EBA to prepare a feasibility report for the development of a consistent and integrated system for collecting statistical, resolution and prudential data, as well as to involve the relevant authorities in the preparation of the report. Due to the nature of the project, the wide scope of data and the authorities to be involved, the EBA envisaged rather complex and resource and time intensive project.
50. The Director of BMIC presented the item including the high-level project plan and timeline, which was divided into scoping and fact finding to be completed in 2019 and drafting the feasibility study in 2020. The project was expected to be politically sensitive and technically very challenging. He indicated the engagement with stakeholders as key success factor and highlighted the importance of maintaining good relationship with the ECB. He finalised the presentation by inviting feedback on the project plan and the engagement with stakeholders as well as support for a call for temporary staff to work with the EBA on the project.
51. MB Members supported the project plan and raised some questions. It was clarified that governance for the project would rely mainly on existing EBA structures with reporting to the BoS.
52. Two MB Members highlighted the importance of cooperation with the ECB and central banks since the main challenge in integration is to bring together supervisory and statistical reporting. One MB Member emphasised the importance of cooperation with stakeholders to avoid having a report endorsed by the BoS but not supported by other stakeholders, which would make the implementation very difficult. One MB Member asked how far this vision of

integration went, as bringing statistical and supervisory data together was a huge task and may require a solution that goes down to a very granular data collection, which might be difficult to obtain for small banks in particular.

53. Another MB Member supported a thorough assessment of the feasibility of the different options but cautioned that the feasibility study should not end up being transformed automatically into an expensive IT project and should be considered in the context of other EBA projects. This MB member saw a significant risk that the project ended up becoming very expensive not only for the authorities, but in particular for the reporting banks that would have to change their current systems. The MB member strongly advised the EBA to consult with banks and set limits on the total costs for the project. The MB member expressed his doubts as to the EBAs understanding of the scope of the project. The MB member noted that the projects initiated last year by the ESAs were a major cost driver in the member's authority. The MB member recommended that the ESAs established a joint committee that could serve as a gatekeeper for the initiation of new projects.
54. Another MB member pointed out that banks have been requesting this for some time. He asked NCAs to be directly involved. This MB Member also indicated that he was ready to provide resources for the project.
55. The Interim Chairperson summarised the discussion and concluded that there was support for the plan of this important mandate. It would be important to look for synergies and efficiencies, as well as to have a look to new technologies, which should help in becoming more efficient. He highlighted the cooperation with the ECB as key but other stakeholders and NCAs being very important as well and the need of support in terms of resources for the project.

Conclusion

56. The MB supported the high-level project plan and timeline and the support with temporary staff (secondments).

Agenda Item 11: Provisional Agenda BoS 19-20 February Meeting (B-Point)

57. The Interim Chairperson reminded the MB that the next BoS meeting was scheduled for 16 – 17 April in Paris. He clarified that it would not be a joint BSG/BoS meeting as initially planned.

Conclusion

58. The MB took note of the draft Agenda.

Agenda Item 11: AOB

A) Update on the Outside Activity form

59. The EBA Chairperson of the Advisory Committee on Conflict of Interest (ACCI) introduced the item by summarising that in February 2019, the EBA ethics officer presented to the Advisory Committee on Conflict of Interest (ACCI), a submission for initial advice, related to an article written by the Executive Director, Adam Farkas, for inclusion in a book entitled “Resolution in Europe: the unresolved question”. The Ethics officer considered this an “outside activity”. The ACCI Chairperson continued by explaining that Article 4 of the Commission Decision defines the circumstances under which prior permission is deemed to be granted for outside activities, listing six conditions to be met. Looking at these conditions, the ACCI considered that they were met and gave its opinion that permission should be deemed granted.

Conclusion

60. The MB approved the opinion of the ACCI.

B) Update on IAS Annual Audit Plan 2019 and follow-up on outstanding recommendations from the IAS audit on HR Management in EBA

61. The Interim Chairperson introduced the item and pointed out that it was submitted to the MB for information.

Conclusion

62. The MB took note of the update.

Participants at the Management Board meeting

14 March 2019

Interim Chairperson Jo Swyngedouw

Member Jesus Saurina
Member Edouard Fernández-Bollo
Member Jesper Berg
Member Martin Noreus
Alternate Peter Lutz

European Commission representative Dominique Thienpont

EBA Staff

| | |
|--|---------------------|
| Executive Director | Adam Farkas |
| Director of Operations | Peter Mihalik |
| Director of Economic Analysis and Statistics | Mario Quagliariello |
| Director of Prudential Regulation and Supervisory Policy | Isabelle Vaillant |
| Director of Banking Markets, Innovations and Consumers | Piers Haben |

Philippe Allard; Jonathan Overett Somnier; Tea Eger; Adrienne Coleton; Cristina Abascal; Aneta Al Hafoudhova; Meri Rimmanen