



EBA BS 2020 068

Board of Supervisors

14 January/09:30-17:00

Location: Paris

EBA-Regular Use

Board of Supervisors meeting – Final Minutes

Agenda item 1: Selection of the EBA Executive Director – interviews with candidates

1. The Chairperson welcomed the Members. He mentioned that there were changes in the BoS representation for France, Lithuania and Poland and he welcomed the new Members.
 2. The Chairperson informed the Board of Supervisors (BoS) about the ECON Committee's Resolution on Institutions and bodies in the Economic and Monetary Union: Preventing post-public employment conflicts of interest. The Resolution referred in various points to the restrictions imposed on the previous EBA Executive Director. The EP plenary was planning to discuss and vote on the Resolution on Thursday, 16 January.
 3. The Chairperson continued by summarising the selection procedure, noting that one candidate was a member of EBA staff but that he considered that he could maintain independence in the selection process, and read a letter from the Chair of ECON regarding the outcome of informal exchanges of views held by ECON with the candidates. The chair of the selection committee then presented the conclusions reached by the selection committee as well as the report from the assessment centre.
 4. Finally, the Chairperson mentioned that after the vote, the EBA would inform ECON about the outcome and that the public hearing in ECON should take place on the morning of 22 January, with the ECON vote on 22/23 January and the Plenary vote expected by 13 February. He reminded the BoS that according to the EBA Founding Regulation, the BoS appoints, after confirmation by the European Parliament (EP), the Executive Director. In order to accelerate the procedure and to avoid additional written procedures, the BoS was asked to delegate the final appointment to the Chairperson following confirmation of the candidate selected by the BoS.
 5. The presentations and interviews with the three shortlisted candidates followed.
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6. The Chairperson and the EBA Head of Unit Legal Services (Legal) informed that the EBA asked all three candidates to provide a conflicts of interest declaration covering their shareholdings and external activities such as previous employment situations, so that a preliminary assessment could be carried out to ensure that the BoS was informed of any potential concerns. The Head of Legal noted that one candidate had declared relevant private sector employment but that this had concluded 4 years and 10 months ago and that therefore the preliminary assessment was that there did not appear to be a personal interest that would be such as to impair the candidate's independence for the purpose of the Staff Regulations.
7. A secret ballot vote was casted. As none of the candidates received enough votes to reach the simple majority required for the vote, a second round of votes was cast between the two candidates which had received the most votes. Following this vote, a simple majority was reached.

Conclusion

8. The BoS established a reserve list of all three candidates and selected Gerry Cross as its candidate for confirmation by the European Parliament as Executive Director.
9. The BoS delegated to the Chairperson the final appointment of Gerry Cross following confirmation by the EP. In the event of non-confirmation the BoS would be reconvened to discuss the next steps.

Agenda item 2: ESAs review – Update

10. The Chairperson reminded the BoS that at its last meeting, the BoS had discussed in detail the proposals for implementing the ESAs Review on the basis that they would be brought for formal adoption following publication of the ESAs Review legislation in the Official Journal. He mentioned that the BoS asked the EBA to further analyse the participation of the BSG Chair in the Advisory Committee on Proportionality (ACP) and asked the European Commission (EC) to provide their formal views on conflicts of interest. In this regard, the Chairperson clarified that to balance the concerns about having an internal committee with the desire of some members to have external input, the EBA decided to propose the BSG Chair as an observer rather than a full member of the ACP. On the conflicts of interest, a letter from the Acting Director General of FISMA had been circulated to the BoS. The Chairperson also mentioned that the comments received from the BoS on the Q&A and peer review frameworks were being reviewed and there would be a separate item on these topics scheduled for the February BoS meeting.
11. With regard to the BSG, the Chairperson mentioned that a joint letter had been sent by the stakeholders groups of the three ESAs relating to their composition and in particular to the decreased number of academics provided for in the new legislation.
12. Finally, the Chairperson referred to drafting suggestions recently received from two Members related to the BoS, AMLSC and ResCo's rules of procedure. The Head of Legal proposed to integrate those changes in to the texts proposed for adoption.

13. The BoS welcomed the changes introduced since the last meeting. Some Members had further comments related to the BoS rules of procedure, in particular regarding conflicts of interest, and to the BUL rules of procedure.
14. One Member referred to the letter from the EC on conflicts of interest issues. In his response, the EC representative clarified that the EC Legal Service does not provide external legal advice but that the letter mentioned by the Chairperson and circulated to the BoS represented the views of the EC and was, therefore, in line with the EC's Legal Service's views.
15. On the position of the BSG Chair as observer in the ACP, some Members raised some concerns but the majority of the BoS supported the compromise proposal. The ESMA representative clarified that the ESMA BoS was of the view that no external person, including the SG Chair, should participate in the ACP. In relation to calls to align with ESMA, the Head of Legal noted that the EBA's proposal regarding the BSG Chair's participation was in line with that being proposed by EIOPA. One Member suggested that the ACP should have 8 – 10 voting members. Another Member proposed having more national representatives on a rotating principle and from SSM and non-SSM countries. The SRB representative questioned why the SRB was not included in the ACP's membership while the ECB was.
16. On mediation panel composition, several Members stressed the importance of members having appropriate expertise. The SRB representative suggested that for some cases, such as those related to the BRRD, members from resolution authorities should have the priority.
17. On BUL, one member asked to delete the possibility for the Chair to set clear deadlines regarding the volume and format of written submissions from competent authorities, and to provide for an oral hearing before the panel in all cases.
18. In his response, the Head of Legal explained that the proposal was for each panel to be responsible, following a request, for deciding on the need for an oral presentation from a competent authority based on the information already provided to the panel by the competent authority, with a presumption that such a hearing would take place. The rationale for the possibility of setting restrictions where appropriate was the 2-month period for BUL investigations, with documents being provided in different languages and the new clear obligation to correspond with the competent authority in its official language, noting that the EBA does not have the translation resources of the EC or ECB. With regard to the BUL's rules of procedure, he clarified that the EBA could receive a request to investigate not only from the EC but also from natural persons but that if the EBA decided to open an investigation based on such request, it would be an own initiative investigation and the Court had made clear that, unlike the EC and other privileged requesters, citizens cannot challenge the EBA if it does not open an investigation. On the composition of the ACP, the Head of Legal explained that the ECB was included given their lead role in the SSM for both significant and less significant credit institutions, while the SRB would be able to put forward a candidate for one of the competent authority positions when the call for candidates is launched. The arrangements for that call

would be made following approval of the ACP's rules of procedure and would be likely to set out criteria that would be taken into account to ensure balanced composition.

19. The Chairperson concluded that given the number of comments, the EBA staff would amend the documents discussed to include the corrections proposed by Members and remove the reference to set limits on the volume of competent authority responses to BUL investigations, and have a clearer presumption of an oral hearing before panels. A written procedure would be launched after the BoS meeting.

Conclusion

20. The BoS agreed to approve ESAs' review documents in writing.

Agenda item 3: Discussion paper on long term changes to stress test

21. The Chairperson introduced the item by mentioning that while the BoS supported publication of the Discussion paper at its last meeting, there were some issues for which the BoS requested further clarifications from the EBA.
22. The EBA Director of Economic Analysis and Statistics (EAS) continued by summarising the main changes to the Discussion paper. He referred to a box on the usage of stress test results and expectations on capital needs, which was added to acknowledge that some authorities might not use the EU-wide stress test results for setting the P2G. Also, he mentioned that the dialogue between the supervisory and bank leg for determining the final supervisory result was a discretion of the competent authority (CA) and not a separate option as it was in the initial version. In the sensitivity analysis part, the reference to specific risks was split into the ones connected to historical episodes and the ones that are more forward looking. Finally, he mentioned that the exploratory scenario specifically looked at longer term risks and such exercise was not connected to solvency testing. Also, the roadmap was slightly amended.
23. The ECB representative stressed that, due to resources' issues, no quality assurance on the side of supervisors should be required to the bank leg except for the starting points. He requested to remove the reference to additional resources from the sensitivity analysis' paragraph (para 82). Finally, he also proposed amending the wording in paragraphs 47, 48 and 58.
24. Several Members commented on the disclosure of the P2G. While two Members stressed the importance of publishing the P2G, others showed some scepticism.
25. On the resources issue, some Members pointed out that efforts on the quality assurance should be lower on the side of supervisors.
26. One Member requested further move towards top down elements for the supervisory leg.

27. With regard to the questions included in the Discussion paper, one Member proposed to merge questions number 3 and 9 and to clarify question number 7.
28. The Director of EAS explained that question 7 is relevant as it relates to the option of flexible methodology versus the close set of rules and that the EBA would consider merging questions 3 and 9. He also mentioned that the EBA would add a question on Box 1 and amend the drafting of paragraphs 49 and 82. The quantification of differences between the supervisory and bank leg is an important part of the proposal.
29. The Chairperson added to the Director's summary that paragraphs 47 and 48 (on data checks) would also be slightly changed in order to remove the reference to the quality assurance. The Chairperson concluded that, given the comments received during the meeting, the EBA would amend the Discussion paper and submit it to the BoS for final fatal flaw in writing before its publication.

Conclusion

30. The BoS supported the publication of the Discussion paper.

Agenda item 4: Brexit update

31. Discussion in a restricted setting (EU 27).

Agenda item 5: AOB

32. The Chairperson reminded the BoS that the conference call on the stress test scenarios was scheduled for 29 January 2020.

Participants at the Board of Supervisors' meeting

14 January 2020, Paris

Chairperson: Jose Manuel Campa

<u>Country</u>	<u>Voting Member/High-Level Alternate¹</u>	<u>National/Central Bank</u>
1. Austria	Helmut Ettl	Philip Reading
2. Belgium	Jo Swyngedouw	
3. Bulgaria		
4. Croatia	Martina Drvar	
5. Cyprus	Stelios Georgakis	
6. Czech Republic	Zuzana Silberová	
7. Denmark	Jesper Berg	Peter E. Storgaard
8. Estonia	Andres Kurgpold	Timo Kosenko
9. Finland	Jyri Helenius	
10. France	Dominique Laboureix/Emmanuelle Assouan	
11. Germany	Raimund Röseler	Karlheinz Walch
12. Greece	Spyridoula Papagiannidou	
13. Hungary	Gergely Gabler	
14. Ireland	Gerry Cross	
15. Italy	Alessandra Perrazzelli/Andrea Pilati	
16. Latvia		
17. Lithuania	Marius Jurgilas	
18. Luxembourg	Martine Wagner	Christian Friedrich
19. Malta	Marianne Scicluna	Oliver Bonello
20. Netherlands	Maarten Gelderman	Sandra Wesseling
21. Poland	Artur Ratasiewicz	
22. Portugal	Ana Paula Serra	
23. Romania		
24. Slovakia	Tatiana Dubinová	
25. Slovenia	Damjana Iglic	
26. Spain	Jesús Saurina Salas/Alberto Rios	
27. Sweden	Karin Lundberg	Camilla Ferenius
28. UK	Charlotte Gerken	Nigel Fray

¹ Accompanying experts: Kurt Van Raemdonck (Belgian National Bank); Michele Lanotte (Banca d'Italia); Olaf Gerritse (De Nederlandsche Bank); Izabella Szaniawska (Polish Financial Supervisory Authority); Jose Rosas (Banco de Portugal);

<u>Country</u>	<u>Member</u>	<u>Representative NCB</u>
1. Iceland	Unnur Gunnarsdóttir	
2. Liechtenstein		
3. Norway	Morten Baltzersen	

<u>Observer</u>	<u>Representative</u>
1. SRB	Sebastiano Laviola

<u>Other Non-voting Members</u>	<u>Representative</u>
1. ECB/SSM	Korbinian Ibel
2. European Commission	Martin Merlin
3. EIOPA	
4. ESMA	Verena Ross
5. EFTA Surveillance Authority	Marco Uccelli
6. ESRB	Tuomas Peltonen

EBA Staff

Director of Banking Markets, Innovation and Consumers	Piers Haben
Director of Prudential Regulation and Supervisory Policy	Isabelle Vaillant
Director of Economic Analysis and Statistics	Mario Quagliariello

Philippe Allard; Jonathan Overett Somnier; Angel Monzon; Lucy Urbanowski

Tea Eger; Dragan Crnogorac; Hugo Freitas; Orsolya Cato-Nagy; Adrienne Coleton