



EBA MB 2021 027

Management Board

23 March 2021

Location: teleconference

EBA-Regular Use

Management Board meeting – Draft Minutes

Agenda item 1: Welcome, approval of the agenda and Declaration of conflict of interest

1. The Chairperson welcomed the Members of the Management Board and gave a special welcome to the two new MB Members, Ms. Karin Lundberg and Mr. Helmut Ettl.
2. No Member declared a conflict of interest in relation to an item on the agenda.
3. The Chairperson informed the Members that the minutes of the MB meeting of 28 January 2021 meeting had been approved.
4. The MB approved the agenda of the meeting.

Agenda item 2: Administrative and Operational Status Report

5. The EBA Executive Director introduced the Members to the Administrative and Operational Status Report. After mentioning the cybersecurity incident, that would be discussed under agenda item 3, he informed the Members of an EBA pilot to appoint team leaders within the organization who will work on topics with a horizontal dimension. The goal of this pilot is to further increase synergies within the organisation while providing staff with a broader range of career development opportunities. The new concept aims to create new momentum in EBA and facilitate the work within the different mandates. The EBA Executive Director noted that the concept will not result in additional managerial layers and that the pilot will be revisited in one year.
 6. Furthermore, the EBA Executive Director informed the Members that EBA is doing well in the execution of the 2021 budget, while trying to steer ahead of the curve. As EBA has a strong accounting office, there are discussions with ESMA on the possibility to share this resource, in
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order to increase the synergy between the two organizations. Finally, he noted that the process for restricting access to confidential information for staff leaving the EBA was further strengthened.

7. The EBA Director of Operations informed the Members on the new normal that emerged following the COVID-19 pandemic. He noted that EBA had taken a proactive stance by setting up of two focus groups: one focus group is composed of staff members, the other is composed of managers. The two focus groups are running a series of workshops to identify what elements of the working environment need to be adjusted, while taking into account that a new teleworking policy that was being developed by the EC.
8. The Report was met with appraisal, the Members considered the Report well drafted and accessible. Multiple Members expressed support for the EBA initiative to appoint team leaders and noted that the pilot should not result in an additional management layer. In that context, several Members suggested to carefully manage expectations when appointing team leaders to prevent them from having false expectations. One Member suggested job rotation as an approach to keep staff motivated. The EBA Executive Director took note of the comments and acknowledged that it was important to carefully manage expectations when appointing team leaders. In addition, he noted that EBA in no way plans to introduce a new layer of management, but rather tries to improve the versatility of staff.
9. Several Members noted that the Report refers to an EBA request for additional resources for DORA which was rejected by the COM, and expressed concern that new tasks may be given to EBA without adequate resources to fulfill these tasks. The representative of the COM acknowledged that DG FISMA and DG BUDG indeed discussed the EBA request for additional resources. He noted that there was understanding for the EBA request but that from a legislative perspective the exact scope of the new mandates first needed to be decided on before a formal decision on additional resources could be made. The EBA Executive Director reminded that the Single Programming Document included three scenarios for resources (without DORA-MiCA, with DORA-MiCA as per the LFS, with DORA-MiCA as per EBA's estimates) and noted that the concerns on resources for DORA, if a role for the EBA were to be confirmed, were rather for the upcoming years.
10. On the new normal following the pandemic, several Members expressed support for the work EBA had undertaken to define the consequences of the new normal for the work environment. They did stress that it was very important to consult with all stakeholders, including the national competent authorities, when designing a digital work environment. The EBA Director of Operations added to the discussion that as a relatively small organization, EBA is heavily dependent on team spirit and that team spirit also needed to be fostered in a physical setting.
11. One Member asked EBA what kind of data would be included in the AML database. The EBA Director of Banking Markets, Innovation and Consumers informed the Members that the scope of the AML database will follow what is defined in the underlying legal text.

Agenda item 3: Update on EBA cybersecurity incident

12. The EBA Director of Operations updated the Members on the cybersecurity incident that occurred in the first week of March, while focusing on the nature of the problem and reconstructing the EBA actions and communications per day. Then, the EBA Executive Director focused on the lessons learnt and praised the EBA IT capacity as an important asset during the attack. He explained that during the attack, a conscious decision was made by EBA to be fully transparent on what happened. Finally, he informed the Members that EBA will be working with them on improving the emergency communication channels.
13. All Members praised the professional and transparent response from EBA and the way they involved all relevant stakeholders. There was general consensus that the cyberattack was not a black swan and that all parties should adequately prepare themselves for any possible cybersecurity incidents that may emerge in the future. In this context several Members noted that EBA, and all stakeholders involved, should prepare themselves for a scenario where the digital threat lasts for a prolonged period. This included the setting up of an alternative means of communication during a digital blackout.
14. Some Members made a reference to the DORA project and noted that when it comes to digital resilience, the EBA should apply the same rules and principles as the industry. Another Member asked EBA to prepare a key summary of the IT security systems EBA currently has in place together with the escalation procedures when these security systems are breached.
15. The representative of the COM suggested that the communication to the stakeholders could be further improved by giving clear guidance on the actions that the recipients could take as a result of the threat, eg. in terms of receiving or opening EBA mails.
16. A number of Members asked whether EBA could indicate to what extent the systems were compromised in comparison to other European institutions. The EBA Executive Director responded that possibly more European institutions were harmed but that the level of transparency on the incident varied between institutions. As a result it was difficult to make a comparative analysis of the extent of the damage. In this regard, the representative of the COM wondered whether EBA needed to alarm its stakeholders as it did as other European organisations might have made a conscious decision not to do so.
17. The EBA Chair concluded that transparent communication with stakeholders was a key component of managing the situation, while noting that the policy work on this matter could be upgraded. Finally, he informed the Members that EBA might give a further update on the cybersecurity incident once the forensic experts have finalised their analyses of the cyberattack.

Agenda item 4: Replacement of two BSG Members

18. The Head of the EBA Policy, Analyses and Coordination (PAC) unit informed the Members that, due to new career opportunities, two members of the Banking Stakeholder Group recently had to resign from their position in the BSG. Following the BSG rules and procedures, EBA proposed to fill these vacancies by offering the positions to the most suitable candidates on the reserve list. Using the same criteria from the selection process, and after perusal of the profiles in the reserve list, the EBA proposed to fill the two vacancies with Mr. Kjær in the category 'users of financial services' and Mr. Thevenin in the category 'financial services'.
19. The Management Board unanimously approved to submit the two appointments to the Board of Supervisors for approval.

Agenda item 5: Digital finance strategy – work on new Call for Advice and preparation for DORA and MICA

20. The EBA Head of the Banking Markets, Innovation and Products unit (BMIP) updated the Members on the key components of the Call for Advice (CfA) on Digital Finance and she explained what steps EBA is taking to be operationally prepared for potential supervision and oversight mandates under the legislative proposals for MICA and DORA respectively. On the CfA she noted that there are three components of the CfA and that these will be addressed in three separate answers. On the EBA project for DORA and MICA concrete milestones will be identified in an implementation plan.
21. On the CfA, one Member suggested also involving SCRePol when addressing any policy questions that may arise. In the same vein, several Members asked whether EBA could share any preliminary thoughts on the cooperation with the three ESAs. In that context, one Member noted that there seemed to be several overarching issues on which the ESAs need to work together, and also closely engage with the NCAs. The EBA Head of BMIP thanked the Members for their suggestions and informed them that the three ESAs have set up a dedicated ESAs coordination group on technological innovation and cybersecurity last year under the JC and that this group now has a technical team working on the CfA. One Member suggested seeking interaction with the BIS or other institutions that have advanced experience in this field.
22. On the EBA preparation for MICA and DORA, multiple Members commented on the need for adequate resources for both the EBA and the NCAs. One Member asked whether EBA had any plans to tap into the resources of NCAs, or whether there was an alternative plan to allocate sufficient resources within EBA. Another Member suggested to aim for an effective approach to the new mandates by not unnecessarily involving too many resources, e.g. when crypto assets are not supervised nationally, there might be less need to set up colleges. On a separate issue, one member asked about the EBA project on incident reporting and noted that a similar study has been conducted at International level.

23. Another Member noted that the implementation of new supervisory tasks under DORA and MICA might result in new organizational challenges and called for a strong governance of the new organizational features. On the topic of Oversight under DORA, the Chair acknowledged that an effective governance structure is needed as the existing structures of the JC might not be flexible enough and that a dedicated body might be the way forward.
24. The Chair concluded that EBA will come back to the MB on the new mandates in the context of MICA and DORA and shared with the Members that EBA will try to free up additional resources by streamlining the work on other routine topics.

Agenda item 6: EBA NPE strategy

25. The Team Leader of the EBA NPL initiative presented the EBA NPE strategy that is shaped by various external factors, including the Commission Action Plan for dealing with post-COVID NPLs. The strategy focuses, among other things, on supporting the functioning of secondary markets and NPE resolution through the ongoing work on the currently known mandates. In the areas where external mandates are still evolving, EBA will help shaping these mandates through their engagement with the COM.
26. He informed the Members that EBA is considering the following focus areas for 2021:
 - a. the NPL templates; a discussion paper with a revised set of templates will be discussed at the April BoS meeting;
 - b. the prudential treatment of purchased NPLs; the proposed approach is currently discussed at SCRePol before it can be presented to the BoS;
 - c. the securitisation of NPLs for which the work on a draft RTS on risk retention in NPL securitisations has already started.
27. Several Members expressed support for the strategy to tackle NPE's. The representative of the COM informed the Members that the COM is setting up an Advisory Panel on NPLs to assist with the implementation of the Action Plan. The EBA staff will participate in the work of that Advisory Panel.
28. One Member shared her concerns on the role of the NPL secondary markets in her jurisdiction and the financial stability risks that could go with it, also considering that some of the servicers and purchasers are regulated entities (banks), whilst others are not. She furthermore suggested that whilst working on its mandates, the EBA should also consider the financial stability risk dimension. There were known cases where the underlying assets were re-securitised resulting in possible regulatory arbitrage. The Team Leader of the EBA NPL initiative acknowledged that the arbitrage concerns were legitimate and very important. He noted that the EBA will consider financial stability risk dimension when working on its mandates, whilst

pointing out that a level playing field between regulated and non-regulated credit servicers will be within reach when the mandates are realized and the NPE Directive is there.

29. Another Member asked to clarify the ideas behind the consumer-centric approach to the management of NPE's. If the goal of the EBA strategy was the creation of a well-functioning secondary market then possibly consumers should not be at the centre of the approach also considering that the majority of NPLs are not related to consumers but to SMEs. The Team Leader of the EBA NPL initiative clarified that the idea is mostly to stress that whilst managing NPE's, institutions should ensure that all relevant consumer protection obligations are met.
30. The Chair concluded that there was general support for the direction of EBA's work on NPE's and thanked the Members for the input provided to further refine EBA's strategy with regard to NPE's.

Agenda item 7: BoS Provisional Agenda

31. The Chair of the EBA introduced the Members to the provisional agenda of the April BoS meeting. The Members approved the draft agenda of the April BoS. The Chair informed the Members that the draft agenda will be distributed among the Members of the BoS.

Agenda item 8: AoB

32. No other business was discussed.

Participants at the Management Board conference call 23 March 2021

Chairperson Jose Manuel Campa

Alternate Chairperson Jo Swyngedouw

Member Jesper Berg

Member Martina Drvar

Member Helmut Ettl

Member Maarten Gelderman

Member Dominique Laboureix

Member Karin Lundberg

EC representative Dominique Thienpont

EBA Staff

Executive Director

Director of Operations

Director of Banking Markets, Innovations and Consumers

Director of Economic Analysis and Statistics

Director of Prudential Regulation and Supervisory Policy

Francois-Louis Michaud

Peter Mihalik

Piers Haben

Mario Quagliariello

Isabelle Vaillant

Philippe Allard; Jonathan Overett Somnier; Fergus Power; Meri Rimmanen; Slavka Eley; Nicola Yiannoulis; Elisabeth Noble; Oleg Shmeljov; Tijmen Swank