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EBA Staff

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## Board of Supervisors – Final Minutes

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### Agenda item 1.: Welcome and Approval of the Agenda and Minutes

1. The Board of Supervisors (BoS) approved the agenda of the meeting and the minutes of the 12 September 2017 meeting.
2. The Chairperson informed of changes to the BoS membership of the Swedish FSA (appointment of Björn Bargholtz as new high-level alternate) and the Croatian National Bank (appointment of Sanja Petrinić Turković as new high-level alternate). He also informed that the BoS away day meeting 2018 would take place in Iceland on 05-06 July following a kind invitation received from the Icelandic Financial Supervisory Authority.
3. The Executive Director informed the BoS of the main conclusions of the Basel Committee's meeting of 04-05 October.

### Agenda item 2.: Election of SCOP co-Chair

4. The Chairperson informed that one application had been received to co-chair the Standing Committee on Oversight and Practices (SCOP).

#### Conclusion

5. Michael Hysek, high-level alternate of the Austrian FMA, was elected co-chair of SCOP.

### Agenda item 3.: Update on Risks and Vulnerabilities

6. The Head of the Risk Analysis Unit gave an update of risks and vulnerabilities in the European banking system. He referred to the challenges posed by NPLs, with expected increased levels of provisioning, mainly driven by IFRS9 requirements; and he noted that the lack of secondary markets remained the main impediment to their resolvability, together with the existence of lengthy and expensive judiciary procedures across the EU. With regard to Brexit-related risks as assessed in the Risk Assessment Questionnaire (RAQ), he noted the diverging views of banks and analysts concerning the risks posed by the possibility of inconclusive exit negotiations. For

instance, a majority of analysts viewed the continuity of financial contracts as an issue of concern, a view hardly shared by banks. With a view to analysing further the risks posed by Brexit in a number of areas such as relocation, eligibility of capital instruments issued under English law, disruption to payment services and related risks to consumers, etc. he asked members whether they would be willing to share data to facilitate such an analysis by the EBA.

7. The EBA Director of Oversight updated the BoS on the SCOP risk discussion. He said that the Taskforce on NPLs (TFNPL) was working on the mandates conferred by the Council on the EBA.
8. Members shared their views on, amongst other things, profitability levels, interest rates and NPL disposals in Member States; in view of the increasing number of countries with greater risk levels, it was requested to start addressing the differences across the EU for they could give rise to financial stability concerns. Other comments referred to the risk of moving ahead with the same pre-BRRD problems experienced in the past, and the need to address them now. A note of caution was made on the observed increasing levels of leverage, in some cases via consumer finance, in other cases through the increasing levels of lending from shadow banking entities coupled with low levels of borrowing from banks. It was also requested to keep an eye on the developments in China, namely its high levels of corporate debt.
9. With regard to the sharing of data with the EBA to carry out further Brexit-related analysis of risks, members agreed to do so, although some asked that the request should be streamlined. Some members noted that the issue of contract continuity was of high importance, on which the EBA and competent authorities (CAs) should work together.

## Conclusion

10. The BoS took note of the update and agreed to follow up on the developments on both profitability and leveraging. It was agreed to streamline the request for Brexit-related data; the EBA would work with ESMA on identifying implications for derivatives contracts and related ancillary functions, and with the ECB on potential disruptions to payment services.

## Agenda item 4.: Discussion on the Commission's Proposals to amend the ESAs Regulations

11. The Chairperson invited members to discuss some of the aspects included in the Commission's proposal to amend the ESAs founding Regulation, namely the Strategic Supervisory Plan (SSP), international relations, and delegation, outsourcing and risk transfers, details of which were presented by the Head of the Legal Unit. The Chairperson also informed that the Chairs of the ESAs had written a joint letter to the Council and European Parliament drawing their attention to the instability that the transitional arrangements on the position of Executive Director could create, and in particular for the EBA in view of its upcoming relocation.
12. The Commission representative explained that the proposals aimed to complete the Capital Markets Union, in particular by strengthening the powers of ESMA; to improve supervisory

convergence and to ensure a consistent application of Union law. With regard to SSP, he noted that its goal was to help reach a common understanding of supervisory challenges by CAs and support them in adopting joint supervisory responses, for which the Executive Board would have a crucial role. Regarding outsourcing and delegation, he explained that the Commission intended to improve their oversight at EU-level without conferring powers on the ESAs to intervene in this field. Finally, he also noted that the role of the ESAs on equivalence should be clarified, hence the Commission's proposals on this topic. All in all, he opined that the changes should help the EU to improve its supervision of financial markets.

13. On the SSP, members viewed that it could create a bureaucratic, resource-intensive process of unknown value; they also expressed that it could create some governance confusion with the ECB/SSM as well as undesirable overlaps and inconsistencies, since at present national CAs were required to submit to the ECB a supervisory plan. In this regard, they noted that the proposals did not take into account the institutional architecture, i.e. the existence of the SSM and the SRB. Some cautioned that the EBA should continue working on regulatory areas, with enhanced powers, rather than shifting its focus to supervisory ones. The Commission representative took note of the comments, and agreed that the implementation of the SSP should ensure its added value.
14. On delegation, outsourcing and risk transfer, there was support among members, noting that the EBA could contribute to the adoption of effective policies. But again, some cautioned against the possibility that this could enable the EBA to enter into the field of direct supervision of firms. In particular, it was said that, if the intention was to address concerns of regulatory arbitrage, the response should be of a regulatory nature rather than supervisory.
15. With regard to international relations, notably on the role to assist the Commission in preparing equivalence decisions and monitoring developments and enforcement practices in third countries assessed as equivalents, members expressed their support.
16. Members shared their views on other aspects of the Commission's proposals. On the Executive Board, some members emphasized that the EBA was a membership organisation, and expressed their concern that a permanent Executive Board could be used to bypass the Board of Supervisors. In particular, they disagreed that stress testing should fall under the competence of the Executive Board. There was a request for a more prominent role for the Joint Committee and an effective governance model. The Commission representative said that the Executive Board followed the model of the ECB, SRB, and believed that it would be conducive to better outcomes.
17. With regard to the funding arrangements envisaged in the proposal, there was concern that they could give rise to conflicts of interests. Some members said that the current funding arrangements were not sustainable for small countries and agreed that they had to change while other members objected to the changes proposed by the Commission.

18. There was regret that some of the issues included in the EBA's Opinion on the ESAs review had not been reflected in the Commission's proposal, e.g. reporting and own funds, and requested that the Commission should take them further in the review of the CRR/CRDIV. The Commission representative informed that the Commission services were conducting a fitness assessment of the whole cycle of reporting in the financial sector, and upon its conclusion it was likely that changes would be proposed to the reporting framework to ensure its suitability. Equally, some regret was expressed that the proposal did not elaborate on the relations of EBA with the SSM and SRM.
19. Other topics mentioned were, a) the importance of onsite visits to enhance peer reviews as a supervisory tool, although not included in the proposal; and disagreement with replacing peer reviews with reviews conducted by EBA staff; b) a more prominent consultative role for the EBA in the development of level 1 legislation; c) the appointment of the EBA's Chair should follow the same process as that of the appointment of the SSM and SRB's Chairs, and d) resolution issues, and the new tasks attributed to the EBA in this area, were not sufficiently reflected in the Commission proposal.
20. The Commission representative said that the proposal was now subject to the ordinary legislative procedure, and hoped for an agreement between the Council and the European Parliament by end-2018. He stressed the importance of safeguarding the EBA's role in ensuring the integrity of the internal market, noting the existence of countries outside the Eurozone.

## Agenda item 5.: EBA Recommendation on Coverage of Entities in Group Recovery Plans

21. The EBA Director of Oversight presented the Recommendation on coverage of entities in group recovery plans. He explained that the draft had been discussed at SCOP, where concerns had been expressed by a member that the best solution to cover appropriately individual entities would be to have an individual plan alongside the group recovery plan. The member re-stated the same concerns, noting in particular the absence of individual recovery plans in the case of entities belonging to international groups but relevant to the domestic economy of a country. But it was reiterated that the Recommendation was an instrument for supervisors, and could help them identify deficiencies in the case of individual entities not sufficiently covered by the group recovery plans.

### Conclusion

22. The BoS adopted the Recommendation.

## Agenda item 6.: Consultation Paper amending the Guidelines on SREP and Supervisory Stress Testing

23. The Head of the Supervisory Convergence Unit introduced the main changes of the amending Guidelines on SREP and supervisory stress testing, notably the introduction of Pillar 2 Capital

Guidance (P2G) as a supervisory tool to use the outcome of the supervisory stress test for the assessment of capital adequacy under stressed conditions; the introduction of a section on supervisory stress testing; and the alignment of the section on the assessment of internal governance with the recently published EBA guidelines on internal governance.

24. One member requested the removal of the paragraph on communication/disclosure of P2G, thus enabling CAs to have flexibility on this topic; or, as an alternative, suggested adding an additional question concerning the requirements on insider information.

25. There was a request to add another question to seek views on the interaction between SREP and other supervisory processes, including the assessment of recovery plans, which had been added to both the background and introduction sections of the consolidated text of the revised guidelines.

### Conclusion

26. The BoS agreed with the publication of the consultation paper including two additional questions.

## Agenda item 7.: Consultation Paper on Guidelines on Institutions' Stress Testing

27. The EBA Director of Oversight presented a consultation paper on Guidelines on institutions' stress testing. He explained that the section on supervisory stress testing had been moved to the Guidelines on SREP. The content of the Guidelines was broadly in line with the Basel Committee's ongoing work on the review of the 2009 stress testing principles, the consultative document of which would be published during 2018.

### Conclusion

28. The BoS agreed with the publication of the consultation paper.

## Agenda item 8.: Consultation Paper amending the Guidelines on Management and Measurement of IRRBB

29. The Head of the Supervisory Convergence Unit explained the main elements of the amended guidelines, noting that they aimed to be the first phase of the implementation of the new BCBS standards on IRRBB in the EU.

30. There was a request to introduce a question on proportionality, notably on lowering the frequency for smaller institutions for the calculation of the new supervisory outlier test; and equally on allowing a longer transitional period for such institutions (12 months).

- 31.Regarding the maturity-dependent post-shock interest rate floor applicable for each currency for the calculation of the supervisory outlier test, it was requested to increase it from -150 basis points for immediate maturities to -100. It was also pointed out that the flexibility for the inclusion or exclusion of commercial margins for the calculation of the supervisory outlier test would pose an issue for the comparability of the results.
- 32.With regard to the currency aggregation, the example was provided of special obligations and assets indexed to inflation for which correlation between related currencies was currently allowed, and that going forward this methodology could be included.
- 33.Concerning the independent validation of IRRBB measurement methods and the assessment of the corresponding model risk, it was asked to clarify how 'independent' should be interpreted.
- 34.Finally, a concern was expressed that the guidelines provided a too wide mandate for institutions to use their internal models IRRBB and freely model assumptions for IRRBB; it was thus requested to clarify that the internal methodology including such assumptions by institutions were subject to supervisory review.

## Conclusion

- 35.The BoS agreed with the publication of the consultation paper, including a) an additional question on proportionality; b) a clarification that the internal methodology including the assumptions used by institutions were subject to supervisory review; and c) rewording of the section on independent validation of IRRBB measurement methods. The communication on these guidelines should provide sufficient clarifications as to how they related to the technical standards that should be developed following the adoption of CRR2/CRD.

## Agenda item 9.: 2018 Colleges Action Plan and Topics for Supervisory Attention

- 36.The EBA Director of Oversight presented the action plan for supervisory colleges in 2018, focusing on key topics for supervisory attention, namely NPL cleaning, business models and profitability, IT risk and operational resilience, and internal governance, and complemented by Brexit-related matters, structural changes and implementation issues relating to IFRS9.
- 37.Members welcomed the proposal, noting that it was well aligned with the supervisory priorities of the SSM.
- 38.Some members noted a link between the impact of IFRS9 and NPLs and referred to risks stemming from level 2 and 3 instruments. They asked to discuss widely credit risk rather than restricting it to NPLs; to consider resolvability together with profitability and business models; and finally, to look at both entry and exit barriers to further the Banking Union. Finally, a comment on loose liquidity in the banking sector as well as effects on interest rate was made.

## Conclusion

39. The BoS endorsed the 2018 Colleges Action Plan, which would be incorporated into the Report on functioning of supervisory colleges for 2017 to be submitted to the February 2018 BoS meeting. The key topics for supervisory colleges for 2018 would be annexed to the Supervisory Convergence Report and subsequently published.

## Agenda item 10.: EBA Annual Report on Supervisory Convergence 2017

40. The Head of the Supervisory Convergence Unit explained the main areas of the Annual Report on Supervisory Convergence 2017. She noted in particular the convergence visits carried out in 2017 and their key findings. She then focused on the issue of SREP Guidelines implementation and implementation of EBA recommendations issued in 2016. She invited members to discuss how to approach the different situations identified with the implementation of SREP Guidelines, differentiating between CAs disregarding certain provisions and those who interpreted some provisions differently than envisaged and therefore applied different practices.

41. Some members wondered whether the issue of implementation of SREP Guidelines was not related to a qualitative assessment by CAs rather than lack of compliance. The Chairperson noted that the Board of Appeal had established that, once a CA had failed to comply after having committed to do so, the case could be deemed as lack of compliance and hence fall under breach of Union law.

42. The EBA Director of Oversight noted that he had had an informal exchange of letters with CAs failing to comply with the SREP Guidelines, which had helped narrow down the number of issues at stake. The Chairperson took the view that, rather than having another iteration at SCOP-level, it would be now necessary to proceed to a more formal exchange of letters such that the BoS would have all elements at hand and discuss and decide on the way forward.

43. It was suggested to reword paragraph 119 on supervisory benchmarks introduced by reference in the SREP Guidelines as supervisory metrics to help in the determination of P2R; and to fine-tune Chapter 6 in a way that regulation should not be presented as the only instrument to support supervisory convergence. More in general, it was agreed to launch a written procedure to ensure factual correctness of the report.

44. For the supervisory convergence report 2018, the EBA was asked to reflect on how to present Pillar 2 Capital Guidance (P2G).

## Conclusion

45. The BoS agreed to the launching of a written procedure for comments before publication of the Report and its transmission to the Council and European Parliament. An exchange of letters

between EBA staff and the CAs deemed to not comply with the SREP Guidelines would take place.

## Agenda item 11.: Final Draft Guidelines on PD, LGD Estimation and Defaulted Assets and IRB Survey Report

46. The Chairperson presented the Guidelines on PD and LGD estimation and treatment of defaulted exposures, and explained that they were the core of the EBA's work on the repair of internal models. The Head of the Credit, Market and Operational Risk Policy Unit introduced the report containing the main results of the IRB survey conducted across banks, including an analysis of the changes of model that would be necessary to align current practices with the Guidelines, and an assessment of the different policy options considered in the Guidelines. The views of the BoS were sought on the approval of the Guidelines and the report, and in particular on the discounting rate for calculation of realized LGD, for which two options were presented, either EURIBOR (or equivalent interbank rates for non-Eurozone countries) plus a 5% add-on (Option 1), or funding cost (Option 2). In addition, the note presented the SCRePol conclusions on the calculation of long-run average default rate to be used in PD estimation and long-run average LGD (LRA LGD) in LGD estimation.

47. A majority of members expressed their support for the use of Option 1 for the discounting rate, amongst other reasons, for its conduciveness to less variability as well as for simplicity reasons. One member expressed concerns that both options did not follow accounting rules and expressed a preference for option 2, which would come closest to the accounting rules. A discussion ensued on the amount of the add-on. The Chairperson noted that the proposed 5% add-on was a balanced figure between the discount rates applied within and outside the Eurozone. With regard to the publication of the add-on, the views of members diverged between publishing it at the time of publication of the Guidelines or at their entry into force in view of possible changes to market rate indexes.

48. On LRA LGD, several members expressed support for the calculation of simple averages. A few members expressed their concern that the Guidelines would be published before the finalisation of work on LGD downturn estimation, noting in particular that any decision on the LRA LGD could impact on the LGD downturn.

49. As the agreed discounting rate for realized LGDs would be based on EURIBOR or other equivalent interbank rates for other currencies, the EBA was requested to publish a list of such rates to be used in LGD estimation for currencies other than Euro.

### Conclusion

50. The BoS adopted the Guidelines on PD and LGD estimation and treatment of defaulted exposures, including a discounting rate for LGD of EURIBOR + 5% add-on, which would be published at the time of publication of the Guidelines as a means to provide an indication to the markets. The adequacy of the level of the add-on would be further reviewed before the date of



application of the Guidelines. Additionally, the BoS agreed to find a solution in the paper on downturn LGDs to avoid approaches which would lead to an excessive calibration of the downturn effect in case of overrepresentation of bad years, generating a procyclical impact. The communication would also include indication that the list of equivalent interbank rates for currencies other than Euro would be published at a later point in time.

## Agenda item 12.: 2018 EU-wide Stress Test – Final Methodology

51. The Chairperson introduced the final package for the 2018 EU-wide stress tests, comprised of the methodological note, templates and quality assurance (QA) manual. He also noted that, further to the decision in September on the timelines, there had been some exchanges with the SSM, and a new proposal would be to publish the results by 2 November 2018 at the latest, with three submissions of results to the EBA by early June, mid-July and late October 2018.

52. The EBA Director of Oversight explained some of the changes introduced in the methodological note following the public hearing and discussions within the Stress Test Taskforce (STTF). He said that, if approved by the BoS, the note would be published by mid-November 2017, while the timeline would be published immediately after the meeting. He also added that preliminary scenarios would be discussed at the BoS December meeting, approved by the General Board of the ESRB in January and then submitted for BoS approval by written procedure such that the entire 2018 EU-wide stress test package would be ready by end-January 2018.

53. A large majority of members supported the newly proposed timeline (publication of results by 2 November 2018 at the latest); however, a few members noted that it would be ideal to stick to the original plan of publication by early to mid-August 2018 since this option would be better aligned with SREP, and also for reasons of providing the markets with information on IFRS9 as soon as possible.

54. On the methodological note, members welcomed it, and praised that it was the result of a good compromise within the STTF. One member regretted that no clear safeguard had been introduced to avoid “negative carry”, despite a previous BoS agreement to do so, and suggested improvements to the treatment of NII and of L2 assets. He also suggested envisaging a time slot to review the interaction between IFR9 rules and the credit risk stress, to **avoid unintended consequences** of severity applied. Members noted that, a) the BoS should be the only body to decide on one-offs; b) the submission of one-offs should be postponed to the second submission. There was a call to increase transparency by communicating breaches of MDA and their consequences. In the context of the reversion of credit risk parameters, another member opined that it should be reconsidered whether the time to recovery should be adjusted to 6 additional years after the 3-year projection, or whether different adjustments would be needed. Another member expressed concerns on the NII methodology, which could adversely impact banks with a strong sovereign.

55. On the communication strategy, members noted that this would be the first stress tests with IFRS9, hence the importance to stress that a comparison with the 2016 results would not be

straightforward. In the same vein, it was suggested to allow for some time to look at the effects of the calibration of some of the IFRS9-related parameters and communicate on them.

### Conclusion

56.The BoS adopted the methodology for the 2018 EU-wide stress test as tabled, and approved the new timelines whereby the publication of results would take place by 2 November 2018 at the latest.

57.The BoS agreed to reflect further on how to communicate the impact of IFRS9.

58.The new timelines would be published immediately after the meeting; the methodology would be published by mid-November; the templates would be submitted to the sample of banks by end-2017; and the scenario would be published after receipt from the ESRB and approval by the BoS.

### Agenda item 13.: 2017 EU-wide EBA Reports on Supervisory Benchmarking (Credit and Market Risk)

59.The Head of the Risk Analysis Unit presented the main findings of the 2017 supervisory benchmarking exercise for credit and market risk, based on 2016 data, and the details of the feedback that would be transmitted to banks.

60.Members welcomed the reports. It was suggested to deepen the analysis of some data, streamline the quantity of data collected as well as focus on single points. For market risk, it was asked that in future exercises it should be analysed whether some models/modelling options could lead to different outcomes. One member encouraged the EBA to directly request the CAs' support to clean the data and produce the analysis.

### Conclusion

61.The BoS approved the reports and their publication, as well as the feedback to be transmitted to banks.

### Agenda item 14.: Final Report on the Peer Review on Criteria to Determine the Assessment of OSII-s

62.The Executive Director presented the final report of the peer review on criteria to determine the assessment of O-SIIs. The exercise showed a high level of compliance with the Guidelines, and identified a number of good practice; but it also observed some practices not fully aligned with the Guidelines, in most cases caused by a misinterpretation of certain provisions. In view of the very heterogeneous practices across the EU on the calibration of the buffer (not covered by the Guidelines), he said that the Review Panel had suggested an EBA Opinion addressed to the Commission asking for a harmonised method for assigning O-SII buffer rates. With regard to

the CAs' notifications obligations, the Executive Director noted that the interpretation of the provision requesting CAs to notify the names and the scores of all assessed institutions to the EBA was diverging. Indeed, some CAs did not share a common interpretation. The Guidelines may need to be reviewed to clarify certain aspects, including the notifications obligations.

63. A majority of members expressed support for the Report and its publication. Some members expressed caution with publishing information on the calibration of the O-SIIs buffer due to financial stability reasons.

64. With regard to the Opinion on further harmonisation of the O-SIIs buffer calibration, a majority of members expressed their opposition. Many viewed that it could lead to restrictions of the calibration, which was not welcome since it was a tool to manage financial stability and it was fundamental that CAs should retain some flexibility in order to counter pro-cyclicality and should not be constrained in the use of this tool. Some expressed that some sort of guidance could support the integrity of the single market and a level playing field across the EU.

65. Some members commented on specific cases. One explained that the Guidelines were not comprehensively applied within their jurisdictions for reasons of considering country-specific factors. On the exclusion of institutions after their identification as O-SIIs, this member noted that the 2 excluded banks were very small and had only issued debt securities; consequently, this CA had not considered including them in the list of identified O-SIIs.

66. It was suggested that a common definition of the optional indicators could be added in the Annex with a view to promoting further harmonisation. In this regard, it was also noted that the peer review did not observe any systemic risks triggered by the heterogeneous use of the optional indicators. In addition, it was highlighted that the definition of buffers for O-SIIs would have consequences also for resolution, as it may have an impact on MREL determination.

67. Regarding the application of supervisory judgement during the identification process, one member asked for an amended wording of the report to better take into account the use of this judgement option if deemed fit for the purpose of the O-SIIs designation. And it was suggested exploring further how to treat the Banking Union as a single jurisdiction as the Basel Committee was considering this option for the purposes of G-SIB calibration.

68. The Chairperson wondered whether sufficient consistency in the identification of O-SIIs had been achieved, as many institutions were qualified as O-SIIs in certain jurisdictions whereas other jurisdictions hadn't identified any O-SIIs.

## Conclusion

69. The BoS agreed to publish the report after deletion of the relevant paragraphs regarding the harmonised framework on the calibration of the O-SIIs buffer; but this issue might be reopened in the future.

## Agenda item 15.: Draft Terms of Reference (ToR) of the Peer Review on Passporting Notifications

70. The Executive Director presented the draft Terms of Reference (ToR) of the upcoming peer review on the RTS on passport notifications as well as its timeline, which envisaged a short exercise to be concluded by April/May 2018. He explained the three main objectives of the peer review and the focus of the exercise.

### Conclusion

71. The BoS approved the Terms of Reference.

## Agenda item 16.: EBA Report and Opinion on Other Financial Institutions (OFIs) and Consultation Paper on RTS on Consolidation Methods

72. The EBA Director of Regulation explained that the EBA had undertaken work in relation to the prudential treatment of other financial intermediaries (OFIs) and regulatory perimeter issues. Under this work, the EBA had assessed the scope of application of the CRR/CRD, e.g. the notions of financial institution and ancillary services undertakings, and had drafted an Opinion and a Report, addressed to the Council, the European Parliament and the Commission with conclusions and recommendations.

73. Members supported both the Opinion and the Report, including the recommendation that a detailed prior impact assessment be carried out in relation to any proposed changes to Article 9(2) CRDIV. There were two minor technical drafting observations: a) as regards the text on securitisation vehicles, and potential criteria for assessment as financial institutions, there was a request to ensure further alignment with the work on significant risk transfer (SRT) by clarifying the wording on the two-step approach; and b) on crowdfunding, verification was sought that the report contained reference to the EBA's previous work on lending-based crowdfunding.

74. The EBA Director of Regulation presented the draft RTS on consolidation methods, and noted that the EBA was one year late in their delivery, justified by the need to align the RTS with the Basel Committee's Guidelines on identification and management of step-in risk, due for publication by end-October.

75. Members supported the publication of the consultation paper. It was requested to extend the request of information to additional situations than when the institution would originate desecuritisation e.g. when the institution would act as an investor or sponsor the securitisation transaction. With regard to financial institutions controlled by a central government, it was noted that they did not have an obligation of automatic consolidation, and thus it would be necessary to include a recital to clarify that single management would not be expected to occur.

76. It was noted that some elements in the draft RTS could go beyond the level 1 text, e.g. entities included under the scope of consolidation, and it was requested that these issues should be dealt with upon finalisation of the consultation.

### Conclusion

77. The BoS approved the Opinion and Report on OFIs; members were invited to send the technical drafting comments in writing by 30 October so they could be taken into account in the final editing review prior to publication and transmission to the Council, the European Parliament and the Commission.

78. The BoS agreed with the publication of the consultation paper on RTS on methods of prudential consolidation for public consultation.

## Agenda item 17.: Note on the Way Forward on the ITS on Additional Monitoring Metrics for Liquidity (AMML)

79. The EBA Director of Regulation sought the views of the BoS on the proposal to put on hold the publication of the consultation paper on the amending ITS on the reporting of Additional Monitoring Metrics for Liquidity (AMML) until the publication of the CRR2. She explained that both SCRePol and SCARA had been exploring the potential for simplification of the templates for credit institutions that meet the threshold requirements of the ITS with a view to embedding further proportionality in the reporting framework. She said that the benefit of waiting until the CRR2 would be that the EBA could base potential reductions in AMML templates on the agreed definition of small banks in the Level 1 text; it would also help to harmonise the concept of smaller institutions for the AMML package with that of the rest of the CRR2 requirements.

80. Members agreed with the EBA's proposal; however, some opined that it would be important to inform as soon as possible that proportionality was being considered. A note of caution was expressed with regard to the thresholds for exempting institutions from certain reporting requirements, noting that the ability to conduct sectoral analyses could be impaired.

### Conclusion

81. The BoS supported the EBA's proposal to put on hold the consultation paper, which would be published as soon as clear indications on the thresholds included in the CRR2/CRD package would emerge.

## Agenda item 18.: MREL Quantitative Update

82. EBA staff presented an update of the quantitative analysis of the December 2016 MREL report approved by the BoS. It was noted that the update was based on the same methodology as the original Report. The update was based on data submitted by institutions via the EBA's regular CRD–CRR/Basel III monitoring; and like the original report, the update provided figures at

consolidated-level since resolution authorities were, for the time being, focusing on taking MREL decisions at consolidated level.

83. Members welcomed the update. It was felt that high aggregate average ratios might be misleading, as they did not reflect large differences between banks and underestimated difficulties that some might face in meeting targets. One observer stressed that the methodology presented some limits, as this year a number of EU National Resolution Authorities (NRAs), including the SRB, would take decisions on consolidated MREL based on different approaches from those considered by the EBA. One member noted that the median MREL ratio was systematically below the average MREL ratio, which could point to smaller banks facing difficulties to raise funds, and suggested some ideas going forward, e.g. increasing the focus on dispersion and analysis of dispersion in order to show the large differences that banks were facing; and including a comparison of MREL and TLAC requirements. Another member suggested taking into account the effects of Basel 3.5.

84. Some members expressed concern with the publication of the update, and asked that a caveat be included to underline that the figures represented an 'estimate'. The EBA considered that future MREL reports, as proposed in the Commission's Banking Package, should include more substantial analysis of MREL distribution. They would also include fewer estimates/hypothetical targets as actual MREL decisions would be progressively taken. The EBA also foresaw that additional data collection might be necessary in order to improve the granularity of data.

## Conclusion

85. The BoS took note of the update and agreed that, following another iteration to ResCo, the BoS would be asked to approve the publication of the update by written procedure.

## Agenda item 19.: DGS Data and Proposed Way Forward

86. The Chairperson explained that the EBA had conducted an analysis of the data received from Deposit Guarantee Schemes (DGS), as well as other bank-by-bank DGS data collected separately. This analysis showed that, at current funding levels, DGS ex-ante funds alone would not be sufficient to pay out depositors of a significant number of institutions in the event of a failure. This was particularly relevant before the minimum target level of 0.8% of covered deposits required by the DGSD was reached. EBA staff gave details of the analysis, stressing that the analysis had focused on the ex-ante funding arrangements, but noting that there were also ex-post and alternative funding arrangements that could be tapped in case of need. EBA staff explained the limitations of the analysis and how it could lead to an over-estimation or an under-estimation of the risks associated with the current (and target) levels of funding. The analysis raised the question if resolution was the preferred strategy in case of institutions where DGS ex-ante funds would be insufficient for a payout. Given the questions that this analysis could raise, the Chairperson sought the views of the BoS on an additional request for precise and up-to-date bank-level data on covered deposits from all Member States, which would also help address quality issues and conduct further analyses, together with a request for data on the estimated

number of institutions for which the preferred resolution strategy would be resolution rather than liquidation with a DGS pay-out.

87. A majority of members did not share the EBA's concerns and felt that the risks had been clearly over-estimated. A concern was expressed that the data shown did not represent the overall picture of funding arrangements, for ex-post funding and other supplementary funding sources had not been fully included in the analysis, whereas the mandate conferred on the EBA required to look at the adequacy of all funding arrangements. Some members asked for the presentation not to be published or shared with other authorities. EBA staff highlighted that they were not aware of recent cases where ex-post or alternative funding arrangements were used, highlighting the importance of ex-ante funding.
88. Some members asked for a clarification of the purpose for additional data requests, particularly in relation to resolution strategies. EBA staff explained the need to estimate the number of institutions which would be resolved (and so where there would be no DGS payout in case of a failure) to determine if there were institutions which, in case of failure, most likely would not be resolved but where the DGS funds may be insufficient for a payout.
89. Some members expressed their concern about the data showing that DGSs from their Member States were below the current expected level of DGS ex-ante funds. They explained that they were on track to reach the target level but below the expected level, as defined by the EBA, because of late transposition of the DGSD in their Member States.
90. There was a request to discuss the matter further at ResCo level, noting that it hadn't had the opportunity to look in detail into the analysis.
91. The Chairperson took note of the comments by members but cautioned that although the analysis presented was preliminary, with the caveats as noted in the initial presentation, the issue deserved further attention.

## Conclusion

92. The BoS agreed that the EBA would work further on a detailed methodology to assess the adequacy of DGS funding and the data necessary to conduct the analysis. The note would be discussed again with ResCo, including the form of the request for data on resolution strategies, and the BoS.

## Agenda item 20.: Consultation Paper on RTS specifying the Cooperation and Exchange of Information between Competent Authorities under PSD2

93. EBA staff presented the draft RTS, that specified the framework for cooperation and exchange of information between CAs, and the details of any reporting requested by the host CA from payment institutions with agents or branches within their territory.

94. On a request for clarification of a member, it was explained that PSD2 remained silent on the possibility that a host CA could request a home CA to carry out an inspection, and it was felt necessary to include such a possibility in the RTS. And it was agreed to reconsider Annex 5 whereby host CAs could require data from payment institutions providing payment services in their territory via agents or branches, since this could go beyond the requirements of PSD2.

### **Conclusion**

95. The BoS agreed with the publication of the consultation paper.

## **Agenda item 21.: Product Intervention Powers for Structured Deposits under MIFiR – Update on EBA Publication**

96. EBA staff updated the BoS on the publication on the EBA's website of information on the use of product intervention powers for structured deposits under MIFiR. The information was aligned among the ESAs, and reproduced the powers granted to the EBA in the level 1 text.

97. It was requested to clarify in page 4 of the document that it should refer to structured deposits.

### **Conclusion**

98. The BoS agreed with the publication of the information on the EBA's website.

## **Agenda item 22.: Reports from Standing Committees**

99. The Bos took note of the reports from Standing Committees.

## **Agenda item 23.: AoB**

100. The Chairperson informed that the BoS December meeting would clash with the Basel Committee's meeting on 12-13 December, and that the date of the BoS meeting would have to change.

### **END OF MEETING**

**Andrea Enria**

**Chairperson**





## Participants at the Board of Supervisors' meeting

24-25 October 2017, London

Chairperson: Andrea Enria

<u>Country</u>	<u>Voting Member/Alternate<sup>1</sup></u>	<u>Representative NCB</u>
1. Austria	Michael Hysek	Philip Reading
2. Belgium	Jo Swyngedouw/David Guillaume	
3. Bulgaria	Dimitar Kostov	
4. Croatia	Sanja Petrinić Turković	
5. Cyprus	Stelios Georgakis	
6. Czech Republic	Zuzana Silberová/Marcela Gronychová	
7. Denmark	Jesper Berg	Peter E. Storgaard
8. Estonia	Andres Kurgpõld	Jana Kask
9. Finland	Jyri Helenius	
10. France	Edouard Fernandez-Bollo/Frédéric Visnovsky	
11. Germany	Raimund Roeseler	Erich Loeper
12. Greece	Spyridoula Papagiannidou	
13. Hungary	Csaba Kandrács	
14. Ireland	Ed Sibley/Gerry Cross	
15. Italy	Luigi Federico Signorini/Andrea Pilati	
16. Latvia	Ludmila Vojevoda	Vita Pilsuma
17. Lithuania	Renata Bagdoniene	
18. Luxembourg	Martine Wagner	Norbert Goffinet
19. Malta	Ray Vella	Oliver Bonello
20. Netherlands	Jan Sijbrand/Olaf Sleijpen	
21. Poland	Andrzej Reich	Maciej Brzozowski
22. Portugal	Pedro Duarte Neves/José Rosas	
23. Romania	Nicolae Cinteza	
24. Slovakia	Tatiana Dubinová	
25. Slovenia	Marko Bošnjak/Damjana Iglič	
26. Spain	Jesús Saurina Salas/Alberto Ríos	
27. Sweden	Martin Noréus	Camilla Ferenius
28. UK	Sam Woods/Sasha Mills	Nigel Fray

<sup>1</sup> Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Kurt Van Raemdonck (National Bank of Belgium); Marek Sokol (Czech National Bank); Julia Blunck (BaFin); Constantinos Botopoulos (Bank of Greece); Maurizio Trapanese (Banca d'Italia); Anne-George Kuzuhara (Commission de Surveillance du Secteur Financier de Luxembourg); Alexander van de Laar (De Nederlandsche Bank); Izabella Szaniawska (Polish Financial Supervisory Authority)

<u>Country</u>	<u>Member</u>	<u>Representative NCB</u>
1. Iceland	Jon Thor Sturluson	Jonas Thordarson
2. Liechtenstein	-	
3. Norway	Morten Baltzersen	Sindre Weme

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

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

#### EBA Staff

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

Mario Quagliariello, Slavka Eley, Lars Overby, Spyros Zarkos, Jonathan Overett Somnier, Philippe Allard, Vaidotas Tamulenas, Slawek Kozdras, César Pérez del Valle, Santiago Escudero, Santiago Barón Escámez

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<sup>2</sup> Accompanied by Sergio Nicoletti Altimari

<sup>3</sup> Accompanied by Olena Loboiko and Vera Alexandrova

<sup>4</sup> Represented by Kai Kosik

<sup>5</sup> Represented by Tuomas Peltonen

<sup>6</sup> Accompanied by Marco Uccelli