

## **Minutes of the 26 January 2012 Meeting of the Management Board**

### **Opening and approval of the minutes and agenda**

1. The minutes were agreed. The agenda was approved subject to the addition of 3 additional items under 'AOB': the potential impact of the endorsement regime under the CRA Regulation; handling of disproportionate host state requests for stress-tests; and concern about the process and substance of the Austrian FMA's recent measures to strengthen the sustainability of Austrian banking groups.

### **Administrative and Operational Status Report**

2. The Director Operation confirmed that the EBA's draft budget for 2013 will be finalised next week.
3. It was agreed that the MB should be provided with a breakdown of the EBA's recruitment showing where new human resources joining under the 2012 Establishment Plan are being deployed. It was also suggested that EBA Staff should try to identify precisely what skills and experience are needed in which Cluster from possible temporary NSA secondees.
4. The Director Regulation confirmed that there had already been significant interest from members in the recent call for nominations for a legal network of experts to assist with the review of BTS. Also on the development of BTS, the MB asked for a note for information on the ongoing development of RTS on own funds to be prepared by EBA Staff for the BoS in order for it to provide the relevant working group with any necessary guidance.
5. The Executive Director agreed to provide the MB with an update on Office Management at its next meeting. The point was made that any changes arising from the Commission review in 2014 would be implemented by a proposal to amend the current Regulation and could take some time to come into effect.

### **Update on Bank Recap Exercise**

6. The MB discussed the classification system that the EBA might use to guide the qualitative judgements involved in considering whether deleveraging is excessive and likely to lead in fact to a reduced flow of lending to the real economy, noting that NSAs could be asked to comment on the likely effect of proposed asset sales and decreased lending. This EBA guidance should help to identify what is definitely within the bounds of the capital exercise, what is outside and what is up for debate.

7. It was agreed that cross-border cases should be discussed in colleges and might benefit from the use of a structured agenda. The EBA will support the discussions in colleges and seek to facilitate the production of clear and precise conclusions for the benefit of all participants. In view of the chance that contentious cases might lead to EBA mediation, it was important to have proper procedures in place if needed, even though the procedure used might be non-binding.
8. It was noted that NSAs might be asked to come prepared to the February BoS meeting to talk about individual banks, depending on plans received. The MB also noted that there would need to be ESRB engagement after the February BoS meeting...<sup>1</sup>
9. Regarding impairments, the MB's view was that these should, to end 2011, all be recognised - although sovereigns should only be granted the portion exceeding the haircut.
10. On communications, there will need to be an update on supervisory plans after the February BoS meeting as well as a report on the 2011 stress-test follow-up. It will be crucial to provide clarity about how plans will be enforced following the BoS meeting. It was agreed that for the time being EBA follow-up to the July 2011 Recommendation on liquidity should be suspended and revisited once the LCR monitoring data is available.

### **Progress on procedures for Article 18 emergencies**

11. The note was discussed. It was noted that there might be more focus on the EBA's 'coordination' role and benefit from holding a workshop in due course. EBA Staff confirmed that this document is intended to facilitate EBA Staff's preparation of options/decisions for the governing bodies should be open for comments from MB members for a further week.
12. It was agreed that once both documents are available consideration ought to be given to whether the Code of Conduct and this paper might usefully be merged.

### **Potential impacts of CRD4/CRR compromise text**

13. It was noted that the text is still very unstable, although it is encouraging that most of the EBA's December comments have been taken on board by the Presidency and Parliament. As the EBA might be expected to express a view on the evolving text, it was agreed that the Director Regulation will draft a short, informal EBA note on the main issues/concerns arising from the compromise text, including the areas of departure from Basel 3, which would be circulated to the February BoS for comments.

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<sup>1</sup> Please note that these minutes include information which the EBA cannot disclose under its Access to Documents regime due to (i) the public interest as regards the financial, monetary & economic policy of the EU; and (ii) its own, and the Council's, internal consultations and deliberations in order to safeguard their ability to carry out their tasks.

### **Progress on Joint ESA procedures for Mediation**

14. It was decided that the first call for panel volunteers should be made at the February meeting.
15. The ED noted that, although there have been no disagreements referred to EBA for settlement yet, it is always possible that this will occur as home-host frustrations over issues like information exchange, as well as the effects of the the recap exercise, are not uncommon.

### **Developing rules of procedure for EBA standing committees**

16. David Rozumek gave an oral update on the development of some RoP which he has been working on together with the Chair of SCOP and the Director Regulation. It is hoped that these will provide a framework for the SCs' processes. Before putting them to the Board for decision, it was felt that some more practical experience at working level should be obtained and that the views of the Chairs of SCARA and SIFI should also be sought.
17. The Executive Director and Alternate Chair confirmed that work has recently begun on the Review Panel.

### **Revised Mission Statement**

18. The Executive Director's draft Statement was approved, subject to the slight re-phrasing of point 1 (the MB "helps to prepare the work and decisions of the BoS...") and the addition of David Rozumek's annexed list of tasks.
19. The Chair agreed with the suggestion of the Alternate Chair that the forthcoming draft BoS agenda be a standing agenda item for each MB meeting.

### **Proposed participation of the Croatian National Bank in BoS as an observer**

20. The MB supported the proposed participation of the HNB in the BoS as an observer and recommended that this to be put to the BoS for formal approval. The HNB will be invited to the February meeting on this basis. The MB supported the the Executive Director's suggestion that the HNB's contributions to the EBA budget should start from 2013.

### **A.O.B.**

21. The Board discussed how best to handle the, apparently disproportionate, host state requests for stress-tests which have been received recently by some euro-zone banks. One member confirmed that its banks have simply been declining to run these.

22. It was agreed that whilst host concerns should be taken seriously, the starting point should be the EBA's EU-wide stress test along with the firm-specific tests that should be undertaken under Pillar 2 as outlined in the CEBS/EBA Guidelines on stress testing (GL34). The Board also agreed that the EBA's stress test Guidelines could usefully be updated to set out the information related to stress testing under the joint risk assessment which should be shared within the college.
23. It was noted that US counterparts will close their stress test in mid-March and we ought to be communicating soon with them. It was further noted that a BoS Awayday in the coming months should provide a useful opportunity to further consider these supervisory issues.
24. The Board discussed the potential impact of the endorsement regime under the CRA Regulation, the capital implications of which could be up to three times the value of the recap exercise. It was agreed that EBA should continue to liaise with ESMA about the risks surrounding this. The Commission representative was also asked to feedback on the ACP's interpretation of the legislative texts, set out in Danièle Nouy's letter of 25 January to Andrea Enria.
25. Two members of the Board expressed concern about the process and substance of the Austrian FMA's recent measures to strengthen the sustainability of Austrian banking groups. The free flow of capital was felt to have been impeded and subsidiaries of Austrian banks in other jurisdictions had already started to deleverage and decrease lending.
26. It was noted that it would be helpful if such concerns regarding the substance of the measures could be raised in a timely manner at any meetings with the authorities concerned, which had not happened in this case.
27. The EBA agreed to consider whether any of its formal tools, such as investigation for breach of EU law and mediation, are applicable in this case. The Commission's representative confirmed that it is also reviewing the legality of these, and other similar, measures.

## List of Participants

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|---------------------|--|
| Andrea Enria        | Chairperson                              |
| Danièle Nouy        | MB member                                |
| Karoly Szasz        | MB member                                |
| David Rozumek       | MB member                                |
| Jukka Vesala        | MB member                                |
| Raimund Röseler     | MB member                                |
| Uldis Cerps         | MB alternate member for Martin Andersson |
| Dominique Thienpont | European Commission                      |
| Matthew Elderfield  | Alternate Chair                          |
| Adam Farkas         | Executive Director                       |
| Isabelle Vaillant   | Director Regulation                      |
| Piers Haben         | Director Oversight                       |
| Peter Mihalik       | Director Operations                      |
| Michelle Ewing      | EBA Staff - Legal                        |