



EBA MB 2018 033rev1

EBA Staff

20 March 2018

Location: London

EBA REGULAR USE

Management Board – Final Minutes

Agenda item 1.: Approval of Agenda and Minutes

1. The Management Board (MB) approved the provisional agenda (document EBA MB 2018 020rev2) and the minutes of the meeting held on 23 January 2018 (document EBA MB 2018 021rev1).
2. The Chairperson reminded members that Board of Supervisors (BoS) and MB members were bound by Article 70 of the EBA founding Regulation, which provided for the obligation of professional secrecy, and the obligation to notify the Chairperson of prospective employment (i.e. before taking up a new employment) during a period of 2 years after leaving the BoS and MB. He noted that an assessment of such notifications would be carried out to check whether the new employment could run counter the legitimate interests of the EBA; and that such assessment could be made public, e.g. by publishing it in the EBA website. However, he noted that it was difficult to impose a restriction on the new employment¹ given the absence of effective tools to do so.
3. Members discussed how this obligation could be implemented effectively by the EBA, both from a process and substance points of view. The Executive Director explained how the EBA implemented it vis-à-vis staff members, where an internal Joint Committee conducted an assessment of the staff member's prospective employment and suggested measures for the adoption of the Appointing Authority. The Chairperson concluded by noting that a letter would be sent to current members, and going forward to new members upon their appointment, with a view to reminding them of this obligation. The EBA would enquire ESMA and EIOPA on their current practices with the aim to reach maximum alignment.

Agenda item 2.: Administrative and Operational Status Report

4. The Director of Operations presented the Administrative and Operational Status Report (document EBA MB 2018 027). He noted several HR-related matters, namely the recent

¹ As per Article 16 of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community

recruitment of new heads of Unit following the EBA's reorganization; and informed the MB that the 2017 staff appraisal exercise was under way, and would be completed by the new line managers under the new organisation chart.

5. With regard to the EUCLID project, he informed that the mandate endorsed by the BoS at the 28 February meeting had been endorsed by the ECB Statistics Committee, further to which it would be submitted to the SSM's Supervisory Board for approval. Concerning the Payments Register (PSD2 Register), he explained that the project team was working on identifying the high-level business requirements and drafting the project brief, which would be finalised during March or early April.
6. On training for competent authorities (CAs), he noted that the EBA was enhancing the channels to provide a greater online offer, while still delivering onsite training.

Conclusion

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

Agenda item 3.: EBA Relocation Status Report

8. The Director of Operations informed of the state-of-play of the EBA relocation to Paris (document EBA MB 2018 024). He explained the ongoing procurement procedures regarding the identification of premises in Paris that, upon request of the European Parliament's Committee on Budgets (BUDG), included the option of sharing premises with ESMA. The Commission Representative insisted strongly on the absolute need to complete the transfer by the Brexit date and asked EBA to be more precise on the reasons why they are confident that this will be the case. The Director of Operations noted that, before submitting a proposal for the approval of the EP, it should be first approved by the MB and BoS, likely to occur by written procedure to expedite the approval process. It was explained that, should a common building with ESMA be selected, there would be two separate rental agreements. With regard to the financial subsidy included in the French offer, the Chairperson said that the EBA had not yet sought the French authorities' confirmation that it would be granted even if the EBA would select a building other than the two included in the offer, but noted that the French authorities had not sent any signal to the contrary.
9. The Executive Director explained that flexible working arrangements, such as teleworking, would be in place during the period 30 March to end-August 2019 with a view to avoiding disruptions to the academic school year of children of staff members. Members enquired whether greater financial support could be granted to staff during that period, in particular in the case of missions and meetings in Paris. The Commission representative asked whether the teleworking arrangements and the arrangements for the payment of installation allowances had been consulted with the relevant Commission services to ensure that they were in line with applicable rules.

10. Some members expressed their concerns with the IT business continuity plans and the financial costs to move the two data centers. The Director of Operations explained that the EBA would try to move them without any functional disruptions, for which the EBA had engaged already with the existing provider. He also noted that the EBA was making daily back-ups, and thus the risk of losing data was very low. He explained the preliminary figures of the financial impact on the EBA's budget, which could change depending on the option selected for the move of the data centers; an amended budget might be necessary. The Executive Director noted that the option to locate the data centers elsewhere was being investigated, although that option did not appear to provide any financial gains.

Conclusion

11. The MB took note of the relocation report.

Agenda item 4.: EBA Annual Risk Assessment

12. EBA staff presented the report on the second assessment of fraud risks at EBA (document EBA MB 2018 023). The assessment had been conducted using the same methodology as implemented in 2016. In general, the fraud risk level at EBA was deemed to be low-to medium. The measures put in place to address the findings in the 2016 assessment, and the mitigating measures for the risks found in the 2017 assessment, were described. Further, EBA staff noted that, in view of an expected increase in the number of procurement procedures as a result of the EBA relocation to Paris, the related risk scenarios would be scrutinised more closely.

13. Members welcomed the assessment report, noting that it was very comprehensive and that it assessed not only fraud risks but also operational risks within the EBA. Upon a question on how mitigating measures were deemed necessary, EBA staff clarified that that was the case where a risk scenario reached a specific scoring threshold, calculated on the basis of frequency and severity, this being the same method applied by the Commission. A change to the methodology was requested to include an assessment of the appropriateness of mitigating measures by scoring again the risk scenario once the mitigating measure had been put in place.

Conclusion

14. The MB took note of the EBA annual risk assessment report. It was agreed to modify the methodology to include the assessment of risk scenarios after implementation of mitigating measures.

Agenda item 5.: EBA's 2019 Work Programme - Future Priorities

15. The Executive Director presented the EBA's priorities for the 2019 Work Programme (document EBA MB 2018 025). Among these priorities, he noted the implementation of the final package or risk reduction agreed in the Basel Committee for Banking Supervisions (BCBS), the Fintech roadmap, the EUCLID project, the EBA's relocation in Paris, and the increase of the loss absorbency capacity in the EU banking sector. He stressed that these strategic priorities had two

additional dimensions, namely Brexit and proportionality, viewed as general factors influencing all EBA activities.

16. Members supported the proposed priorities. They suggested reorganising those priorities and focusing on the most substantial items. One member insisted that the work on the financial integration and consolidation in the internal market should also be included. With regard to the overarching principles, it was suggested that supervisory convergence should be regarded as critical as Brexit and proportionality. Finally, there was a request to focus more on consumer protection activities.

Conclusion

17. The MB broadly supported the priorities for the 2019 Work Programme. The Work Programme would be developed reflecting comments and a discussion would be held at the BoS 12-13 June meeting to receive further input.

Agenda item 6.: Basel III Final Package: Exchange of Views in Preparation of BoS Discussion

18. The Chairperson opened the discussion by asking members for input on the areas on which the EBA could start preparatory work for the implementation in the EU of the Basel III reform package (the 'reform package'). He explained that the EBA was working on the final design of the data collection.
19. There was broad agreement that the EU should stick to the Basel agreement, both in terms of content and timelines: regarding content, a discussion should be held at BoS-level on several aspects of the reform package, notably treatment of mortgage loans and non-rated SME corporates; operational risk; Pillar II and its relation to the output floor. On this, the EBA should strive to reach a firm conclusion when presenting its advice to the Commission, or alternatively present different options should the former prove challenging. Regarding the timelines for compliance, members noted that the EBA should submit its advice to the Commission to enable it to prepare a legislative proposal for implementation within the timelines envisaged in Basel.
20. On the data collection, the Director of Prudential Regulation and Supervisory Policy explained that the EBA's subgroups in charge of policy would liaise with the Taskforce on Impact Studies (TFIS) to ensure an alignment of the QIS exercise and policy aspects of the reform package.
21. The Chairperson thanked members for their input. He noted that embedding proportionality in the EU proposals would be crucial, and the EBA would try to provide empirical advice on how this could be achieved while observing the reform package. With regard to timelines, the EBA would try to provide its advice to the Commission by June 2019 to prevent delays to the implementation in the EU of the reform package.
22. The Commission representative noted that the Commission's Call for Advice (CfA) would invite the EBA to provide data on the impact of complying with the reform package. In particular, the

CfA would focus on several areas, namely: residential mortgages; proportionality; output floor and interplay with the leverage ratio and capital buffers; increased risk weights for equity exposures; CVA framework; and operational risk framework, in particular the option to disregard historical losses. With regard to the timelines, he said that the Commission intended to observe them but noted possible impediments that could derail such plans, e.g. the time required for the completion of negotiations between the EP and the Council on the Commission proposal.

Agenda item 7.: EBA's Recovery and Resolution Planning Roadmap

23. The Director of Prudential Regulation and Supervisory Policy presented a note identifying topics for which the EBA could carry out further work to improve resolution planning and crisis preparedness in the EU, and the approach to resolution colleges (document EBA MB 2018 028).
24. Members agreed with the areas identified for further work and the approach outlined in the EBA's paper. They noted that a number of actions by the EBA would be instrumental to address the shortcomings experienced in the resolution area, in particular since the BRRD review could still take a good number of years to be effective. The Commission representative expressed his concerns as to the full compliance with the BRRD despite its transposition in all Member States, and invited the EBA to consider initiating breach of Union law investigations to address compliance issues. But the Chairperson noted that due to the complexity of the issues at stake it would seem appropriate to first exercise pressure via exchange of letters and requests for clarifications.
25. While agreeing with the topics identified by the EBA, some members highlighted a few areas on which action should be taken, notably a) the relation between recovery and resolution; b) approach to MREL; and c) definition of public interest. They also favoured a closer cooperation with the SRB in order to avoid duplications while maximising synergies.
26. With regard to the BRRD review, some members opined that the EBA should start thinking how to approach it. Among the topics for the BRRD review, they mentioned, a) unequal approach to the provision of state aid for G-SIBs and small institutions; b) MREL; and c) public interest tests.

Conclusion

27. The Chairperson thanked members for their views. He said that it was necessary to differentiate between topics to be dealt with under the BRRD review, and topics for which EBA action was needed under current legislation. Even if the EBA's note was clear on the latter, he said that perhaps it would be good to take this opportunity and start thinking of the EBA's input to the BRRD review, since there were some delicate, policy-sensitive issues which should be addressed in that context. The EBA's Resolution Committee (ResCo) would be involved in this exercise. The EBA's note would be amended in view of the comments and ideas expressed by the MB, and shared with the BoS and ResCo for their input with a view to having a discussion during the BoS 12-13 June meeting.

Agenda item 8.: EBA's proposed Work on Equivalence Assessments

28. The Head of the Banking Markets, Innovation and Products Unit presented an update of the current status of the assessment of the regulatory and supervisory framework of third countries. She explained that the Network on Equivalence had been reactivated and supported by five CAs; it was currently assessing Argentina and South Korea, and should start the reassessment of the Republic of Serbia. She provided details of the equivalence engagement model developed by the EBA to help prioritise the countries to be assessed and provide a framework to design future cooperation agreements. To this extent, she sought the MB's steer on how to prioritise the assessment of 17 jurisdictions already included in the Commission's implementing act to be monitored going forward.
29. On a question regarding the situation of the UK post-Brexit with reference to compliance with confidentiality requirements to participate in supervisory colleges, it was explained that it would be assessed at the appropriate time and in view of the deal that the EU and the UK could reach on financial services. Another member asked how to make equivalence assessments more efficient and outcome-driven, while keeping a high degree of rigour and scrutiny of prudential issues. EBA staff clarified that, normally, equivalence assessments focused on the outcomes of the supervisory framework, and were based on the most important parts of the legislation rather than performing an assessment line-by-line. In this regard, the issue of how to set up a more streamlined and efficient process while retaining a strict prudential assessment in the analysis was also discussed. EBA staff suggested presenting a methodological update at one of the next BoS meetings, possibly in June.
30. The Commission representative supported the possibility of assessing Western Balkan countries. He explained that there was no contradiction with the processes related to the EU accession, and that it should be made clear that the two procedures, equivalence and accession, were separated issues. He also explained that the reassessment of the regulatory and supervisory frameworks of countries already assessed should in principle be based only on the equivalence with CRD/CRR rather than with other pieces of legislation. With regard to the prioritisation of countries, he noted that, while there was no final view in this respect, the priority should be given to the 17 countries already considered as equivalent as per the Commission's delegated act; and supported the assessment of more than two countries per year.

Conclusion

31. The MB agreed that the methodology of equivalence assessments would be reviewed and discussed with the BoS, possibly in June, with the objective of having a more streamlined and efficient framework, able to deliver faster yet sound assessments.

Agenda item 9.: Provisional Agenda BoS 18-19 April Meeting

32. The Chairperson asked members for comments on the draft agenda of the BoS 18-19 April meeting (document EBA BS 2018 072). As well as the items already covered in the agenda, he

asked members whether they would support discussions on anti-money laundering, state of play of IFRS9 and BRRD-related matters as a follow-up to the confidential discussion held in June 2017.

33. Members supported the additional discussions suggested by the Chairperson. There was a request to put on hold the consultation paper on guidelines on disclosure of non-performing and forbore exposures and organise a joint discussion together with the changes to their reporting. There was another request to share with BoS the forward planning of meetings to inform members of the topics for discussion at upcoming meetings.

34. The Executive Director informed that, for the joint BoS/BSG meeting in the morning of 18 April, a possible topic for discussion would be FinTech, for which an external speaker could be invited. He asked members for other suggestions.

Agenda item 10.: AoB

35. The MB discussed a request by a member on possible improvements to the process to deal with category 1 Q&As, based on the recent case of a Q&A under the BRRD. The requesting member viewed that the Q&A in question should not have been handled under the Q&A process for touching upon issues, in his opinion, that should be dealt with in the context of the BRRD review; and that, failing consensus, all members should be given the opportunity to express their views. He further elaborated that, in light of the different opinions expressed on the Q&A, the Commission, in charge of category 1 Q&As, should have brought it forward to the BoS table.

36. The Chairperson noted that due process had been followed in the handling of the Q&A in question, and that the Q&A had been published in the EBA's website as the Commission's interpretation. He recognised that some Q&As were becoming too sensitive and it was necessary to handle them with extra care, but also noted that a greater involvement of CAs in the relevant networks would be helpful. The Executive Director added that improvements had been introduced in the Q&A process, e.g. by clarifying at an early stage of the process whether the Q&A was a category 1 or 2; and that further improvements could still be introduced, e.g. by assessing whether an extra degree of care would be necessary in the handling of Q&As due to its potential impact.

37. On a different note, a member requested including again the topic of monitoring tools of intraday liquidity management in the working programme of the EBA's Subgroup on Liquidity.

END OF MEETING

Andrea Enria

Chairperson

Participants at the Management Board meeting

20 March 2018

Chairperson Andrea Enria
Alternate Chairperson Pedro Duarte Neves

<u>Country</u>	<u>Member/Alternate</u>
Belgium	Jo Swyngedouw
Denmark	Jesper Berg
France	Frédéric Visnovsky
Italy	Luigi Federico Signorini
Poland	Andrzej Reich
Sweden	Martin Noréus

<u>EU Institution</u>	<u>Representative</u>
European Commission	Dominique Thienpont

EBA Staff

Executive Director	Adam Farkas
Director of Prud. Regulation and Supervisory Policy	Isabelle Vaillant
Director of Operations	Peter Mihalik
Director of Banking Markets, Innovation and Consumers	Piers Haben
Director of Economic Analysis and Statistics	Mario Quagliariello

Spyros Zarkos; Slavka Eley; Philippe Allard; Bernd Rummel; Cédric Coraillon-Parquet; Santiago Barón Escámez