

Minutes of the EBA MB meeting 15 November 2012

15 November 2012, 9:00-13:00

Location: EBA, London

Agenda item 1: “Opening & approval of the agenda and minutes”

1. The Agenda and the draft minutes of the meeting of 18 September 2012 were approved.

Agenda item 4: “Contracts for Difference-Proposal for a potential EBA Warning”

2. In accordance with Article 9 (5) of the EBA Regulation, the Standing Committee on Consumer Protection and Financial Innovations-SCConFin’s Sub-group on Innovative Products presented to the MB the draft warning which highlights to individual investors the complex structure and performance characteristics of contracts for difference (CfD). This draft warning explains what CfDs are and highlights the risks for retail investors.
3. The opinion of the MB was requested on whether they would agree to send the final proposal to the December BoS meeting, and therefore, issuing a warning on CfD. The importance of coordinating the work of the EBA and ESMA in this area was noted. The possibility of drafting a joint warning between ESMA and EBA and, in particular, a thematic review was also discussed.

Conclusion

4. The MB agreed that SCConFin should look into a number of questions raised by some MB members, in particular: the remit of the EBA and ESMA Regulations and to check what the NSA’s have already done in this area. Interest was also expressed in quantification of the impact of the problem. SCConFin will liaise with ESMA with the aim to issue a joint warning. The MB also underlined the importance of a close co-operation with ESMA in this field.

Agenda item 2: “Asset Quality Review”

5. The Chairperson introduced this topic by explaining the position of the EBA staff concerning an EU wide approach to reviewing asset quality within EU banks. The EBA staff would be in favour of undertaking an exercise ahead of the 2013 stress test that

incorporates aspects from both the identified level 1: correct classification and definitions and level 2: Definition of forbearance and triggers for assessments. Such an exercise could use resources from NCAs, the EBA and external auditors, who could provide support in verifying loan classifications.

6. The views of the MB were requested for the way to proceed with undertaking an exercise ahead of the 2013 Stress Test exercise.

Conclusion

7. The MB suggested that at the first stage, the focus of the work would be a review of assets in just one relevant portfolio for each bank. The second stage would be a top down review across all banks in the Stress Test to assess and understand outliers. The third phase would be ongoing supervisory work, informed by phase one in particular, to address concerns about asset quality. Also, coordination with the ECB on this issue should be sought. The exercise should be focused to provide useful input to the Stress Test and inform supervisors of appropriate supervisory responses over a longer time frame. The MB suggested that a full asset quality review would not be feasible before the stress test.

Agenda item 3: “European Banking Union and the impact in the EBA”

8. The Chairperson briefly explained some potential changes in the EBA’s voting mechanisms and governance to improve the institutional setting of the EBA. The MB members were invited to express their views on the EBA’s voting mechanism and governance.
9. In terms of governance, the idea of setting up an independent board review as part of the ESFS revised process was also discussed by the MB members. The European Commission suggested performing this review by mid 2013 if a decision is reached.
10. The Chairperson explained the aim and the objectives of the Single Supervisory Handbook consisting of a few core areas for all banking supervisors across the single market. The MB discussed the idea of launching a project aimed at starting the work on the Supervisory Handbook, which would need to be flexible enough and allow supervisors to ensure consistent application of the Rulebook and supervision in practice. The legal status of the Handbook was discussed. Some members expressed concerns at the legal status of the document and expressed a view that it should be non-binding. One member suggested the drafting of a more detailed table of content to facilitating a common understanding of the nature and depth of the document.

Conclusion

11. The MB supported the idea of setting up an Independent Board Review.
12. The MB also supported the proposal for the development of the Single Supervisory Handbook, focusing on those issues where Technical Standards are not envisaged. The comments suggested by the MB members will be incorporated into the document to be submitted to the December BoS meeting.

Agenda item 5: “Administrative and Operational Report”

13. A summary overview of the main developments in the EBA’s operations was provided by the Director of Operations. The MB was also informed of the observations made by the European Court of Auditors (ECA) after conducting the audit of annual accounts

concerning the financial year 2012. The ECA recognised significant improvements in number of areas since last year's audit, especially in procurement. The final audit report will be distributed to the MB as soon as it is available. It was also noted that the three ESAs would have to work jointly on the first draft of the conflict of interest guidelines in the next quarter of the next year to be ready for a likely audit in 2013.

14. Regarding the IT Strategy, the Director of Operations noted that after the November ITSB meeting, with exception of the two members who expressed their concerns about the IT Strategy, all ITSB members were comfortable with it. The concerns raised by these two members were fully addressed in the meantime and an update on the IT Strategy would be provided to the BoS at the December meeting.
15. The European Commission requested further details as regards the EBA budget execution, in particular, the forecast for 2012. The Director of Operations stated that the required information will be provided to the EU COM.

Agenda item 6: "Independent Board Review"

16. "Item discussed under the European Banking Union" (see agenda item 3)

Agenda item 7: "HR Implementing Rules"

17. "Decision on the Appraisal of the Chairperson and Executive Director", "Decision on Early Retirement", "Decision on Part-Time Work and Decision on the Setting Up of the Staff Committee" were approved by the European Commission after having been submitted to DG HR by the three ESAs in December 2011.
18. The MB was asked to approve the above mentioned decisions pursuant to Article 110 of the Staff Regulations.

Conclusion

19. The MB approved the Implementing Rules as they were endorsed by the European Commission pursuant to Article 110 of the Staff Regulations.

Agenda item 8: "Situation of EBA Credit Institution Register"

20. The Director of Regulations explained the main legal and technical obstacles faced in the project of the EBA Credit Institution Register and that caused delays in the publication of the EBA Register & instructions. The two issues to be solved are: Gibraltar & Inclusion of Entities according to Article 3 CRD.
21. The Management Board was asked to express its opinion on the following issues: postponement of the Credit Institution Register to the end of November, possible amendment of the BoS Decision including entities pursuant to Art. 3 CRD for next submissions or for Phase 2 and how to proceed with the issue of Gibraltar.

Conclusion

22. The MB decided to publish the list of Credit Institutions by the end of November 2012 with an explanatory note on the EBA Credit Institutions as well as to include in the register the list of affiliated credit institutions to a central body according to Article 3 CRD for Phase 2.

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23. A follow-up of the issues relating to Gibraltar was agreed. It was also agreed to create for Phase 2 an interface between the NSAs and the EBA so that the NSAs are able to upload the list of credit institutions.

Agenda item 9: “AoB”

a) Review of ESFS:

24. The European Commission established preliminary contact with the ESAs on the broad outline of the EC’s review of the European System of Financial Supervision as per the Article 81 of the EBA Regulation. The Chairperson stated that the ESAs senior management agreed to prepare a joint self assessment note to contribute to the EC’s review.

Conclusion

25. A first draft of the EBA part of the ESAs staff joint self assessment note will be presented for discussion at the December BoS meeting.

b) Banking Stakeholder Group:

26. The MB was informed that staff from the three ESAs were preparing for the renewal of the ESAs Stakeholder Groups, pursuant to Article 37 (4), following which a new selection procedure shall take place.

Conclusion

27. The EBA staff will prepare a more detailed selection note on the procedure on how to select the candidates for the second term of the BSG.

c) Decision of the MB on Reimbursement policy:

28. The revised decision on the Remuneration Policy was presented to the MB by the Executive Director. The approval of the MB was asked on the amendment reimbursement policy such that there is a consistent policy amongst the ESAs for the remuneration of the ESA’s joint Board of Appeal.

Conclusion

29. The BoS approved the amendment to the Remuneration policy.

d) Revised Decision on the Education and Nursery Contributions and Revised corresponding annual threshold:

30. Both Decisions were revised taking into account practical and operational aspects which have surfaced when putting the rules into practice during the first year of operation and also to apply the revised annual thresholds.

Conclusion

31. The MB approved the revised decision and the revised annual threshold.

32. The Chairperson informed the BoS of a letter sent by the London School of Economics asking the EBA to sponsor some research projects that will be undertaken under the

setting up of systematic risk centre. The MB did not support the EBA's explicit affiliation on sponsorship of such initiative.



List of Participants

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| Andrea Enria | Chairperson |
| Frederic Visnovsky | MB alternate |
| Andrew Bailey | MB member |
| Uldis Cerps | MB alternate |
| Jukka Vesala | MB member |
| Matthew Elderfield | MB member |
| Raimund Röseler | MB member |
| Fernando Vargas | MB member |
| Dominique Thienpont | European Commission |
| Adam Farkas | Executive Director |
| Isabelle Vaillant | Director Regulation |
| Peter Mihalik | Director Operations |
| Corinne Kaufman | EBA Staff – Policy Analysis & Coordination |
| Patricia Juanes Burgos | EBA Staff - Legal |