

EBA BS BSG 2024 009

---

Board of Supervisors and Banking  
Stakeholder Group

---

16 October 2024

---

Location: EBA premises, Paris

---

# Board of Supervisors and Banking Stakeholder Group

---

## Minutes of the joint meeting on 16 October 2024

### **Agenda item 1: Welcome and approval of the agenda**

1. The EBA Chairperson welcomed the Members of the Board of Supervisors (BoS) and the Members of the Banking Stakeholder Group (BSG).
2. The EBA Chairperson asked the BoS and BSG members whether there were any comments on the draft agenda. There were no comments on the agenda.
3. The EBA Chairperson announced that during its meeting on 15 October 2024, the BSG elected Christian Stiefmueller as a new BSG Chairperson and Julia Strau and Edgar Loew as the BSG Vice-Chairpersons. The new Chairperson and Vice-Chairpersons introduced themselves and thanked for the support from the BSG.
4. Finally, the EBA Chairperson informed the BoS and BSG that the Minutes of the last conference call on 24 April 2024 have been approved by written procedure.

### **Conclusion**

5. The BoS and BSG approved the agenda of the conference call.

### **Agenda item 2: Update on DORA implementation**

6. The EBA Chairperson introduced the item by noting that DORA secondary legislation was finalised jointly by the ESAs with the two batches of Technical Standards and Guidelines published in January and July 2024. These covered the main pillars of DORA and, once implemented, should contribute to greater digital operational resilience for the financial sector. With the finalisation of the policy development, EBA, together with EIOPA and
-

ESMA, have been fully shifting focus to the set-up of the future oversight function for critical third-party providers but also on their supervisory convergence mandate to ensure consistent application of the framework.

7. The EBA Director of Innovation, Conduct and Consumers Department (ICC) continued by updating the Members on DORA-related policy developments and said that the only remaining policy product for the EBA to draft was a report on a Feasibility study for further centralisation of major incident reporting through an EU-HUB, which was due by 17 January 2025, and thanked BSG for their feedback during the targeted consultation over the summer. In addition, the EBA has been planning to review the existing sectorial Guidelines to ensure legal certainty and transparency for market participants. She stressed that the ESAs were supporting the industry in the implementation of DORA, in particular through a dry-run exercise focused on the preparation and submission of registers of information by financial entities.
  
8. The ESAs' Joint Director of DORA Oversight continued by summarising key dependencies in preparations for the reporting of the register of information and critical path for first reporting in 2025 and highlighted the objectives of the register, namely as a risk management tool to strengthen third-party risk management by financial entities, for CAs' supervision and the designation of critical third-party providers (CTPPs) by the ESAs. He informed the Members about the rejection by the European Commission (EC) of the ITS on registers of information due to EC's willingness to allow EU-based companies to use the EUID as an additional option complementing the LEI identifier. Other deliverables linked to the designation of critical third-party providers (CTPP), such as the data point model, the IT tool to be used for the collection of the registers, depend on the ITS on the register of information. He informed that the ESAs prepared an opinion on the rejection of the ITS which had been submitted to the EC on 15 October 2024. The rejection would have significant knock-on effects on the preparation for the CTPP designation in 2025 as it would necessitate additional unplanned implementation efforts by all stakeholders and cause delays to the planned reporting and CTPP designation cycle in 2025. This time pressure meant that the submission deadlines in spring 2025 would have to be very strict. Fortunately, the financial entities have been able to take advantage of the extra time and the dry run exercise that the ESAs have carried out during the summer 2024 to prepare themselves as well as possible. The Joint Director of DORA Oversight summarised the main findings of the dry run exercise and said that while the results were encouraging, additional work was needed and reminded that the ESAs were planning to publish a summary report with high-level observations of the exercise and hold a workshop in December, both for the benefit of the wide industry. He then continued by providing a high-level overview of the work that has been carried out in preparation for DORA oversight activities in terms of methodologies and procedures to support the operating model but also the key focus areas, including cross-sectoral nature of the work, cooperation between ESAs and authorities through the joint oversight venture (JOV), capacity building through recruitment, redeployment, refitting of staff and others.

9. The BSG Chairperson appreciated the opportunity for the BSG to provide input to the Feasibility report for potential further centralisation of major ICT-related incident reporting through an EU-HUB. He commented on the CrowdStrike incident and queried whether there have been any lessons learnt from the incident to prevent future occurrences and how future requirements of DORA would address that.
10. Several BSG Members provided comments. One Member queried about the supervisory expectations towards the preparedness of the banking sector for DORA application and another one expressed concerns on the legal uncertainty resulting from the fact that the EC has not yet adopted all technical standards developed by the ESAs, as well as based on the expected clarifications to Q&As on specific issues such as the scope of ICT services. Another Member asked about interconnectedness between DORA and FIDA and whether the DORA requirements applied to application programming interfaces set under PSD2. Other Member welcomed the dry-run exercise and the presentation on its results and asked about the percentage of the market that participated to the exercise. Another Member commented on the ESAs opinion published in response to the rejection of the ITS on registered of information, noted that legal unclarity had negative impact on the market participants and queried whether the ESAs and the EC could have ensured better cooperation and coordination.
11. One BoS Member stressed the importance of the current DORA implementation phase. He also highlighted the closed involvement of EC staff during the development of the ITS on the registers of information but acknowledged that the EC was a large institution where different DGs could raise a concern in later stages.
12. The Director of ICC acknowledged the implementation challenges faced by the market but stressed that the market participants should consider their preparatory works as a priority and with an urgency to be ready for the start of application of DORA in January 2025. On the interplay between existing sectorial Guidelines and DORA, she clarified that the EBA was in the process of assessing the gaps but that no major gaps seem to emerge at this stage. She also highlighted that the ESAs have been working to provide clarification on Q&As, but that the questions related to the scope of DORA, such as the Q&A on the scope of ICT services, were for the EC to respond and that the ESA staff were closely involved and supporting them. She concluded by noting that the cooperation between the ESAs and the EC has been intense at all levels and that many technical difficulties have been addressed while developing relevant RTS and ITS.
13. The Joint Director of DORA Oversight reflected on CrowdStrike incident and noted that DORA requirements would help to better identify potential similar situations.
14. On the interplay between DORA and FIDA/PSD2, the EBA Team leader on the DORA oversight preparations clarified that the entities within the scope of PSD2 and FIDA were covered by DORA and thus the DORA framework was applying to them. On the dry-run

exercise, he clarified that around 1000 financial entities took part, with a mixture of small and large providers.

15. The EC representative acknowledged good cooperation and coordination with the EBA and the other ESAs.
16. The EBA Executive Director confirmed that the ESAs have engaged intensively with the EC to find the most suitable avenues to combine all objectives, but that it did not prevent the disagreement leading to the rejection of the ITS.
17. The EBA Chairperson concluded by noting the Members' comments. He highlighted that the EBA has already published this year the '2025 European Supervisory Examination Programme' and the importance of risk-based approach in supervising DORA. He also emphasised on the very good cooperation between the ESAs and the EC.

### **Agenda item 3: Preparing for AMLA: the EBA's response to the EC's Call for Advice and wider transition plans**

18. The ICC Director reminded the Members that the new EU AML/CFT framework has now entered into force. In accordance with the Regulation establishing AMLA, the EBA would hand-over its AML/CFT mandate by the end of 2025. In the meantime, the EC asked the EBA to advise it on important aspects of the new EU AML/CFT framework to ensure that AMLA can begin to operate efficiently and effectively. Specifically, the EC asked the EBA to prepare a common ML/TF risk assessment methodology for AML/CFT supervisors in line with Article 40(2) of Directive (EU) 2024/1641 (AMLD6) and the methodology AMLA would use to select institutions that would be directly supervised by it pursuant to Article 12(7) of Regulation (EU) 2024/1620 (AMLAR). It also asked the EBA for advice on the CDD rules applicable to financial institutions and the application of pecuniary measures and administrative sanctions. The EBA has been preparing its response to this call for advice (CfA), which it planned to submit to the EC and publish in October 2025.
19. The EBA Head of AML/CFT Unit (AML) introduced the discussion and presented a timeline for the transfer of EBA's AML/CFT powers and mandates to AMLA. Eight posts would be transferred from the EBA's AML/CFT unit to AMLA by the end of 2025. After 2025, the EBA would remain responsible for tackling ML/TF risks across its prudential remit. She then focused on the work the EBA was doing to facilitate the transition to the new legal and institutional AML/CFT framework. Concerning the CfA, on 12 March 2024, the EBA received a the CfA from the EC on six of AMLA's regulatory instruments. Two ad-hoc expert sub-groups led by EBA staff have been taking forward this work and would be disbanded once the response to the CfA has been delivered. The Head of AML explained that the EBA's work on the CfA was guided by five principles – a risk-based and proportionate approach, that was technologically neutral, aligned with EBA and FATF standards and led to effective outcomes. In this regard, the EBA was closely liaising with public and private sector stakeholder. For example, it was working with EU FIUs to draw on the synergies between

their work and that of the EBA, with EU data protection authorities to ensure that data protection concerns would be identified and addressed at an early stage, and it was organising a private sector roundtable to obtain institutions' feedback on the feasibility and impact of the options considered. The response to the CfA would take the form of a report, which would contain proposals for four draft RTSs and preparatory work on the remaining mandates listed in the CfA. The Head of AML emphasised that the EBA was not planning to publish these RTSs as the EBA's own and instead, the EC would share the report with the EBA's proposals with AMLA. She then presented the work on the two RTS related to ML/TF risk assessments and two RTS related to customer due diligence and administrative sanctions under Article 28(1) AMLR and Article 53(10) AMLD respectively. She mentioned that the CfA included a request for information on two additional mandates related to minimum requirements of group-wide policies, procedures and controls, including minimum standards for information sharing within the group, and on the base amounts for imposing of pecuniary sanctions. She clarified that the EBA would provide a response based on information held by the EBA or contained in existing regulatory instruments and because this response would draw on existing requirements, it would not be subject to public consultation. The Head of AML/CFT concluded by presenting an overview of the CfA timeline.

20. One BSG Member expressed her concern that CDD rules in the new EU Regulation seemed to be rules-based and therefore more rigid. She asked whether the divergence between the FATF and EU direction was problematic. Another BSG Member asked whether financial exclusion would be considered as a risk increasing factor in the future risk methodology. Other BSG Member stated that the provisions in the L1 text did not simplify customer due diligence and were very specific to certain circumstances. It was therefore important that the limited flexibility in the L1 text in respect of simplified due diligence was fully embraced. He stated that a risk-based approach was about the most effective use of resources. The BSG Member continued by discussing the impact of new provisions in the L1 text on cross border relationships or 'similar arrangements' that meant institutions may need to know the customer's customer. This could be conducive to derisking. Lastly, the BSG Member expressed his surprise that the AMLA R contained no reference to stakeholder engagement, and asked how this was going to be remedied. Another BSG Member expressed her support for the development of these mandates. She stated that it was not surprising that banks were nervous. She called for a risk-based approach to be present in all upcoming work, stating that some of the provisions in the AML package leaned more to a rule-based approach. She argued that risk-based approaches represented the most effective way to allocate resources. The industry would need time to implement the legislation, for example the due diligence of new customers, she explained. For existing customers, a grandfathering provision should be envisaged. She continued explaining that risk assessment methodologies needed to be objective and communicated early enough so market participants can implement the right procedures and good practices. One BSG Member stated that in his Member State, customers had to update their personal information with their bank annually. The risk was that consumers disregard these requests

and did not fully understand the implications, for example account closure, of not doing this. He stated the impact this has on consumers, especially pensioners, and asked how the EBA would consider consumers in light of the due diligence requirements. Another BSG Member ask which area of consumer due diligence raises the most questions and whether there were any implications for consumers or employees. Other BSG Member stressed the importance of verification measures. He gave the example of the IBAN name check, which has been effective in fighting payment fraud. He invited the group to continue such verification measures, and called for expansions for checking against other metrics, such as addresses.

21. One BoS Member stated this was a crucial moment to work with the EBA and to interact with the sector on the future single rulebook. He highlighted the importance of the EBA-led forum for CAs to smooth the transition to AMLA. He further stated that the Call for Advice on risk assessment represented for the first time that there has been a harmonised approach at the EU level and called for members to be realistic in their expectations as this evolve further over time.
22. In her response, the Head of AML clarified that most of the points on the CDD raised by Members related to provisions in the Level 1 text and not to the mandates the EC had asked the EBA to prepare. Nevertheless, the single rulebook did reference a Risk Based Approach, and she reiterated that proportionality and an effective, risk-based approach that led to robust outcomes and limited unintended consequences such as consumer detriment were central to the EBA's evolving approach. In response to the points on consumers, the Head of AML confirmed that the EBA wanted to know where such challenges come from so they can be factored into the EBA's future work. She confirmed that defining the information institutions needed to obtain from customers was part of the mandates the EC asked the EBA to take forward. She invited written comments from the Members to this effect. She concluded by confirming that there would be a level of continuity in the transition to AMLA in at Level 1. There was not a hard cut-off date where one regime applied and another stopped, instead the EBA's AML Guidelines would continue to apply until they were replaced at a later date, giving the institutions time to adjust.
23. The BSG Chairperson confirmed that verification measures issues have already been on the BSG's radar, and they intend to follow up on this.
24. The Director of the Innovation, Consumers and Conduct Department commented that the EBA had various activities to increase awareness on financial matters with both the ESAs and with CAs. She hoped these would reach as many consumers as possible and acknowledged that this remained a constant challenge.

#### **Agenda Item 4: AOB**

25. The Members did not raise any other comments.

## Participants of the Joint Board of Supervisors and Banking Stakeholder group conference call on 16 October 2024<sup>1</sup>

**EBA Chairperson:** Jose Manuel Campa

**BSG Chairperson:** Christian Stiefmueller

### BoS

<u>Country</u>	<u>Voting Member/High-Level Alternate</u>	<u>National/Central Bank</u>
1. Austria	Helmut Ettl	Karin Turner-Hrdlicka
2. Belgium	Jo Swyngedouw	
3. Bulgaria	Stoyan Manolov	
4. Croatia	Sanja Petrinic Turkovic	
5. Cyprus	Constantinos Trikoupis	
6. Czech Republic	Marcela Gronychova	
7. Denmark		
8. Estonia	Andres Kurgpold	Timo Kosenko
9. Finland	Marko Myller	
10. France	Nathalie Aufauvre	
11. Germany		
12. Greece	Heather Gibson	
13. Hungary	Csaba Kandracs	
14. Ireland	Gerry Cross	
15. Italy	Francesco Cannata	
16. Latvia	Ludmila Vojevoda	
17. Lithuania		
18. Luxembourg		Christian Friedrich
19. Malta	Anabel Armeni Caucih	Oliver Bonello
20. Netherlands	Steven Maijor/Willemieke van Gorkum	
21. Poland		
22. Portugal		
23. Romania		
24. Slovakia		
25. Slovenia	Damjana Igljic	
26. Spain	Angel Estrada	
27. Sweden	Magnus Eriksson	David Forsman
<b><u>EFTA Countries</u></b>		
	<b><u>Member</u></b>	
1. Iceland	Bjork Sigurgisladottir	
2. Liechtenstein		
3. Norway		Sindre Weme
<b><u>Observer</u></b>		
	<b><u>Representative</u></b>	
1. SRB		

<sup>1</sup> Pascal Hartmann (FMA); Eida Mullins (Central Bank of Ireland); Marek Sokol (CNB); Marco Giornetti (Bank of Italy); Jana Pace Hili (MFSA); Nina Rajtar (KNF); Pawel Gasiorowski (NBP); Caro Dullemond (DNB); Capucine Améz-Droz (ACPR); Gaëtan Doucet (NBB); Marc Peters (EC)

**Other Non-voting Members****Representative**

- |                                |            |
|--------------------------------|------------|
| 1. ECB Banking Supervision/ECB |            |
| 2. European Commission         | Ugo Bassi  |
| 3. EIOPA                       |            |
| 4. ESMA                        |            |
| 5. EFTA Surveillance Authority |            |
| 6. ESRB                        | Ralf Jacob |

**BSG**

<b>First Name</b>	<b>Surname</b>	<b>Institution</b>	<b>Country</b>
Alin Eugen	Iacob	AURSF	Romania
Anna-Delia	Papenberg	Nordic Financial Union	Germany
Caroline	Liesegang	AFME	Germany
Christian	Stiefmueller	Finance Watch	Germany
Dermott	Jewell	Consumers' association of Ireland (CAI)	Ireland
Dominique	Carriou	European Savings Banks Group	France
Edgar	Loew	Frankfurt School of Finance and Management	Germany
Erik Isak	Bengtzboe	Eurofinas - European Federation of Finance House Associations	Sweden
Gema	Diaz-Ufano Navarro	Santander	Spain
Gonzalo	Gasos	European Banking Federation	Spain
Guillermo	De la Fuente	European Association of Corporate Treasurers	Spain
Henrik	Ramlau-Hausen	Copenhaguen Business School	Denmark
Jekaterina	Govina	Amylyze	Lithuania
Joshua	Kaplan	Satsipay	France
Julia	Strau	Raiffeisen	Austria
Kęstutis	Kupšys	Lithuanian Consumers Alliance	Lithuania
Laura	Grassi	University of Milano	Italy
Laura	Nieri	University of Genova	Italy
Lyubomir	Karimansky	International Banking Institute	Bulgaria
Maria	Angiulli	Italian Banking Association	Italy
Marieke	Van Berkel	European Association of Cooperative Banks	Netherlands
Paolo Giuseppe	Grinaschi	Italian trade union for financial sector	Italy
Patricia	Bogard	Crédit Agricole	France
Patricia	Suarez Ramirez	ASUFIN	Spain

Riina	Salpakari	Nordea	Finland
Sandra	Burggraf	FIA – European Principal Traders Association	France
Sangeeta	Goswami	Human Security Collective	United Kingdom
Thaer	Sabri	Electronic Money Association	United Kingdom
Vinay	Pranjivan	DECO	Portugal

**EBA**

Executive Director

Francois-Louis Michaud

Directors

Isabelle Vaillant  
Meri Rimmanen  
Marilyn Pikaro  
Marc Andries

Heads of Unit

Philippe Allard  
Carolin Gardner

Experts

Tea Eger  
Sam Myer  
Antonio Barzachki  
Sebastian Deka

For the Board of Supervisors

For the Banking Stakeholder Group

Done at Paris on 02 December 2024

Done at Paris on 02 December 2024

[signed]

[signed]

José Manuel Campa

Christian Stiefmueller

EBA Chairperson

BSG Chairperson