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Board of Supervisors

21 June 2022

Location: teleconference

Board of Supervisors 21 June 2022 – Minutes

Agenda item 1: Welcome, approval of the agenda and Declaration of conflict of interest

1. The Chairperson welcomed the Members of the Board of Supervisors (BoS). He reminded the Members of the conflict of interest policy requirements and asked them whether any of them considered themselves as being in a conflict. No Member declared a conflict of interest.

2. The Chairperson welcomed new BoS Members and Alternates who have recently joined the BoS - Mr Tomislav Coric (HR); Mr David Eacott (MT); Mr Kurt Van Raemdonck (BE); Mr Agustín Pérez Gasco (ES) and Mr Carmelo Salleo as the ECB representative.

3. The Chairperson asked the BoS whether there were any comments on the draft agenda. There were no comments on the agenda.

4. Finally, the Chairperson informed the BoS that the Minutes of the BoS conference call on 20 April 2022 have been approved in written procedure.

Conclusion

5. The BoS approved the agenda of the meeting.

Agenda item 2: Update from the EBA Chairperson and the Executive Director

6. The Chairperson updated the Members on three items.

7. Firstly, the Chairperson noted that there was a provisional political agreement on the Digital Operational Resilience Act (DORA) on 10 May 2022 and that the new legislation was expected to enter into force at the end of the year/early next year with a 2-year period for application. The upcoming DORA would mandate the ESAs to deliver 13 joint policy products (through the Joint Committee) and most importantly it would assign them new tasks, including the power

to oversee critical ICT third-party providers. The ESAs have already started preparing for the implementation of DORA, acknowledging though three key challenges: (i) unprecedented close cooperation, coordination and interaction among the ESAs, (ii) management of industry's expectations as status quo would continue until 2025 (once DORA was set to become applicable) and oversight was planned to effectively start in 2026 and (iii) limited capacity and pressure to the ESAs to deliver before start receiving oversight fees (as no additional funding has been assigned to the ESAs). For the development of the DORA joint policy mandates, the ESAs Joint Committee agreed to establish a new JC Sub-Committee on Digital Operational Resilience (JC SC DOR), which would be primarily tasked to deliver the DORA policy mandates and coordinating the ESAs' follow up actions to the ESRB recommendation on an EU systemic cyber incident coordination framework. The ESAs JC has adopted the draft mandate of the new JC SC DOR and the BoS would be shortly approached to approve the mandate. The new JC SC DOR was expected to have its first meeting in September/October 2022. In the meantime, the EBA has been working on a number of preparatory activities ahead of DORA, such as relating to the gap analysis performed between the DORA proposal and the EBA Guidelines on ICT and security risk management, or the ongoing joint-ESAs high-level exercise on the ICT third-party providers, where the ESAs were planning to essentially perform a 'pilot exercise' for the upcoming DORA joint task to learn valuable lessons ahead of the DORA implementation and to better understand the ICT TPPs' landscape of the EU financial sector.

8. Secondly, the Chairperson informed the BoS that the ESAs have recently received a call for advice on greenwashing from the European Commission (EC). This request was part of the implementation of Commission's renewed strategy on sustainable finance and included a detailed list of items which should be analysed by the ESAs, especially on greenwashing definition, greenwashing risks and the implementation and supervision of policies to prevent greenwashing. The main objective was to provide insights on greenwashing risk and its development in the EU financial sector and to assess whether the existing regulations, supervisory framework and practices are sufficient to tackle greenwashing risk. It was also aimed at providing initial insights on how supervisors were planning to monitor the implementation of the EU sustainable finance regulations (including the SFDR). Each ESA has been asked to provide individually (but in a coordinated manner) an analysis of greenwashing within their respective sector of competence. In particular, each ESA should deliver a progress report by May 2023 and a final report by May 2024.

9. Thirdly, the Chairperson thanked the Czech BoS Member and her colleagues for organising the upcoming BoS Away Day in Prague and reminded the BoS to register for the meeting.

10. The Executive Director also provided an update on three items.

11. Firstly, the Executive Director informed that the EBA has been reducing the number of missions and physical meetings compared to previous years up to 50%. He also referred to various phases of hybrid working depending on Covid-19 restrictions introduced by the EBA. In this regard, he mentioned that on 01 April 2022, the EC adopted Implementing Rule for Hybrid Work and the EU agencies had nine months to adopt it or opt-out. Considering the EBA's

objectives of continuity, compliance and reputation, the EBA analysed various approaches and decided to call an ad hoc MB conference call on 27 June in order to discuss the adoption of the EC decision by analogy.

12. Secondly, the Executive Director updated the BoS on the EBA training plan to competent authorities (CAs) and said that by July 2022, the EBA was well on tracks having delivered 17 of the 30 trainings envisaged for the year and has organised one event on 'ESA's Financial Education and Literacy' which was attended by a high number of participants. For the rest of the year, the EBA was planning to deliver additional 20+ trainings, including three new ones due to specific demand from CAs.

13. Thirdly, the Executive Director summarised discussion during the IMF delegation's visit at the EBA and noted that they had shown interest in EBA's recent data publications on EU banks exposures to Russia and Ukraine. Macroeconomic risks and their possible consequences on EU banks were also discussed as well as the normalization of supervisory stances, and the impact of a possible recession in the US. Against that background, it was recognized that the outcomes of the EU-wide Stress test in 2023 would help shed light on the current uncertainties despite the fact that it would only come by mid-next year.

14. The BoS Members did not raise any comments.

Agenda item 3: Conflicts of interest amendments to BoS/MB Rules of Procedure and ResCo/AMLSC mandates

15. The Chairperson introduced the item by informing the BoS that the European Court of Auditors (ECA) had recently sent to the EBA its preliminary observations on the 2021 audit. In those observations, ECA argued that the presence in a meeting of a Board member who has declared a conflict of interests could create a risk to the Board's independence, at least in appearance. ESMA and EIOPA have also received a similar observation and the ESAs have worked together to address this finding by the ECA.

16. The EBA Head of Legal and Compliance Unit (LC) continued by noting that the EBA, together with the other ESAs, had argued to the ECA that the EBA already implemented the strict rule of Article 42(3) of the EBA Regulation through the provision of Article 6(4) of the BoS Rules of Procedure (RoP); and had also highlighted that, in practice, where individuals were conflicted, they have left the relevant part of the meeting, but that the ECA intended to maintain its observation. After discussions with the other ESAs, the EBA's proposal was to amend the BoS RoP (and similarly, the MB RoP and ResCo and AMLSC decisions) to provide that, in case that a member of the Board/Committee declared a conflict of interest, they were not able to be present during neither the discussion nor vote of the concerned agenda item or submit comments or vote on a written procedure. However, as the Head of LC stressed, this would not affect the right to be heard of the concerned CA. He concluded by referring to peer review reports and said that while the current conflict of interest rules did not refer explicitly to them, unlike ESMA's, they could be a source of conflicts of interests but that this was currently

addressed through the provisions regarding recommendations and opinions addressed to individual CAs. It was therefore proposed not to amend these pending ongoing discussions with the other ESAs.

17. One Member was strongly against the proposal and argued that the ECA was overstepping their mandate by interpreting the rules. Other Members questioned whether the new rules would ensure adequate right to be heard of the concerned BoS Member.

18. One Member questioned how, in practice, written procedures should be done in the case of conflict of interest. Several Members stressed the importance of the right to be heard as well as the need to align the RoP on this issue with the other ESAs. Some Members were of the view that the proposal was limiting the right to be heard and, in this regard, one Member suggested to clearly identify each stage of the decision-making process as this could clarify when the presence of the Board member should be limited.

19. The EC representative supported the proposal and noted that an absolute clarity on the issue was necessary. He also said that in some cases, the presence of the Member who was in conflict of interest might have an impact on the independence of the decision-making procedure. He asked for the rules of procedures to be aligned with the ECA's observations.

20. The ESMA and EIOPA representatives confirmed close cooperation between the ESAs on the topic and the ESMA representative informed that their BoS would be discussing these issues in July.

21. In his response, the Head of LC clarified that no changes were proposed for written procedures and that the conflicted Members would not vote but the results of the vote together with comments made would be shared with all Members. On the right to be heard, he stressed that no changes were proposed compared to those introduced in 2022 which provided for the formal right to be heard to take place before the relevant BoS meeting and for a conflicted Member to be allowed to present the position of their CA on the issue prior to the BoS agenda item and would then be asked to leave the meeting. With regard to peer reviews, the Head of LC said that the EBA would further discuss with ESMA how to deal with situations when there were several conflicted CAs.

22. The Chairperson concluded by noting the comments and said that given the majority of the Members supported the proposal, the EBA would reply to the ECA that it had implemented their recommendations.

Conclusion

23. The BoS approved the amendments to the BoS and MB RoP, and ResCo and AMLSC decisions by consensus with the explicit vote against from one Member.

Agenda item 4: First draft annual work programme 2023

24. The Chairperson introduced the item by noting that the first draft of the annual work programme 2023 has been developed taking the Single Programming Document (SPD) for the years 2023 to 2025 as its starting point and as previously, for the preparation of the first draft, the Management Board considered and agreed small adjustments to the 2023 priorities, which had been adopted in January 2022 as part of the 2023 -2025 SPD.

25. The Executive Director continued by clarifying that the adjustments of the priorities were not substantial. He explained that the invasion of Ukraine by Russia has been reflected by way of an adjustment to one of the vertical priorities, more specifically the work on the EU-wide stress test, rather than as a standalone priority. He also mentioned further adjustments related to KPIs and deliverables and mentioned that for the horizontal priority on the Execution of the ESG roadmap, more focus on the building up of the ESG risk monitoring framework has been added. To reflect the changes, the activities sections have been updates as well, also to include some of the more recently received mandates. In that context, he indicated that the number of activities could also potentially be simplified further. The Executive Director indicated that the final work programme had to be submitted to the EU institutions before 30 September and therefore, the final draft was planned to be discussed during the next BoS conference call on 14 September.

26. A presentation by the Co-Chair of the Advisory Committee on Proportionality (ACP) on the letter of recommendations on the draft EBA work programme for 2023 followed. He stressed that the ACP advice aimed to point out areas where proportionality could be further enhanced in the EBA's planned work. To that end, the ACP identified four areas of further focus: 1. Supervisory Review and Evaluation Process (SREP); 2. Recovery and Resolution; 3. ESG, Risk Drivers and Sustainable Finance, and 4. Reporting and Transparency. He continued by summarising possible areas for enhancement/review for each of the four identified items and concluded by welcoming the incorporation of the ACP recommendations in the EBA's activities and reports as done in the previous years.

27. The Members were supportive of the revised priorities as well as of the activities. One Member suggested to mention the mandate on greenwashing and to consider how to introduce the work on DORA. In that context, one Member proposed reflecting on the role of the CAs and on the substructures to involve. Some Members stressed the importance of the work on reporting, and notably the need to have an integrated system for collecting data, while at the same time ensuring compatibility of the EBA's output with that of the ECB. One Member noted their preference for the EBA to focus its work on what they considered to be a core task, the Single Rulebook, rather than on integrated reporting. He noted this would align with its view that proportionality objectives could be achieved (more easily) by reviewing the Single Rulebook and its size. Another Member did not share the possibility to replace the full stress-testing (ST) exercise for SNCIs by simpler sensitivity analysis, which would not provide complete and accurate information for the purpose of this kind of exercises.

28. On the ACP letter, the BoS welcomed the recommendations on proportionality. One Member proposed to allow more time for the SREP GL implementation before considering any peer

review on proportionality. He also stressed that the ESG disclosure requirements should be tailored to supervisory needs and not to existing disclosure rules and that proxies could be used in Pillar 2 if this approach would be more conservative. Finally, he highlighted that in relation to reporting, the proportionality should not be related to the amount of data collected. Another Member supported this view. He also said that before any changes were to be done in relation to reporting, a fact-finding exercise should be conducted to establish where the framework was inherently proportional and where more proportionality was warranted Two Members supported the harmonisation of data collections and one Member said that in the context of ESG risk assessment, replacing stress test with sensitivity analysis would not be beneficial for the overall assessment of institutions and their risk profile regarding ESG. Other Member was of the view that there was a need to add some extra data points to ensure that all necessary information was available to enable supervisors to properly assess institutions with respect to CRR requirements.

29. In response to the comments, the Executive Director noted that for the work, including on greenwashing and DORA, the EBA would rely on the CAs and their support, leveraging as much as possible on existing structures. In addition to the CAs, close cooperation with the ECB would also be key, in particular in the field of reporting, not least to avoid duplications. He stressed that the importance of the work on the Single Rulebook was reflected in the important resources allocated to this work. As concerns the work on reporting, he clarified that the EBA's work in that area was largely driven by mandates that were set out in the legislative frameworks. To achieve further optimisation of the rulebook more work would have to be undertaken. The Executive Director retained that the comments would be reflected, together with the recommendations and related comments, in a revised version of the work programme to be presented during the next BoS conference call in September.

30. In his reply, the Co-Chair of the ACP clarified that while the ACP letter focused on the 2023 Work programme, it reflected also on the future thematic peer review planning beyond 2023. With regard to the ESG, he said that green finance principles should not be violated by proportionality principles. Finally, he noted that the comments would be further analysed by the ACP.

31. The Chairperson concluded by noting the BoS support for the revised priorities and for the draft work programme as well as for the recommendations on proportionality from the ACP.

Agenda item 5: Follow up of the implementation of the Opinion on legacy instruments

32. The Chairperson introduced the item by reminding the Members of the Opinion on legacy instruments published in October 2020.

33. The EBA Head of Liquidity, Leverage, Loss Absorbency and Capital Unit (LILLAC) continued by noting that following the publication of the Opinion, the EBA, in close cooperation with the CAs monitored the actions taken by institutions regarding legacy instruments, placing

particular focus on the materiality of the outstanding amounts of legacy instruments and the use of the options to address the infection risk proposed in the Opinion across and within jurisdictions with a view to ensuring consistent application. She summarised that significant efforts have been made by institutions and CAs, with legacy instruments being addressed mostly through the use of option (i) (i.e. to call, redeem, repurchase or buy-back the instrument) or option (ii) (i.e. to amend the terms and references). Furthermore, the transposition of Article 48(7) of BRRD2 has been referred as a solution to infection risk in two jurisdictions. For a limited number of instruments, actions were still ongoing/under consideration, with call options planned to be exercised in the course of 2022 or later on, while a few would be kept in a lower category of own funds or as eligible liabilities or in the balance sheet as non-regulatory capital. The CAs would have to continue monitoring residual cases and report to the EBA. The Head of LILLAC concluded by clarifying that with the aim to ensure transparency, the EBA prepared a draft communication to be published in July which provided an overview of the implementation of the EBA's Opinion highlighting the positive outcome and underlining the few remaining aspects that still merit CAs' and institutions' attention. Further, it conveyed EBA's expectations concerning any potential issues stemming for CRR2 grandfathering instruments.

34. The BoS supported the work several Members appreciated the analysis done by the EBA staff.

35. The Chairperson concluded by noting the BoS support.

Conclusion

36. The BoS approved the content of the communication on the overview of the implementation of the EBA Opinion on legacy instruments and its publication by consensus.

Agenda item 6: EBA response to call for advice on securitisation framework

37. The Chairperson reminded the BoS that on 18th October 2021, the EC addressed a call for advice (CfA) to the Joint Committee of the ESAs (JC) with deadline 1 September 2022 for the purposes of the securitisation prudential framework review. The CfA called for the JC's assistance to assess the performance of the capital framework for banks and insurance and the liquidity framework for banks relative to their stated prudential purpose and the objective of contributing to the sound revival of the EU securitisation market on a prudent basis.

38. The EBA Head of Risk Based Metrics Unit (RBM) continued by updating the Members on the development around three parts of the CfA which were under the EBA competence: a) an analysis of the securitization market in terms of volumes and credit performance; b) the assessment on the capital framework for securitization; and c) the assessment of the securitization liquidity framework. He noted that the EU securitisation was particularly concentrated in a few countries. In terms of comparison with the US, the difference in size between the US and EU market for public securitisations has widened significantly in recent

years. With regard to the capital framework, the EBA was proposing recommendations in four areas - short term fixes to the prudential framework which aim at fixing some inconsistencies, issues clarifying current provisions, cross cutting issues between securitisation and credit risk and more substantial but still targeted changes to improve the risk sensitivity of the framework. Furthermore, there was a need to assess possible gaps with regard to the compliance with Basel and the necessity to have an idea of the impact and the consequence of each measure. On the liquidity framework, the Head of RBM said that at the standing committee level, no changes have been proposed. He concluded by noting that further work would be required and as result, there would be delay in response to the EC.

39. The Members supported the EBA's proposal. Several Members raised concerns related to deviating from Basel requirements and said that any derogation should be based on past experience and detailed fact finding confirming expected benefits on the EU securitisation market. There should also be well defined criteria for any deviations. One Member stressed that given the nature of work – response to the EC's CfA – the EBA should also consider proposals that might not be compliant with the Basel requirements but could improve the securitisation framework. He also asked for close cooperation with ESMA and EIOPA. With regard to the market size, one Member noted that the covered bond markets were much better developed in Europe than in the US. One Member supported a delay in replying to the EC considering that further analysis was necessary. Another Member added that, looking forward, current hurdles in the securitization framework should be addressed.

40. The EC representative was supportive of the EBA recommendations and of the view that a slight delay in replying to the CfA until October 2022 should not cause major issues but questioned whether the EBA would be able to deliver by October on all aspects of the CfA as presented, including the targeted review of the framework. While non-compliance with Basel would raise questions, he supported the proposal of one Member to consider all possible options how to improve the framework.

41. The EIOPA representative informed that they have launched a short public consultation on the prudential impact on Solvency II and were planning to hold a roundtable on 22 June.

42. The Head of RBM confirmed that the EBA would continue working on all aspects of the CfA as presented.

43. The Chairperson concluded by noting the comments and the consensus to delay the publication and said that the EBA would have to focus mainly on the capital framework and carefully assess all options to make it more risk sensitive.

Conclusion

44. The BoS approved the EBA's proposal to delay the reply to the EC until October 2022 by consensus.

Agenda item 7: SREP Guidelines for investment firms

45. The Chairperson introduced the item by stressing that the tabled Guidelines were jointly developed by EBA and ESMA.

46. The EBA Head of Supervisory Review, Recovery and Resolution Unit (SRRR) continued by adding that the Guidelines should be read in conjunction with the RTS on Pillar 2 add-ons for investment firm which were planned to be submitted to the BoS in written procedure after the BoS conference call. They were revised on the basis of the six answers received during the public consultation process, closed on 18 February 2022, as well as the feedback received from the members of the relevant sub-groups and standing committees at the EBA and ESMA. He clarified that the Guidelines were addressed to CAs and they were relevant for the assessment of investment firms subject to IFR/IFD; i.e. the largest and systemic investment firms (class 1) were not in the scope of these GL as they were subject to CRR/CRD. Therefore, these applied mostly to the assessment of class 2 firms (which were subject to k-factor requirements under IFR), as well as, on a case-by-case basis and to the extent relevant, small and non-interconnected investment firms (class 3). The Head of SRRR concluded by stressing that in order to provide timely guidance for CAs on SREP for investment firms, and considering that IFR / IFD were already applicable, it was necessary to publish the final report on the Guidelines in July.

47. The BoS supported the work. One Member was of the view that the EBA should provide further clarifications on ICAAP and the stress testing framework by issuing new guidelines on these items.

48. The Chairperson concluded by noting the BoS' support.

Conclusion

49. The BoS approved the Final report on the draft SREP Guidelines for investment firms by consensus.

Agenda item 8: Guidelines on remuneration data collection

50. The Chairperson introduced the item by noting that the tabled Guidelines were implementing changes introduced by CRD/CRR and IFR/IFD.

51. The Head of SRRR continued by stressing that the Guidelines aimed at improving the data quality and also foresaw a slightly earlier submission of data by institutions and investment firms and from CAs to the EBA. Both should enable the EBA to publish reports on data received during summer in Q4 of the same year. In order to improve the data quality, templates for the data collection on approved higher ratios have been added and the EBA was planning to benchmark every two years. Given the past experience with regard to issues around data quality and the increased number of mandates to produce reports in that area, the EBA was suggesting that the first data processing was done by the CAs and if this proved to be too burdensome, the Guidelines could be reviewed regarding this point for the 2nd round of this data collection. The Head of SRRR concluded by noting that the adoption of the Guidelines was

important to ensure that they could be implemented in the EUCLID 3.2. package and to ensure a continuous benchmarking of remuneration practices.

52. The Members did not raise any comments.

53. The Chairperson concluded by noting the BoS' support.

Conclusion

54. The BoS approved the Final report on the Guidelines on gender pay gap benchmarking exercise for banks and investment firms and the Final report on the Guidelines on the high earner exercises under CRD and IFD by consensus.

Agenda item 9: Risks and vulnerabilities in the EU

55. The EBA Senior Bank Sector Analyst presented the EBA staff analysis of selected key trends in risk indicators, such as capital, liquidity, profitability and asset quality, as well as an analysis of the potential impact of inflation and rising rates. He said that banks' Q1 trends showed some contracting of capital and liquidity ratios, but both remaining on still elevated levels and providing room in case of a deteriorating economic situation. However, there were already also some signs of deterioration in asset quality. Some banks recognised IFRS 9 impairment management overlays, which were related to the Russian war and its impact on macroeconomic developments. In relation to prudential and accounting aspects of the Russian invasion of Ukraine, he mentioned that the EBA has been monitoring the developments. This included aspects such as potential moratoria, borrowers' ability to redeem loans in other currencies than the contractual one, and the EU ban on external ratings towards Russia and Russian-related entities. The EBA is of the view that the current prudential framework and guidance seem to be appropriate, and no action would be required. Similarly, the EBA's assessment of the accounting framework, such as the assessment of impairment stages or expected loss estimates, accounting and prudential consolidation, etc. has not showed necessity of immediate actions given that existing frameworks combined with related guidance seem to be sufficient to deal with the current situation. He concluded by stressing that closer regulatory and supervisory monitoring was crucial.

56. Presentations by Czech and Lithuanian BoS Members followed.

57. In her presentation, the Czech BoS Member focused on consequences of interest rate hikes and said that the Czech banking sector remained highly resilient to adverse economic scenarios. However, the current inflation (increase in CPI by 16% y/y in May 2022) and related CNB`s interest rate hikes were unprecedented in this millennium and since 6 August 2021, the main monetary interest rate (2W Repo rate) increased in multiple steps from 0.05% to 5.75% and another hike was expected by the end of June 2022. She also mentioned that the Czech banking sector was structurally over-liquid and that increase in monetary interest rates immediately led to an increase in the net interest income (due to higher interest income from central banks). At the same time, increase of interest income from loans was slightly delayed

due to interest rate fixations (mainly in retail - mortgages, consumer loans) and transmission of higher interest rates into deposit rates was also delayed due to a huge stock of deposits. She further focused on the impact of increase in interest rates on commercial loans, mortgages, household deposits, asset quality and IRRBB and liquidity gap. Furthermore, she underlined the importance of proper assessment of sustainability of banks' business models by the competent authorities especially in the period of current economic development.

58. The Lithuanian BoS Member focused in his presentation on the impact of the Russian war in Ukraine on the Lithuanian banking sector. He noted that sizeable pre-war dependencies on specific economic segments were swiftly reduced without any major immediate real and financial impact. Furthermore, the Lithuania's stock index has performed better than S&P 500 and EURO STOXX 50, whereas government bond spread has increased. However, the overall market risk is considered to be less relevant for banks. He also covered elevated deposit outflows during the first days after the Russian invasion of Ukraine. Similarly, to the Czech experience, inflation was high and still rising and prolonged high inflation could pose financial difficulties to both corporations and households, which may result in debt servicing issues. With regards to the implementation of international sanctions, he said that the biggest banks decided to halt payments to and from Russia and Belarus.

59. Several Members updated on their national developments, and they stressed that the presented EBA analysis confirmed their national observations, incl. for instance rising net interest margins, but also increasing operational expenses. They considered their national banking sectors resilient but noted that profitability and asset quality might deteriorate in response to current developments. Some Members mentioned the impact of rising rates on capital through fair valued sovereign exposures / bonds. One Member stressed that the impact of a prolonged Russian war in Ukraine might lead to a worsening of the overall economic situation. This might be exacerbated by ongoing COVID related challenges, e.g. in China. Another Member highlighted some positive aspects by saying that the growth outlook was still resilient. Other Members raised concerns related to the effects of higher interest rates on leverage finance and pointed to rising stress among non-financial corporations (NFCs). A number of Members welcomed the EBA's analysis of prudential and accounting aspects and agreed with a further close monitoring. One Member highlighted the conservative approach of banks designating loans in stage 2, which could be considered being preferable in the current situation. Some Members noted increase in net interest income, cost of funding, housing and construction prices.

60. The ECB Banking supervision representative welcomed the EBA analysis and agreed with its conclusion. He noted slight increase of some credit risk indicators and said that there was a significant rise in the cost of risk.

61. The Chairperson concluded by noting the comments and said while observing the rise of interest rates, current position of the market was robust, but the EBA would continue monitoring the developments in order to assess any changes on the market.

Agenda item 10: EU-wide Stress test

62. The Chairperson introduced the item by explaining that there were three topics for discussion – top-down model for NFCI, methodology and sample criteria and macroeconomic scenario narrative.

63. The EBA Director of Economic and Risk Analysis (ERA) briefly summarised the main issues and the EBA Head of Risk Analysis and Stress Testing (RAST) continued by updating on the progress made with regards to the necessary refinements of the top-down model for NFCI to address the most severe validation findings with an aim to decide about its use in the 2023 stress test framework. He said that following the April BoS guidance, the ECB, the EBA and validation experts from CAs continued working on improving the ECB NFCI model and performed an ad hoc data collection to collect long supervisory data on NFCI and total assets from CAs to address the main validation findings. The data was transmitted to the ECB and the ECB re-developed the model to address the findings. The EBA performed a new assessment of the re-developed model. The assessment included a replication exercise, and a sub-set of validation checks that were performed ahead of the April BoS meeting. The Stress Testing Task Force (STTF) also discussed the inclusion of caps and floors as a model overlay. To calibrate the caps and floors, the EBA analysed the historical evolution of NFCI/TA and the behavior of the corridor with the 2021 EU-wide stress test data. There were split views between the choice of two corridor ranges, namely the [-20%, -10%] and [-30%, -10%]. The first was considered appropriate as it offered continuity with the current stress test approach while not far from the historical data. The [-30%, -10%] range offered a more conservative alternative and could allow the top-down model projections to be used for more banks.

64. The Members supported the work and welcomed the progress done since the last BoS meeting in April. The majority of the Members supported the use of the NFCI top-down model in the 2023 exercise, except for one Member who suggested to delay its implementation until 2025 exercise. Their main concern was a number of potential outliers produced by this model. The Members also supported the use of the corridor but there were split views on the range between the two proposed. One Member was of the view that the methodology should not start with the strongest position and given that the final scenario was not known yet, the range [-20%, -10%] was preferrable and if needed, when the scenario would be available, the range could be increased. Some Members supported this proposal, also noting that this would be consistent with the methodology of the previous stress-test A few Members said that the range [-20%, -10%] was too constrained as opposed to [-30%, -10%] and highlighted a need of having a final scenario before taking a decision. A number of Members stressed the importance of external communication on the changes to the methodology compared to previous exercises.

65. The ECB Banking supervision representative thanked all experts for their validation work and reminded the BoS that the aim of having a top-down model was to increase realism of the exercise and improve the efficiency with these centralised efforts. He also said that their preferred range was [-30%, -10%].

66. The Chairperson concluded by noting a good progress on the development of the top-down NFCI model and its support by the majority of the BoS, except for one Member. He also noted the split views on the corridor range and said that the EBA would come back to this issue once the final scenario was available. He stressed the importance of the communication and the preparation of a way forward for expanding the top-down projections to other parts of the methodology.

67. The Head of RAST confirmed that the methodology could be amended in a way that the range would be specified later.

68. With regard to the sample and the methodology, the Head of RAST explained that the EBA was planning to follow similar steps as in the past – the EBA and relevant experts group (STTF) developed the draft methodological note, templates and template guidance which were intended to be the basis for an industry discussion in July and August 2022 to receive feedback from banks. The STTF would discuss in September the comments received before the finalisation of these documents by the end of October/early November. A template testing with banks was planned to take place during October/November. On the methodology, he mentioned two aspects – inclusion during the consultation period of information on economic sectors as part of the stress test templates with an aim to have more sectorial information, and final review of the leverage ratio changes. On the sample, he referred to the EBA's proposal to drop the EUR 100bn threshold that limits including additional banks to the sample (currently banks need to have a minimum size of EUR 100bn) at CAs' discretion; allow the CAs' to decide whether to include banks in the sample with a size below 30bn; add criteria for the exclusion of certain banks from the sample, due to specific business models or because a bank takes part in a M&A, and to apply a two-tier proportionality approach. The proportionality approach could be applied to banks that enter the sample after 70% coverage of the banking sector. The Head of RAST also mentioned ongoing discussion at the SSM level regarding inclusion/exclusion of some banks.

69. The ECB Banking supervision representative continued by summarising their discussions on the criteria for the sample of SSM banks. He welcomed increasing the threshold from 70% to 75% of banking assets and the proportionality approach above 70%. He also clarified that due to their internal processes, the final discussion was planned to be finalised by mid-July. With regard to the types of institutions they were considered to exclude, he referred to custodians and asset managers.

70. The BoS supported the work on the methodology, sample and criteria. One Member did not agree with the proposed CAs' discretion for inclusion of some banks. Other Member noted that two banks in their jurisdiction proposed for the sample by the SSM would not bring any further value to the exercise and therefore, he expected further discussions at the SSM level. One Member questioned whether the exclusion of banks based on their business model would be done on a case-by-case principle, or whether there would be any common criteria. Another Member questioned whether for the consultation for the industry, the EBA should communicate that all SSM banks would be included in the sample given that the final sample

has not been decided yet. Another Member highlight that the application of FX just to a selected number of P&L items was not supported by the accountancy rules and it was distorting banks' stress test results as a consequence.

71. In his response, the Head of RAST clarified that after the discussion at the SSM level, the final sample proposal would be sent to the BoS, including proposals for exclusion of banks based on their business models.

72. The Chairperson concluded by noting the Members' support with the methodology, and the criteria for the sample. The Chairperson also asked the SSM representative to make efforts to finish the discussion on the sample earlier as the objective was to publish the methodology as soon as possible.

73. The Chair of the ESRB TF on Stress Testing presented the narrative for the adverse scenario. He explained the key systemic risks considered as well as the main building blocks of the scenario related to uncertainties caused by the war in Ukraine; long lasting Covid-19 pandemic effects; inflation and commodity prices; high implied volatility and turbulent financial conditions, and finally, financing and debts sustainability concerns.

74. Two Members raised questions regarding sectoral dimension of the stress test exercise and one Member asked about the severity of the scenario.

75. The ESRB representative invited the Members to further discuss the sectoral aspects at the expert level when finalising the narrative for the scenario.

76. The Chairperson concluded by noting the support of the BoS on the narrative.

Conclusion

77. The BoS approved the adoption of the ECB NFCI model for the 2023 EU-wide stress test subject to a "corridor", which shall be further discussed once the scenario has been finalized, by consensus with an objection from one Member.

78. The BoS approved the draft methodology, templates, and template guidance for the 2023 stress test exercise by consensus.

79. The BoS approved the sample criteria by consensus.

Agenda item 11: EBA response to Call for advice on PSD2

80. The Chairperson introduced the item by reminding the Members that in In October 2021, the EBA received from the EC a Call for advice (CfA) on the review of the second Payment Services Directive (PSD2). The tabled draft EBA response to the CfA proposed to the EC to revise PSD2 and raised a large number of issues to be addressed.

81. The EBA Deputy Head of Conduct, Payments and Consumers Unit (COPAC) continued by saying that the EBA's response put forward more than 200 specific proposals across the entire Directive on how to address the identified issues. He introduced the more prominent and impactful proposals, such as those related to the merger of PSD2 and the Electronic Money Directive, the application of strong customer authentication, open banking, de-risking practices, prudential requirements and others. He also highlighted the main controversial issues raised at standing committee level, which related to the proposal for introducing specific requirements for unregulated entities in the payment chain that play a role in the implementation of security requirements and the proposal to use initial capital for the purpose of authorisation of account information service providers instead of a professional indemnity insurance.

82. The Members supported the work. One Member welcomed the proposals in the EBA's reply and stressed the importance and timeliness of this work, by emphasising on the positive direction on the topics of resolution, governance, safeguarding, own funds and that PSD2 can even go further on some of these. Another Member appreciated the consumer protection and resolution aspects covered in the Opinion but expressed general preference to move from detailed security requirements, as those proposed in the Opinion, to principle-based requirements to foster innovation and new technical solutions.

83. The EC representative welcomed the EBA's draft response both on the PSD2 and MCD and stressed that they will be useful in the light of EC's upcoming work on the files.

84. The Chairperson noted the BoS' support.

Conclusion

85. The BoS approved the EBA response to the CfA on the PSD2 by consensus.

Agenda item 12: EBA response to Call for advice on the MCD

86. The Chairperson introduced the item by reminding the Members that in December 2021, the EBA received from the EC a CfA on the review of the Mortgage Credit Directive (MCD) and that the tabled draft EBA response to the CfA proposed to the EC proposes to revise the MCD in specific areas.

87. The Deputy Head of COPAC continued by noting that while the MCD has improved consumer protection and harmonisation of practices across the EU, the EBA proposed in its reply to the CfA to amend the Directive. He introduced the more prominent and impactful proposals, such as those related to the scope of the Directive, disclosure of information to consumers, introduction of borrower-based measures and others. He briefly summarised the main controversial issues discussed at standing committee level, which related to the introduction of an additional set of rights for consumers when artificial intelligence systems were used in the creditworthiness assessment, the clarification whether credit intermediaries may hold borrowers' funds, and the introduction of the borrower-based measures.

88. The Members supported the work. Two members commented on borrower-based measures with one indicating that a general discussion on the review of the macroprudential toolkit is needed and another one reaffirming the exclusive responsibility for CAs to have to calibrate the measures in their jurisdictions. One of these Members also informed that in their jurisdiction, credit intermediaries were not allowed to hold borrowers funds. Another Member proposed including a reference to the EIOPA report on bancassurance on issues linked with tying/bundling practice, as well as to amend the requirements on the suitability of the home-host CA allocation of responsibility for cross-border services. The same Member pointed out that the market indicators referred to in paragraph 64 of the report may not be defined and can be difficult to obtain data on them. A third Member asked to refer to the application of principle of proportionality when extending requirements to all types of lenders. The same Member asked to delete paragraphs 40 of the Report in relation to the calculation of the annual percentage rate of charges in order to preserve the comparability between offers. Two Members raised their doubts that lease contracts for residential property should be covered by MCD. One of these Members was also of the view that an EU definition of green mortgages should not be introduced, as this may have a negative impact on the creditworthiness assessment of the borrower.

89. In his reply, the Deputy Head of COPAC clarified that the mentioned EIOPA report has not been published yet and therefore, no reference could be included. On the points on borrower-based measures, he indicated that the response was based on previous publications of the EBA, that the proposal was neutral in terms of potential approaches on calibration at national level and that the measures were envisaged to contribute to sound lending standards, lower mortgage growth and higher resilience of households. On the allocation of responsibilities between home and host CAs, he indicated that this was a horizontal issue and should be tackled more holistically. He also mentioned that the principle of proportionality was reflected in the EBA's response to the CfA. He highlighted that there was no support at standing committee level to the individual proposals to delete paragraph 40 of the Report and to delete the proposal to have a common EU definition of green mortgages. He clarified that the definition of green mortgages should not have an impact on the borrowers' creditworthiness assessment, that the EBA has put forward a lot of emphasis on the need for proper creditworthiness assessment in its response and that further actions would be taken in the upcoming work in relation to the transition to sustainable finance.

90. Two Members asked whether they could submit technical comments after the BoS conference call.

91. The Chairperson concluded by noting the BoS' support and asked the Members to send non-substantial technical comments by 22 June cob.

Conclusion

92. The BoS approved the EBA response to the CfA on the MCD by consensus.

Agenda item 13: AOB

93. None of the Members raised any other business comments.

Participants of the Board of Supervisors' conference call 21 June 2022

Chairperson: Jose Manuel Campa

Country[1]	Voting Member/High-Level Alternate	National/Central Bank
1. Austria	Helmut Ettl/Michael Hysek	Karin Turner-Hrdlicka
2. Belgium	Jo Swyngedouw/Kurt Vam Raemdonck	
3. Bulgaria	Stoyan Manolov	
4. Croatia	Tomislav Coric/Sajna Petrinic Turkovic	
5. Cyprus	Constantinos Trikoupis	
6. Czech Republic	Zuzana Silberova	
7. Denmark	Jesper Berg/Thomas Worm Andersen	Morten Rasmussen
8. Estonia		Timo Kosenko
9. Finland		Katja Taipalus
10. France	Dominique Laboureix/Emmanuelle Assouan	
11. Germany	Adam Ketessidis[2]	Christian Denk
12. Greece	Heather Gibson/Kyriaki Flesiopoulou	
13. Hungary	Laszlo Vastag	
14. Ireland	Gerry Cross	
15. Italy	Andrea Pilati	
16. Latvia	Ludmila Vojevoda	
17. Lithuania	Simonas Krepsta	
18. Luxembourg	Nele Mayer	Christian Friedrich
19. Malta		Alan Cassar
20. Netherlands	Maarten Gelderman/Sandra Wesseling	
21. Poland	Kamil Liberadzki	Olga Szczepanska
22. Portugal	Ana Paula Serra	
23. Romania	Catalin Davidescu	
24. Slovakia	Tatiana Dubinova	
25. Slovenia	Primoz Dolenc/Damjana Iglic	
26. Spain	Angel Estrada	
27. Sweden	Magnus Eriksson	

EFTA Countries	Member
1. Iceland	Kristjan Olafur Johannesson
2. Liechtenstein	Markus Meier
3. Norway	Morten Baltzersen

Observer	Representative
1. SRB	Nadege Jassaud

Other Non-voting Members	Representative

[1]Accompanying experts: Luca Serafini (Banca d'Italia); Fionnuala Carolan (Central Bank of Ireland); Pascal Hartmann (FMA); Marek Sokol (CNB); Annemijn van Rheden; Jonathan Rusch (DNB); Julia Blunck; Christian Elbers (BaFin); Cecilia Lozano (Banco de Espana); Stina Mader (Finantsinspektsioon); Anne Puustelli (FIN FSA); Liga Kleinberga (FCMC); Pawel Gasiorowski (NBP); Brita Hrenovica (Finanstilsynet); David Baldacchino (MFSA); Jose Rosat (Bank of Portugal); Marc Peters (EC)

[2] BaFin representative acting on behalf of the BoS Voting Member without voting rights

1.	ECB/SSM	Stefan Walter
2.	European Commission	Martin Merlin
3.	EIOPA	Kai Kosik
4.	ESMA	Natasha Cazenave, Tomas Borovsky
5.	EFTA Surveillance Authority	Marta Margret Rúnarsdóttir
6.	ESRB	Toumas Peltonen, Emilio Hellmers, Jerome Henry

EBA

Executive Director	Francois-Louis Michaud
Director of Economic and Risk Analysis Department	Jacob Gyntelberg
Director of Prudential Regulation and Supervisory Policy Department	Isabelle Vaillant

Heads of Unit

Philippe Allard; Angel Monzon; Jonathan Overett Somnier; Antonio Barzachki; Francesco Mauro; Lars Overby; Delphine Reymondon;

EBA experts

Tea Eger; Andreas Pfeil; Margaux Morganti; Guy Haas; Adrien Rorive; Roberta De Filipis

For the Board of Supervisors

Done at Paris on 22 July 2022

[signed]

José Manuel Campa

EBA Chairperson