

EBA MB 2022 088 rev. 1

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Management Board

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27 September 2022/09:30 – 12:45

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Location: teleconference

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# Management Board meeting – Final Minutes

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## Agenda item 1: Welcome and approval of the agenda and the Minutes (for decision)

1. The Chairperson welcomed the Members. 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 but the Chairperson said that due to his conflict of interest, he was not attending the discussion on the last item related to the ACCI advice.
2. The Chairperson informed that the Minutes of the 25 May 2022 MB meeting were approved by the MB in the written procedure.

### Conclusion

3. The MB approved the Agenda of the meeting.

## Agenda item 2: Administrative and Operational Status Report (for information)

4. The Executive Director presented the Administrative and Operational Status Report.
  5. With regard to Human Resources, the Executive Director informed that on 01 July, the EBA has implemented the European Commission's (EC) Decision on working time and hybrid working. The implementation of the Decision has been based on three principles (trust, consistency, accountability) and was closely monitored at Senior Management level with the objective to gather staff and Middle Manager's feedback in the autumn. He noted that the Decision included a review clause and that considering potential future changes, the EBA has decided to be fully aligned with the Decision from the beginning. He also reminded the MB of the staff
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engagement survey and the subsequent action plan which focused on three aspects – values and culture, career development and staff well-being.

6. On Finance and Procurement, the Executive Director said that the budget execution was on track and according to the planning. Procurement concluded procedures for two high value calls for tender: for Managed Network Services, and for Mystery Shopping.
7. With regard to the Information Technology, the Executive Director informed that all projects were on track and on time. Cloudification Program concluded contracting and moved into vendor engagement and migration planning.
8. In relation to Corporate Support, the Executive Director reminded the Members that the EBA obtained the EMAS certification in August 2022 and as part of the initiative, the EBA was organising staff workshops to define together the vision of a ‘dynamic collaborative space in a sustainable working environment’.
9. On Communications activities, the Executive Director reminded the Members that the 2021 Annual Report was published in pdf and digital format in June. It described in detail the activities and achievements in 2021 and provided an overview of the key priorities for the coming year. In June, the 2022 Consolidated Annual Activity Report was transmitted to the EU Institutions and published for the first time on the EBA’s website for transparency purposes.
10. With regard to trainings to the competent authorities (CAs); the Executive Director mentioned that the training team delivered its first physical training on ‘DGS Stress testing’ on 05 September 2022 since the outbreak of the pandemic. Five online workshops/webinars were delivered with over 757 participants in total.
11. On Colleges, the Executive Director informed that from May to August 2022, the EBA staff have attended eleven college interactions, out of which ten took the form of conference calls and 1 was a hybrid meeting. Between 01 January and 31 August 2022, 89 new AML/CFT colleges were established, raising the total number of AML/CFT colleges to 227.
12. The Executive Director also mentioned that the Board of Appeal and Ombudsman dismissed appeal/complaint against non-opening of a breach of Union law investigation by an individual. French Conseil d’Etat rejected a challenge by the French Banking Federation against ACPR’s compliance with EBA guidelines on loan origination, finding that there was no reasonable doubt about their correct application of Union law. Data subject access request received in March in the context of the EBA’s report on competent authorities’ response to the Luanda Leaks was closed on 24 June 2022 with no subsequent correspondence received on the request.
13. Finally, with regard to internal controls, the Executive Director noted that the Internal Controls presentation was now a part of the induction training for all newcomers.

14. The EBA Director of Operations summarised internal EBA activities on monitoring and follow-up on audits. He said that there were three ongoing audits and the first meeting of Audit on Human Resources management and Ethics in the EBA took place on 16 September 2022. The other audits related to internal control framework and annual accounts.
15. The Members took note of the Administrative and Operational Status report. One Member welcomed follow-up information on the audit. Another Member requested clarification on the mystery shopping noting that there were jurisdictions in which mystery shopping was not allowed to be used by public authorities.
16. On the mystery shopping, the EBA Head of Finance and Procurement Unit explained that the EBA, together with the other ESAs, contracted a firm providing a service and not a tool as such. The EBA Director of Innovation, Conduct and Consumers Department (ICC) added that the EBA was planning to develop a methodology for the mystery shopping together with the CAs and that the pilot was to be done with four CAs.
17. The Chairperson concluded by noting the comments.

## Conclusion

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

## Agenda item 3: Update on EBA's college monitoring activity (for discussion)

19. The Chairperson introduced the item by reminding the MB of the EBA's mandate in fostering the effective, efficient and consistent functioning of supervisory and resolution colleges. In addition, the EBA had to participate and coordinate work in AML/CFT colleges.
20. The EBA Director of Prudential Regulation and Supervisory Policy Department (PRSP) continued by referring to the MB discussion in May 2021, during which the MB supported the college monitoring approach for 2021-2023, including the proposed development of qualitative key performance indicators (KPIs) aimed at enhancing the effective and efficient work of colleges. She noted that the KPIs have been developed (1. Level of cooperation, 2. Quality of college meetings, 3. Quality of key deliverables, 4. College processes related to the key deliverables) and that the tabled note summarised their planned implementation in colleges. Furthermore, the note also provided an interim update of the implementation of the 2021-23 college monitoring approach in supervisory and resolution colleges and informed about the EBA's AML/CFT college monitoring activity. In order to ensure the increasing use of synergies in the college monitoring activity across the different colleges, the note also explained the areas of close cooperation. In the context of Covid-19 and the Russian aggression against Ukraine, the Director of PRSP mentioned that the EBA proactively and actively facilitated information sharing in colleges and closely followed the respective interactions. She also stressed that the resolution colleges have been developing their own working methods

that suited their specific needs. The Director of ICC complemented by noting that the AML college framework was fully launched. She also observed that for some jurisdictions, the college work was new and therefore, the cooperation and work was still at its starting phase.

21. The Members supported the work. A few Members referred to the AML colleges and said that there was an open issue with the third countries observers who could still not participate in some colleges at the end of 2021 because the assessment of the confidentiality requirements applying to them had not yet been carried out or finalized by the lead supervisors of these colleges. One Member suggested that the EBA could be a facilitator to help with the issue and also, to draft a template to progress the assessments. On KPIs, the Member acknowledged their benefit of helping to make the assessment of colleges better but noted that they need to be flexible and not too burdensome. One Member was of the view that while the proposed questionnaire for the colleges could provide good feedback, it might be challenging for smaller colleges (e.g. without a JD). Therefore, the EBA could consider how to tailor the questionnaire for these colleges. Another Member suggested that host authorities should fill the questionnaire where relevant as this could simplify the procedure as well. The MB supported the extension of the KPIs to the monitoring of resolution colleges as proposed by the EBA and agreed that at this stage, the KPIs were not to be used for AML colleges and this should be clearly stated in the note. One Member questioned whether the EBA was planning to launch a comprehensive review of the AML colleges' set up as there were too many of them. This Member also noted that the identified best practices could be listed in a separate document for future references.
22. In her response, the Director of PRSP noted the reservations of the Members with regard to the KPIs and agreed that they should be balanced and flexible. She also said that the respective subgroup would be consulted on defining the 1) notion of "quality" in the context of the self-assessment, as well as 2) the scope for smaller colleges (that do not reach JD). The EBA would consider drafting a good practices report.
23. The Director of ICC noted that good practices were summarised in the recently published AML colleges report. She acknowledged the high number of AML colleges and said that the EBA was monitoring their functioning on an ongoing basis. A second report, which also identified good practices, had been published earlier in September. EBA had now moved to implement its new AML colleges strategy and as part of this, was planning to continue reviewing strategy adoption at the end of 2023. As a result of those reviews, EBA proposes how to enhance and improve the quality of their work in preparation for the implementation of the new EU AML framework, where AML colleges were mandatory and enshrined in the L1 text.
24. The Chairperson concluded by noting the MB's support for the work and said that that the EBA would consider how to effectively engage third countries observers. There was support for the KPI's but it should be made proportionate.

## Conclusion

25. The MB took note of the Update on the EBA's college monitoring activity and supported the use of KPIs if applied proportionate by consensus.

#### Agenda item 4: ERM risk appetite statement and risk register (for decision)

26. The Chairperson introduced the item by noting that after the MB discussion in March and adoption of the overall risk management policy in July, the MB has now been presented with the EBA's risk appetite framework and its initial set of strategic risks.
27. The Executive Director added that after setting up of internal controls framework in 2021, strengthening of the Legal and Compliance team as well as centralization of monitoring of all audits, the EBA was in the implementation phase of an enterprise risk management system. He reminded the different component of the framework, and of the previous steps, including a discussion in March to get guidance from the MB on risk appetite in particular, and the policy adopted in July. He explained that since then, EBA had been focusing on how to make the framework useful and how to best embed it. This should not result in a big bureaucratic exercise, not be a tick the box exercise, but rather help steer the work programme execution and activities. This was the reason why EBA had decided to take more time and prolong the work until now instead of rushing to close it by March, as had also been explained to the IAS. Against that background, the list of strategic risk had been cut from 36 to 15, distinguishing between whether their source was endogeneous or exogenous. The implementation could rely on combining a top-down dimension (discussion at Directors level) with a bottom-up one (leveraging the detailed list of activities planned in the work programme).
28. The EBA Head of Legal and Compliance Unit (LC) continued by saying that the EBA engaged external consultants to advise on implementing a full enterprise risk management system. He mentioned that the main changes to the strategic risk register compared to previous version discussed with the MB were: simplification of the strategic risks areas, distinguishing between risks driven by external factors, and those which were more internal; reduction to 15 strategic risks from 36, consolidating many of the original risks and updating some in the light of events (e.g. challenges to the EBA's 2022 budget due to unexpected changes in staff costs); validation of risk scoring by Risk Officer and Executive Director, taking into account Head of Unit/Director scores on the risks in the March 2022 version of the risk register; and refinement of risk event, consequences and causes, and addition of current mitigating actions. He also summarised the main changes to the risk appetite framework and said that it was now a standalone document that could be reviewed annually without having to update the overall policy document and that it also included risk appetites for work with external partners, management of financial institution data, innovative opportunities, business interruptions and resource management. The Head of LC concluded by outlining the next steps in the implementation, in particular the production of a lifecycle document which set out the annual cycle that the risk management process would follow, and which was closely tied to the annual work programme cycle. He mentioned that the MB would be provided with an annual update on the risks and any mitigating activities at its March/April meeting. In parallel, work would be taking place to

prepare a full update of the strategic risk register which would be presented annually to the MB at its September/October meeting. Finally, the Head of LC said that the EBA was also working with the consultants to implement a database which would support the management of the risk register and lifecycle, as well as to provide training to risk owners, Heads of Unit and a team of risk champions who would support business areas as well as the risk management team.

29. The MB supported the work and approaches described, and stressed the importance of the implementation and how the procedures would be embedded in the daily work of the EBA, and reporting on lessons learned following the first annual cycle of the new risk management process.
30. The Chairperson concluded by noting the MB's support and said that the EBA was planning to review the processes after one year.

### Conclusion

31. The MB approved the risk appetite framework and the strategic risk register by consensus.

### Agenda item 5: Peer review work plan 2023 - 24 (for decision)

32. The Chairperson introduced the item by noting that in the last ESAs Review, there was a suggestion to make more use of peer reviews. To reflect this suggestion and as part of the reorganisation made earlier this year, the coordination of the peer reviews was moved to the Legal & Compliance Unit and increased the resource available.
33. The Head of LC continued by stressing that according to the EBA Founding Regulation, the EBA should adopt a two-year peer review plan. He explained that the Regulation did not specify how often the EBA should adopt the plan and therefore, the EBA's proposal was to adopt a 2-year plan annually, the first year as a concrete, timed and resourced plan, the second year as a pipeline of potential topics, which would later be refined. He also mentioned that the EBA was proposing two adjustments to how peer reviews were identified and developed – 1) topic-based approach – the peer review plan to be based on topics which related more directly to the EBA's priorities (including those set out in ESEP and EREP) rather than being driven by compliance with specific technical standards/guidelines to allow a more holistic approach and provide more flexibility to focus on key issues that emerge in the initial stages of a peer review; 2) smaller sample - peer reviews would increasingly sample, typically, six competent authorities (CAs), selected to provide a range of potential supervisory approaches, markets, geographies etc. This would reduce the overall burden for CAs, allow quicker, more targeted peer reviews and/or the ability to focus more in depth. The Head of LC also presented the work plan for 2023-24 which included peer reviews to be launched in 2023 (Treatment of mortgage borrowers in arrears; Definition of default; Supervisory independence: operational and personal independence) and follow-up peer reviews to be launched in 2023 (Qualifying holdings (main report published August 2021) and Supervision of NPE management (main

report published May 2022)) and potential peer reviews for 2024 (Proportionality in the application of SREP; Sustainability of business models; Institutions' stress testing; Resilience of deposit guarantee schemes) and follow-up peer reviews to be launched in 2024 (IT risk management; PSD2 authorisation; CVA risk exclusion).

34. The Members supported the peer review work plan. On the smaller sample approach, some Members raised concerns regarding the selection criteria and stressed that they should be proportionate. Some Members questioned whether the ECB and non-banking Union countries would always be represented in the sample. One Member noted that some countries might want to volunteer to participate in some peer reviews. With regard to the follow up reviews, two Members were of the view that they should start two years after the peer review has been finalised rather than 18 months. One Member asked whether the sample would be the same for the peer review and the subsequent follow up. On the topic of supervisory independence as one of the potential peer reviews, one Member said that this topic was always a part of each review and therefore, it should not be a separate peer review. Other Members supported the topic and one Member was concerned that the peer review might interfere with the ongoing political discussion on CRD VI. A number of Members said that as a first step, the standards for peer reviews should be defined and only then the MB could agree on the topics. In addition, it should be clear against which regulation each review was done. One Member asked for close cooperation between the ESAs before deciding on work on supervisory independence.
35. In this response, the Head of LC clarified that the sampling would be done on a case-by-case approach and various factors, such as the topic, methodologies and markets would be considered. He noted that the ECB/SRB would probably always be part of a sample for banking prudential/resolution topics. He also said that each peer review would have a detailed mandate on which the MB would be consulted before BoS approval. The Head of LC explained that found regulation provides some flexibility in the timing of follow-up peer reviews, but it was important not to take too long to follow up in order to ensure that improvements identified are implemented within a reasonable period of the initial peer review.
36. The Chairperson concluded by noting the comments and said that the ESAs have been closely cooperating. On the topic of supervisory independence, he agreed that the EBA should further discuss it and postpone the peer review and start with the review on the credit institutions' stress test or proportionality of the SREP process.

## Agenda item 6: Provisional Agenda of the BoS meeting on 18 and 19 October 2022 (for discussion)

37. The Chairperson reminded the MB that the next BoS physical meeting was scheduled for 18 and 19 October 2022 followed by the Joint BoS/BSG meeting which was also planned as a physical meeting.
38. The Members did not raise any comments.
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## Conclusion

39. The MB took note of the draft Agenda of the 18 and 19 October BoS meeting.

## Agenda Item 7: AOB

40. The Members did not raise any other business issues.

## Agenda Item 8: ACCI opinion on Chairperson/ED declarations of interest 2022

41. The item was discussed in a restricted set up without the presence of the Chairperson and Executive Director. The discussion was chaired by the EBA's Vice-Chairperson.

42. The EBA Vice-chair introduced the item and noted that the Executive Director did not declare any conflict of interest. With regard to the Chairperson, he informed the MB that due to a share capital increase, the Chairperson had an additional block of shares which he sold in February 2022. In addition, the Chairperson still had a number of shares vesting to him in February 2023. Given that there was no change in the Chairperson's Annual Declaration of Interest other than the disposal in February 2022 of a further block of shares, including additional shares resulting from a share capital increase, the Vice-Chairperson concluded that the Advisory Committee on Conflict of Interest (ACCI) considered the MB's 2021 decision on the Chairperson's conflict of interest to be sufficient to address the declared conflict of interest in order to avoid conflicts of interest, the Vice-chair could be involved if deemed necessary.

43. The MB did not raise any comments.

44. The Vice-Chairperson concluded by noting the MB's support.

## Conclusion

45. The MB took note of the ACCI opinion on the Chairperson/ED declarations of interest 2022 and unanimously agreed with it.

## Participants at the Management Board conference call

27 September 2022

**Chairperson** Jose Manuel Campa  
**EBA Vice-Chairperson** Jo Swyngedouw

**Member** Maarten Gelderman  
**Member** Kamil Liberadzki  
**Member** Karin Lundberg  
**Member** Dominique Laboureix  
**Member** Helmut Ettl  
**Alternate** Peter Lutz

**European Commission representative** Dominique Thienpont

### **EBA**

Executive Director  
Director of Operations  
Director of Prudential Regulation and Supervisory Policy  
Director of Innovation, Conduct and Consumers

Francois-Louis Michaud  
Peter Mihalik  
Isabelle Vaillant  
Marilyn Pikaro

### **EBA Head of Units**

Philippe Allard  
Jonathan Overett Somnier  
Fergus Power

### **EBA Experts**

Tea Eger

For the Management Board,

Done at Paris on 03 November 2022

[signed]

José Manuel Campa

EBA Chairperson