



EBA MB 2023 100 rev. 1

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Management Board

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25 September 2023 / 09:30 – 13:30

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Location: EBA premises

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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 of the Management Board (MB). 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. However, the Chairperson and the Executive Director considered themselves in conflict with regard to items 9 and 10 of the agenda and therefore, they announced that they would step out from the conference call and that these items would be chaired by the EBA Vice-Chairperson.
2. The Chairperson welcomed Ms Kristine Cernaja-Mezmale and Mr Csaba Kandrac as new MB Members and Mr Helmut Ettl as the new EBA Vice-Chairperson.
3. The Chairperson informed that the Minutes of the 30 May 2023 MB conference call were approved by the MB in the written procedure.
4. The Members did not raise any comments on the agenda.

## Conclusion

5. The MB approved the agenda of the meeting.
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## Agenda item 2: Administrative and Operational Status Report (for information)

6. The Executive Director presented the Administrative and Operational Status Report. He noted that the tabled report covered the period from May to August 2023.
7. With regard to Human Resources, the Executive Director informed that the EBA launched the first “SNE open-rolling call” on 21 June 2023 with two objectives: to establish a running pool of interested candidates as the EBA has been regularly offering job opportunities as SNE for a variety of profiles, and to simplify / speed up the hiring process to the benefit of all, mostly to candidates. In total, around 30 different profiles were on offer providing an opportunity to candidate to play an active role in an enriched multicultural environment. He also mentioned a possibility of job swaps between competent authorities (CAs) and EBA and invited the Members to consider these options in their internal HR strategies. The EBA also launched Job shadowing Internship programme. The Executive Director updated on the performance cycle and said that the reclassification exercise concluded on 26 June 2023. Finally, he mentioned that the EBA adopted internal policies on teambuilding and sports and cultural clubs.
8. With regard to Information Technology, the Executive Director said that all projects have been progressing without major disruptions and stressed that the cloudification program accomplished its critical migration phase which required close attention to ensure the completion by the end of the year. No security incidents have been reported.
9. On Communication issues, the Executive Director reminded the MB of the activities related to the publication of the results of the 2023 EU-wide stress test exercise and announced a new webpage on the EBA’s mission statement and values.
10. On Legal and Compliance related issues, the Executive Director updated the Members by saying that there were no ongoing or anticipated litigation or inquiries. Recent mediation case concluded with binding decision adopted. He mentioned that there was one data breach notified to the European Data Protection Supervisor following error in access rights in Ethics Workflow but the EBA identified the problem identified and promptly fixed it. Finally, he said that the original Q&A backlog was largely cleared but the EBA continued focusing on remaining Q&As over 9 months old. He pointed to the concise Q&A information included in the Administrative report and asked whether Members would appreciate more details.
11. The Members welcomed the report. Two Members proposed introducing a timeline or a progress report on the Q&As which should include also statistical data. One Member asked for further details on the IT tool to identify critical third-party providers for DORA.
12. The Executive Director informed that as of next MB meeting, the Administrative and Operational Status report would include a specific dedicated section on the Q&A. On the IT tool, he clarified that the EBA was reviewing existing ESA and market options with an aim to provide simple efficient tool for the three ESAs.

13. The Chairperson concluded by noting the comments.

### Conclusion

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

### Agenda item 3: Establishing Coordination Group on crypto supervision (for decision)

15. The Chairperson reminded the Members of the discussion at the EBA Strategy Day on the need to exchange supervisory experience and have good cooperation starting from the early days of crypto-asset markets supervision through a dedicated forum for the benefit of the EBA and the competent authorities (CAs). He noted that the EBA staff has acted on the conclusions of the Strategy Day with a specific proposal to set up such temporary dedicated forum using a vehicle of MB Coordination Group that would be the first use of Article 45b of the EBA Regulation. During its conference call in September, the Board of Supervisors (BoS) discussed and supported the staff proposal. He concluded by clarifying that the MB has been asked to approve the tabled Terms of Reference (ToR) of the coordination group as well as appoint its co-chairperson.
16. The EBA Director of Innovation, Conduct and Consumers Department (ICC) continued by summarising the main conclusions of the BoS discussion during the EBA Strategy Day, in particular referring to the BoS's support for the prompt establishment of a supervisory forum to allow focused exchanges between national and EU-level authorities on practical matters of authorisation and supervision in the area of crypto-asset issuers. She also mentioned that the BoS expressed a need to cooperate and engage with all authorities involved in the authorisation and supervision of the crypto-asset ecosystem, including ESMA, in view of the emergence of crypto-asset conglomerates. She also recalled that the BoS noted that the forum could also facilitate the EBA in the preparatory steps for its supervisory tasks under MiCAR. Following these initial considerations, the EBA staff presented a proposal to establish a coordination group during the BoS conference call on 12 September 2023, including the respective ToR. The Director of ICC summarised the discussion by the BoS and said that the BoS expressed strong support for the proposal. She continued by clarified organisational and operational aspects of the EBA's proposal and noted that in view of the fact the EBA Crypto Assets Standing Committee under Article 118 of MiCAR could not be formally established until the entry into application of the MiCAR provisions on the transfer of supervisory responsibilities to the EBA (Q3/Q4 2024), the EBA was proposing setting up an temporary forum for the interim period using the Coordination Group format as envisaged under Article 45b of the EBA Founding Regulation. The Crypto Supervisory Coordination Group (CSCG) would be established by the MB requiring all BoS CAs to take part in the work of the group. Its main objective would be to provide a platform for the exchange of experience, supervisory practices and coordinate supervisory actions (including licencing and enforcement) as far as practically possible, primarily in the areas of authorisation and supervision of issuers of asset-referenced

tokens (ART) and e-money tokens (EMT) and related activities and practices in the interim period (until the set-up of the Crypto-Asset Standing Committee). The CSCG would be co-chaired by a member of the MB and the EBA Executive Director. The Director of ICC concluded by saying that all aspects of the CSCG have been described in detail in the tabled ToR.

17. The Members supported the creation of the CGCS and its ToR. Three Members stressed a need for relevant knowledge and expertise given the challenges expected in supervising the relevant subjects and the need to balance the seniority and expertise in the group. One Member questioned whether there would be a special treatment of issuers who were already operating.
18. The Executive Director acknowledged the need for the relevant expertise but also stressed the importance of seniority and understanding of the overall system.
19. The Chairperson invited the Members to consider applying for the co-chairperson position. Ms Heather Gibson expressed her interest, and the MB unanimously supported her nomination.
20. The Chairperson concluded by noting the comments by the Members and acknowledged that the main tasks of the CGCS would be related to practical issues rather than policy issues.

## Conclusion

21. The MB unanimously supported the establishment of the Coordination Group on crypto supervision and its Terms of Reference.
22. The MB unanimously elected Ms Heather Gibson as a co-chair of the Coordination Group on crypto supervision with an immediate effect.

## Agenda item 4A): Peer review – Qualifying holdings follow up report (for discussion)

23. The Chairperson introduced the item by explaining that the tabled report was a follow-up report on the Peer Review on the Joint ESAs Guidelines on the prudential assessment of the acquisition of qualifying holdings, published in 2021.
24. The EBA Head of Legal and Compliance Unit (LC) continued by clarifying that follow-up reviews were carried out two years after the conclusion of the initial peer review in order to assess progress made by the CAs to remedy deficiencies previously identified. He mentioned that the EBA was considering how, in the future, it would address situations when CAs did not adopt any measures to improve issues identified during the peer review. He also referred to the role of the BoS and said that while the follow-up reports would be submitted to the BoS in written procedure, three BoS Members could ask for a discussion during the BoS meeting, but the MB could also identify cases where a BoS discussion should be held.

25. The EBA Expert summarised the main findings on the follow-up report. He noted that the 2021 initial peer review Report covered 30 CAs: all 27 of the EU Member States, the ECB-SSM and 2 EEA countries. Out of the 30 participants, 17 CAs reported a lower than ‘fully applied’ score. Those CAs were found to not fully apply to at least one of the 8 areas reviewed in light of the original 2-year peer review reference period (2019 and 2020). The EBA Expert acknowledged that all CAs have overall taken the need to respond to the assessment of the initial peer review seriously and most have adopted measures to remedy the deficiencies identified. The EBA identified particular improvements in the areas of assessment of the financial soundness of proposed acquirers and of suspicions of money laundering/terrorist financing issues. He concluded by saying that following the MB discussion, the EBA would submit the follow-up report to the BoS via written procedure.
26. The Members supported the work. One Member noted some non-compliance with the EBA guidelines in general and stressed that as result, supervisors had to face daily challenges in their work. She proposed further discussions at the BoS level.
27. The European Commission (EC) representative asked about EBA’s potential follow up actions that could address identified deficiencies. He referred to the publication of the follow-up report but also to discussing in the BoS, or sending a specific EBA letter to relevant CAs.
28. In his response, the Head of LC clarified that the EBA’s guidelines were aimed at harmonising issues supervisors identified and the EBA did expect all CAs to make every effort to comply, and that the EBA was aware of non-compliance at national level. He noted that the EBA would further analyse how to address the cases of non-compliance.
29. The Chairperson concluded by noting the comments and said that following the comments from respective CAs on the follow-up report, the EBA would consider the need for some escalation steps and, if this was identified as appropriate, the report would be submitted to the BoS for discussion, otherwise it would be sent directly to the BoS for written approval.

## Agenda item 4B): Terms of Reference - Proportionality in SREP and Definition of Default Peer reviews (for discussion)

30. The Chairperson introduced the item by reminding the Members that at its meeting in October 2022 the EBA BoS approved the EBA’s Peer Review Work Plan 2023/24, according to which the second and third peer reviews should be carried out on the EBA Guidelines on the application of the definition of default (DoD) (EBA/GL/2016/07) and on application of proportionality in SREP.
31. The Head of LC continued by explaining the tabled Terms of Reference (ToR) also included the nominees for the Peer review committees (PRC). With regard to the SREP, he noted that the overall objective of this peer review was to examine the effectiveness of, and degree of convergence reached in, the application of proportionality in accordance with the

requirements of section 2.4 of the SREP Guidelines (EBA/GL/2022/03). The review would focus on the supervisory approaches and outcomes of the targeted CAs regarding their general application of the principle of proportionality in the scope, frequency and intensity of supervision and dialogues with institutions under their supervision in the context of the SREP. In particular, there would be a focus on the categorisation of institutions and supervisory expectations set in accordance with that categorisation. In addition, the peer review would examine the practical application of proportionality in the area of liquidity risk focusing on CAs' application of proportionality under Title 8 of the SREP Guidelines. On the DoD peer review, the Head of LC noted that the peer review would, in line with previous feedback from the MB, include IRB banks and the CAs targeted were based on the methodology previously discussed. The EBA Senior Policy Expert noted that the SREP peer review had been a proposal of the EBA's Advisory Committee on Proportionality.

32. The MB supported the work. One Member noted that the SSM was also reviewing SREP-related aspects of their work. Several Members questioned how the EBA selected the countries for the peer review, in particular for the DoD peer review, as well as the actual reviewers. One Member proposed considering, as part of the DoD peer review, measures adopted by national governments.
33. The Chairperson added that the EBA and SSM were in close contact on the topic of SREP peer review.
34. The Head of Legal explained that the reviewers have been nominated by the BoS following calls to nominate experts. He mentioned that the response to these calls was often limited and that given the EBA's preference to introduce more judgement-based peer reviews, the EBA would welcome national expertise and thus, more nominations of national experts. On the selection of countries and ultimately, the CAs for the peer review, the Head of LC clarified that the EBA used an objective numerical approach as per conditions set out in the ToR.
35. The Chairperson concluded by noting the MB's support for the work and that the ToR would be submitted to the BoS for written approval with an explanation of how the targeted CAs had been identified.

## Agenda item 5: Investigation on data sharing under the 2023 EU-wide Stress Test exercise (for discussion)

36. The Chairperson informed the Members that the EBA has been investigating a potential leak of information about the provisional data under the 2023 EU-wide stress test. The data was published in a newspaper in one Member State in July 2023.
37. The Executive Director summarised security inquiry actions done by the EBA during August 2023. He noted that the investigation did not reveal any evidence that there was a leak containing the information published from any EBA communication and information system.

Recent IT programmes had enhanced the EBA's ability to carry out such inquiries and the work had identified a few areas where existing plans would soon strengthen those abilities, and where further work could be carried out to enhance them further.

38. The Chairperson added that the security inquiry also revealed that although internal data-handling processes for the stress test were documented clearly, there was no specific communication between the EBA and the CAs on the exercise's governance of stress test-related data. Therefore, he questioned whether there should be a specific policy with regard to the stress test data. Finally, the Chairperson mentioned that the EBA was considering issuing a questionnaire to the CAs asking about their data handling procedures and response to the potential leak.
39. The Members welcomed the discussion and supported the EBA's consideration on contacting the CAs and questioning their data handling policies. One Member mentioned that an inquiry was being conducted on the data handling at their national level and in liaison with the SSM; the work was still ongoing, and they would be able to share the conclusions drawn with the EBA once it has been finalised. He also noted that no leaks have been identified in their national stress tests. Other Member stressed a need for a good communication strategy for similar cases of leaks in the future.
40. The EC representative asked about any leaks in the past and whether the EBA needed a specific stress test data handling policy given the existence of general policies for handling sensitive information. He also supported the proposal for the EBA to liaise with the CAs on data handling issues.
41. The Head of LC noted that the EBA was in contact with the SSM in relation to its work in this area.
42. The Executive Director confirmed that no further investigations were planned by the EBA and that in the recent stress test exercises, there were no leaks of any information.
43. The Chairperson concluded by noting the comments and acknowledged that due to higher interest and expectations related to the stress test, the EBA would further discuss how to handle data in the most efficient as well as safe and confidential way and would make contact with the CAs to understand their own arrangements and response to the potential leak.

## Agenda item 6: Risk management – strategic risk register and risk appetite statement (for decision)

44. The Chairperson introduced the item by reminding the MB that as per the EBA Enterprise Risk Management (ERM) policy adopted in 2022, the EBA staff drafted an update on the proposed changes to the risk register, risk appetite and on the progress made to the risk mitigation measures in a follow up to the MB discussion in March 2023.



45. The Executive Director added that the tabled results of the risk assessment were based on extensive discussions with the EBA Directors and Heads of Units who not only identified the risks but also scored them. Then, an organization-wide perspective had been taken by the Executive Director and the ERM team to prioritise, taking into account the inputs from the EBA managers. He noted that those risks that were not shortlisted following the scoring would nonetheless be monitored.
46. The Head of LC continued by summarising the updates of the strategic risk register. He said that in September 2022, the MB agreed on the 15 strategic risks suggested by EBA staff. These have now been reviewed for the 2023/24 strategic risk register, resulting in 17 strategic risks, 11 of which have been shortlisted following a discussion of the scores with the Executive Director. The first year of operating the new ERM approach had gone well with risk discussions with all heads of unit and directors having been very useful, resulting in adding further to the range of risks identified at strategic level and avoid listing risks that were too generic, taking into account previous input from the MB. This increased the number of strategic risks, and so in line with the ERM policy adopted, a shortlist of those risks deemed most significant for the 12 months to come was established. These shortlisted risks would be the focus for identifying how to treat each risk in the next phase of the process. The scoring process had shown diverse views on the impact and likelihood of risks, reflecting the different responsibilities of directors, but had led to a clear prioritisation of the risks.
47. The EBA Expert concluded by mentioning three new risks identified by the EBA Heads of Units and highlighted that the EBA did not use purely mechanical approach regarding the shortlisting, reflecting scoring by directors as well as a more global assessment by the Executive Director.
48. The Members supported the work. One Member welcomed the organised and well-prepared process and structure for risk management. He proposed considering litigation risk in response to the latest market developments. Another Member noted diverse assessment of risk by various EBA managers and asked for further details in this regard.
49. The EC representative questioned adding of a risk of “Inadequate monitoring of (new) trends and developments leads to inadequate delivery or response” and asked which areas the EBA considered as not being appropriately monitored.
50. In his response, the Executive Director explained that the risk of litigation was being addressed through risk 2 (risk of external shocks) and risk 13 (risk of inadequate monitoring), and that the EBA also kept a reserve of funds to be able to hire external legal advice. To the EC representative he mentioned that the EBA had a high number of mandates and tasks, and this could lead, as the added risk could suggest, to limited availability for extensive market and new development monitoring due to the day-to-day burden, rather than reflecting that the EBA considered that there were specific areas where there might be gaps. Specific attention should be paid to the ongoing structural transformation at play within the financial sector, and to the risk of disruptions in the system, as had been seen since the beginning of a global monetary



policy tightening. Finally, he welcomed the diversity of views expressed by the directors which reflected well their diverse mandates and helped to avoid “group think”.

51. The Head of LC noted that to achieve the biannual MB updates on ERM the EBA would introduce more regular discussions in existing senior management and directors’ meeting on the risk management related issues which would build further on the common understanding of risks and their assessment.
52. The Chairperson concluded by noting the comments and the Members’ support for the strategic risk register for 2023/24 and risk appetite statement.

### **Conclusion**

53. The MB endorsed the strategic risk register for 2023/24 and risk appetite statement by consensus.

## **Agenda item 7: Provisional Agenda of the BoS meeting on 17 October 2023 (for discussion)**

54. The Chairperson reminded the MB that the next BoS physical meeting was scheduled on 17 October 2023 followed by a physical joint BoS/BSG meeting. He informed that based on the internal discussion, the item on European supervisory examination programme for 2024 (ESEP 2024): key topics for supervisory attention would be send to the BoS in written procedure rather than discussed during the October meeting and that the EBA was considering providing an update on the roadmap to address the large number of mandates to the EBA coming from the CRR3/CDR VI legislative package.
55. One Member suggested including an analysis of impact of latest developments in China on the EU market.
56. The Chairperson concluded by indicating that the EBA risk team would include an assessment of the Chinese economy and its impacts on the EU at then next BoS in the usual item on risks and vulnerabilities.

### **Conclusion**

57. The MB took note of the draft Agenda of the 17 October 2023 BoS meeting.

## **Agenda item 8: AOB – A) Amending budget (for decision)**

58. The Executive Director informed the Members that the EC confirmed earlier in September that the pension contribution rate applied on EBA salaries would increase effective from 01 July 2023. As a result, the EBA had to increase the overall budget by EUR 70 000 what corresponded to the difference between the current amount budgeted for pension costs and the revised

budgeted amount. He also noted that this was only the second time since the founding EBA that the pension contribution rate has been changed. The Executive Director concluded by clarifying that the EBA was proposing this amendment for two reasons. Firstly, the EBA aimed to have only two calls for contribution each year to keep the associated workload to a minimum as well as to allow for budget amendments. Secondly, given that the CAs have 45 days to pay each call for contributions, for cash flow reasons the EBA needed to issue the second call before mid-October. Consequently, the proposed amendment was adopted before the second call was issued. Regarding the process, following discussions with the EC the EBA has agreed that amendments to the budget would be proposed first to the MB for approval and, only after this approval has been received, to the BoS for adoption.

59. The Members did not make any comments and supported the proposal.

60. The Chairperson concluded by noting the MB's support.

### Conclusion

61. The MB unanimously approved the amending budget to increase the EBA 2023 budget by EUR 70 000.

### Agenda item 9: Input to extension of Chairperson term of office (for decision)

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

63. The EBA Vice-Chairperson introduced the item by reminding the Members that the first 5-year term of office for the Chairperson of the EBA was due to end on 30 April 2024. In accordance with the EBA Regulation, the term may be extended once. In order to extend the term of office, in the course of the nine months preceding the end of the 5-year term of office as Chairperson, the BoS was required to evaluate the results achieved and the way they were achieved, together with the EBA's duties and requirements in the coming years. If the BoS proposed an extension, the proposal and evaluation were submitted to the Council which decides on the extension with the assistance of the EC. To support the BoS assessment, the Vice-Chairperson clarified that the MB was asked to evaluate the Chairperson's performance during his term based on the annual appraisal reports. The draft assessment report submitted for the MB's decision had been prepared by one of the recent reporting officers selected from the MB.

64. The Members supported the tabled assessment and did not raise any comments.

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

## Conclusion

66. The MB unanimously endorsed the assessment report of the Chairperson's first term of office.

## Agenda item 10: ACCI advice on Chairperson and Executive Director annual declarations of interest (for decision)

67. 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.

68. The EBA Vice-Chairperson introduced the item and noted that the Executive Director did not declare any conflict of interest. He also informed the MB that on 14 February 2023 the Chairperson disposed the final block of shares and confirmed this in a Notification of share dealings form submitted to the EBA Ethics officer on the same day. Given that there was no change in the Chairperson's Annual Declaration of Interest other than the disposal of this final block of shares, the Vice-Chairperson acknowledged that the Advisory Committee on Conflict of Interest (ACCI) concluded that the MB's 2021 decision on the Chairperson's conflict of interest may be considered to have expired as the restrictions in Articles 1.1 and 1.2 no longer applied.

69. The MB did not raise any comments.

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

## Conclusion

71. The MB took note of the ACCI opinion on the Chairperson declaration of interest 2023 and unanimously agreed with it.

## Participants at the Management Board conference call

25 September 2023

**Chairperson** Jose Manuel Campa  
**Vice-Chairperson** Helmut Ettl

**Member** Kamil Liberadzki  
**Member** Angel Estrada  
**Member** Heather Gibson  
**Member** Kristine Cernaja-Mezmale  
**Member** Csaba Kandrac  
**Alternate** Peter Lutz

**European Commission representative** Almoró Rubín De Cervin

### EBA Directors

Executive Director	Francois-Louis Michaud
Director of Operations	Peter Mihalik
Director of Prudential Regulation and Supervisory Policy	Isabelle Vaillant
Director of Innovation, Conduct and Consumers	Marilyn Pikaro
Director of Economic Risk and Analysis	Jacob Gyntelberg
Director of Data Analytics, Reporting and Transparency	Meri Rimmanen

### EBA Head of Units

Philippe Allard  
Jonathan Overett Somnier  
Fergus Power

### EBA Experts

Tea Eger  
Alex Herr  
Lot Anne  
Adrienne Coleton

For the Management Board,

Done at Paris on 25 October 2023

[signed]

José Manuel Campa

EBA Chairperson