



EBA MB 2023 035 rev. 1

Management Board

21 March 2023 / 09:00 – 13:00

Location: EBA premises

Management Board meeting – Final Minutes

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

1. The Chairperson welcomed the Members to the first hybrid meeting of the Management Board (MB). He explained that due to current market developments, the EBA decided to exceptionally organise a hybrid meeting to allow the Members to actively participate either from the EBA premises or virtually. 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 informed that the Minutes of the 25 January 2023 MB conference call were approved by the MB in the written procedure.
3. The Members did not raise any comments on the Agenda.

Conclusion

4. The MB approved the Agenda of the meeting.

Agenda item 2: Current market vulnerabilities (for discussion)

5. The Chairperson briefly summarised the discussion of the Board of Supervisors (BoS) during an ad hoc conference call on 17 March 2023. He noted that the BoS confirmed issues of a high degree of uncertainty and volatility on the market but also stressed that the EBA and competent authorities (CAs) would continue monitor further market developments. He referred to the joint statement of the SRB, EBA and ECB Banking Supervision on the announcement on 19 March 2023 by Swiss authorities with regard to Credit Suisse, re-stating that in the EU framework common equity instruments were the first ones to absorb losses,
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and only after their full use would Additional Tier One be required to be written down. This approach has been consistently applied in past cases and would continue to guide the actions of the SRB and ECB banking supervision in crisis interventions. The Chairperson mentioned also the statement issued by the Bank of England along similar lines and said that the EBA would continue monitoring market responses. He concluded by referring to the exchange of views on the current market developments with the ECON on 21 March.

6. The Members welcomed the publication of the statement. Their updated on their national situation with regard to AT1 instruments as well as some other MREL instruments held by banks in their jurisdiction. One Member raised concerns related to potential bail in procedure through MREL instruments held by retail clients and proposed to conduct a study to collect data on the distribution of MREL instruments between professional and retail clients. Furthermore, he suggested to closely monitor deposits in response to the issues related to the US regional banks. Some Members were concerned about the lack of transparency in relation to the recent actions by the Swiss authorities and asked for clear communication to the public with an aim to enhance general trust and confidence in the banking sector.
7. The European Commission (EC) representative appreciated the publication of the statement and questioned whether the EBA and ultimately, the EC, should enhance communication on the solidity of the banking sector and the work on interest rates risks, unrealised losses, proportionality, and behaviour of deposits.
8. The EBA Director of Economic and Risk Analysis Department (ERA) briefly updated on the latest market response to the UBS takeover of Credit Suisse as well challenges related to US mid-sized banks.
9. The Chairperson concluded by noting comments and said that the EBA has been drafting a report on the crossholding of hybrid instruments by EU credit institutions and the final report would be available in the coming weeks. He also agreed to progress work on the communication regarding the structure of secured and unsecured deposits.

Agenda item 3: Administrative and Operational Status Report (for information)

10. The Executive Director presented the Administrative and Operational Status Report. He noted that the tabled report covered the period from January to February.
11. With regard to Human Resources, the Executive Director informed that the EBA hosted a very largely attended 2nd ESA's high-level conference on Gender Equality on 07 March. The EBA also hosted the First Trainees' Network from the European Institutions on 24 February. He mentioned that the 2023 Performance Management cycle with the appraisal exercise closed within deadlines.

12. On the Finance and Procurement, the Executive Director noted that framework contracts for crypto-asset markets databases were finalized and that the EBA recently published procurements for corporate support consultancy services, and catering services.
13. With regard to Information Technology, the Executive Director said the EBA successfully rehosted its website and that all projects have been progressing without major disruptions. He also mentioned that there were no security incidents in the reporting period.
14. The Executive Director reminded the MB that Corporate Support has successfully led the project on EMAS certification and that the EBA became the first EMAS certified European agency in France in July 2022. As a next step, the EBA has been liaising other agencies to exchange views and help them in their preparation for the EMAS certification.
15. On Communication issues, the Executive Director noted that the communication team continued developing a number of targeted communication campaigns with effective visuals and exploring options for the implementation of the website revamping project.
16. With regard to the trainings to Competent Authorities (CAs), the Executive Director informed that the EBA signed a new framework contract with two universities for technical training services for staff and CAs. He also mentioned a number of mandatory trainings for staff, in particular related to EMAS and EBA's role, mission and legal instruments.
17. On the colleges, the Executive Director said that during the reporting period, the EBA staff have attended 11 college meetings, out of which, six have been held in resolution colleges, three in supervisory colleges, and two in AML/CFT colleges.
18. With regard to the Legal and Compliance issues, the Executive Director informed about a data breach related to documents available through the website Q&A tool. He confirmed that immediate fixes were in place, with changes to the tool planned and security analysis in order to ensure that the database was secure. He mentioned that there was one ongoing mediation case from conciliation period without agreement to the binding mediation phase and said that a call for mediation panel candidates would be tabled for the next BoS meeting in April.
19. The Executive Director concluded on audits by saying that the EBA reviewed and approved the Internal Control Monitoring Criteria (KPIs) for the 2022 Self-Assessment. The EBA received the Final audit report on Internal Control Framework at the end of January and in February, the EBA submitted a reply to the Clearing Letter on ECA Stress test.
20. The Members welcomed the report. One Member informed about their successful reverse mentoring program for IT issues within the central bank and questioned why the EBA decided to change the provider of the IT services. Other Member asked about the cooperation between the ECB and EBA on the integrated data framework. One Member asked for clarification on the CAs' budget contributions with respect to the AMLA set up. Another Member queried the NCA contribution amounts (2024 budget) in Table 5 of the Report and said that they would submit their written comments. EBA Finance followed up on this matter and given that the

amounts in Table 5 were correct, EBA Finance has assisted the Member in reconciling the amounts to the Member's calculation.

21. The EBA Director of Operations clarified that the provider of IT services could not offer agreeable terms to continue and finalize the project and therefore, the EBA decided to change the provider.
22. In his response, the Executive Director clarified that there was a close cooperation between the ECB and EBA on the integrated data reporting and that the EBA was currently reviewing a roadmap proposed by the ECB. With regard to the AMLA set up, the Executive Director clarified that any impact on the budget would be relevant for the 2025 and further budgets only. In connection to AMLA, he mentioned that together with the EC, joint work has started to prepare the transition from the EBA to AMLA.
23. The EC representative confirmed that the discussion on the AMLA's seat were ongoing in Council and Parliament and therefore, there was a delay in the actual set up of the agency.
24. The Chairperson concluded by noting the comments.

Conclusion

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

Agenda item 4: Replacement of a BSG Member (for decision)

26. The Chairperson introduced the item by reminding the Members of the discussion at the BoS meeting in February during which the BoS underlined that the BSG composition should reflect the evolving scope of EBA tasks and mandates. Following the discussion, the EBA has resumed its ongoing selection procedure to replace a resigned BSG Member.
27. The EBA Head of Governance and External Affairs Unit (GAE) then explained that the proposal for a BSG member replacement is drawing on the extended BSG reserve list that was approved by the BoS in January 2022. He underlined that a short list of possible candidates was prepared by EBA staff, considering the professional experience and expertise, the level of seniority and the contribution to an adequate geographical and gender balance in the group. On that basis, a candidate representing public banks in the EU was submitted to the approval of the Management Board.
28. The Member did not raise any objections to the selection of the candidate identified by EBA staff as a BSG member in the category of 'representatives of financial institutions'. One Member underlined that another candidate in the shortlist who had relevant experience with payment services could also complement the current composition of the BSG.
29. The EC representative said that a candidate who had experience as result of their position in a public bank's sector could extend the BSG's knowledge given that public banks, had different

business models compared to commercial banks, while still complying with various legislative requirements, such as CRR.

30. The Head of GEA explained that the mandate of the current BSG would expire in June 2022 and that some of the candidates in the reserve list that have not been selected will be able to re-apply for a position in the BSG next year.
31. The Chairperson concluded by noting the Members' support.

Conclusion

32. The MB agreed with the proposed candidate.
33. The MB supported the submission of the proposal for candidate to the BoS for approval.

Agenda item 5: Peer Review report on CVA risk (for discussion)

34. The Chairperson introduced the item by mentioning that the EBA has been working on several peer reviews and according to the approved methodology, input from the MB was requested at the start and the end of each peer review. He noted that the tabled report, after receiving input from the MB, would be further submitted for discussion during the BoS conference call in April.
35. The EBA Head of Legal and Compliance Unit (LC) continued by explaining that this was the first peer review that aimed at reviewing a smaller set of competent authorities (CAs) which, however, had the most experience in the area of CVA risk: DK, HU, SE and the SSM. The peer review focused on how CAs verify the compliance by institutions with the most relevant conditions which were required under the Regulation for the purpose of excluding transactions with non-financial counterparties established in a third country from the own funds requirements for CVA risk in accordance with point (a) of Article 382(4) of Regulation (EU) No. 575/2013 (Exclusion RTS). The Peer review committee established a number of 'supervisory expectations' around the area of CVA Risk and to assess and benchmark the practices of CAs, it took as a basis the supervisory expectations in the EBA's Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP GLs). Two benchmarks were used: (1) the implementation of the SREP GLs in the context of CVA risk; and (2) CVA risk assessment, in particular the assessment of the compliance with requirements set out under Article 382(4) of the CRR, in accordance with those Guidelines. The committee found that there were different approaches to the assessment of CVA risk performed by CAs for the institutions under their jurisdiction. However, they were all intended to ensure that institutions appropriately identify, measure, monitor, and capitalise their CVA risks.
36. The EBA Acting Head of ESG Risks Unit (ESGR) continued by summarising the main findings of the peer review. He mentioned that three CAs stated that they did not verify compliance with requirements included in the two Articles of the Exclusion RTS. Furthermore, the focus on larger institutions associated with risk-based approaches to supervision employed by some

CAs could potentially overlook CVA risks stemming from smaller institutions. Therefore, in the recommendations set out in the report, the peer review committee proposed that the CAs extend the scope of assessment on CVA risk to include all institutions in their jurisdiction, using the categorisation set out in the SREP Guidelines; and subject all institutions to the level of scrutiny commensurate with their categorisation. In addition, and taking into account that the Exclusion RTS entered into force on 7 June 2018, and that more than three years have already passed since the entry into force, the peer review committee recommended that CAs should perform within one year following the publication of this report, an ad-hoc review aimed at ascertaining that all institutions under their supervision comply with the requirements of that Regulation. Following that review, the CAs should continue to undertake this activity with a frequency consistent with that of the SREP GLS depending on the categorization of the institution, and at least every three years.

37. The Members welcomed the report. One Member stressed the importance of CVA risk and asked for enhanced and targeted communication to the CAs which should implement the recommendations in their daily supervision. Another Member was of the view that the SREP Guidelines should not include more detailed requirements related to CVA risk. One Member said that they were planning to send their written comments within the deadline given to the CAs for comments.
38. In his reply, the Acting Head of ESGR welcomed the written comments and clarified that while the SREP GL already included a requirement to assess CVA risk, the aim of the peer review was to ensure that all CAs performed an assessment of CVA risk under SREP with the appropriate focus and to highlight how, in practice, this requirement should be fulfilled.
39. The Head of LC added that in the communication accompanying the publication of the peer review report, the EBA would stress the importance of CVA risk. He also said that the updated version of the report would be discussed by the BoS during its next conference call in April.
40. The Chairperson concluded by noting the comments and said that the EBA would further consider how to monitor the identified areas for improvement and how the CAs are fulfilling the requirements.

Agenda item 6: Outcome of the 2022 Anti-Fraud (AFRA) exercise (for discussion)

41. The Chairperson introduced the item by reminding the Members of the purpose of the annual Anti-Fraud exercise (AFRA) which is to identify potential fraud risks in all areas of activity of the EBA and to assess their possible greatest severity and likelihood taking into account already existing controls. Based on the AFRA, where necessary, additional mitigating measures might be suggested and taken.

42. The Executive Director stressed the importance of the awareness-raising aspect of the exercise which leads to a general preference for a conservative approach to assessment which keeps potential risks on the agenda even where the likelihood of the risks occurring is considered low.
43. The EBA expert summarised the findings of the exercise. He said that the exercise was launched on 11 November and concluded on 22 December 2022. As the 2021 exercise had assessed risks in different areas across the EBA, and had been extensively updated, the EBA decided to focus the 2022 exercise on assessing whether there were changes in the assessments made in the 2021 exercise rather than fully reassessing each scenario. While the number of risks slightly decreased in 2022, there were several changes to the internal allocation(s) of those risks undertaken (e.g., due to internal restructuring). Of the 50 scenarios assessed, the vast majority of scenarios (34 risks, 69%) carried a low level of fraud risk, which was an improvement from the 2021 AFRA, where this was the case for 28 risks (59%) of the activities due to additional controls introduced in the areas of finance and procurement. The scenarios carrying a medium level of fraud risk have decreased from 16 risks (32%) in 2021 to 11 risks (22%) in 2022 primarily due to implementation of new controls; the scenarios carrying a material level of fraud risk have decreased from 6 risks (12%) in 2021 to 4 risks (8%) in 2022 and there remained no scenarios assessed as carrying significant risks.
44. The Head of LC continued by clarifying that the improved results could be explained by continuous enhancement of the measures to tackle the risks identified in past exercises. The challenge was to continue on that path although, as highlighted by the Executive Director, several of the risks classified as 'material' relate to the potential for inappropriate disclosure of EBA documents/policy and were considered currently to have limited scope for further mitigation. While the likelihood of their occurrence was considered to be low, a conservative approach had been taken so that likelihood was assessed as 'possible' rather than 'unlikely' to ensure continued vigilance. He concluded by saying that in 2023, the EBA's the Risk & Compliance team was planning to work on integration of the AFRA process into the EBA's enterprise risk management (ERM) framework, applying the risk methodology set out in the ERM policy to anti-fraud risks, updating the scenarios and integrating the anti-fraud risk register into a consolidated risk register covering all EBA risks.
45. The MB supported the work. One Member asked if there was any system to control self-declarations and whether any EBA staff committed a fraud. Another Member informed about their national declarations in the public sector.
46. The Executive Director said that the EBA was planning to look at the possibility to carrying out more controls of staff declarations. He noted that, in addition to the annual update of conflict-of-interest declarations, many staff members proactively made ad hoc declarations about activities so that they can be assessed, which provided some comfort about the level of awareness of the topic within the EBA. The Head of LC also noted the possibility of carrying out more work to look at post-employment activities of staff and non-staff, but that work on such additional controls remained dependent on the expected return of staff to the team.

47. The Chairperson concluded by noting the MB's support for the work.

Agenda item 7: Enterprise Risk Management (ERM): Report on progress on ERM (for discussion)

48. The Chairperson reminded the MB of the Enterprise Risk Management (ERM) policy adopted in 2022 and said that the tabled report summarised the progress made on the project since adoption of the strategic risk register for 2023 in September 2022, the risk mitigation measures adopted and the planning for the coming months.

49. The Head of LC continued by explaining that since the adoption of the strategic risk register, the Risk and Compliance team had evaluated the risks against the risk tolerances for the various risk categories in order to identify the appropriate treatment options, and in particular identified those risks within the strategic risk register most likely to benefit from additional mitigating measures. He noted that the risk tolerances in risk appetite statement had proved a useful tool in evaluating the risks and choosing the appropriate action to take. Five out of the fifteen risks were proposed for mitigation, and the selection had been validated by the Executive Director, with risk mitigation plans adopted and set out in the report, with one of the plans having been completed, and a range of actions being under way in the remaining plans. The Head of LC concluded by listing next steps which included development of an updated iteration of the risk register via application of the ERM lifecycle (to be presented to the MB at its September/October meeting); integration of existing local risk registers into the ERM framework (e.g. IT security, anti-fraud, business continuity risk registers); and development of local risk assessments further (e.g. as part of work programme activity development and updates).

50. The Members welcomed the work. One Members questioned the process for selecting the risks and asked about the reasoning for the selection of five risk proposed for mitigation. He also asked whether the selection could be more quantitative rather than qualitative. Other Member noted that the report did not include concrete references to the Internal Audit Report findings.

51. In his response, the Head of LC explained that the five risks selected by the EBA after considering a number of aspects, such as comparison with the risk appetite (so a higher-scoring risk had been accepted given a risk-neutral approach to the risk category, compared with choosing to mitigate some lower-scoring risks where the EBA is relatively risk averse), limiting the number of risks to mitigate to five in order to maintain focus, and taking into account actions that were already under way in the EBA. He said that for the next iteration, the EBA would look to provide additional details on the selection procedure.

52. The Executive Director informed that the EBA was planning risk training for managers to take place by the end of the year.

53. The Chairperson concluded by noting the comments by the Members.

Agenda item 8: Provisional Agenda of the BoS conference call on 19 April 2023 (for discussion)

54. The Chairperson reminded the MB that the next BoS conference call was scheduled on 19 April 2023 followed by the joint BoS/BSG conference call on 20 April 2023. He mentioned that after a number of internal discussions, the agenda has been updated and the updated version would be circulated to the BoS in the coming days.

55. The EC representative suggested to change the order of the items and give more prominence to the item on risks and vulnerabilities. Other Member referred to the joint ad hoc advice on DORA which has been drafted by the proportionality committees of the three ESAs. He said that the advice could be discussed under the item on DORA.

56. The Chairperson concluded by noting the comments and agreed to change the order of the agenda.

Conclusion

57. The MB took note of the draft Agenda of the 19 April 2023 BoS conference call.

Agenda Item 9: AOB

58. One Member welcomed the preparatory work for the transition between EBA and AMLA. He stressed that it was crucial to start an inclusive discussion about how CAs and AMLA could and should organise their future cooperation, to on board the CAs as early as possible, to collectively prepare the ground for core supervisory activities. He also referred to the work conducted in preparing the single supervisory mechanism some years ago. He suggested setting up discussions between the supervisors and the AMLA task force and stressed the key role of the AMLSC of providing a forum for exchanges, preparative discussions, and collective work.

59. The EC representative noted the proposal and said that the AMLA tasks force has been recently established.

60. The Executive Director clarified that the EBA and EC were closely liaising in all preparatory work for AMLA and that updates on the work could be included in the Administrative and Operational Status report.

Participants at the Management Board meeting

21 March 2023

Chairperson Jose Manuel Campa

Member Heather Gibson
Member Kamil Liberadzki
Member Angel Estrada
Member Helmut Ettl
Alternate Peter Lutz
Alternate Magnus Eriksson

European Commission representative Almoró Rubín De Cervin

EBA Directors

Executive Director
Director of Operations
Director of Prudential Regulation and Supervisory Policy
Director of Innovation, Conduct and Consumers
Director of Data Analytics, Reporting and Transparency
Director of Economic and Risk Analysis

Francois-Louis Michaud
Peter Mihalik
Isabelle Vaillant
Marilyn Pikaro
Meri Rimmanen
Jacob Gyntelberg

EBA Head of Units

Philippe Allard
Jonathan Overett Somnier
Stephane Boivin
Delphine Reymondon

EBA Experts

Tea Eger
Alex Herr

For the Management Board,

Done at Paris on 10 May 2023

[signed]

José Manuel Campa

EBA Chairperson