



EBA MB 2016 076rev1

EBA Staff

13 September 2016

Location: London

Management Board – Final Minutes

Agenda item 1.: Welcome, Approval of Agenda and Minutes

1. The MB approved the provisional agenda (document EBA MB 2016 058rev4) and the minutes of the meeting of 01 June 2016 (document EBA MB 2016 054rev1).
2. The Chairperson informed that an election would be held at the meeting of the Board of Supervisors (BoS) of 20 September 2016 to fill the vacancy left by the departure on 30 June 2016 of Andrew Bailey, from the UK's Prudential Regulation Authority of the Bank of England.

Agenda item 2.: Administrative and Operational Status Report

3. The EBA Director of Operations presented the administrative and operational status report (document EBA MB 2016 067) providing an overview of the EBA activities since the latest MB meeting of 01 June 2016. Amongst other things, he informed of the execution of the 2016 budget and state-of-play of the ongoing public procurements. He referred to the situation regarding staff recruitment, which was becoming increasingly challenging. He also explained the situation regarding the roll-out of different IT projects, namely eDEN on document management at the EBA, and ESP7, scheduled to go live by end-2016.

Conclusion

4. The MB took note of the administrative and operational status report.

Agenda item 3.: Decision on HR Implementing Rules on Teleworking

5. The Executive Director asked the MB to approve a decision (document EBA MB 2016 066) whereby the EBA would request the Commission the non-application of Commission Decision C(2015) 9151 on the implementation of telework in Commission departments, adopted on 17 December 2015, and that entered into force on 1 January 2016.
 6. Some members considered that the EBA draft decision should be more explicit on whether the non-application was motivated by organisational or technical reasons. Since similar
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organisations had put in place teleworking arrangements, they questioned whether the EBA should do the same in order to become more attractive to potential candidates. The Executive Director explained that the size of the EBA, and the cost of administering a teleworking system, were robust considerations to reject putting in place a structural teleworking system. However, he noted that the possibility of having ad-hoc teleworking was an option under consideration, for which a secured IT environment was necessary. Members agreed with the explanations on structural teleworking at the EBA, and asked for considering the implementation of ad-hoc teleworking.

Conclusion

7. The EBA would develop further the reasons contained in the decision, in line with the comments by members, before submission of the request to the Commission.

Agenda item 4.: Draft Rules of Procedure on Professional Secrecy and Confidentiality for Non-Staff

8. The Chairperson explained that further to a case of leak of confidential information in ESMA, the ESAs had agreed to adopt rules on professional secrecy and confidentiality for non-staff to prevent the occurrence of such incidents in the future (document EBA MB 2016 070).
9. Members took note of the draft Rules of Procedure (RoP). Some viewed that the remedial measures should be of a preventative nature rather than disciplinary, and should also contain means of redress. Other comments by members were: a) need to better define the concept of unauthorised disclosure of EBA information; b) possibility that the investigation should be carried out by a person other than the Chairperson; c) a better clarification of the circumstances under which resort would be made to remedial action; d) alignment of the exceptions to the principle that EBA information should not be divulged, with those provided for under competent authorities' (CAs) regulations; and e) streamlining of some of the remedial measures under article 7.5, noting in particular the necessity of a finer articulation of EU and national rules. In this regard, the EBA Head of Legal noted that the EBA was responsible for its internal organisation, and should be allowed to decide whether an individual from a CA not abiding by the obligations of professional secrecy could participate in any of its sub-structures.

Conclusion

10. The MB supported the draft RoP, with some of the comments being reflected in the draft to be discussed at the BoS meeting of 20 September 2016.

Agenda item 5.: EBA Policy on Reimbursement of Representation Expenses

11. The Executive Director presented a policy on the reimbursement of expenses incurred by EBA staff (document EBA MB 2016 060).

Conclusion

12. The MB adopted the policy reimbursement of representation expenses.

Agenda item 6.: Discussion on the Draft EBA 2017 Work Programme

13. The Executive Director introduced the draft EBA's work programme for 2017 (document EBA MB 2016 068) and drew members' attention to the priority areas for 2017. He noted that the Work Programme would be reviewed in light of the final budget to be adopted by the EU budgetary authorities by end-2016.

14. Members commented on the priority levels assigned to some of the activities. In particular, they considered that the priority assigned to Q&As should be revised upwards in light of their importance for a consistent interpretation and application of legislation across the internal market; if necessary, a differentiation of Q&As per topic should be carried out in order to reprioritise more efficiently.

15. For operational risk, members opined that the priority level should be reviewed in view of the latest developments at Basel. In the case of market risk, it was agreed that by end-2016, and with the input from the Standing Committee on Regulation and Policy (SCRePol), it should be decided what regulatory products could be developed or put on hold.

Conclusion

16. The MB approved the draft EBA 2017 work programme. A revised version, including the comments by members, would be tabled at the BoS meeting of 20 September 2016 for approval prior to transmission to the EU institutions.

Agenda item 7.: Proposals for 2017 Peer Review

17. The Executive Director presented a proposal (document EBA MB 2016 072), previously discussed by the Review Panel, of topics for the 2016/2017 peer review exercise. The topics proposed were: a) Guidelines on the criteria to determine the conditions of application of Article 131 (3) of Directive 2013/36/EU (CRD) in relation to the assessment of Other Systematically Important Institutions (O-SIIs); b) RTS on criteria to identify categories of staff whose professional activities have a material impact on an institution's risk profile under Article 94(2) of Directive 2013/36/EU; c) Reminder to credit institutions and insurance

undertakings about applicable regulatory requirements regarding placement of financial instruments with depositors, retail investors and policy holders (“self-placement”); and d) RTS on Passport notifications under Articles 35, 36 and 39 of Directive 2013/36/EU.

18. Members favoured a peer review exercise on topics a) and c). In particular on topic c), members considered that although highly relevant, EBA should ask ESMA whether it would be willing to conduct it jointly, since it was a topic where the distribution aspects were falling under the Markets in Financial Instruments Directive (MiFID) and for which, in many cases, prudential authorities may lack supervisory responsibilities.

Conclusion

19. The MB expressed a preference for conducting a peer review exercise on the Guidelines on assessment of O-SIIs and the reminder on self-placement. The BoS would be invited to choose a topic for the 2016/2017 peer review exercise at its meeting on 20 September 2016.

Agenda item 8.: Discussion on EBA Training Activities

20. The Chairperson introduced the topic by referring to past discussions with the MB and BoS on an EBA training programme, and to the Commission’s Directorate-General for Budget’s advice that training activities could not be funded separately in the EBA’s budget since they were part of the EBA core activities. In light of this, a revised proposal (document EBA MB 2016 073) was tabled to seek MB’s endorsement prior to a wider discussion at BoS-level.

21. Members supported the revised proposal and considered that training was a crucial tool to facilitate, inter alia, the convergence of supervisory practices. They opined that the EBA’s training offer should be articulated in a way that synergies were found with other relevant offers, such as the FSI’s and the SSM’s, which in turn could also help CAs streamline their training resources. They also requested that online training should be available in a sort of library such that it could be accessible at any time by individuals not having participated in the training. Finally, members asked the EBA to define the curriculum of the training offer, to which the EBA Director of Oversight confirmed that a stock-taking exercise would be conducted among CAs.

Conclusion

22. The MB supported the EBA’s training proposal, which would be discussed at the BoS meeting of 20 September 2016 for endorsement.

Agenda item 9.: Oral Update on Equivalence Assessments

23. The EBA Director of Oversight recalled the discussion at the MB meeting of 01 June 2016 on equivalence. In view of the growing demand for equivalence assessments of third-country jurisdictions, the need to conduct this work was becoming impending; however, CAs should commit resources to the EBA to enable it to conduct such assessments, which would concern

more than 15 jurisdictions, and he reiterated the call to CAs to assign 3 full-time equivalents (FTEs) for a period of 2 years.

Conclusion

24. The MB noted the request to assign 3 FTEs during 2 years to enable the EBA to conduct equivalence assessments.

Agenda item 10.: Discussion on the Expansion of EBA COREP/FINREP Sample and EBA Data Infrastructure

25. The Executive Director introduced a paper (document EBA MB 2016 074) setting out a proposal to expand the EBA data collection under the ITS on Supervisory Reporting to the full population of EU financial institutions. He explained that the intended benefits of such expansion would be, inter alia, the possibility to conduct more complete risk analyses, more granular impact assessments and proportionality testing, as well as limiting ad-hoc data requests to CAs. He confirmed that no additional reporting burden would be imposed on institutions as they were already transmitting those data to CAs. He then presented the budgetary impact of the proposal, the estimated additional human resources needed and the IT resources required. If approved, the anticipated go-live of the project would be in 2019.

26. The MB was broadly in favour of the proposal. SSM-involved members deemed it important that the data reported to the SSM and to the EBA should not diverge as well as to confirm that waivers for reporting on solo/sub-consolidated basis would not change. Members also noted that in the future some possible ad-hoc requests for data not collected at present could still occur as the scope of the database would cover only regulatory data (COREP/FINREP). The Executive Director confirmed that the project would be limited to COREP/FINREP reporting, with the MB requesting that the scope should be limited to only credit institutions so that investment firms subject to COREP would fall outside the scope of this expansion.

27. A concern regarding the additional human resources required by EBA was voiced. In this regard, the Executive Director explained that a combination of net increase of human resources and redeployment from other similar, data-related projects would be needed to implement the project, and noted that further discussions with the Commission would be necessary to agree on the increase of budget and human resources.

Conclusion

28. The MB supported the proposal, which would be tabled at the BoS meeting of 20 September 2016.

Agenda item 11.: IAS Strategic Internal Audit Plan 2017 – 2019

29. The Executive Director presented a note (document EBA MB 2016 063) on the Commission's Internal Audit Service (IAS) proposal for its strategic internal audit plan 2017-2019 in the EBA.

He noted that IAS was now open to perform audits on the EBA's core business activities rather than only on operational ones.

30. Members agreed to request IAS the swapping around of prospective audit topics for 2017-201, with topics D, E and F taking priority over topics A, B and C.

Conclusion

31. The MB took note of the IAS Strategic Internal Audit Plan 2017–2019 and agreed to request a change in the order of topics for audit.

Agenda item 12.: AoB

– Reduction of 2016 EBA Budget

32. The Executive Director explained that, in view of the latest downwards fluctuations of the GBP-EUR exchange rate, the EBA had decided to introduce an amendment to reduce the EBA's 2016 budget, which would be presented to the BoS in December 2016. The EBA would issue credit notes to all 28 CAs, with the corresponding amount being deducted from the first payments due in 2017.

– Updated IAS reporting approach for follow-up of recommendations (A-point)

33. An IAS note (document EBA MB 2016 061) on the new approach to review the state-of-play of the implementation of recommendations stemming from IAS audits was presented to the MB.

– IAS Follow-up Desk Review

34. The MB was informed that IAS had conducted a review of all open recommendations; all but one recommendation had been confirmed as successfully implemented and closed. The last remaining one (inventory of internal procedures) should be completed by the EBA by end-2016.

END OF MEETING

Andrea Enria

Chairperson

**Participants at the Management Board meeting
13 September 2016**

Chairperson Andrea Enria
Alternate Chairperson Pedro Duarte Neves

<u>Country</u>	<u>Member/Alternate</u>
Czech Republic	David Rozumek
France	Édouard Fernández-Bollo
Italy	Andrea Pilati
Poland	Andrzej Reich
Spain	Fernando Vargas Bahamonde

<u>EU Institution</u>	<u>Representative</u>
European Commission	Dominique Thienpont

EBA Staff

Executive Director	Adam Farkas
Director of Operations	Peter Mihalik
Director of Oversight	Piers Haben
Director of Regulation	Isabelle Vaillant

Slavka Eley; Lars Overby; Philippe Allard; Jonathan Overett Somnier; Santiago Barón Escámez