



EBA BS 2017 007rev1

EBA Staff

6-7 December 2016

Location: London

EBA Board of Supervisors – Final Minutes

Agenda item 1: Welcome, Approval of Agenda and Minutes

1. The Board of Supervisors (BoS) approved the agenda of the meeting, and the minutes of the BoS meeting of 25-26 October 2016. The Chairperson invited the representative of the EFTA Surveillance Authority to introduce himself and his future work.
2. Following the approval of changes of the Management Board (MB) calendar for 2017, the Chairperson informed about the final BoS 2017 calendar.

Agenda item 2: Report on Breach of Union Law

3. The Chairperson presented the Report on Breach of Union law procedures, providing a summary of the investigations of potential breaches by the EBA in 2016. The EBA Head of Legal explained the status of those cases and how they were resolved.
4. The Chairperson noted that the work had been very resource intensive but the exchange of views with competent authorities (CAs) when making initial enquiries had itself proved to be a useful process in identifying possible concerns and addressing them.

Conclusion

5. The BoS took note of the report.

Agenda item 3: Amendments to the Breach of Union Law Process

6. The Chairperson introduced the proposed amendment to the Breach of Union Law (BUL) Rules of Procedure. The EBA Head of Legal explained the proposed changes to simplify the process, modifying the role of the alternate Chairperson and reflecting the changes of process required where an investigation concerns an EEA EFTA competent authority following the incorporation of the EBA Regulation into the EEA Agreement.
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7. Members commented on the proposed changes, suggesting changes to the process in case of a conflict of interest of the EBA Alternate Chairperson. Some additional wording changes were also suggested. One member stated a preference for keeping the current wording of art. 5(2) on the decision not to open an investigation, at least when the complaint would be brought by an authority.

Conclusion

8. The BoS agreed to some changes of wording; the decision would be submitted to BoS by written procedure for final approval.

Agenda item 4: Update on Risks and Vulnerabilities

9. The EBA Director of Oversight presented an overview of risks and vulnerabilities in the European banking system. He focused on banks' profitability and business model sustainability as well as the recent development in banks cost of equity trends. The pressing need to deal with the outstanding stock of NPLs was also highlighted, noting the various workstreams currently ongoing in various EU fora on this topic.
10. The Chair of the Standing Committee on Oversight and Practices (SCOP) referred to banks' cost side, where he saw room for improvement, noting that lower efficiency was related to lack of flexibility as well as other issues such as expenses, competition and leverage. It was noted that banks had increased capital and adjusted asset quality in different ways, comparing European banks with their US peers.
11. The Chairperson invited the representative from the Bank of Italy to present the recent structural reforms in the banking sector in Italy.

Conclusion

12. The Chairperson welcomed the results presented by the EBA staff on the risk analysis and proposed further discussions on balance sheet adjustment and sustainable business models as well as NPL resolution.

Agenda item 5: Discussion on the EU-wide Stress Test 2018

13. The Chairperson introduced the discussion on the EU-wide Stress Test 2018 but first asked the BoS to agree not to carry out a Stress Test exercise in 2017, to which the BoS agreed.
14. The EBA Director of Oversight presented three options for the 2018 stress test exercise as a crisis management tool, or a transparency tool with top down or bottom up approaches, and including proceeding with an exercise similar to 2016 ('status-quo option'). He also noted that an accelerated timeline would be desirable in order to publish the results in June 2018.

15. A very large majority of members supported the 'status-quo option' and agreed to an accelerated timeline; they also requested some adjustments to simplify the methodology, and to correct the biggest obstacles to get realistic results like the current design of the floor clauses in interest income, reduce granularity of the information and have clear responsibilities and communication. Some members asked for changes in the adverse scenario to make it more forward-looking with the BoS having the possibility of giving earlier input to the scenario definition. One member suggested that, in addition to CET1, the stress-test exercise should have also focus on the Leverage Ratio and MREL requirements, as these would constitute relevant additional requirements for the banking sector in the next few years. One member, while acknowledging that a radical change from the status quo for the 2018 exercise would be impractical, noted its shortcomings and advocated a longer term reflection on whether a combination of bottom-up and top-down stress testing would be more efficient and better suited to the prudential aims of the exercise; also certain methodological improvements should anyway be made in 2018 to avoid unbalanced treatment of managerial actions.
16. The BoS also discussed if the changes of IFRS9 implementation and the availability of reliable/audited data (as suitable input for the SREP decision) could delay the publication until end 2018 or 2019. The Chairperson explained that any delay would make the integration with SREP difficult.
17. Some members requested the EBA to clarify if non-consolidated data for subsidiary banks would be published or shared among authorities. The Chairperson explained that publication of solo data by the EBA could be confusing and cause inconsistencies and misunderstandings for some banks.
18. The member from Iceland requested to participate in the next stress test exercise.

Conclusion

19. The BoS supported the 'status-quo option' for the EU-wide 2018 stress test exercise with a tentative publication in the first half of 2018 subject to the discussion, in a later BoS meeting, on the reliability of starting point data considering IFRS9 adoption. The link of the stress test to SREP remained important and the corresponding timing and content of the publication would also be discussed in a later BoS meeting. Nonetheless, the STTF was asked to proceed apace with the methodology ensuring it addressed the lessons learnt from 2016 but with a specific focus on promoting simplicity. The ESRB was asked to allow for an early discussion of the adverse scenario in the BoS. In the longer term, some more radical adjustments to the exercise should be considered.

Agenda item 6: Consultation Paper on Guidelines on Supervision of Branches

20. The Chairperson introduced a discussion on draft guidelines on supervision of branches. The Chair of SCOP explained how the guidelines would identify 'significant-plus' branches and

introduce a more coordinated approach to their supervision by home and host authorities while building on the structures of colleges of supervisors.

21. Members expressed general support for the consultation paper. Some members questioned the consistency of certain provisions of the draft guidelines with the existing legal framework, especially with reference to the effects of the designation of branches as 'significant-plus' and introducing provisions for the EBA mediation in cases of disagreement on aspects where common agreement would be expected.

Conclusion

22. The BoS agreed to its publication for consultation with some wording changes to reflect the outcomes of the discussion and addressing additional comments sent in writing.

Agenda item 7: Discussion Note on Capital Guidance in SREP

23. The Chairperson introduced a discussion note on capital guidance in SREP focusing on the direction for future policy work and update of the EBA SREP Guidelines, on communication with the Commission and on ensuring consistency with the application of Pillar 2 capital guidance (P2G) until SREP Guidelines would be revised.

24. Members welcomed the work done on conceptual approach to setting the P2G and expressed general support. Some members considered that flexibility of the P2G framework was needed for the introduction of this new concept and supported the proposed transitional period. One member supported the proposal of a stocktaking on the P2G set in 2016 and 2017 by competent authorities.

25. Some members expressed different views on considering the components of combined buffer for setting the P2G, in particular the treatment of CCB and CCyB. Other comments suggested that the guidance should be made public and include other factors than the stress test.

26. The BoS noted that going forward the EBA should consider the published CRD amendment proposal from the Commission to avoid misalignments. And it agreed that the P2G should be discussed in colleges along with the discussion on joint decisions on capital; in this regard, the relevant text of the note should be strengthened.

Conclusion

27. The BoS agreed to circulate the discussion note with some minor adjustments. The note would be for the use of supervisors in 2017 as guidance for determination of P2G and communication to institutions. The EBA would use the note as an input for the amendment of the SREP Guidelines. The BoS supported the proposed data collection on the use of P2G in 2016 and values of P2R and P2G for a proportionate sample of institutions to support the calibration of future proposal on P2G.

Agenda item 8: Consultation Paper on Guidelines on the Establishment, Implementation and Monitoring of Incident Reporting under PSD2

28. EBA staff presented a draft consultation paper on guidelines on incident reporting under the revised Payment Services Directive (PSD2), which included requirements applicable to payment service providers on, i) criteria and thresholds to be taken into account for incident classification; ii) the notification process and template; iii) the possibility of delegated and consolidated reporting; and iv) the operational and security policy. It also set out requirements applicable to CAs on the criteria for the assessment of relevance of the incident and the information to be shared with other national authorities; and on the details of incident reports to be shared with the EBA and the ECB and the way they should be communicated.

29. Members agreed with the content and the publication of the consultation paper. One member raised concerns about potential issues with the articulation between the framework for incident reporting to be established in the Guidelines and the framework to be put in place by the SSM; and about the conditions set out in the Guidelines for the consolidated reporting. EBA staff took note of the issues and said that both concerns had been raised by SecuRePay and the task force on payment services (TFPS) members, who had agreed to address them after having assessed the responses received during the consultation period.

Conclusion

30. The BoS agreed with the publication of the consultation paper for a three-month period.

Agenda item 9: Final draft RTS specifying the Cooperation and Exchange of Information (Passporting) under PSD2

31. The Chairperson introduced the final draft RTS, noting that it was its third submission to the BoS and that it reflected the agreement reached between TFPS and the Commission. The Commission representative supported the revised version submitted to the BoS.

32. There was broad agreement on the RTS on the basis of the explanations provided by the Commission on the legal status of distributors and agents under PSD2. On the request of one member, EBA staff agreed to add the words “pursuant to Article 19(3) of PSD2” in field 21(b) of Annex III, so as to provide greater clarity that this field was not an additional obligation on the home authority to perform fit-and-proper checks.

Conclusion

33. The BoS endorsed the final draft RTS including the suggested drafting changes.

Agenda item 10: Discussion Note on EBA's Work on FinTech

34. Following the previous BoS discussions on FinTech and the discussion at the latest MB meeting, the Chairperson presented the proposed way forward dividing the work into four broad sections: authorisation regimes, prudential risks to credit institutions, consumer and retail conduct of business risks and impact on credit institutions business models. He noted the importance of coordinating the work internally and externally with other bodies investigating on the same topic, such as the ECB, the Commission or the FSB.
35. Members agreed to carry out work on the four areas described by the Chairperson and some discussion ensued on the priority to be given to each of the areas. Some preferred to start with prudential risks, having mentioned the need to include the risk of fraud; systemic risks and anti-money laundering risks. Other members requested looking into licensing and authorisation regimes of credit institutions and other financial institutions, as they may have a link to prudential and consumer risks and into the risks of regulatory arbitrage and the possible associated passporting issues.
36. General comments by members referred to the need to define what to investigate and to focus on what needs harmonisation, authorisation or regulation. While circulating a survey to CAs on all of the aforementioned risks could be a good starting point for the work, members mentioned the need to take into account similar work already done and/or under development by other international organisations as well as within the EBA.
37. Regarding the internal coordination of the work, members noted that some type of organisation or taskforce, as well as leader to plan the deliverables would be necessary.

Conclusion

38. The BoS supported the proposed work and agreed to avoid being excessively focused on banks, and include other players, such as payment and e-money institutions. The Chairperson noted that there were different preferences around the table and therefore a balance should be found between the need to ensure an adequate treatment of prudential considerations while allowing innovation.
39. A discussion paper on FinTech would be coordinated by the alternate Chairperson to identify a roadmap and deliverables, to be due by end-June 2017.

Agenda item 11: Report on the Second Round of Assessments of Confidentiality Provisions of Third Countries and Amendment of Recommendation EBA/REC/2015/01 on Equivalence of Confidentiality Regimes

40. EBA staff presented the report on second round of assessments of confidentiality provisions of third countries and amendment of Recommendation EBA/REC/2015/01 on equivalence of confidentiality regimes topic.

41. There was broad agreement on the proposed report and on the amended EBA Recommendation on the equivalence of confidentiality regimes.

Conclusion

42. The BoS agreed to publish the amended EBA Recommendation on the equivalence of confidentiality regimes.

Agenda item 12: Note on Provision of Information on Supervisory Methodologies

43. The EBA Director of Oversight presented the note on provision of information on supervisory methodologies explaining that the EBA would need to have availability of the CAs' methodologies for SREP, performance of supervisory stress testing and application supervisory measures in order to fulfil its convergence mandate.

44. Several members expressed some concerns regarding the proposal and requested some clarifications regarding updates and translations, and mentioned that cooperation between institutions would be necessary to avoid duplication of work and guarantee a secure and simple process.

45. The Chairperson highlighted the importance of collecting the existing documents setting out supervisory methodologies as the process would be shorter than sending a questionnaire.

Conclusion

46. The BoS agreed on the way forward; an email would be submitted by early-2017 explaining the type of information requested and clarifying that documents would be accepted in all EU official languages. The BoS agreed that the initial focus should be on the methodologies related to the components of SREP.

Agenda item 13: Discussion on Policy Developments and Quantitative Impact of BCBS Reforms

47. The EBA Executive Director summarised the discussion held at the 28-29 November BCBS meeting and the stable elements of a likely compromise package. He highlighted that a split of views within the Committee remained almost exclusively on the output floor proposal, with different groups of BCBS members supporting different calibration levels - from 65% to 80% - and a limited number of EU members objecting to the output floor proposal altogether.
48. EBA staff presented the estimated impact on European banks of the most likely compromise outcomes. Also, certain differences in the quantitative impact study (QIS) methodologies followed by the task force in impact studies (TFIS) analysis and the BCBS analysis were highlighted. EBA staff also sketched the way forward to the GHOS finalisation of the reform and the related work for 2017, focusing on the likely element of national discretion that the Basel agreement would recognise in relation to the loss component of the Operational Risk framework as well as the European priorities in relation to the planned Basel work for a more granular slotting approach to specialised lending.
49. Regarding the QIS methodologies, the Chair of the TFIS explained that only a limited number of policy revisions could be incorporated in the QIS analysis and that the TFIS publication would attempt to replicate, to the extent possible, the BCSB methodology, although he highlighted that some of the TFIS computational procedures could not be changed at this late stage of the process. The EBA Chairperson asked the TFIS analysis to be prepared for publication and replicate, to the extent possible, the BCBS output and transparently explain the drivers of any potential difference, highlighting the negative implications that a confusing external communication of the QIS results may have.
50. A few members brought to the attention of the BoS that the eligibility of the internal model method (IMM) for counterparty credit risk, for the purposes of computing the output floor, was important for certain EU jurisdictions and members were concerned that the compromise proposal circulated by the BCBS secretariat would not include it. The need to clarify the language around the exemption of exposures to central banks within the leverage ratio exposure calculation was also mentioned.
51. A few members expressed their concern regarding the introduction of the output floor, describing the impact of such measure in their jurisdictions. A couple of members expressed an explicit reservation on the compromise proposal, as emerged from the November BCBS meeting.
52. The Executive Director asked members about their stance on the output floor measure; non-BCBS members were split among those willing to accept a 70%-75% calibration of the floor and those highlighting the costs of the output floor and asking that the floor was either dismissed or calibrated as low as possible.

Conclusion

53. Further discussion was agreed for the next BoS meeting.

Agenda item 14: Expansion of EBA Infrastructure – Tasks and Resources

54. The MB and BoS in their meetings of 13 and 20 September respectively provided support in principle to the proposal to expand to the full banking population the submission of ITS supervisory data from CAs to the EBA. Following up the request from members to provide a more detailed proposal with the impact that the project could have on the CAs and budgetary implications, the Executive Director presented a note explaining in detail benefits, technical requirements and budgetary implications of the project. The Chairperson also noted that the initiative timing was particularly good for the EBA as it was approaching the end of the regulatory cycle.
55. In general, members agreed with the strategic role of the project for the EBA and recognised the importance of the full sample for the EBA's effective proportionality analysis of existing rules and to promote transparency in order to capture the differing business models across the single market. The Commission representative was also supportive of the project with the caveat that the budget would have to be adopted as part of the 2018 Single Programming Document (SPD).
56. On the technical aspects, members asked whether the project would result in cost increases for CAs, in particular the quality assurance process for smaller banks. The Executive Director noted that the aim was not only to decrease the reporting burden for CAs but also reduce the resources devoted to ad-hoc data collections. He assured the BoS that the quality assurance process for smaller banks would be streamlined, with less demanding deadlines, and it would be limited to the application of the automated XBRL validation rules only.
57. Some members noted that for SSM countries when forwarding the data to the EBA, a sequential approach was crucial to avoid inefficiencies. The SSM representative noted two specific conditions since the ECB/SSM was not the CA for less significant institutions (LSIs): the ECB/SSM would need specific consent from CAs; and there would be no additional data quality checks for the SSM.
58. The Executive Director acknowledged that a sequential approach was important and informed that the EBA's legal analysis had revealed no impediments for the ECB/SSM to send data to the EBA. At the request of the Chairperson, relevant members agreed to provide their consent to the SSM to provide the data and noted that the ECB would not be responsible for the quality of the data for smaller institutions as the quality checks would be limited to the existing validation rules.

59. The Executive Director informed that the subgroup on analysis tools and SCOP had been involved in the project, and in response to specific requests the Subgroup on Reporting and the Standing Committee on Accounting, Reporting and Auditing (SCARA) would be included to ensure full understanding and avoid any inadvertent impact on the ITS on reporting.

Conclusion

60. The BoS supported the project plan provided that no additional data verification burden on NCAs would be expected and with the budgetary increase, and agreed with the content of the note. The Chairperson noted that if the full request was not granted the project could not go ahead.

Agenda item 15: Draft Single Programming Document 2018

61. Before presenting the 2018 SPD, the Executive Director referred to the 2016 budget which due to exchange rate movements would have to be amended taking effect in December 2016, as notified in September. The impact for national authorities would be in the form of a credit note to be issued in 2016 that could then be deducted from the 2017 contributions. For 2016, there would still be a surplus of around 5% to be returned in the 2018 budget.

62. The budgetary authority (Council and Parliament) approved the 2017 EBA budget including a new contribution from EFTA countries. A written procedure would be launched shortly with the detailed budget and distribution of contributions.

63. Regarding the 2018 SPD, the Executive Director informed of a preliminary input from FISMA but comments were not yet included in the document. The total budget requested was 42.5 million euros with a headcount of 147 TAs, including the data infrastructure project. The document would be sent by written procedure in early January to the MB and BoS for final adoption before transmission to the Commission.

64. Members broadly supported the document. It was requested to delete the task on leverage calibration and to clarify the work on structural reforms and the new mandates.

65. The EFTA secretariat and members from EFTA countries queried the EFTA budget contribution and requested a clarification.

Conclusion

66. The BoS agreed to proceed as suggested and to include in the cover note for the 2017 budget a clarification on the EFTA contribution.

Agenda item 16.: MREL Report

67. The Chairperson introduced the final MREL report and recalled that the Resolution Committee (ResCo), on 30 November 2016, had agreed on a number of changes to the text circulated to

BoS on 24 November 2016. He also acknowledged letters received from several members raising specific concerns with regard to quantitative and intragroup issues, and considered that the latest draft addressed those concerns.

68. EBA staff presented the key changes agreed at ResCo with regard to the quantitative analysis, subordination requirement for O-SIIs, deductions of interbank holdings and intragroup issues. Recommendations regarding restrictions on distributions were unchanged but staff conveyed the reservations of a number of ResCo members with regard to the 'parallel approach'.
69. The Chair of ResCo emphasised that the Commission had been part of the ResCo discussion and the ideas would be incorporated in its upcoming legislative proposal. A delicate balance had been reached at ResCo and subject to minor changes the report had received strong support.
70. Regarding the interaction of MREL with the maximum distributable amount, several members expressed that a failure to roll-over MREL eligible debt should not result in any automatic consequences. On the one hand, some members expressed a clear preference for the parallel approach and that this option should be presented in a more neutral way in the report. On the other hand there was support for the stacking order approach expressed by some members as well. The Chairperson recalled that both options removed automaticity.
71. It was noted that the impact assessment was not yet complete and that there were still missing aspects, such as the impact on financial innovation.
72. Several members emphasised the need for sufficiently long transitional periods for banks to comply with MREL. One member argued that this was necessary due to reasons such as a lacking market capacity. Regarding the recommendation to require the disclosure of MREL stack and composition during the transitional period, one member expressed a preference for no disclosure whereas another member raised the points that more disclosure might be beneficial as stronger banks may voluntarily disclose their requirements and level of MREL anyways.
73. On intragroup issues, a few members raised questions about the enforceability of guarantees as internal loss-absorption, and the treatment of the EU as a single jurisdiction. One member added that, furthermore, it may be difficult to operationalise the concept of guarantees as loss absorbing capacity.
74. The BoS broadly supported the extension of a subordination requirement to O-SIIs. Few members raised the point that subordination requirements should be extended to all banks with a bail-in strategy. One member requested that it should be clarified that the subordination requirement of 13.5% could not be adjusted downwards but only upwards.
75. With regard to the deduction of cross holdings, few members emphasised their preference for a deduction from the Tier 2 capital instead for the like-for-like approach. One member requested that the Tier 2 base should not be presented as a more 'severe' option but in a

more neutral manner. Several members expressed their preference for the like-for-like deduction approach.

76. On the issue of calibration one member stated that the TLAC standard should be the benchmark and a requirement exceeding it should be the exception rather than the rule, he did not consider that the latest version of the ResCo report adequately addressed this concern. Another member emphasised the need for consistency with the TLAC term sheet and that there were several recommendations that did not fulfil this condition, e.g. the deduction from the Tier 2 base.

Conclusion

77. The BoS agreed circulate by written procedure a revised draft of the final report incorporating the changes following ResCo meeting.

Agenda item 17: Report on Emerging Technologies Risks

78. The EBA Director of Oversight presented the report on emerging technologies risks containing IT risks previously mentioned such as FinTech, outsourcing or cyber security.

79. Members broadly supported the report and proposed an annual assessment to evaluate whether the report would require update.

Conclusion

80. The BoS adopted the report for publication including some wording changes.

Agenda item 18: Report on the Impact of the Liquidity Coverage Ratio 2016

81. EBA staff presented the main findings of the report including some empirical information.

82. One member questioned the analysis of central bank-related transactions arguing that the report should avoid any potential wrong message to the industry. The Chairperson clarified the analytical exercise where the impact of non-conventional monetary policy in the current economic environment and preferential treatment of central bank-related activities under the LCR regulation was measured.

83. The Commission representative agreed with the structure of the report but requested an EBA confirmation to explicitly state that the consultation processes provided under the relevant articles (Article 509(1) and Article 461(1)) had been respected. The Chairperson noted that it would be explicitly mentioned in the letter to the Commission and the report would include a statement on the same point.

84. The member of Bank of Greece requested to include Greece's data in the confidential annex of the report. The Chairperson agreed with the request but also mentioned that this would not affect the publication of the public report but could delay the distribution of the final version of the confidential annex.

Conclusion

85. The BoS agreed to the publication of the report.

Agenda item 19: Peer Review on the ITS on Supervisory Reporting

86. The Executive Director presented the outcome of the peer review of the ITS on Supervisory Reporting included in the draft final peer review report. He explained the different stages of this peer review, noting that this exercise was innovative with regard to the on-site visits performed in all CAs participating in the peer review, including EFTA countries and the ECB/SSM.

87. He observed that the peer review did not identify significantly negative outliers and put forward some best practices that CAs might want to share and implement to make their processes more convergent across the EU. Indeed, he insisted that CAs had different levels of sophistication of processes and IT systems. He also flagged two sensitive issues raised during the peer review. First, this peer review showed that some CAs requested additional reporting information on top of the data collected by the ITS on Supervisory Reporting. Secondly, he noted that a vast majority of CAs complained about uncertainty triggered by the long period of time between the publication of the updated version of the ITS on the EBA's website and the formal endorsement by the Commission. With a view to making the process quicker and reducing this uncertainty, he indicated that the EBA may issue an Opinion to the Commission to request more delegation with regard to the technical templates.

88. Members broadly supported the report and agreed with the areas for improvement. A majority noted that SCARA should be consulted before publication of the report to address possible inconsistencies with current SCARA's work. It was also suggested reducing and deleting some sections of the report in view of publication.

89. The Chairperson noted that the report did not address the issue of maximum harmonisation, i.e. the extent and impact of additional requirements by CAs on top of those contained in the EBA's ITSs. He expressed the view that in future the EBA should look into this issue.

Conclusion

90. The Executive Director explained that Annex 6 dedicated to areas for improvement suggested by CAs would be deleted from the public version, as well as annex 5. The section 3.3 on the suggestions raised by CAs during the on-site visits would be reviewed by SCARA.

91. The BoS approved the peer review report and agreed to publish it once reviewed by SCARA. The BoS supported the idea of issuing an Opinion advising that the EBA should be delegated direct decision-making responsibilities with regard to the framework for reporting requirements.

Agenda item 20: Report on the Interaction with EMIR

92. EBA staff presented the report on interaction with EMIR, a joint product with ESMA. Overall there was agreement between ESMA and EBA, although as regards the treatment of central counterparties (CCP) clearing member exposures in the leverage ratio views differed. It was noted that the EBA work on leverage ratio concluded that any changes should await a review at the Basel level in order to ensure international consistency.

93. Members supported the report and noted the differences in ESMA and EBA view as regards the leverage ratio, which were believed to be reflective of differences in the mandate given to ESMA and EBA. Wording should therefore be amended to fully reflect this difference.

Conclusion

94. The BoS endorsed the report, but it would be subject to a fatal flaw review following the approval by ESMA's BoS.

Agenda item 21: Report on Covered Bonds

95. The EBA Director of Regulation presented the Report on covered bonds developed in line with the ESRB recommendation.

96. A majority of members supported the report; but some raised some questions on some specific proposals of the report, in particular regarding the liquidity buffer and impact assessment of interactions with the LCR; the treatment of conditional pass through and soft bullet covered bonds; and the treatment of derivatives.

97. The EBA Director of Regulation explained that the specific proposals had been extensively assessed through roundtables and experts' judgement approach.

Conclusion

98. The BoS agreed to provide drafting suggestions on the issues discussed at the meeting. Subsequently, the final report would be circulated for approval by written procedure, in view of the submission to EU institutions and publication by end-2016.

Agenda item 22: Issues Note on the Process for handling the EBA Consultation on Risk Weights for Mortgage Lending

99. The EBA Director of Regulation presented the proposal to handle consultations and notifications on CAs setting higher risk weights or loss given default (LGD) floors for mortgage lending. Under the proposed approach, the methodology of the rejected draft RTS would be used to assess each consultation and notification individually.

100. Several members expressed their concern with using that approach since the draft RTS were rejected by the BoS. Other members disagreed with the proposal to deal with these consultations in the macroprudential taskforce and argued that the topic was microprudential and should therefore be dealt within the task force on model validation where the draft RTS were developed.

101. The EBA Director of Regulation stressed the need to develop analytical skills to perform these assessments in a harmonised manner and suggested that the subgroup on credit risk would perform this task. The Chairperson requested clarification from the Commission on the status of their work as regards the revision of the macroprudential toolkit as well as the draft RTS. He suggested that the EBA could, as an alternative solution to separately assessing each CA's decision, draft an overall report on this topic in the first half of 2017.

102. The Commission representative noted that the revision of the macroprudential framework had just started. Regarding the rejected draft RTS, he viewed that the most likely outcome (subject to necessary discussions/decisions within the Commission) would be a Commission adoption early 2017 such that the RTS would be in place by June 2017. The Chairperson proposed that the EBA Opinion on the framework be submitted once the RTS would be adopted by the Commission.

Conclusion

103. The BoS agreed to follow the Chairperson's proposal.

Agenda item 23: Consultation Paper on the RTS on the Specification of the Nature, Severity and Duration of an Economic Downturn

104. EBA staff presented a consultation paper on the RTS on the Specification of the Nature, Severity and Duration of an Economic Downturn as part of the EBA roadmap to review the IRB approach published in February 2016. It was noted that the topic was complex and the chosen solution fairly prescriptive, which was considered necessary in order to achieve further harmonisation in this field. However, given the high level of complexity, alternative solutions should also be explored, as these may provide better solutions. The consultation paper would therefore be amended to go out with broader considerations in order to solicit alternatives from the financial industry and other stakeholders.

105. Members welcomed the proposal, although also noted a high degree of complexity and prescriptiveness and appreciated the possibility to include before publication a section discussing simpler alternative approaches. Some members viewed that delay should be kept to a minimum as they would not be in line with the publicly communicated timeline on the IRB review.

Conclusion

106. The BoS broadly agreed with the content of the consultation paper, but decided to publish it after an additional chapter exploring alternative approaches had been added. The draft consultation paper including the new chapter would be submitted for discussion at the BoS 14-15 February 2017 meeting.

Agenda item 24: Discussion on Proportionality

107. The EBA Director of Regulation presented an overview of the discussion paper on proportionality, including its structure, rationale and key messages.

108. Members welcomed the work and were supportive of the structure, rationale and key messages as presented. Some members highlighted that although simplicity of the rules was desirable, it was very difficult to achieve in practice given the need to create level playing field and consider different business models of activities in the regulation. Others members commented that a possible solution to the increased complexity of regulation would be to apply simplified rules and higher capital requirements to smaller banks.

109. The BoS viewed that although the rules were the same, in general they were not applied in the same way to all institutions.

110. Members agreed that signposting was a step forward as complexity and lack of clarity regarding the application of the rules were an important issue for small institutions. Several members stressed that a reduction of the frequency of reporting for small institution would not achieve the desired results in terms of costs' reduction and could lead to more intensive supervision.

111. The Chairperson viewed that there was a broad support to go forward with the discussion paper. In addition to the aspects included in the presentation, the issues on trade-off between frequency of reporting and intensity of supervision; the differentiation in the application of Basel rules to smaller banks; governance aspects, in particular fit and proper requirements should be included.

Conclusion

112. The BoS agreed to finalise the discussion paper considering all the aspects discussed.

Agenda item 25: Meetings of the Board of Supervisors in 2017

113. The BoS took note of the 2017 BoS meeting calendar:

- 14-15 February
- 3-4 May (joint BoS-BSG on Wednesday 3 May)
- 27-28 June
- 13-14 July (Away day)
- 12 September
- 24-25 October (joint BoS-BSG meeting on Tuesday 24 October)
- 12-13 December

Agenda item 26: Reports from Standing Committees

114. The BoS took note of the progress reports of the EBA's Standing Committees.

Agenda item 27: AoB

115. The EBA Chairperson informed the BoS of the letter received from BSG consumer representatives. In a context of new mandates and resources constraints, the EBA was not able to publish the Consumer Trends Report. BSG consumers offered their assistance with a view to issuing this report. The EBA Chairperson asked whether some CAs were keen to contribute to this report.

116. The Chairperson thanked Marja Nykänen, alternate BoS member of Finland for her contribution to the BoS and congratulated her for the appointment to the board of the Finnish central bank.

117. The Chairperson invited the BoS to attend the EBA conference on 'Financial integration: past and future perspectives' that would take place at the EBA premises in London 14 February. An invitation to the BoS would be sent shortly.

END OF MEETING

[signed]

Andrea Enria

Chairperson

Participants at the Board of Supervisors' meeting

6-7 December 2016, London

Chairperson: Andrea Enria

<u>Country</u>	<u>Voting Member/Alternate</u>	<u>Representative NCB</u>
1 Austria	Helmut Ettl	Philip Reading
2 Belgium	Jo Swyngedouw/David Guillaume	
3 Bulgaria	Dimitar Kostov	
4 Croatia	Damir Odak	
5 Cyprus	Stelios Georgakis	
6 Czech Republic	David Rozumek	
7 Denmark	Sean Hove	Peter E. Storgaard
8 Estonia	Andres Kurgpõld	Indrek Saapar
9 Finland	Marja Nykänen	Jouni Timonen
10 France	E. Fernandez-Bollo/F. Visnovsky	
11 Germany	Peter Lutz	Erich Loeper
12 Greece	Spyridoula Papagiannidou	
13 Hungary	Gábor Gyura	
14 Ireland	Cyril Roux/ Gerry Cross	
15 Italy	Luigi F. Signorini/Andrea Pilati	
16 Latvia	Ludmila Vojevoda	Vita Pilsuma
17 Lithuania	Renata Bagdoniene	
18 Luxembourg	Martine Wagner	Norbert Goffinet
19 Malta	Ray Vella	
20 Netherlands	Jan Sijbrand	
21 Poland	Andrzej Reich	Maciej Brzozowski
22 Portugal	Pedro Duarte Neves	
23 Romania	-	
24 Slovakia	Dubinová	
25 Slovenia	Primož Dolenc/ Damjana Iglič	
26 Spain	Fernando Vargas/Cristina Iglesias-Sarria	
27 Sweden	Uldis Cerps	Olof Sandstedt
28 UK	Sam Woods/Sasha Mills	Richard Spooner

<u>Country</u>	<u>Member</u>	<u>Representative NCB</u>
1. Iceland	Jón Thor Sturluson	Örn Hauksson
2. Liechtenstein	Patrick Bont	
3. Norway	Emil Steffensen	Sindre Weme

Observer

1. SRB

Representative

Dominique Laboureix

Other Non-voting Members

1. SSM
2. European Commission
3. EIOPA
4. ESMA
5. ESRB
6. EFTA Surveillance Authority

Representative

Korbinian Ibel¹
 Dominique Thienpont
 -²
 -³
 -⁴
 Frank Buechel/Per Christian Baerøe

EBA Staff

Executive Director	Adam Farkas
Director of Oversight	Piers Haben
Director of Regulation	Isabelle Vaillant

Slavka Eley; Lars Overby; Dirk Haubrich; Spyridon Zarkos; Jonathan Overett Somnier; Philippe Allard; Charles Canonne; Ali Erbilgic; Massimiliano Rimarchi; Fergus Power; Ester Botica Alonso

¹ Accompanied by Sergio Nicoletti Altimari and Fátima Pires (ECB)

² Represented by Kai Kosik

³ Represented by Mette Sicard Filtenborg

⁴ Represented by Tuomas Peltonen