



EBA Staff

EBA BS 2012 075

17 April 2012

Draft Minutes of the EBA Board of Supervisors meeting

3-4 April 2012(13:30-18:30hrs; 9:30-16:00hrs)

Location: Tower 42, London¹

Agenda item 1: Opening, welcome & approval of the agenda and minutes

1. The Chairperson opened the meeting and briefly updated the Board on the informal ECOFIN meeting that had taken place on 31 April 2012. The representative from the Commission provided further information relating to the progress of their crisis management work.
2. The agenda and the minutes of the previous meeting were approved.

Agenda item 2: Revised Rules of Procedure for the EBA BoS

3. The three ESAs are making serious efforts to align the BoS Rules of Procedure (RoP), and the Chairperson recalled that this was discussed at the Joint Committee Meetings of 21 December 2011 and 22 February 2012.
4. The Chairperson introduced the most important amendments applied to the BoS RoP document. These amendments mostly concern those providing more clarity during the voting process within the context relating to majorities and also votes via written procedure.

Conclusion

5. The Board was invited to submit comments via written procedure by Friday 13th April 2012. Comments received from the three ESAs on the RoP will be presented at the April Joint Committee meeting for approval. The final version of the RoP adopted by the Joint Committee will be re-submitted to the BoS for decision.

Agenda item 3: proposed aligned common ESA RoP for Mediation.

¹ Please note that these minutes include information which the EBA cannot disclose under its Access to Documents regime due to (i) the public interest as regards the financial, monetary & economic policy of the EU; and (ii) its own, and the Council's, internal consultations and deliberations in order to safeguard their ability to carry out their tasks.

6. The Chairperson said that the EBA draft Rules of procedure (RoP) on mediation presented at today's meeting have been developed through a coordinated work among the three ESAs' staff, in line with the Joint Committee's request to have such RoPs aligned as much as possible across the ESAs.
7. He also added that after having been discussed at the ESAs' BoS, the document will be submitted at the next Joint Committee meeting, which is due to take place on 24 April 2012, as a proposal for a joint position. The above mentioned draft RoP benefitted of the input provided by the MB members. The two main issues discussed at the BoS meeting were: on the structure/composition of the Panel (whether to have ad hoc Panels with variable composition or a permanent Panel) and on the possibility for the Panel to have discretion on whether accepting requests for mediation.

Conclusion

8. The Chairperson invited the BoS to send further comments to the draft RoP on mediation via written procedure by Friday 13th April 2012.

Agenda item 4: Draft Internal Process and RoP on Investigations regarding Breach of Union Law.

9. The Chairperson explained that the Draft Internal Process and RoP on Investigations regarding Breach of Union Law have been developed by the three ESAs; and these should be aligned.

Conclusion

10. It was agreed that comments on the Draft internal process and RoP on investigations regarding Breach of Union Law should be sent to the EBA in writing by Friday 13th April 2012.

Agenda item 5: Follow-up on Emergency Measures according to Article 18 (3).

11. As far as Article 18 of Regulation 1093/2010 is concerned, the Chairperson recalled the BoS discussion at the BoS meeting held on 8 December 2011 on the Joint Committee paper on the interpretation of Article 18 of EBA Regulation was discussed at the BoS meeting of 8 December 2011. He added also that during the above mentioned meeting, one member of the BoS expressed general concerns on the compatibility of the interpretation given by the ESAs' staff on Article 18 (3) and the constraints for the scope of the ESAs' powers stemming from the "Meroni case".
12. Further analysis was conducted in this regard by the EBA staff in conjunction with the other ESAs' and the Commission. It was pointed out that the ESAs' staff and the Commission consider that the power entrusted to the ESAs by Article 18(3) is coupled by a number of safeguards that make this power compatible with the principle of the mentioned Meroni case.

Conclusion

13. The explanation given by the EBA's staff note with regard to Article 18 of EBA regulation was assessed to appropriately reply to the concerns expressed with regard to the Meroni case.

Agenda item 6: Preliminary Budget for 2013.

14. The Executive Director explained that a preliminary draft budget ('PDB') for 2013 should have been submitted, following approval by the MB and Board of Supervisors, to the Commission by the end of March, according to Article 63(1) of the EBA Regulation. The Board formally approved the PDB for 2013 for onward transmission as soon as possible.
15. The Executive Director noted the severe resource constraints on headcount to fulfil increased mandate.
16. The BoS was also updated on the EBA budget surplus of 2011. The three ESAs are currently negotiating with DG MARKT to find a solution and get appropriate surplus returned back. EBA's proposal, which is aligned with that of the other ESAs, is that 40% should be returned to the Commission and the remaining 60% to the national authorities.

Conclusion

17. The BoS agreed to approve the 2013 budget conditional on the surplus issue being resolved. The BoS will be kept informed on the final agreement achieved on the surplus of 2011.

Agenda item 7: Analysis of the proposed CRD4 CRR compromise text and EP Draft Report for Amendments.

18. The Board supported the EBA's Staff paper and agreed that it identified the right topics of particular interest from a supervisory perspective.

Agenda Item 8: Follow-up on Recapitalisation Exercise

19. The Director Oversight introduced the item by summarising a few issues of general interest which have arisen in relation to the review of banks' capital plans including feasibility, changes to plans, delays in communication and availability of back-ups.
20. At the Chairperson's invitation a few Members updated the Board on some particular cases of interest in their particular jurisdictions. The Chairperson concluded that overall progress has been good but underlined the need for members to act appropriately to minimise collective risk by communicating potential problems promptly and so ensure backstops are in place well ahead of the June deadline.

Agenda Item 9: Presentation on Risks

21. The chairperson of the SCOP gave a short presentation on the outcome of the SCOP discussion on ongoing risks and vulnerabilities.

Agenda Item 10: Stress Test

22. The Board considered the Report on the fulfilment of the EBA recommendation following the 2011 EU-wide stress test and agreed that this should be formally approved by a short written procedure with the aim of a subsequent low-key publication in early May.
23. The Board then had a preliminary and general discussion of some of the key components for making the 2013 exercise as practical and effective an analytical tool as possible moving in to Basel 3, including: sample size; scope of the exercise; number of scenarios; appropriate thresholds and process for methodology; and publication.

Agenda item 11: Draft RTS on Own Funds – Consultation Paper

24. The Board approved the draft RTS on Own Funds for consultation, subject to a 24 hour window for the submission of one Member's drafting suggestion on one specific article before publication.
25. It was noted that the EBA and the Commission should liaise to design an efficient and effective Q&As framework on BTS and CRR. The Chairperson suggested that EBA Staff might want to bring something on this to the Board's September meeting.

Agenda item 12: Guidelines on Internal Governance: fitness and propriety for management bodies and key function holders

26. The Board considered the proposed CP on suitability and approved this for publication subject to the following amendments:
- the substitution of all occurrences of 'shall' with 'should';
 - the inclusion of appropriate questions on (i) how best to incorporate the need for proportionality (as raised by the BSG) and (ii) policies for key function holders;
 - the extension of the consultation period to the full 3 months.

Agenda item 13. Survey of practice Results on Remuneration

27. The Director Regulation explained that the aim of the survey is to have an overview on how national authorities have implemented the Guidelines in their legislative frameworks and/or supervisory practices and what progress has been made towards implementation.
28. The Director Regulation summarised the main results which will be used to inform the EBA's technical standards on this topic in 2015.
29. The Board approved the report for publication and noted the EBA's associated plan to publish guidelines on data collection as soon as possible. The survey is one of a number of initiatives being pursued in this important area.

Conclusion

30. The BoS endorsed the survey on the implementation of GL on remuneration policies and practices for publication.

Agenda item 14: Progress on SME Project

31. The Director Regulation specified that there are two requests from the European Commission, one in CRR (that needs to be executed by the end of 2012) and one through a Commissioner's letter to analyse the possible reduction of 1/3 of RW in Standardised approach. The EBA will also have to review the thresholds employed for identifying SMEs and analyse the impact of an increase from 1 to 5 million Euros of this threshold. This latter report will be prepared by 1 September 2012 while the former is due within 18 months.

32. The Chairperson stressed the difficulties that the EBA must face from a technical and human resources point of view to produce this report within the deadline.

33. The EBA has gone through the first consultation phase and template for data collection is available. In the second phase, the EBA intends to collect data on the SME exposures from credit institutions via the competent authorities and to analyse in particular default rates and asset correlations.

34. It was underlined that in order to ensure a representative sample for the data collection an active involvement of the competent authorities in the data collection is required.

Conclusion

35. An email will be sent out to NSAs to nominate experts for a Task Force SME by next week. The appointed experts should be able to support EBA's work in the coming months, mostly in a remote manner but also for physical meetings for a period of two to four weeks stating the area of expertise.

Agenda item 15: Update on the work of TCOR

36. The Chair of the TCOR, updated the Board on the progress of the Task Force, explaining that the work plan is still under discussion and will be hopefully finalised by the June meeting. The group is already in touch with the Task Force on disclosure and other relevant workstreams.

37. In illustrating the progress of the TCOR work, the Chair mentioned the completion of the first deliverable of the Task Force, the revision of the EBA staff note on the preliminary analysis on RWAs (circulated to the BoS) that will be circulated to the SIGBB subgroup as an EBA contribution to the Basel work on RWAs.

38. In response to a question from a member the TCOR Chair confirmed that the trading book is part of the mandate assigned to it but will not be considered before the second half of the year. The Chair stressed that the EBA should avoid duplicating the work of the Basel Committee in this area.
39. The Chairperson, upon request of the Board, supported the need for work in the area of residential mortgages and SMEs should be accorded particularly high priority in this context. He added that while the SIGBB will conduct a specific assessment on low default portfolios, the EBA will complement the work by performing specific investigation on SMEs and the Residential Mortgages.

Conclusion

40. The Board agreed that this work should be investigated under the auspices of the above mentioned project

Agenda item 16: Basel 3 Monitoring Report

41. The representative from the Bundesbank presented the Basel III monitoring report to the BoS. This report provides the main results of the Basel III monitoring exercise conducted by the Impact Study Group based on June 2011 data. It had been previously circulated to the BoS on 16 March 2012 for comments which had been incorporated in the final version.
42. One Member noted that the shortfall figures identified in the report might usefully be considered against banks' abilities to generate capital based on reasonable assumptions.
43. It was also noted that the figures would be particularly relevant for understanding the relationship between the 9% CT1 target from the EBA's recommendation and the introduction of CRD IV and the CMG was asked to provide analysis and data as appropriate to the EBA staff ahead of the discussion in June on this issue.

Conclusion

44. The BoS approved the publication of the report.

Agenda item 17: Reports from Committees

45. The Board noted the progress reported by SCARA, SCRePol, SCOP, the Joint Committee and SCCPaFI².

Agenda item 18: AoB

BoS Away Day

²SCCPaFI (formely SCFI)

46. The Chairperson expressed a preliminary intention to convert the BoS meeting initially scheduled for 11-12 July 2012 into a Board "Awayday", moving it forward a day to 12-13 July 2012. The location will need to be confirmed but is likely not to be London. The "Awayday" will be restricted to voting Members only (with the exception of those central banks with a supervisory role) and should provide a great opportunity to discuss supervisory cases and experiences.
47. He also announced that an extra physical meeting of the BoS may be needed in mid November (probably, on the 14th of November 2012, to be confirmed) to endorse a significant number of binding technical standards that must be submitted to the Commission by the end of the year. An email will be sent out shortly confirming the final date.

EBA premises project

48. The BoS was provided with an oral update on the EBA's premises. In the short term, negotiations are about to finish to provide the Staff with extra space for the current year with the acquisition of a further leaf in Tower 42.
49. Concerning the long term project, CBRE has been selected to advise on this issue via an open tender procedure. The EBA is planning to start negotiations in late April to be completed by June 2012.

Delivery of binding technical standards

50. The Executive Director explained that due to the number of technical standards and guidelines that need to be finalised by the year-end, an email will shortly be sent to the Board asking NSAs to provide the EBA with policy experts for short periods (maximum two or three weeks). The policy experts are expected to assist the EBA staff in finalising the EBA draft technical standards and/or post-consultation feedback statement and to work at the EBA premises in London.

Crisis management and bail-in

51. One Member asked whether the EBA would prepare a response to the Commission's recent paper on crisis management and bail-in. The Chairperson confirmed that the EBA will certainly follow the proposal in due course and that Staff will try to prepare a response for approval via written procedure.

52. The meeting was adjourned.

Andrea Enria
Chairperson



Participants at the meeting of the Board of Supervisors

London, 3-4 April 2012

Chairperson Andrea Enria

Alternate Chairperson Matthew Elderfield

<u>Country</u>	<u>Voting member/alternate Representative NCB</u>		<u>Accompanying Person</u>
Austria	Michael Hysek	Andreas Ittner	Ingeborg Stuhlbacher
Belgium	Mathias Dewatripont/Rudi Bonte		
Bulgaria	Rumen Simeonov		
Cyprus	Costas Poullis		
Czech Republic	David Rozumek		Zdenka Faulhamerova
Denmark	Ulrik Nodgaard		Birgitte Sogaard Holm
Estonia	Andres Kurgpõld		
Finland	Jukka Vesala		

France	Danièle Nouy/Frédéric Visnovsky		
Germany	Raimund Röseler	Erich Loeper	Markus Lixfield
Greece	Ioannis Gousios		
Hungary	Károly Szász/Laszlo Seregdi		
Ireland	Matthew Elderfield/Mary Burke		
Italy	Giovanni Carosio/Roberto Rinaldi		Maurizio Trapanese
Latvia	Kristaps Zakulis	Vita Pilsuma	
Lithuania	Vytautas Valvonis		
Luxembourg	Claude Simon	Norbert Goffinet	
Malta	Karol Gabarretta	Alexander Borg	
Netherlands	Jan Sijbrand/Anthony Kruizinga		
Poland	Andrzej Reich/Andrzej Saniewski	Olga Szczepanska	
Portugal	Pedro Duarte Neves		Adelaide Cavaleiro
Romania	Adrian Cosmescu		
Slovakia	Vladimir Dvoracek/Tatiana Dubinova		

Slovenia	Matej Krumberger		
Spain	Fernando Vargas		Cristina Iglesias-Sarria
Sweden	Uldis Cerps	Olof Sandstedt	
UK	Andrew Bailey	Silvia Pezzini	Cassandra Ripley/ Fiona Mann

Country

Observers

Norway	Morten Baltzersen	Arild J Lund	
Iceland		Luovik Porgeirsson	Jonas Poroarson
Lichtenstein	Rolf Brueggemann		
Croatia	Davor Holjevac		Martina Drvar

Institutions

Representatives

European Commission	Dominique Thienpont
European Central Bank	Panagiotis Strouzas
ESRB	Francesco Mazzaferro
EIOPA	Carlos Montalvo
ESMA	Verena Ross

Others

EBA Executive Director Adam Farkas

EBA Director Oversight Piers Haben

EBA Director Regulation Isabelle Vaillant

EBA Director Operations Peter Mihalik

EBA Staff Delphine Reymondon, Marian Nieto, Paolo Bisio, Bernd Rummel, Michelle Ewing, Patricia Juanes, Joseph Mifsud