



EBA BS 2017 256rev2

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EBA Staff

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27-28 June 2017

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Location: London

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## Board of Supervisors – Final Minutes

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### Agenda item 1.: Welcome and Approval of Agenda

1. The Board of Supervisors (BoS) approved the agenda of the meeting.
2. The Chairperson thanked the member and high-level alternate of Bank of Spain, who were attending their last BoS meeting, for their contribution to the work of the EBA since its inception.
3. The Chairperson informed of the main topics of the BoS away day meeting in Tallinn, Estonia. The first day would be devoted to proportionality while the discussions on the second day would revolve around NPLs.
4. The Executive Director informed of the discussions and conclusions of the Basel meeting of 14-15 June 2017. He noted that despite several proposals to address the outstanding issues, no final agreement had been reached. The BCBS Chair agreed to draft a letter outlining the proposals made by some BCBS members on output floors and calibration of the Standardised Approach (SA) for real estate for the consideration of the Group of Governors and Heads of Supervision (GHOS) and with an indication that further work would be necessary to address the diverging views of members.

### Agenda item 2.: Election of One Member of the Management Board

5. The Executive Director received one application to fill the vacancy that had arisen in the Management Board (MB) following the termination of the second term of the BoS member from Bank of Spain.

### Conclusion

6. The BoS elected Martin Noréus as member of the MB for a first term of 2.5 years with immediate effect.

### Agenda item 3.: Election of SCOP Chair

7. The Executive Director received one application for co-chairing, together with the EBA Director of Oversight, the Standing Committee on Oversight and Practices (SCOP). The Chairperson took this opportunity to thank the former SCOP Chair, the member from the Bank of Spain, for his contribution to steer SCOP's work since its inception in 2011.

#### Conclusion

8. The BoS elected Uldis Cerps as co-chair of SCOP.

### Agenda item 4.: Renewal of BSG Members

9. The Chairperson explained a proposal on the replacement of one member (Arnold Kuijpers) of the Banking Stakeholder Group (BSG) and the continuation for a second term of another member (Sabine Masuch). He proposed to the BoS the appointment of Hervé Guider (European Association of Cooperative Banks) for a first term and the continuation of Sabine Masuch (Association of Private Bausparkassen) for a second term.

#### Conclusion

10. The BoS agreed to the continuation in the BSG of Sabine Masuch for a second term and to the appointment of Hervé Guider as replacement of Arnold Kuijpers. Antonio Romero Mora (Spanish Confederation of Saving Banks) was selected as reserve of Hervé Guider.

### Agenda item 5.: Draft Rules of Procedure on Professional Secrecy for Non-Staff

11. The Chairperson presented draft rules of procedure on professional secrecy for non-staff aligned with the final drafts adopted by the Management Boards of ESMA and EIOPA. The draft presented contained some changes compared to the versions discussed previously by the BoS, in particular, the removal of provisions on sanctions to staff from Competent Authorities (CAs); further clarifications of the legal basis; a streamlining of the provisions on investigations; and the introduction of some clarifications with respect to the possibility of sharing documents in the case of e.g. parliamentary enquiries etc.
12. Members welcomed the changes, although a few still expressed their concerns with the draft, notably on the list of exemptions, which they opined it should remain open in order to accommodate national laws. They also opposed the possibility of restricting access to information to staff from CAs, for they viewed that this could prejudice the performance of duties by CAs. Another member said that this draft could compromise the independence of his organisation.
13. With regard to the investigation on unauthorised disclosure of internal documentation on the RTS on strong customer authentication (SCA) and common and secure communication (CSC)

under PSD2, the Chairperson confirmed its closure since BoS members had not submitted any comments to the report circulated by written procedure on 20 June 2017.

## Conclusion

14. The BoS endorsed the draft rules of procedure on professional secrecy for non-staff. The draft would be sent to the MB for final approval.

## Agenda item 6.: Update on Risks and Vulnerabilities

15. The EBA Director of Oversight presented an overview of the main risks and vulnerabilities of the European banking sector by the EBA staff. He focused on the trends observed with regard to capital and risk weighted assets (RWAs), profitability and asset quality; and presented ad hoc analysis on risks related to US households and auto loan exposures and developments and exposures of the energy sector and market reactions on recent resolution cases.

16. The SCOP Chair presented the discussion on risks and vulnerabilities held at the SCOP meeting of 23 May 2017. He said that the two main concerns continued being the persistent high level of NPLs and overall low profitability. On NPLs, he noted that since it appeared that banks were favouring internal workout solutions to deal with NPLs despite not being a comprehensive solution to address the overall stock of NPLs, there was need for authorities and supervisors to continue developing ways to address structural issues and improve secondary markets. On profitability, he asked members for their views on how consolidation could help address it.

17. Members exchanged their views on the different topics presented, and shared with BoS some of the risks and vulnerabilities observed in their jurisdictions, e.g. exposures to the energy sector; the depreciation of national currency and RWAs evolution; the emergence of some risks such as subprime and student loans; etc.

18. On profitability, the link made with consolidation of the banking sector was welcomed, and it was requested to conduct further work on the issue of impediments to reduce overcapacity of the banking sector.

19. The ECB representative noted that an internal assessment of risks had concluded that the risk of contagion from the resolution cases was hardly observable and in fact bank stock prices had improved. He noted other risks such as liquidity issues arising from the non-banking financial sector, and said that no volatility arising from the monetary policy within the euro area could be observed. On the contrary, the market expectations and interest rate policy of the US seemed to be the trigger for yield shifts.

20. Regarding other risks on which the EBA should focus, some suggestions referred to risks building up in the longer term that could affect the financial sector; the need to build credibility for the EU resolution framework; and monetary policy.

## Conclusion

21. The BoS took note of the discussion. The Chairperson asked SCOP to follow-up on the proposal to further investigate the issue of impediments to consolidation in the sector.

## Agenda item 7.: Update of the CET1 List 2017 and Review of pre-CRR Instruments

22. The EBA Head of Capital, and Assets and Liabilities Management Unit explained the assessment conducted by the Standing Committee on Regulation and Policy (SCRePol) on two forms of capital instruments currently included in the CET1 List (pre-CRR instruments). She asked the BoS to confirm the assessment. She then presented a proposed way forward on the review of pre-CRR capital instruments. She noted that the Subgroup on Own Funds (SGOF) had initiated some discussions, and the approach suggested was to find common criteria so that ultimately all types of instruments on the list would be covered while keeping a proportionate approach. She clarified that the final decision on the assessment would still lie in the hands of CAs under the current CRR provisions.

## Conclusion

23. The BoS agreed with the assessment of the two capital instruments and with the approach for the review of pre-CRR capital instruments.

## Agenda item 8.: Final Guidelines on the Assessment of the Suitability (Fit and Proper) of Members of the Management Body

24. The EBA Director of Regulation presented the draft guidelines on the assessment of suitability of members of the management body (fit and proper) and explained the elements that had given rise to more discussion within SCRePol, in particular: a) whether the assessment of suitability should be conducted by CAs prior to (*ex-ante*) or after (*ex-post*) taking up duties by a member of the management body; and b) the concept of being independent and how many independent members there should be in the management body in its supervisory function. In this regard, a link was made to the draft guidelines on internal governance (under agenda item 9) setting out the requirement of a number of independent members in committees of the management body in its supervisory function.

25. On the independence of directors, members had diverging views. While some members expressed their agreement with the approach finally reflected in the draft guidelines, noting the lengthy discussions held on these guidelines and the compromise achieved, other members still considered that proportionality was not well embedded in the draft guidelines and that the independence requirements should be reconsidered, especially within a group context taking into account the specific situations of wholly-owned subsidiaries. EBA staff explained that in the draft guidelines on internal governance, for significant institutions the majority of members of internal committees should be independent, but not in case of non-

significant institutions. One member suggested that this requirement should only apply for listed companies, whereas for non-listed companies this should be considered as a best practice rather than a requirement.

26. On the discussion on ex-ante vs ex-post suitability assessment of members of the management body, members again expressed diverging opinions. Some members supported the approach adopted in the guidelines to require an ex-ante assessment by CAs unless duly justified reasons would exist to require an ex-post assessment. Other members considered that an ex-ante assessment was not acceptable for various reasons, e.g. national laws requiring such assessment to be ex-post; increased burden on resources to conduct such assessment for all credit institutions; etc. Some said that this should be determined in the level 1 text rather than in guidelines, and therefore the guidelines should remain neutral on whether requiring an ex-ante or ex-post assessment. Another member suggested that the guidelines should promote rather than require an ex-ante assessment as a supervisory approach, this way catering for the divergences encountered among Member States.

27. The Chairperson took note of the concerns expressed by members, yet noted that the situation had to be addressed given the need to enhance practices in this area and that differences among CAs within the SSM could constitute an undesired background and undue burden. He suggested some amendments to the text of the guidelines to address both independence of board members and ex-ante vs ex-post suitability assessment. Regarding the presence of independent members, it was suggested to differentiate between significant or listed institutions and non-significant and non-listed including fully owned non-significant institutions. For the assessment of suitability, three different options were proposed: option 1 (all members of the management body should be assessed ex-ante); option 2 (ex-ante assessment limited to members of the management body in their management function) or option 3 (allowing both ex-ante and ex-post assessment but suggesting an ex-ante assessment as best practice). Option 3 was supported by several CA under the condition that they would like to see the concrete drafting suggestions in the guidelines.

## Conclusion

28. The Chairperson concluded that the proposed changes for both the guidelines on the assessment of the suitability of members of the management body and the guidelines on internal governance would be sent by written procedure to BoS; the EBA would then contact the Commission services to draw their attention to the need to achieve further harmonisation in this area by possibly introducing changes in the level 1 text.

## Agenda item 9.: Final Guidelines on Internal Governance

29. [See discussion under agenda item 8]

## Agenda item 10.: EBA Opinion on the Commission’s response to the RTS on Strong Customer Authentication and Common and Secure Communication

30. Further to the BoS approval and submission to the Commission for endorsement of the final draft RTS on Strong Customer Authentication (SCA) and Common and Secure Communication (CSC), the Commission had informed the EBA of its intention to amend the RTS. Four of those amendments were of a substantial nature. EBA staff explained those amendments and presented a draft EBA Opinion on how to respond to them, noting that the EBA agreed with the Commission’s objectives of the four proposed amendments but did not agree with the substance of three of them.
31. Members agreed with the EBA draft Opinion and some of them expressed their disagreement with the Commission’s proposal for a fallback technical solution.
32. Other comments questioned the inclusion of fraudulent transactions, in addition to unauthorised transactions, for the calculation of the fraud rate in the context of using the transaction-risk analysis exemption. EBA staff explained that this type of transactions were in the scope of PSD2, were included in the submission of the RTS by the EBA in February and were important for risk analysis purposes, especially given that transaction risk analysis should enable PSPs to identify such types of transactions.
33. One BoS member queried a change with regard to the ability for PSPs to use the transaction-risk analysis exemption again providing the fraud rates would be below the reference fraud rate for one rather than two consecutive quarters. EBA staff explained that the Commission had changed to two quarters which was not in the RTS as submitted by the EBA to the Commission in February 2017. The BoS agreed to delete the word ‘consecutive’ (Article 19.3 RTS).

### Conclusion

34. The BoS approved the EBA Opinion on the Commission’s intention to amend the RTS on SCA and CSC.

## Agenda item 11.: Final Guidelines on Minimum Monetary Amount of the Professional Indemnity Insurance under PSD2

35. The EBA Head of Consumer Protection, Financial Innovation and Payments Unit presented the final guidelines on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee under PSD2. He explained the main changes resulting from the consultation that took place in 2016.
36. Members supported the final guidelines. Some members however questioned the percentages applicable to the tiers used for the calculation of the minimum monetary amount and noted

that a deeper analysis backing such figures was lacking and the adequacy of the Guidelines should be reviewed in not too distant a future.

### Conclusion

37.The BoS approved the final guidelines.

## Agenda item 12.: Final Guidelines on Authorisations under PSD2

38.EBA staff introduced the final guidelines on the information to be provided for the authorisation of payment institutions and e-money institutions and for the registration of account information service providers under the PSD2.

39.Members were supportive of the guidelines. One concern expressed by a few members related to the issue of proportionality of the requirements. EBA staff explained that proportionality was already set out in level 1 text for small payment institutions and for account information service providers. In addition, the EBA addressed such concerns in the final text, by streamlining the guidelines and by specifying that all applicants should comply with all guidelines but that the level of detail should be proportionate to the applicant's size and internal organisation, as well as to the nature, scope, complexity and riskiness of the particular service(s) that the applicant would provide. EBA staff also noted that the guidelines did not provide for substantive requirements but instead for information requirements tailored to the complexity and risk-profile of the different types of PIs.

40.One member said that guideline 8.1 d) could suggest that internal auditors should not be independent. EBA staff said that this was not intended by the TFPS and would be reworded to avoid any confusion. It was also noted that some cross-references within the text were wrong and should be corrected.

### Conclusion

41.The BoS adopted the final guidelines with the amendments to guideline 8.1 d) and correction of references.

## Agenda item 13.: Consultation Paper on RTS on Central Contact Points under PSD2

42.EBA staff presented a consultation paper on RTS on central contact points under PSD2. The RTS would apply to payment institutions (PIs) and e-money institutions (EMIs) providing payment services cross-border via agents established in another Member States.

43.One member supported a further alignment of the thresholds for the appointment of a central contact point with those under the draft RTS on central contact points under the Fourth Anti-Money Laundering Directive (AMLD). EBA staff explained that while the draft RTS aimed to ensure consistency to the extent possible between the two legal instruments (for example as

regards the EUR 3 million and the 10 agents thresholds), the objectives of the two types of central contact points under the PSD2 and the AMLD4, as well as the wording of the mandate and the legal regime under the two Directives, were different and therefore further alignment of the thresholds would not be possible.

### Conclusion

44. The BoS endorsed the consultation paper for a 3-month consultation period.

## Agenda item 14.: EBA Report on Innovative Uses of Consumer Data

45. EBA staff presented the report on innovative uses of consumer data by financial institutions. Based on the consultation conducted during 2016 and the analysis of the responses as well as the review of the legal instruments applicable to the use of consumer data, the Report outlined that there was already an extensive set of legal requirements governing the use of consumer data by financial institutions and which mitigate many of the risks identified by the EBA. Also, taking into account that a number of key regulations had not yet been implemented across the EU, the Report concluded that no industry-specific changes were necessary at this stage, but that the EBA would continue to monitor the evolution of this innovation.

### Conclusion

46. The BoS endorsed the Report for publication.

## Agenda item 15.: EBA Consumer Trends Report 2017

47. The Chairperson explained that in spite of an earlier decision not to publish a report on consumer trends in 2017, following repeated requests by the BSG and consumer associations it had been decided to draft and publish one, although the sources of data were more limited compared to previous years. EBA staff then explained the main elements of the report.

48. Members appreciated the drafting of the report even in a lighter fashion and agreed to its publication.

### Conclusion

49. The BoS endorsed the Report for publication.

## Agenda item 16.: Discussion on Brexit

50. The Chairperson invited the Commission representative to inform BoS of the latest news regarding the negotiations between the Commission and the UK Government. Amongst other things, the Commission representative said that the work of European supervisors remained crucial to address whatever the final outcome of the negotiations was; and invited the ESAs to undertake work with a view to ensuring the stability of financial markets and the prevention of



regulatory arbitrage within the single market. In this respect, he noted that work on risk analysis and on the design of contingency measures was of utmost importance.

51. EBA staff presented the main elements of the Opinion and the results of the mapping exercise on the intention of credit institutions to relocate as a result of Brexit. The Chairperson invited members to comment on the proposed topics of the Opinion, a final version of which would be tabled for approval at the 12 September meeting. The topics suggested for the Opinion were: authorisation; investment firms; back-to-back trading; internal models; outsourcing; MiFID/MiFIR equivalence; and risks to resolution.
52. Members expressed in general their agreement with the overall approach for the Opinion. A general comment by members was that the Opinion should try to leverage as much as possible on the work done either by other ESAs and/or SSM, e.g. on internal models, and thus suggested leaving these topics aside or providing more detailed guidance by building on this other work. Although the Chairperson agreed with this idea, he noted that this was an opportunity to identify and address inconsistencies between euro and non-euro area countries. Members said that the Opinion should try to focus as much as possible on current prudential issues related to Brexit, and avoid a discussion on amending regulatory products since this would be a long-term issue rather than a pressing one for the coming 18 months. The Chairperson agreed that a pragmatic approach to the current legislative framework was needed, although in the case of investment firms, the framework was changing and the EBA was compelled to include it in the Opinion and suggest a legislative fix.
53. Concerning authorisation of credit institutions, it was requested to also cover payment institutions as well as clarify the conditions of the authorisations framework; but a few members cautioned against developing work which could lead to further harmonisation although bearing in mind the need to prevent regulatory arbitrage.
54. There were numerous comments with regard to back-to-back trading. Members requested to pay special attention to supervision to prevent the emergence of empty shells, strengthening market risk management. On this point, the Chairperson asked CAs to revert to the EBA on specific cases that they could identify in their jurisdictions, this way enabling a more targeted discussion on what present and future challenges could be.
55. On investment firms, members asked to pay attention in particular to systemic ones and how to deal with them in a consistent manner across the EU.
56. Other comments referred to the need to ensure cooperation with the UK authorities in topics of common interest, e.g. risk analysis; and with resolution authorities to coordinate cross-border cases. The EBA was asked to provide further guidance on the establishment in the EU of third-country branches. Finally, it was requested to also look at the issue of MREL and in particular contractual recognition, with the possibility of introducing a step by step approach to statutory recognition in both the EU and UK.

57. On the governance aspect of the EBA's work on Brexit, the Chairperson reminded members that the BoS remained the main body providing steer, and that during the next phase of the work, the involvement of Standing Committees would be greater.

58. The ESMA representative informed that the ESMA BoS had adopted one general opinion on supervisory convergence, and would be invited to adopt three specific Opinions covering investment firms, investment funds and secondary markets. He said that ESMA had set up a supervisory convergence network as a platform to share information. On the suggested topics by EBA, he said that it might be necessary to consult the Commission on MiFID/MiFIR equivalence. He also informed that ESMA intended to liaise with EBA and EIOPA with regard to the first analysis on a possible cliff-edge scenario.

### Conclusion

59. The BoS was invited to provide written comments by Friday 30 June. An Opinion would be tabled for discussion and approval at the meeting of 12 September.

## Agenda item 17.: Final Advice on Investment Firms Prudential Regime

60. The Chairperson explained that, in light of the need to launch another data collection for the finalisation of the calibration and impact assessment, the advice on the new prudential framework for MiFID investment firms, prepared in response to the Commission's call for advice of June 2016, would be tabled for approval of the Bos at the 12 September meeting. However, he invited members to provide their comments and endorsement of the main recommendations of the draft advice, the details of which were presented by the EBA Director of Regulation; she confirmed that a public hearing with the industry would be held on 3 July.

61. Members supported the draft advice and the recommendations contained therein, and made suggestions and comments on various aspects of the proposed advice. In particular on the finalisation of the calibration, it was requested to ensure that capital requirements should not decrease, in particular for firms trading on own account with a high risk profile.

62. One member suggested an alternative approach to determine risk to market for investment firms trading under the responsibility and guarantee of a general clearing member. The amount of capital required for risk to market would be equal to the margin posted with the general clearing member, subject to supervisory permission and other conditions. Some members welcomed this proposal as an additional alternative, although requested further details to better understand the impact it could have, also to ensure that it would not impact the level playing field of trading firms.

63. On concentration risk, one member asked to increase, from 10% to 25% of the regulatory capital, the limit of the maximum exposure for class 2 firms with a positive K-NPR, K-DTF, in

line with CRR large exposure requirements for the trading book. It was also asked to apply the K-factor on concentration risk exclusively to the trading book positions of investment firms.

64. One member regretted that the advice did not contain any operational risk requirements, and it was suggested that capital requirements should capture operational risk of daily trading flows; but others noted that this was already captured by the K-DTF factor and in any case double counting should be avoided. The macroprudential aspects of the prudential framework were missed by a few members, and it was discussed whether to include leverage limits to prevent systemic risks from developing.
65. On the categorisation of investment firms, some felt that the thresholds levels for K-AUM and K-CMH were too low. Another member noted that a smoother transition between Class 2 and Class 3 should be considered.
66. Other individual comments/suggestions were: a) to exempt non-significant holdings in capital instruments of credit institutions if held for trading from deductions of capital (or at least apply deductions in a proportionate manner); b) to better analyse the situation of local firms/market makers trading on own account; c) to lower the limits set out in the recommendation concerning the level of initial capital for the authorisation of investment firms, saying that those levels did not seem to be totally justified; d) to extend, if possible, the impact study to the liquidity requirements; and e) to rely on the existing CRR/CRR2 methodologies for measuring counterparty credit risk.
67. The EBA Director of Regulation thanked members for their comments, and noted that they would be brought for further discussion at SCRePol and that in any case many would be dealt with during the calibration exercise. She agreed that the impact assessment should also include the liquidity requirements. She also noted that the report would not include explicit recommendations on macroprudential policy; however, the final report may include a hook for ESRB/ECB to provide further inputs to the Commission on these matters.

## Conclusion

68. The BoS was invited to provide written comments by Friday 30 June. The final advice would be tabled for discussion and approval at the meeting of 12 September.

## Agenda item 18.: Annual Report on Resolution Colleges

69. EBA staff presented the main conclusions of the first annual report on resolution colleges, including an overview on the overall status of resolution planning in 2016. The report contained the views of EBA staff on the operation of colleges of 24 banking groups and provided recommendations for improving their effectiveness in 2017. She noted that, given that the report focused only on operational aspects of resolution colleges and that the process was still at very early stages, it was suggested not to publish it, although going forward future reports would be published.

70. The Chair of the Resolution Committee (ResCo) noted that there had been a heavy concentration of resolution colleges meetings in 2016, which was unavoidable given the need to set them up and kick off work; and that going forward, the scope of the confidentiality agreements with third country jurisdictions should be reviewed and improved.

### Conclusion

71. The BoS took note of the Report.

## Agenda item 19.: Draft Report on the Implementation of EBA Guidelines on Methods for Calculating Contributions to DGSs

72. The Chairperson introduced the report on the implementation of the EBA guidelines on methods for calculating contributions to Deposit Guarantee Schemes (DGSs), which pursuant to the DGS Directive, should be reviewed by July 2017. The report provided an analysis of the implementation of the guidelines and some recommendations as a first step before proposing changes. It was proposed to publish the report for an 8-week public consultation.

### Conclusion

73. The BoS endorsed the Report for public consultation.

## Agenda item 20.: Final draft RTS and ITS on Authorisation of Credit Institutions

74. The EBA Director of Regulation presented the final draft RTS and ITS on the information to be presented in applications for authorisations of credit institutions. She said that the final drafts aimed at striking the right balance between achieving a harmonised list of information requirements whilst providing the right level of flexibility to cater for specific detailed requirements for licensing authorities to ascertain their assessment on the various items of the authorisation file. On sequencing the granting of a (full) authorisation, she explained that it was not possible under the current CRR provisions but proposed that this be considered as part of the EBA's FinTech work.

75. Members confirmed that a good balance has been struck. One member noted the additional technical clarifications that had been agreed at working level (in particular the inclusion in Article 8(2) of the RTS a reference to paragraph (1)(g)).

### Conclusion

76. The BoS approved the final draft RTS and ITS on the information to be presented in applications for the authorisation of credit institutions for submission to the Commission. The BoS also raised no objections to the consideration of sequencing as part of the FinTech work.

## Agenda item 21.: Final Report on the Second QIS on IFRS9

77. The EBA Head of Capital, and Assets and Liabilities Management Unit presented the findings of the final report on the second impact assessment on IFRS9 and proposed a way forward on the EBA's future work on IFRS9.

78. Members supported the report. It was indeed noted that a strong cooperation between auditors and supervisors was needed to ensure a proper implementation of IFRS9, for which a benchmarking exercise could be useful. And it was suggested to start working on a communication strategy with regard to the EU-wide 2018 stress test due to the potential impact that IFRS9 could have on the final results. Another member confirmed that the EBA should continue looking into the impact that IFRS9 could have on balance sheets and capital ratios, as well as on pro-cyclicality.

### Conclusion

79. The BoS approved the Report for publication.

## Agenda item 22.: Update on the draft Discussion Paper on FinTech

80. The Alternate Chairperson presented an update on the progress made on the development of a Discussion Paper on FinTech. He outlined the results of the FinTech mapping survey and the methodological approach and explained the next steps. Noting that the Discussion Paper was well advanced, he asked members whether they would agree to its approval by written procedure, further to an additional round with relevant Standing Committees, Sub-groups and Project Teams, over the coming weeks such that it could be published during the summer.

81. Members welcomed the progress made and the advanced state of the Discussion Paper. On the results of the mapping exercise, some members cautioned against drawing firm conclusions from it bearing in mind that CAs reported only on a sample of firms and the limitations to the reported data. Some members also called for further streamlining. A number of members had comments on the initial observations and next steps and, in particular, cautioned that it would be premature to go too far in relation to the next steps on sandboxing schemes/innovation hubs, and resolution-related issues.

82. On business models, it was requested that the EBA continue to carry out further work in view of the variety of models present in the EU given the broad nature of the concept of FinTech. On Anti-Money Laundering (AML) issues, it was requested to cooperate more closely with the Joint Committee's subgroup on AML.

### Conclusion

83. The BoS welcomed the progress made on the FinTech Discussion Paper. It was agreed to consider with caution the results of the mapping survey for the reasons explained. The draft Discussion Paper would be submitted to the relevant Standing Committees for another round

of comments, further to which it would be decided whether it should be submitted for approval by written procedure followed by publication during the summer or tabled for approval at the September BoS meeting.

## Agenda item 23.: Discussion on Capital Requirements and Capital Guidance in 2016 and Way forward

84. The EBA Director of Oversight presented an analysis on additional capital requirements (P2R) and capital guidance (P2G) applied by CAs as part of the 2016 SREP exercise. He noted the progress achieved over the past 2 years on P2R, in particular a greater degree of convergence in its application, whilst for P2G wide divergences still persisted across CAs due to, amongst other reasons, different basis for setting out the level of P2G; different approaches to calculate the maximum stress impact; the range of adjustments used, and the range of elements of the combined buffer used to off-set the maximum stress impact. He suggested a way forward for these four issues, and noted that while the issue of the different approaches to calculate P2G levels (i.e. total SREP capital requirements (TSCR) vs a flat 5,5% threshold) had attracted a lot of attention, no way forward was being proposed at this stage.
85. Members welcomed the analysis made and acknowledged the progress made on the application of P2R. In the case of P2G, they noted that it had only been put in place recently (2016 SREP exercise) and some called for flexibility in its application. The EBA Director of Oversight took note of it although wondered how such flexibility could be coupled with requests for further convergence.
86. On the calculation of maximum stress impact, on which differences had been observed across countries, members expressed their agreement with the option to consider the movement of TREA through the stress period for the calculation of the maximum stress impact for the 2017 SREP guidelines update.
87. On the use of TSCR vs 5,5% threshold, members commented that in principle their use seemed to yield the same results, although it would be necessary for CAs to properly understand the use of one or the other.
88. The Chairperson welcomed the comments and suggestion by members, in view of which a revised version of the SREP guidelines would be prepared whereby, a) it would include the use of P2G to reflect the quantitative stress testing results, without mentioning other potential uses of P2G for which further work would still be needed; b) the consideration of the movement of TREA through the stress for the calculation of the maximum stress impact would be considered; c) potential areas for adjustments would be outlined; d) it would reflect the approach agreed by the BoS in December 2016 regarding the off-setting of elements of the CB (CCB and in specific cases CCyB); and e) it would refer to applicable capital requirements for the determination of P2G.

## Conclusion

89. The SREP guidelines would be amended as per the suggestions outlined by the Chairperson, and would be tabled for approval at the BoS meeting of 24-25 October 2017.

## Agenda item 24.: Issues Note on Market Risk and Counterparty Credit Risk Deliverables under CRR2

90. The Head of Credit, Market and Operational Risk Policy Unit proposed to BoS a way forward to deal with the envisaged workload that would stem from the review of the CRR (CRR2) in the area of the new Standardised Approach (SA) for counterparty credit risk (SA-CCR) and the fundamental review of the trading book (FRTB). He noted that this area was full of uncertainties pending the negotiations on the Commission's proposed CRR2 by the EU co-legislators and the discussions at international level in Basel. In light of this, a Discussion paper would be drafted and published by end-2017 covering high priority mandates to facilitate the implementation of the market risk framework.

91. Members supported the proposed way forward and noted the importance to commence work to enhance the market risk framework. In addition, one member noted that it would be important to include as part of the Discussion Paper the mandate to develop guidelines on the definition of exceptional circumstances that justify movements between Banking Book (BB) and Trading Book (TB) positions as a means to prevent different approaches within the EU.

92. With regard to the FRTB, the Executive Director explained the current discussions at the BCBS and in particular the situation in the US, where it was unclear whether a review of the FRTB work would be requested, although some elements of the FRTB were still open at BCBS level.

## Conclusion

93. The BoS supported the proposed way forward.

## Agenda item 25.: Reports from Standing Committees

94. The BoS took note of the reports from the Standing Committees.

### END OF MEETING

**Andrea Enria**

**Chairperson**



## Participants at the Board of Supervisors' meeting

27-28 June 2017, London

Chairperson: Andrea Enria

<u>Country</u>	<u>Voting Member/Alternate</u> <sup>1</sup>	<u>Representative NCB</u>
1. Austria	Helmut Ettl	Karin Turner-Hrdlicka
2. Belgium	Jo Swyngedouw/David Guillaume	
3. Bulgaria	Dimitar Kostov	
4. Croatia	Damir Odak	
5. Cyprus	Stelios Georgakis	
6. Czech Republic	Zuzana Silberová	
7. Denmark	Jesper Berg	Niels Bartholdy
8. Estonia	Andres Kurgpõld	Indrek Saapar
9. Finland	Anneli Tuominen	Jouni Timonen
10. France	Frédéric Visnovsky	
11. Germany	Peter Lutz	Erich Loeper
12. Greece	Spyridoula Papagiannidou	
13. Hungary	Csaba Kandrács	
14. Ireland	Gerry Cross/Mary Burke	
15. Italy	Luigi F. Signorini/Andrea Pilati	
16. Latvia	Gunta Razāne	Vita Pilsuma
17. Lithuania	-	
18. Luxembourg	- <sup>2</sup>	Norbert Goffinet
19. Malta	Marianne Sciclunna	
20. Netherlands	Jan Sijbrand/Olaf Sleijpen	
21. Poland	Andrzej Reich	
22. Portugal	Pedro Duarte Neves	
23. Romania	- <sup>3</sup>	
24. Slovakia	Vladimír Dvořáček	
25. Slovenia	Marko Bošnjak/Damjana Iglič	
26. Spain	Fernando Vargas/Cristina Iglesias-Sarria	
27. Sweden	Martin Noréus	Camilla Ferenius
28. UK	Sasha Mills	Nigel Fray

<sup>1</sup> Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Dries Cools (National Bank of Belgium); Marek Sokol (Czech National Bank); Julia Blunck (BaFin); Constantinos Botopoulous (Bank of Greece); Maurizio Trapanese (Banca d'Italia); Tijmen Swank (De Nederlandsche Bank); Izabella Szaniawska (Polish Financial Supervisory Authority); Margarida Rei (Banco de Portugal); Julian Gray (Bank of England) and Jurgen Boltz (Financial Conduct Authority)

<sup>2</sup> Represented by Anne-George Kuzuhara

<sup>3</sup> Represented by Lucretia Niculina



<u>Country</u>	<u>Member</u>	<u>Representative NCB</u>
1. Iceland	Jon Thor Sturluson	Örn Hauksson
2. Liechtenstein	Patrick Bont/Heinz Konzett	
3. Norway	Morten Baltzersen	Sindre Weme

<u>Observer</u>	<u>Representative</u>
1. SRB	Dominique Laboureix

<u>Other Non-voting Members</u>	<u>Representative</u>
1. SSM	Korbinian Ibel <sup>4</sup>
2. European Commission	Martin Merlin <sup>5</sup>
3. EIOPA	- <sup>6</sup>
4. ESMA	- <sup>7</sup>
5. ESRB	- <sup>8</sup>
6. EFTA Surveillance Authority	Frank Büchel <sup>9</sup>

#### EBA Staff

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

Delphine Reymondon, Lars Overby, Dirk Haubrich, Jonathan Overett Somnier, Philippe Allard, Bernd Rummel, Helene Öger-Zaher, Larisa Tugui, Antonio Barzacki, Laura Díez Pérez, Christopher Mills, Antonella Pisani, Slawek Kozdras, Elisabeth Noble, Santiago Barón Escámez

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<sup>4</sup> Accompanied by Jérôme Henry

<sup>5</sup> Accompanied by Philippe Pellé and Olena Loboiko

<sup>6</sup> Represented by Kai Kosik

<sup>7</sup> Represented by Joe Heavey

<sup>8</sup> Represented by Tuomas Peltonen

<sup>9</sup> Accompanied by Marco Uccelli