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Board of Supervisors

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EBA –Regular Use

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# Board of Supervisors meeting – Final Minutes

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## Agenda item 1.: Approval of Agenda

1. The Board of Supervisors (BoS) approved the agenda of the meeting.
2. The Chairperson informed of changes to the BoS membership of the Polish Financial Supervisory Authority (Mateusz Mokrogulski as new BoS member), Danish Financial Supervisory Authority (Carsten Kjær Joensen as new Alternate) and Icelandic Financial Supervisory Authority (Finnur Sveinbjornsson as new Alternate). He also noted that the BoS member of the National Bank of Netherlands would change shortly due to the retirement of the current member.
3. He also informed the BoS of the selected topics for the next BoS Away Day which would be held in July in Iceland, namely the EU policy developments to tackle “too big to fail” issues and sustainable finance. He also mentioned the update of the BoS distribution list, which should be done soon and the replacement of Erich Loeper as chair of the Task Force on Impact Studies (TFIS).

## Agenda item 2.: Appointment of two MB members and election of a new Alternate chairperson

4. The Chairperson informed of the changes to the membership of the Management Board (MB) as the terms of Edouard Fernández-Bollo and Andrzej Reich would expire by the end of June 2018.
  5. Members elected Mr Edouard Fernández-Bollo for a second term and Mr Raimund Roeseler by consensus.
  6. In addition, the Chairperson also informed that the current Alternate chairperson of the EBA, Mr Pedro Duarte Neves representing the Bank of Portugal, would also step down in end-June
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2018 after serving two terms. Members elected Mr Jo Swyngedouw as Alternate chair of the EBA.

### Agenda item 3.: Update on risks and vulnerabilities

7. The Director of Economic Analysis and Statistics (EAS) gave an update of risks and vulnerabilities in the European banking system. He confirmed the increase of CET1 ratio in relation to the decreasing trend of Risk-Weighted Assets (RWAs) in the last quarters. He flagged that RWA density declined mostly for IRB banks for all asset classes, while it increased for some SA exposures, particularly corporate. Regarding the Non-Performing Loans (NPLs), he noted a general trend of reduction of NPLs within the EU due to improving economic conditions, although the level of NPLs was still high in certain jurisdictions. In terms of profitability, he emphasised the slow progress, with RoE remaining on average below the cost of equity. He also presented the interaction between the distribution policy implemented by banks and the level of capital and NPLs. He observed that 20 banks in the sample kept paying generous dividends albeit high level of NPLs.
8. Regarding the outcome of IFRS 9, he noted that there was an increase in coverage ratios and a decrease in capital ratios by 20 bps in average due to the first time application of IFRS9 and some seasonal effects. However, provisions declined between January and March 2018.
9. He also relayed the SCOP messages about the good economic conditions supporting banks' results. However, SCOP urged supervisors to monitor banks' credit standards and banks should take advantage of the good economic conditions to reduce further their stock of NPLs. In parallel, supervisors should closely monitor banks' distribution policies.
10. The EBA chairperson mentioned his concerns about RWA optimisation, which may have led some banks to move portfolios from standardised application to IRB. The director of EAS concluded that further analysis would be beneficial to understand better the situation.

### Agenda item 4.: Issues note on data analysis for the Call for Advice on Basel III

11. The Director of EAS explained that the EBA received a Call for Advice (CfA) from the European Commission on 4 May 2018 to support the preparation of the implementation of the 2017 Basel III revisions in the EU. He updated the BoS on planned data collection and sought high-level guidance on the proposed approach. With regard to the selection of the sample, he noted that the EBA tried to meet the European Commission's request in terms of coverage of countries, business models and size. Although the EBA targeted a wide representative sample, he noticed that there was no coverage at all for some Member States. He also informed that the highest level of consolidation would be taken into consideration.
12. He flagged that the data collection process would change compared to the past, with the EBA gathering the templates and then forwarding the relevant ones to the BCBS. The EBA would try

to assist the banks as much as possible, by designing simple templates and by prefilling them to the extent information is already available in supervisory reporting. However, he suggested one change, which was supported by the Task Force on Impact Studies (TFIS), namely adding banks' LEI data and, thus, collecting non-anonymised data. In terms of timeline, the templates should be ready by mid-July. He clarified that institutions should submit their data by 14 September, except for the banks that are not part of the BCBS Monitoring exercise, which would be given a later deadline. The exercise should be finalised by mid-November, allowing sufficient time for the EBA to analyse the data and supplement with relevant policy analysis.

13. The Director of the Prudential Regulation and Supervisory Policy (PRSP) department drew BoS attention to the annex scenarios on which the BoS steer was sought. In line with the previous discussions at the BoS and the European Commission's CfA, which noted that the Basel compromise should be fully applied, requiring a full reversal of EU-specific implementation choices was considered the most consistent approach. However, it might cause a significant burden to the institutions in the data collection, as reversing some of the assumptions may be difficult, especially in the area of credit risk.

14. Members asked EBA staff to streamline the templates which were viewed as too heavy and too complex for the small banks. Some members also voiced their concerns about the timeline, considering that it was too tight to submit the data. They requested a longer timeline, also to avoid any overlaps with the stress testing exercise. It was argued that an open communication channel with the BIS should be kept throughout the exercise. Also, one member noted that the identification of individual banks should be used for the purpose of the response to the Call for Advice and not for the BCBS monitoring exercise.

15. Although there was a broad support to the consolidated approach, some members considered that subsidiaries should be included in the exercise to have a complete measurement of the impact as done for the NSFR impact assessment. In terms of providing and analysing data, most members also asked EBA staff to clarify the governance process and the respective role and responsibilities of the EBA and CAs.

16. The representative of the European Commission recalled the Commission's commitment to stick to the BCBS standards and apply strictly the proportionality principle. He also flagged the importance of having a comprehensive data collection and full country coverage to enable the European Commission to formulate legislative proposals covering all the issues. Regarding the deviations from the Basel III requirements implemented in the EU, he considered that they should not be reversed. He also flagged the importance of assessing possible significant increases in capital requirements through this exercise and suggested some changes to the templates.

17. The representative of the ECB/SSM noted that the EBA took a meaningful and balanced approach. He encouraged the EBA to simplify the templates, in particular for the small banks. He deemed important to have a broad sample of banks, including all the EU jurisdictions. Due

to a number of qualitative issues related to macro-prudential buffers, he considered that the EBA should work further on the templates.

18. The two directors agreed that a simplification of the templates should be done for the small banks. In terms of timing, they confirmed that a three-month period should be enough to submit the data and the EBA was not in a position to extend the period. Nevertheless, it was agreed to consider the feasibility of granting a few weeks more for the smaller banks. They also confirmed that the process would go through the relevant committees and sub-groups and that the exercise would be run in close cooperation with the CAs as usual.

### **Conclusion:**

19. The EBA Chairperson highlighted that an effort should be made by CAs to make sure that there was a proper representation of all banks across the EU. He confirmed the BoS' general support for the highest level of consolidation approach, but asked the two Directors to propose some limited expansions of the sample to sub-consolidated level, including all the OSIs. The data collection would be based on LEI, but the following submission from the EBA to the BCBS would be based on anonymised data as in the past. It was also agreed for SCRePol to approve the templates.

## **Agenda item 5.: Own Funds related matters**

20. The head of the Liquidity, Leverage, Loss Absorbency and Capital (LILLAC) Unit informed the BoS of the update of the CET 1 list, noting the changes that have been applied since its last publication in November 2017, mainly the deletion of grandfathered state aid instruments, the inclusion of a new instrument under Article 31 CRR, the deletion of instruments from Czech Republic, Finland, Ireland and Portugal, and the updates in the references to the governing law of Luxembourg and Denmark.
21. When presenting the update of the CET1 report, which would accompany the next publication of the list as previously agreed by the BoS, the head of the LILLAC Unit updated the BoS on some specific aspects that have arisen during the review of pre-CRR instruments, such as loyalty shares with increased voting rights, set duration of an institution, shares with redemption rights, and the minimum dividend rule.
22. Members broadly supported the work presented and the proposed approach with regard to loyalty shares with increased voting rights and set duration of an institution. Regarding the third update of the AT1 monitoring report, the head of the LILLAC Unit explained the main developments since the last publication of the AT1 report in October 2016 and the new issues included in this third update. Following the approval and publication of the AT1 report, she suggested putting on hold the AT1 monitoring in light of the anticipated monitoring of MREL eligible liabilities and the scarce resources to do this work.

### **Conclusion**

23. The BoS agreed to publish the CET 1 list, the CET1 report, and the report on monitoring of AT1 issuances.

## Agenda item 6.: Opinion on the implementation aspects of the RTS on Strong Customer Authentication and Common and Secure Communication under PSD 2

24. The head of the Conduct, Payments and Consumers (COPAC) Unit explained that the RTS on Strong Customer Authentication (SCA) and Common and Secure Communication (CSC) was published in the Official Journal on 13 March 2018 and would apply from 14 September 2019. In this regard, he indicated that the Opinion under discussion was aiming to provide more clarity to the market participants in a number of areas. He also mentioned that a Consultation Paper (CP) on draft guidelines on the conditions for exemption to the obligation of having a fallback, a change introduced to the EBA's final draft RTS by the European Commission, was submitted to BoS in parallel, as both regulatory products aimed to assist in the implementation of the RTS on SCA and CSC.

25. Members broadly agreed with the urgent need to provide clarity to the market. One member queried whether there would be industry solutions in place to replace the current solution of using card number and CVV to make remote payments. EBA staff mentioned some solutions were already being developed by the market.

### Conclusion

26. The BoS approved the publication of the Opinion.

## Agenda item 7.: Consultation Paper on the draft Guidelines on the conditions to be met to benefit from an exemption from contingency measures under Article 33(6) of regulation (EU) 2018/389 (RTS on SCA and CSC)

27. The head of COPAC Unit commented on the link between the CP on draft guidelines under Article 33(6) RTS on SCA and CSC and the Opinion on the implementation of the same RTS discussed under the previous item. He noted that the draft guidelines were focused on the four conditions for a dedicated interface to be met in order for an account servicing payment service providers (ASPSP) to be exempted from the obligation to having a fallback in place. He observed that the draft guidelines would provide clarity to the market and CAs on these conditions, as well as the evidence to be provided to CAs by ASPSPs and propose a pragmatic approach for the CAs and the EBA to deal with the large number of requests for assessments they are expecting to receive before the application of the RTS in September 2019.

28. The representative of the European Commission expressed his general support to the CP and sought clarification about the Guideline 1.3 related to the possibility for the EBA to grant an exemption.

29. EBA staff explained that CAs would not need to wait for the EBA's reaction to proceed ahead. However, the draft Guidelines would allow the EBA to intervene in case of divergent responses.

### Conclusion

30. The BoS approved the publication of the CP.

## Agenda item 8.: EC request on costs and performance of structured deposits – preliminary conclusions and next steps

31. The head of COPAC Unit introduced this item by explaining that the European Commission sent a request to the three ESAs to issue, by end 2018, recurrent reports on the cost and past performance of the main categories of retail investment, insurance and pension products. He indicated that structured deposits was the only product falling under the EBA's consumer protection remit.

32. He informed that most CAs deemed that they did not hold the desired data, were not in a position to provide the EBA with the required data, and that the estimated small market size in most jurisdictions would make it disproportionate to collect the data directly from firms. Therefore, the EBA would not be able to provide, for the first instalment of this report in 2018Q4, the European Commission with the information requested. In line with the original request received, the EBA would therefore have to identify the gaps and state in the report how these would be filled in future editions of the report. He asked the BoS to confirm the direction of travel so that the report would be developed accordingly in the second half of 2018.

33. The representative of the European Commission voiced his disappointment and requested for the report to clearly state how CAs would obtain the data in future years.

### Conclusion

34. The BoS agreed with the proposal to develop the report as proposed for submission to the BoS and the EC in the fourth quarter of 2018.

## Agenda item 9. : Assessment methodology for Anti-Money Laundering reviews

35. The Director of the Banking Markets, Innovation and Consumers (BMIC) department explained the different steps of the methodology developed by EBA staff and clarified the criteria used to select the ten CAs, which would be reviewed from July 2018 to September 2019. He also explained the review process, noting that the AML reviews should be distinguished from the peer reviews carried out by the EBA. He highlighted that this work would be supported by a

specific network for which volunteers from CAs had been selected. In terms of findings, he explained that confidentiality measures would be applied.

36. Members broadly supported the EBA's work plan on AML reviews. Some members noted that the plan is ambitious and that additional resources might be required if the work is to be finalised within the proposed timeline. There were some suggestions about alternative and additional criteria that could be considered by the EBA when selecting Member States for the review. Some members pointed to the risk of duplication with the work done by the FATF, MONEYVAL, and other international assessment bodies and asked the EBA to clarify how their reviews would differ. In addition, they also considered that the follow-up to these reviews and the role of AMLC in the whole process should be clarified. Following a discussion on the selection criteria and the benchmarks for the review, some BoS members requested that a final draft of the methodology should be shared with the BoS for information purposes.
37. The representative of the ECB/SSM and the European Commission strongly supported the EBA's proposed methodology. The European Commission's representative further informed that the European Commission was carrying out transposition checks on AMLD and would conduct compliance checks later on until March next year. He also noted that the European Commission would launch a study on how Member States apply AMLD next year.
38. The Chairperson noted that all Member States should be reviewed but not at the same time. The director of BMIC agreed and informed that an updated note would be circulated.

## Conclusion

39. The BoS took note of the proposed process.

## Agenda item 10.: Fintech related matters

40. The head of the Banking Markets, Innovation and Products (BMIP) Unit presented the first products of the EBA FinTech Roadmap, namely the two reports on FinTech, one on the prudential risks and opportunities arising for institutions from FinTech and another on the impact of FinTech on incumbents' credit institutions business models.
41. With regard to the first report, seven use cases were examined where innovative technologies could be applied in existing traditional financial services/processes, with the respective analysis of the prudential risks and opportunities that may arise for institutions. It was further explained that the second report was prepared by the EBA staff, based on facts and observations collected through the engagement with the supervisory community and the industry. The purpose of both reports is to share knowledge across the supervisory community and the industry in identifying and understanding the prudential risks and opportunities coming from the use of FinTech and the main impact on the sustainability of banks' business models.

42. Members agreed with the publication of the two reports. On the first report, one member suggested that future work should not only focus on prudential risks but also on AML, consumer protection and data protection. Another member encouraged the EBA to take a step further and evolve this work into best practices, at a later stage, addressed both to supervisors and institutions. Lastly, a member noted that we should recognise the competition advantages that these developments could bring.

### **Conclusion**

43. The BoS approved the two reports and their publication.

## **Agenda item 11.: Pillar 2 Roadmap**

### **A) Revision of the Guidelines on management and measurement of interest rate risk in the banking book (IRRBB)**

44. The revision of the IRRBB Guidelines, reflecting the new BCBS Standards, and updating the existing guidelines in view of the current interest rate environment, was presented to the BoS, also seeking steer about the publication date of the guidelines. As the industry raised concerns about the potential frontloading of the Level 1 text, and as the CRD5-CRR2 package was still far from being finalised, two alternatives were considered: an immediate publication of the guidelines or postponing it until the finalisation of the CRD5/CRR2 package expected by end 2018.
45. The Chairperson noted that the interest rates could spike in the near future and considered that delaying the publication of the guidelines could possibly trigger a reputational issue for the EBA.
46. Members supported the immediate publication of the IRRBB guidelines. A few members commented on the content of the guidelines, such as the flexibility provided on the inclusion of commercial margins for the calculation of the supervisory outlier test. One member also viewed that the non-maturity deposits (NMD) cap for the supervisory outlier test would not be aligned with the current practices. As a matter of proportionality, one member asked whether the provisions should be applied as of December 2019 for smaller banks.

### **Conclusion**

47. The BoS approved the revision of the IRRBB guidelines, subject to a last round of comments via written procedure and agreed that those guidelines would be published in June 2018, implemented as of 30 June 2019 with transitional provisions.

### **B) Amendment of the EBA Guidelines on SREP**



48. The Director of the BMIC Department explained that the revision of the SREP guidelines was part of the update of the EU SREP framework in 2017-2018 and aligned with the EBA Pillar 2 Roadmap published in April 2017. He informed of the main changes to the SREP framework, noting that inter alia the P2 Guidance, supervisory stress testing were introduced into the SREP guidelines. He also highlighted the remaining issues to be discussed by the BoS, namely (i) the disclosure of P2G, (ii) off-setting of P2G against macroprudential buffers and (iii) flat threshold. Regarding the disclosure of P2G, he presented two possible options, either the guidelines should remain silent on disclosure or further clarity should be given through a reference to disclosure in the background section. He also noted that there were mixed views arising from the public consultation on whether P2G should be offset only by the CCB and in exceptional cases the CCyB, as proposed in the revised guidelines, or indeed the full combined capital buffer. The third issue raised was on the using a flat threshold for the assessment of capital adequacy in stressed conditions.
49. On disclosure, views were mixed. In particular, the representative of the European Commission viewed that the draft guidelines should not preempt the outcome of the discussion of the CRR-CRD package.
50. On the P2G and off-setting against the combined buffer, members had mixed views. Some members considered that double counting should be avoided and raised their concerns about the overlap of P2G with other capital buffers such as the SRB. Most members claimed sufficient flexibility in the off-setting of P2G with a view to using this option on a case-by-case basis. The representative of the ECB/SSM supported the wording of the draft guidelines in this regard, considering that it provided the clarity and flexibility needed for the supervisors.
51. The Chairperson considered that the wording of the draft guidelines ensured a right balance and offered the flexibility required to the supervisors. He stated that members did not raise any concerns regarding the flat threshold proposed in the draft guidelines. He viewed that the Level 1 text should decide on possible disclosure and suggested removing any reference to disclosure in the draft guidelines.

## Conclusion

52. The BoS, through written procedure, approved the draft guidelines with no reference to disclosure and the proposed wording on the threshold and combined buffer off-setting maintained.

## C) Review of the Stress Test Guidelines

53. The Chairperson explained that the draft guidelines under discussion would update the previous guidelines on stress testing published in 2010. He noted that the tabled version of the guidelines benefited from comments received during the consultation phase.

54. The head of the BMIP Unit presented the main changes to the draft guidelines in areas such as data infrastructure or taxonomy. She revealed that the draft guidelines emphasised the increasing importance of proportionality between large and small institutions in the area of reverse stress testing, and also focused on new individual risks (conduct risk, FX lending risk, operational risk-cyber risks). The guidelines are also aligned with the new BCBS principles on Stress Tests.
55. Members supported the revised Stress Test guidelines. One member raised his concerns about the burden for small banks.

### Conclusion

56. The BoS approved the draft Stress test guidelines.

### Agenda item 12: Discussion on Brexit-related matters [without UK representatives]

- 57.A discussion took place without the presence of members from the UK Bank of England's Prudential Regulation Authority (PRA).

### Agenda item 13: Monitoring of MREL eligible liabilities

- 58.The head of the LILLAC Unit introduced a proposal to monitor MREL/TLAC eligible liabilities, a task envisaged in the currently proposed amendments to the CRR. She clarified that no monitoring-related work would be published until the final adoption and publication of the final amending CRR, but noted that such work should start as soon as possible since banks were already issuing substantial volumes of MREL/TLAC debt. It was explained that the Subgroup on Own Funds (SGOF), with its relevant experience and expertise built up in the monitoring of AT1 issuances being the natural candidate for this task, would lead this work. Resolution authorities should be fully involved already on working level, by way of the respective Resolution Committee (ResCo) subgroup providing their technical views/input to SGOF. SGOF would then report to the SCRePol and ResCo, whose conclusions would be discussed and approved by the BoS.
- 59.Members supported that the monitoring of MREL/TLAC eligible liabilities should start as soon as possible. They also agreed with the governance arrangements as explained, which guaranteed the full involvement of resolution authorities. The SRB observer insisted on ensuring such involvement, and asked for another discussion on such aspects at ResCo-level before starting the monitoring work.

### Conclusion

- 60.The BoS endorsed the proposal and its governance arrangements. The monitoring of MREL/TLAC eligible liabilities would start after the next ResCo meeting.

## Agenda item 14: Work Programme 2019 – Discussion on the first draft

61. EBA staff presented the first draft of the 2019 EBA's work programme, noting that it would be re-submitted to the MB and the BoS for approval in September and afterwards sent to the European Parliament and Council. She insisted on the close connections between the programme presented and the 2019 Single programming document already approved in January 2018.
62. Regarding this first draft, she pointed out the changes to the strategic areas and activities, which reflected the comments made by the EBA's MB in April. She identified five strategic priorities, namely implementation of Basel III agreement, risks and opportunities arising from financial innovation, collection and dissemination of bank data linked to EUCLID, loss absorbing capacity and smooth relocation to Paris; and two horizontal priorities across the policy work: proportionality, supervisory convergence, enhancing consumer protection.
63. Members commented on the lack of perspective on Brexit-related issues. One member asked EBA staff to be more focused on the strategic priorities, which should be fine-tuned.

### Conclusion

64. The Chairperson concluded that the draft work programme would be finalised and sent to the MB and BoS in September

## Agenda item 15: 2018 Amending Budget and relocation update

65. As regards the budget execution, the Executive Director noted that the EBA's budgetary position was slightly ahead of plan. He explained that a 2018 amending budget was needed because relocation costs were not included at the time of the adoption of the budget for 2018, and because of the adverse EUR/GBP exchange rate for the year to date and projected for the second semester.
66. The representative of the European Commission indicated that the EBA should submit its amending budget by 22 June and include a full estimate of relocation costs for 2018 as well as a multi-annual projection of costs until 2020. As to the drivers of the relocation costs, the Executive Director explained that a significant element was the cost of the IT data centre relocation. He indicated that the EBA had chosen the option of moving its data centres by using an EU Agencies framework contract with Cancom. He also raised the issue over the coverage of the relocation related costs and informed that the BoS would be consulted once the EBA would receive clarification about how the EBA's budget would be funded i.e. by COM only or according to the usual funding key.

67. The Executive Director also updated BoS members with regard to the building selection process. In light of the relocation of the EBA in Paris by March 2019, he explained how the building was selected. In line with the procurement rules in the EU, he noted that a property adviser was hired to do a market prospecting. In accordance with the criteria set, the EBA invited tenders for 28 buildings, 14 of which submitted a formal bid, including the two buildings proposed by the French government. The EBA's evaluation resulted in a shortlist of three buildings, one in Paris "intramuros" and two other buildings located in La Défense. The first-ranked bidder was selected and the EBA's choice was endorsed by the MB via written procedure ahead of the BoS meeting. He also mentioned the ongoing written procedure circulated to the BoS with regard to the selection process.
68. Members supported the EBA's choice. They questioned the criteria of the scoring system. The Executive Director explained that there was a mix of technical and financial criteria weighting respectively for 60% and 40% of the total scoring. One member asked whether the building could also host ESMA if the authority decided to move to the same building. The Executive Director clarified that the option was offered by the selected building.

### Conclusion

69. The BoS took note of the amending budget and update of the Paris building selection process.

## Agenda item 16: Outcome of the peer review on passport notifications

70. The Executive Director presented the findings of the peer review of the RTS on passport notifications. In terms of process, he explained that this peer review was carried out in accordance with the EBA methodology and that CAs were involved in each step of the review. He indicated that the Review Panel decided that on-site visits would not bring particular added value to this review. In terms of findings, he observed that CAs were reported to apply the provisions of the RTS correctly in spite of a different level of sophistication of the processes among them, especially with regard to the automation of the treatment of notifications. He raised the issues identified during the review, namely discrepancies among CAs with respect to cooperation between the home and host CAs, application of proportionate processes in the management of passport notifications.
71. The representative of the ECB/SSM supported the work and the possibility to explore proportionality further in this area.

### Conclusion

72. The BoS approved the report and its publication on the EBA's website.

## Agenda item 17: Draft response to Call for Advice for European Secured Notes (ESNs)

73. The head of the BMIP Unit informed that the EBA was working on a CfA on the European Secured Notes (ESNs) upon the request of the European Commission. She informed that the final report would be submitted to the BoS via written procedure in July following a roundtable with the industry.
74. She noted that the main purposes of this CfA were to assess whether a dual recourse instrument similar to covered bonds may provide a useful funding alternative to banks engaged in lending to small and medium-sized enterprises (SMEs) and infrastructure projects and to determine an appropriate EU framework and regulatory treatment for this new product. She also examined different aspects of the SME ESNs for which she sought the BoS steer, namely suitability of the form of dual recourse instrument for these instruments, possible regulatory treatment for SME ESNs with a potential differentiated risk weight treatment, eligibility criteria, minimum collateralisation requirements, and bail-in exemptions of these instruments. With regard to the infrastructure loans, she explained that the analysis performed suggests that a dual recourse feature is not suitable and instead creating a new distinct class of off-balance sheet funding instruments for high quality infrastructure projects, which might take the form of an EU infrastructure bond, could be considered.
75. Members broadly supported the suggested proposals on the structure, the eligibility criteria and the regulatory treatment of ESNs. With respect to SME ESN, some members highlighted the need to be very cautious regarding its capital treatment, acknowledging that no preferential treatment, similar to covered bonds, could be granted to this instrument and that a clear distinction between covered bonds and ESNs should be maintained. In addition, some members asked clarification about the calibration of the minimum level of over-collateralisation requirement proposed.

### Conclusion

76. The BoS took note of the report. The Chairperson asked EBA staff to align the proposal on ESNs with the comments received.

## Agenda item 18: Consultation paper on the RTS on calculation of K-IRB in accordance with top-down approach and use of proxy data

77. The head of the BMIP Unit presented the new options to adapt existing elements of the IRB framework to the context of securitisation transactions. She explained that the new securitisation package introduced the possibility for institutions to calculate capital requirements on securitised exposures (Kirb), and the corresponding risk parameters PD and LGD, using the specific provisions of the IRB framework that normally apply to purchased receivables. She noted that the RTS should clarify the conditions under which institutions may

use the provisions on purchased receivables in the securitisation context. She noted that the Consultation Paper would be published for a standard three-month consultation process.

78. Members did not provide any comments.

### Conclusion

79. The BoS approved the launch of the Consultation Paper on the RTS on calculation of K-IRB in accordance with top-down approach and use of proxy data for a three-month period.

## Agenda item 19: Decision on the Final draft ITS on the Benchmarking portfolios 2019

80. The head of Risk-based Metrics introduced the final draft of the RTS on the benchmarking portfolios for 2019, noting that most comments received about the specification of the benchmarking portfolios during the consultation phase were taken into consideration. He presented the main changes compared to the previous years. Regarding the market risk benchmarking, he noted that the approach was simplified and most changes were related to the introduction of plain-vanilla derivatives instruments and removal of complex and exotic instruments. He confirmed that a number of changes were also included for credit risk to allow a better interpretation of the benchmarks. However, he sought BoS steer about a remaining issue over the expiry of the transitional period that allowed institutions, which used the IRB approach before January 2010, not to report the capital requirement calculations under the Standardised Approach (SA). He noted that this meaningful metric would be useful in the context of the benchmarking exercise and that the EBA should gain familiarity with the behavior of the SA benchmark. However, he pointed out that this requirement was viewed as burdensome by some IRB institutions. He indicated that a reasonable compromise could be to not renew the transitional period, but to request only the mandatory collection for HDP portfolios.

81. One member raised his concerns about the reporting of capital calculations under the SA, in particular in terms of costs and benefits. He suggested to postpone this type of reporting until the implementation of the new SA approach. This was supported by a few members, but most members however noted support for the collection of the metrics. The representative of the European Commission also noted concerns that repeated extensions on the transitional period was not desirable, but also noted that the EBA should collect SA information in a cost efficient manner.

### Conclusion

82. The Chairperson proposed to implement a phase-in approach only for HDP portfolios with a view to getting familiarity with the metrics. The BoS approved the package for 2019, subject to technical comments CAs were requested to send by writing.

## Agenda item 20: Consultation Paper on the revision of the guidelines on outsourcing

83. The director of PRSP department presented the update of the 2006 CEBS Guidelines on outsourcing. She informed that the scope of the guidelines had been broadened to include credit institutions and investment firms subject to CRD as well as payment institutions and electronic money institutions. It was further explained that the recommendations on outsourcing to cloud service providers had been fully integrated in these draft guidelines. Proportionality was stressed as a prominent point for these draft guidelines. For sake of consistency with other pieces of EU legislation, it was indicated that the definition of outsourcing used in the draft guidelines was fully aligned with the MiFID and PSD framework. She also presented the different aspects taken on board in the draft guidelines.

84. Members broadly agreed with the revision of the draft guidelines. Some members commented on the approach taken to develop the register, considering that it should be more focused on outsourcing of critical or important functions and adopt a more risk-based approach. Some members viewed that proportionality should be better flagged. With regard to the access rights, some members deemed that it should be limited to critical or important activities. A few members also proposed to set a MoU regarding the outsourcing of licensed activities in the third countries to be fully consistent with the MiFID framework.

85. The representative of the SRB requested EBA staff to use a different wording regarding “critical functions” as it was already used for resolution purposes. He also sought clarification with regard to business continuity and resolvability. It was further noted that the timing proposed was not realistic to implement the register. He viewed that a second round of comments by ResCo members after the consultation phase would ensure consistency with resolution aspects.

86. The director of PRSP department clarified that the wording “critical functions” used in the draft guidelines was fully in line with the MiFID and that EBA could not deviate from it.

### Conclusion

87. The BoS approved the CP. The Chairperson proposed a short round of technical comments before publishing the CP. He also stated that some clarifications regarding the wording used were needed to avoid confusion with the terms used in the BRRD.

## Agenda item 21: Annual report on resolution colleges – data 2017

88. The director of PRSP department presented the main findings of the resolution colleges’ report. She indicated that the EBA chose not to publish the report last year as many colleges were in their first iteration and thus resolution planning in the very early stages. However, it was noted that the report would be published this year after the endorsement of the ResCo and BoS. The director also highlighted the balanced tone of the report, recognising the progress achieved

while noting some room for improvement, in particular in the area of removal of impediments to resolution.

89. In the discussion, a few members indicated that some technical comments would be shared with EBA staff. The representative of the SRB supported the report welcoming the inclusion of ResCo's comments to the updated version of the report.

### Conclusion

90. The BoS discussed the resolution colleges' report and welcomed the work.

91. The Chairperson explained that following the BoS discussion, the report would follow the internal approval procedure of endorsement from the ResCo and subsequently non-objection from the BoS.

## Agenda item 22: Discussion on Q&A 3270

92. The head of Policy Analysis and Coordination (PAC) presented the issue around the question 3270 on appropriate risk weight for purchased defaulted assets – which enquires whether an entity subject to the CRR that purchased NPLs can consider the difference between the purchase price and the seller's book value as specific credit risk adjustments (SCRA) for the determination of the risk weight to be applied under Article 127 CRR. It was noted that this Q&A had been raised for discussion after a first review by written procedure in 2017. Although the written procedure only gave rise to one dissenting view, it was in the light of the potential sensitivity of the issue deemed preferable to bring the question for discussion to the BoS. He sought the BoS agreement to collect views of the EBA's Banking Stakeholder Group (BSG) before requesting a formal approval by the BoS.

93. One member explained that he favored recognising the difference between the seller's book value and the purchase value as SCRA to avoid any disincentive in the market and ensure neutrality between institutions. It was also suggested that the issue should be included in the CRR review, possibly by way of the CfA on the finalisation of Basel III.

94. Another member commented to note that they saw little room for not applying the answer as set out in the draft Q&A

### Conclusion

95. It was concluded to consult the BSG before the BoS' endorsement and flag this issue to the legislator.

## Agenda item 23: AoB

96. The Chairperson informed of the next BoS Away Day meeting, which will be held in Reykjavik.



**END OF MEETING**

**Andrea Enria**

**Chairperson**

## Participants at the Board of Supervisors' meeting

12-13 June 2018, London

Chairperson: Andrea Enria

<u>Country</u>	<u>Voting Member/High-Level Alternate</u> <sup>1</sup>	<u>National/Central Bank</u>
1. Austria	Michael Hysek	Philip Reading
2. Belgium	Jo Swyngedouw/David Guillaume	
3. Bulgaria	Stoyan Manolov	
4. Croatia	Sanja Petrinić Turković	
5. Cyprus	Stelios Georgakis	
6. Czech Republic	Zuzana Silberová	
7. Denmark	Carsten Kjær Joensen	Peter E. Storgaard
8. Estonia	Andres Kurgpõld	Indrek Saapar
9. Finland	Jyri Helenius	Mervi Toivanen
10. France	Frédéric Visnovsky	
11. Germany	Raimund Roeseler	Karlheinz Walch
12. Greece	Spyridoula Papagiannidou	
13. Hungary	Csaba Kandrács	
14. Ireland	Gerry Cross	
15. Italy	Luigi F. Signorini/Andrea Pilati	
16. Latvia	Gunta Razane	
17. Luxembourg	Martine Wagner	Norbert Goffinet
18. Malta	Ray Vella	Oliver Bonello
19. Netherlands	Jan Sijbrand/Olaf Sleijpen	
20. Poland	Mateusz Mokrogulski	Maciej Brzozowski
21. Portugal	Pedro Duarte Neves/José Rosas	
22. Romania	- <sup>2</sup>	
23. Slovakia	Tatiana Dubinová	
24. Slovenia	Marko Bošnjak/Damjana Iglič	
25. Spain	Jesús Saurina Salas/Alberto Ríos Blanco	
26. Sweden	Martin Noréus/Bjorn Bargholtz	David Forsman
27. UK	Sasha Mills	-

<sup>1</sup> Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Kurt Van Raemdonck (National Bank of Belgium); Marek Sokol (Czech National Bank); Julia Blunck (BAFin); Constantinos Botopoulos (Bank of Greece); Mary Burke (Central Bank of Ireland); Maurizio Trapanese (Banca d'Italia); Saulius Girdauskas (Bank of Lithuania); Izabella Szaniawska (Polish Financial Supervisory Authority); Nigel Fray (Bank of England's PRA)

<sup>2</sup> Represented by Lucretia Niculina Paunescu

<b><u>Country</u></b>	<b><u>Member</u></b>	<b><u>Representative NCB</u></b>
1. Iceland	Finnur Sveinbjornsson/Gudrun Ogmundsdottir	
2. Norway	Per jostein Brekke	

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

<b><u>Other Non-voting Members</u></b>	<b><u>Representative</u></b>
1. SSM	François-Louis Michaud <sup>3</sup>
2. European Commission	Martin Merlin <sup>4</sup>
3. EIOPA	Katharina Strohmeier
4. ESMA	Joe Harvey
5. ESRB	Tuomas Peltonen
6. EFTA Surveillance Authority	Marco Ucelli

#### **EBA Staff**

Executive Director	Adam Farkas
Director of Prud. Regulation and Supervisory Policy	Isabelle Vaillant
Director of Banking Markets, Innovation and Consumers	Piers Haben
Director of Economic Analysis and Statistics	Mario Quagliariello

Philippe Allard, Slavka Eley, Lars Overby; Jonathan Overett Somnier; Fergus Power

Lot Anne; Ester Botica Alonso; Djamel Bouzemaene; Cédric Coraillon-Parquet; Santiago Escudero; Carolin Gardner; Thibault Godbillon; Mira Lamriben; Christopher Mills; Andreas Papaetis; Susanne Roehrig; Oleg Shmeljov; Endija Springe; Katrin Weissenberg; Hélène Zaher-Ogier.

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<sup>3</sup> Accompanied by Jérôme Henry

<sup>4</sup> Accompanied by Olena Loboiko