



EBA BS 2014 463rev1

EBA Staff

28-29 October 2014

Location: London

EBA Board of Supervisors – Final Minutes

Agenda item 1.: Restricted session

1. Confidential discussion held only for voting BoS members, and non-voting BoS members and observers with direct supervisory functions.

Agenda item 2.: Opening and approval of agenda

2. The Chairperson opened the meeting and informed the BoS that the Bank of Slovenia had appointed Miha Kristl as its new BoS Member.
3. The agenda was adopted.

Agenda item 3.: Draft Consultation Paper on Guidelines on Calculation of Contributions to Deposit Guarantee Schemes (DGS)

4. The Chairperson presented a draft Consultation Paper on draft Guidelines on methods for calculating contributions to deposit guarantee schemes (DGS). It was explained that the Guidelines aimed at striking a balance between the need for flexibility inherent in the diversity of institutions and the need for harmonisation and comparability within the EU single market. In this regard, one of the points of divergence was that relating to the minimum weights for each core indicator; a previous version discussed at SCRePol foresaw the sum of minimum weights adding up to 60%, thus leaving 40% of flexibility by increasing the weight of core indicators, or by assigning weight to additional indicators. However, in the Commission's views, the sum of minimum weights should add up to a minimum of 75%, ensuring this way a high level of harmonisation as intended by the EU's legislator.
 5. A majority of BoS Members supported the 75%-25% split as this would facilitate greater harmonisation; some, however, wondered whether too prescriptive Guidelines could jeopardise the new system of calculation of contributions.
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6. On the range of risk indicators, one BoS Member questioned whether it was possible to properly classify credit institutions reflecting their riskiness based on a limited number of indicators; another BoS Member also asked to reinstate in the Consultation Paper the possibility of removing risk indicators should they be deemed as not appropriate. On thresholds for Aggregate Risk Weights (ARW), it was requested to raise the interval, which in the proposal tabled to the BoS ranged between 50%-75% for the lowest ARW and between 150%-200% for the highest ARW.
7. Some BoS Members also requested to remove the request for Competent Authorities (CAs) to compare, on a regular basis, the results obtained in applying the calculation methods with the risk assessment performed under the SREP and take actions to remove such discrepancies. EBA staff explained that such comparison with the SREP results was intended to help inform CAs in further steps to adopt in order to revise the calculation method proposed in the Guidelines.
8. It was also confirmed, as reflected in paragraph 58, that the value of risk indicators on a consolidated basis could be used where a member institution had received a waiver from capital and/or liquidity requirements on a solo basis.

Conclusion

9. The Chairperson acknowledged the variety of views among the BoS. The Consultation Paper was approved with a number of changes as noted during the discussion, notably: a) the level of flexibility in assigning risk weights would be 25%; b) the requirement to compare with SREP results would be reworded; c) a new question would be included on the variation interval asking whether respondents would agree with the minimum variation range (75%-150%); and d) a new question on whether respondents could foresee any unintended consequences that could stem from the suggested indicators.

Agenda item 4.: New Qualified Majority Arrangements – Transitional Period

10. The Chairperson presented a paper on the new rules on qualified majority vote that would apply during a transitional period running from 01 November 2014 to 31 March 2017, in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union, and the practical arrangements for their implementation to the Board of Supervisors.

Conclusion

11. The EBA would contact the Council of the EU to confirm the validity of scenario 3 presented in the paper on blocking minority; and a written procedure to amend the BoS Rules of Procedure to reflect the practical arrangements as presented would be launched to the BoS.

Agenda item 5.: Policy on Conflicts of Interest

12. The Chairperson informed the BoS of the Management Board's decision of 24 September 2014 to adopt a policy on conflicts of interest, jointly developed with the other two ESAs and which would be applicable to BoS and MB Members, their permanent alternates and Observers. The Executive Director noted that the policy was not designed to replace or impinge on existing policies at national level nor on employment contracts, and informed the BoS that the EBA would conduct a survey on CAs' national post-employment/cooling-off period rules which would help assist the EBA in relation to a prospective move of senior staff to understand where in the range of CAs practices does such a position fit.
13. BoS Members considered that the policy struck the right balance. On cooling-off periods, the intended survey of CAs' practices was welcomed but it was also highlighted that it could be possible for a BoS Member to be subject to rules other than the general ones applicable by their CAs. Other requests were: a) to clarify the concept of "potential" conflict of interest; b) on the requirement not to use confidential information other than for the purposes of work in connection with the EBA activities, a clarification was sought, in particular bearing in mind the possible existence of national constraints to implement this requirement; c) clarify what information would be published on the EBA's public website; and d) align the policy with that of the SSM.
14. The Executive Director clarified that confidential information could be shared with their respective organisations as long as intended for work purposes, and that both the Declaration of Intention and the Declaration of Interest would be published on the EBA's website. On the EBA's scope of action, he noted that although the EBA did not have direct supervisory relationships with regulated entities like e.g. the SSM, nonetheless its decisions, in particular recommendations, had a direct impact on credit institutions. In this respect, it was the EBA's intention to try to take into consideration the SSM's policy to the extent possible, and thus the SSM practice would also be included in the survey on cooling-off period rules.

Conclusion

15. The BoS took note of the conflicts of interest policy. The Chairperson confirmed that the EBA would move quickly into its implementation as well as to conduct the survey on cooling-off periods; the BoS would be duly informed.

Agenda item 6.: Standing Committees' Mandates

16. The Chairperson presented a revised version of the Standing Committee's (SCs) mandates.
17. BoS Members pointed out at some inconsistencies that needed to be corrected, and asked to align them to the greatest possible extent. It was requested to seek the SCs' Chairs' views on the draft mandates; also, that the task previously assigned to the SCs to follow up on the work of international fora should be retained in the revised mandates.

Conclusion

18. The revised mandates would be sent to the SC's Chairs to seek their views; their approval by the BoS would be subsequently sought by written procedure.

Agenda item 7.: Impact Study Group (ISG) Internal Report on Basel III QIS Monitoring Exercise and Basel II Capital Monitoring Exercise

19. The Chairperson presented the internal Impact Study Group (ISG) Basel III/CRDIV and CRR monitoring exercise report, the internal Basel II capital monitoring report, and an EBA note on the proposed review of the ISG tasks and related EBA work. He asked the BoS whether the work on Basel II capital monitoring should be discontinued, and further how the internal discussions on Basel III/CRDIV and CRR monitoring should be organised; a proposal would be to dismantle the ISG in the medium term, and create instead a permanent EBA structure focusing on monitoring developments and their impact in the regulatory framework.

20. The Joint ISG Co-Chair, presented the results of the Basel III monitoring exercise as to December 2013, and indicated the Bundesbank's readiness to continue contributing to the work of the new Taskforce on Impact Assessment.

21. BoS Members agreed to discontinue the Basel II Capital monitoring, and to the establishment on a new EBA Task Force to take over from the ISG the conduct of the quantitative impact studies regarding the developments in the CRDIV/CRR regulatory framework. BoS Members requested that thoughts should be given to this new Task Force's objectives, taking into account the EBA's various legal requirements to report regularly on the CRR, on NSFR, on the impact of the new capital rules on SME lending, and the interaction with the ESAs' Impact Assessment Network. Some BoS Members pointed out that for some tasks, like the LCA IA report, an input of relevant expert groups (like the sub-group on Liquidity) should be ensured.

Conclusion

22. The internal ISG Basel III monitoring exercise report and the internal Basel II capital monitoring report were approved. The EBA would also liaise with the ESCB on the dissolution of the ISG given it was a joint group. A draft mandate for a new Taskforce on Impact Studies with the comments expressed by BoS Members would be presented to the BoS meeting of December 2014.

Agenda item 8: Draft Second Liquidity Coverage Ratio (LCR) Impact Assessment Report

23. The Chairperson recalled the legal obligation under Article 509 CRR to report on the impact on the liquidity coverage ratio (LCR) on a yearly basis, and informed the BoS that the European Commission had adopted on 10 October 2014 its Liquidity Coverage Requirement Delegated Act; the second draft report thus focused on a number of areas with a view to providing

additional insights to the BoS and the Commission, instead of providing policy recommendations. The EBA staff highlighted the main analyses conducted and the report's main findings and asked the BoS whether it supported the methodology and preliminary conclusions as well as the granularity of the country-level disclosure.

24.BoS Members discussed the level of the granularity of country-level disclosure. The BoS was supportive of the methodology, but it requested to revise the assumption on Level 2B assets.

25.Some BoS Members noted that the LCR impact of the delegated act could differ from that of the BCBS standards. The ECB representative noted that the report should highlight the fact that the findings were to be read in the context of the delegated act, given the differences in the definition of high-quality liquid assets and the business model derogations from the inflow cap, as indicated in the 2013 report for certain institutions.

26.It was also indicated that, despite the findings, there could be an excess of liquidity for institutions; a suggestion was to include a message that institutions were not expected to decrease the liquidity excess but that supervisors may find appropriate to use Pillar 2 supervisory measures to deal with that potential excess.

Conclusion

27.The BoS supported the methodology and preliminary conclusions of the draft report, including the presentation of the analysis of the LCR impact of the delegated act; granularity of disclosure was agreed; on policy recommendations, Pillar 2 measures could be deemed the appropriate tool to address potential liquidity excess; and the LCR impact should also consider the business model derogations.

28.The final second EBA Liquidity Coverage Ratio (LCR) Impact Assessment Report would be tabled at the BoS December 2014 meeting for approval.

Agenda item 9: Credit Valuation Adjustment (CVA) Report – First Conclusions

29.The Chairperson presented a preliminary report on credit valuation adjustment (CVA) and sought the BoS views on, in particular, policy recommendations, whilst mentioning that the main issue was on EU exemptions, as this could be raised by the BCBS on its RCAP findings.

30.The EBA Director of Regulation highlighted some points, notably, a) as a rough estimation, the extra amount of capital needed to cover for the exemptions of sovereign and non-financial counterparties under level 1 would be around 14bn Euros; and b) the existence of current uncertainties due to, first, discussions at international level/BCBS which could result in a decrease in the capital charge given the shift from the credit risk to the market risk framework; and second, the fact that banks had at present an accounting CVA as well as internal models for CVA taking already on board such risks internally.

31. The BoS Members were broadly supportive of the policy recommendations. On the amendments of the exemptions provided for in the CRR, one BoS Member expressed the view that this should be done via amendments to the level 1 text, as Pillar 2 supervisory measures would not seem to be the appropriate tool to address the issues raised by EU exemptions consistently across the EU. Comments were raised in regard of recommendation 5 whereby it was suggested applying the reviewed framework to new transactions only. It was noted that this should be deemed as a long-term strategy, however aiming to be compliant with the BCBS framework as much as possible.

Conclusion

32. While supporting the medium-term strategy, the BoS noted the current difficulties to suggest a short-term policy direction for CVA in the EU mindful of the BCBS current review. The preliminary report on CVA was welcomed and the EBA would reflect further on recommendation 5 with regard to the application of the reviewed framework to new transactions only.

33. The final report would be tabled for decision at the BoS meeting of December 2014.

Agenda item 10: Establishment of the Resolution Committee

34. The Chairperson welcomed the representatives from resolution authorities in Member States who had joined the 29 October session of the BoS meeting.

35. He presented a revised proposal for the establishment of the Resolution Committee (ResCo). Two different voting options were presented: a ResCo draft decision would be considered rejected by the BoS when the required approval majorities set out in the EBA Regulation were not reached (“option 1”), or when objecting majorities reflecting the majorities set out in Article 44 of the EBA Regulation were reached (“option 2”); failure to vote would be deemed a vote in favour of the ResCo’s proposal. Furthermore, the proposal envisaged the necessary structural separation of functions between resolution (ResCo) and supervision (BoS).

36. BoS Members’ views were split among those favouring “option 1” or “option 2”, noting however that “option 2” appeared more in line with the spirit of the Bank Recovery and Resolution Directive (BRRD) than “option 1”; “option 2” was also supported by a majority of resolution authorities.

37. One BoS Member held the view that structural separation was adequately addressed with ResCo having a special standing as compared to other EBA Standing Committees, i.e. by adopting decisions; in his view, structural separation did not imply total independence from the BoS. A request was made to streamline and clarify further the process to deal with matters which could fall under the remit of ResCo or another EBA Standing Committee.

38. The Chairperson clarified that if a Member State has more than one resolution authority one will have to be identified as the voting members while observer seats would be available for the others.

39. Finally, the ECB representatives requested that the ECB should be included in ResCo as an observer. The Commission representative considered that, as long as the ECB participated in its capacity as central bank and not as supervisory authority (SSM), it did not appear problematic in light of the separation of functions provided for in the BRRD.

Conclusion

40. It was agreed that it would be up to the Chairs of the Standing Committees and of ResCo to identify ex-ante any matters which would trigger a joint interest, in which case ResCo would act as the other Standing Committees, i.e. preparing a proposal for final approval by the BoS.

41. The BoS adopted the mandate with “option 2”.

Agenda item 11: Draft Consultation Paper on draft RTS on Minimum Requirements for Own Funds and Eligible Liabilities (MREL) Criteria

42. The Chairperson presented a draft Consultation Paper on draft RTS on minimum requirements for own funds and eligible liabilities (MREL) criteria which resolution authorities would have to assess to determine the MREL that each institution should satisfy. Amongst other things, the paper introduced a limit of 48 months for the transitional period thus allowing resolution authorities to align with the Financial Stability Board’s (FSB) proposed 2019 implementation date for the standards on Total Loss-Absorbing Capacity (TLAC). While there were differences between the BRRD MREL approach and the FSB’s draft TLAC proposals, it was explained that the RTS should permit resolution authorities to implement the FSB proposals for Global Systemically Important Banks (G-SIBs) while delivering different results for smaller, more resolvable institutions.

43. Numerous BoS Members and resolution authorities felt that the proposed draft RTS struck the right balance and represented a fair compromise. Many comments, however, were raised on different aspects.

44. One resolution authority asked for a clarification on the treatment of the requirement of Article 44(5) BRRD according to which any contribution of the resolution fund is conditional to a prior bail-in of 8% of total liabilities; in particular, it was questioned whether this could imply that the 8% requirement should be satisfied with capital instruments and junior/hybrid debts. Also, whether it would be acceptable that some eligible liabilities qualifying for satisfying the MREL eventually proved to be not bail-in-able.

45. Another resolution authority considered that, by permitting derogations for G-SIBs and for defining eligible liabilities, the draft RTS did go beyond the BRRD. A suggestion made was to remove any references to the TLAC and instead use the review clause in the BRRD in 2016 with the aim to reconsider the proposal. Other BoS Members expressed however their preference to merely add a cross-reference to TLAC considering the similarity of their objectives.

46. Other comments and suggestions were made:

- As well as G-SIBs, O-SIBs and perhaps other institutions should have their post-resolution recapitalisation needs benchmarked against peer institutions, and thus a consultation question should be included to that effect;
- Systemic institutions should always have MREL sufficiently above 8% of total liabilities and own funds to enable resolution funds to be accessed;
- More flexibility was needed on loss-absorbing capacity, and thus the proposal should elaborate further on risk profiles and business models;
- The proposed calculation of the recapitalisation amount should instead provide for more flexibility in particular for Pillar 2;
- Finally, some concern was voiced on the proposed requirement that resolution authorities should review the assessment by supervisory authorities as to whether risks and vulnerabilities were adequately reflected in the capital requirements.

47. On the impact assessment (IA), it was suggested to readjust it to emphasise more clearly that the baseline was existence of MREL criteria, rather than an assumption of no MREL.

48. The Commission's representative expressed the view that the strong link to the 8% precondition for use of resolution funds in the proposed RTS could be found beyond the legal mandate in the BRRD, which requires "specifying further minimum criteria"; and highlighted the importance of linking the MREL criteria to the TLAC proposals.

Conclusion

49. It was agreed to publish the Consultation Paper only after publication of the FSB consultation paper on a proposal for a common international standard on TLAC for global systemic banks (expected mid-November 2014) and also after re-submitting a reviewed version of the draft Consultation Paper to the BoS for comments with the following amendments:

- The Commission was invited to provide a drafting suggestion on the minimum 8% MREL criteria such as to alleviate the concerns that the draft RTS were found to set out a minimum Pillar 1 requirement;
- On the amount necessary to ensure loss absorption, the EBA staff would liaise with those BoS Members who raised it and tweak the relevant questions in the Consultation Paper;

- Article 6(2) would be amended from “shall assess” to “may assess”; and
- Consultation questions would be reviewed on the basis of BoS Members’ comments and written suggestions, and a question would also be included on the reconstitution of MREL criteria after resolution.

Agenda item 12: Draft Consultation Papers on Valuation

50. The EBA Director of Regulation presented a Consultation Paper on draft RTS under the BRRD on ex-ante valuation and draft RTS on ex-post valuation.

51. A request to amend question 10 on the draft RTS on ex-post valuation was made in order to make it more consistent with question 6 on the draft RTS on ex-post valuation. Another request was that the RTS and section titles should clarify that ‘ex ante’ referred to valuations under Art. 36 BRRD and ‘ex post’ to valuations under Art. 74, given that if the initial Art. 36 valuation was done on a provisional basis, there would also be a final version after resolution.

Conclusion

52. The Consultation Paper was approved with questions 6 and 10 being aligned before publication.

Agenda item 13: Draft Consultation Papers on Bail-in

- a. Draft Guidelines on Treatment of Shareholders in Bail-in
- b. Draft Guidelines on Rate of Conversion of Debt to Equity

53. The EBA staff presented two draft Consultation papers on draft Guidelines under the BRRD, on treatment of shareholders in bail-in and on rate of conversion of debt to equity.

54. On the possibility given to resolution authorities to adopt ex-post adjustment mechanisms to enable former shareholders or creditors with rights to acquire additional shares from, or to be issued shares or other instruments of ownership by, the resolved firm, the EBA staff clarified that this was not meant to be an indemnity to shareholders or creditors. Some BoS members commented that the scope for such mechanisms to give upside to former creditors was potentially problematic, or could prove difficult to value; another BoS Member noted that such mechanisms were widely used in resolution to ensure fair distribution of compensation, but that it was not necessary to address this in this set of Guidelines.

Conclusion

55. Both Consultation Papers were approved. The paragraph on ex-post adjustment mechanisms would be dropped from the Consultation Paper on draft Guidelines on Treatment of Shareholders in Bail-in.

c. Draft RTS on contractual Recognition of Bail-in

56. The EBA staff presented a draft Consultation Paper on draft RTS on the contractual recognition of write-down and conversion powers under Article 55(3) of the BRRD.

57. On the request to include in the Consultation Paper a line referring to the treatment of liabilities owed to central banks, the EBA staff explained that it would not be possible to specify new exclusions from the requirement to include the contractual recognition term nor new exclusions from the application of the bail-in power.

Conclusion

58. The BoS approved the Consultation Paper for public consultation.

Agenda item 14: Report to the European Commission on the Perimeter of Credit Institutions established in the Member States

59. The Chairperson presented to the BoS the final report on matters concerning the perimeter of “credit institution” as defined in the CRR. The report had been drafted in response to a request from the Commission and followed on the interim report submitted to the Commission in April 2014. EBA staff highlighted some points, namely: a) the report included various suggestions for the harmonisation of the interpretation of the term “credit institution”; b) considering the lack of comprehensive quantitative data, the EBA had not quantified the bank-like activities carried on by relevant entities, and thus the overall recommendation for the Commission was a fairly high-level one in the form of a Cover Opinion; and c) the EBA continued contributing to the work by, inter alia, the ECB, ESRB and FSB on shadow banking, in particular on the establishment of the perimeter of credit institutions for regulatory and accounting consolidation.

60. BoS Members were supportive of the report. They queried the need for the publication of the interim report and suggested the report refer to the work done so far on the large exposures group. A request was made to amend the Opinion so the recommendation on further work on the definition of ‘credit institution’ be slightly toned down in view of the need to assess the practical implications of the existing variations in approach to the interpretation of the term.

Conclusion

61. The Report and Opinion to the Commission were approved by the BoS; the Report would be amended to omit references to the interim report and, if necessary, incorporate any data from the interim report that did not appear already in the interim report. BoS Members were invited to contact the EBA prior to submission of both the Report and Opinion to the Commission, in case they had any outstanding technical drafting suggestions.

Agenda item 15: Supervisory Handbook Module on the Supervisory Assessment of Recovery Plans

62. The Chairperson presented for the approval of the BoS the second pilot Supervisory Handbook Module covering the supervisory assessment of recovery plans, prepared by the dedicated drafting team led by the BoS Members from Germany and Sweden and discussed by the Steering Committee. The EBA staff clarified that the module represented best practice in the assessment of recovery plans of largest banks, taking into account the limited experience in the case of smaller banks, and the lack of experience in the case of joint decision on group plans; moreover, the module built on two final draft RTS on the content of recovery plans (EBA/RTS/2014/11 of 18 July 2014) and on assessment of recovery plans (EBA/RTS/2014/12 of 18 July 2014). Furthermore, he explained that the Steering Committee had also requested the drafting team to prepare two templates to supplement the module, namely a template to summarise the outcomes of the assessment, and a joint decision template document for the group plans. These templates would be presented to the BoS meeting of December 2014.

63. The SSM representative asked for minor adjustments to be introduced into the text regarding changes to the focus of the assessment of individual plans of subsidiaries following the joint decision on requesting such individual plans to be developed, as well as ensuring that the text remained neutral with respect to what could be shared with CAs of significant branches. The Chairperson invited the SSM representative to suggest a wording of such an amendment.

Conclusion

64. The Supervisory Handbook Module on the Supervisory Assessment of Recovery Plans was adopted by the BoS and would be published on the EBA extranet. The BoS also agreed that, as a working EU supervisory tool, it was not to be deemed as confidential and that the EBA could share it with third country supervisory authorities upon request.

Agenda item 16: Draft Consultation Paper on draft RTS on Assessment Methodology for the Internal Ratings-based (IRB) Approach

65. A draft Consultation Paper on draft RTS on assessment methodology for the internal ratings-based (IRB) approach was presented.

66. BoS Members raised a number of questions, notably: a) on the calculation methods for default weighted average LGD, a more neutral wording was requested for the relevant question, taking into account the current divergent interpretations among EU jurisdictions; b) on the assessment of independence of the validation function from credit risk control unit, some concern was voiced on the compliance of the proposal with the CRR; hence the introduction of a question for consultation was requested; c) clarification was requested on the verification to be performed by CAs of third parties where these are involved in the development or

validation of the rating systems; and d) it was requested to introduce an explicit reference to the proportionality principle in the text of Article 1 of the draft RTS.

Conclusion

67. The BoS approved the draft Consultation Paper for publication, prior to which the comments raised by BoS Members would be introduced to the extent that they were not already adequately reflected in the current text.

Agenda item 17: Voluntary Memorandum of Understanding for the Sharing of Individual Data on Key Risk Indicators (KRIs)

68. The Chairperson and the Chair of SCOP presented a voluntary Memorandum of Understanding (MoU) for the sharing of individual data on key risk indicators (KRIs) for approval of the participating BoS Members. It was explained that the sharing would cover banks in the EBA sample of participating CAs and would take place via a secured extranet page. Any extension to new KRIs as well as changes to the MoU should be decided by the participating BoS Members.

Conclusion

69. All participating BoS Members agreed to the MoU; two BoS Members informed that they first needed to confirm within their organisations the legal feasibility of the data sharing. The parties wanting to subscribe to the MoU authorised the EBA Chairperson to sign on behalf of their CAs.

Agenda item 18: Election of the Chair for the EBA Taskforce on Payment Services (TFPS)

70. The Executive Director informed the BoS that, following a call for expression of interest for the Chair of the Taskforce on Payment Services, the EBA had received three candidacies. In light of the coordination required with other EBA SCs and the Joint Committee AML, also because the work would involve significant interaction with other EU institutions, it was proposed that the Head of Consumer Protection and Financial Innovation of the EBA co-chaired the TFPS.

Conclusion

71. A secret ballot took place. The candidate from the Bank of Italy, Domenico Gammaldi, was elected to become Co-Chair of the TFPS together with the Head of Consumer Protection and Financial Innovation of the EBA, Dirk Haubrich.

Agenda item 19: Draft Consultation Paper on draft Guidelines on Most-representative Services linked to Payment Accounts under the Payment Accounts Directive (PAD)

72.A draft Consultation Paper on draft Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee was presented to the BoS. The EBA staff explained the overall process as envisaged by the PAD, of which this Guidelines was the first step.

73.One BoS Member requested a clarification on the PAD mandate to harmonise standardised terminology for those services common to at least a majority of Member States, and asked whether this would introduce new terminology in Member States that was unknown to consumers. EBA staff responded that it was too early to assess this concern and that any such issue would be addressed in the second and third step of the fulfilment of this mandate.

Conclusion

74. The draft Consultation Paper was approved.

Agenda item 20: Draft Consultation Paper on draft Guidelines on Product Oversight and Governance (POG) Requirements

75.A draft Consultation Paper on draft Guidelines on product oversight and governance (POG) arrangements for retail banking products was presented by the Chairperson.

76.BoS Members showed support to the draft Consultation Paper; however, the question of how the Guidelines would apply to distributors, considering that CAs did not have supervisory powers over them, was raised.

77.A clarification was requested on how disclosure by distributors to regulators as provided for in the section for distributors would be made to work if the regulator had decided to give this responsibility to manufacturers, and whether Guideline 5.1 for manufacturers was meant to be about disclosure to distributors or to consumers.

78.The ESMA representative noted that the draft Guidelines also seemed to address structured deposits, subject to MiFID II requirements and for which ESMA had received a mandate under MiFID 2 to provide technical advice on the product oversight and governance. EBA staff explained that there seemed indeed to be an inconsistency, as in accordance with MiFID 2 structured deposits were deposits under the DGSD, and MiFIR conferred to the EBA mandates on product intervention and market monitoring of these products. The Commission representative agreed to seek clarification of the Commission's position.

Conclusion

79. The publication of the draft Consultation Paper was approved by the BoS, subject to the clarification of the two aspects of the Guidelines for manufacturers and distributors above. SSConFin would be consulted on how to address them, and the Consultation Paper would then be re-submitted to the BoS for information prior to publication.

Agenda item 21: Report from Committees

80. The BoS took note of the progress reports presented.

Agenda item 22: AoB

81. The Chairperson updated the BoS on the discussion held with the other ESAs with regard to the delay by the European Economic Area (EEA) countries (Iceland, Liechtenstein and Norway) on the implementation of sectoral legislation; a joint letter had been sent to the Commission and the EEA countries asking them to make progress on the matter. In this regard, the latest ECOFIN meeting had reached an agreement on a framework to so address, in particular to enable the application to the EEA countries of the mechanisms under Article 16 of the ESAs Regulation.

Andrea Enria

Chairperson

Participants at the Board of Supervisors' meeting

28-29 October 2014, London

Chairperson: Andrea Enria

<u>Country</u>	<u>Voting Member or Alternate</u> ^{1 2 3}	<u>Representative NCB</u>
1. Austria	Michale Hysek	Karin Hrdlicka
2. Belgium	Jo Swyngedouw/Rudi Bonte	
3. Bulgaria	Nelly Kordovska	
4. Croatia	Damir Odak	
5. Cyprus	Argyro Procopiou	
6. Czech Republic	David Rozumek	
7. Denmark	Ulrik Nødgaard	Brian Liltoft Andreasen
8. Estonia	Andres Kurgpõld	Indrek Saapar
9. Finland	Anneli Tuominen	
10. France	Édouard Fernández-Bollo/Frédéric Visnovsky	
11. Germany	Peter Lutz	Erich Löper
12. Greece	Kyriaki Flesiopoulou	
13. Hungary	Péter Gábrriel	
14. Ireland	Cyril Roux/Mary Burke	
15. Italy	Luigi F. Signorini/Andrea Pilati	
16. Latvia	Kristaps Zakulis	Vita Pilsuma
17. Lithuania	Aldona Jociene	
18. Luxembourg	Claude Simon	Norbert Goffinet
19. Malta	Raymond Vella	Alexander Demarco
20. Netherlands	Jan Sijbrand/Paul Hilbers	
21. Poland	Andrzej Reich	Maciej Brzozowski
22. Portugal	Pedro Duarte Neves	
23. Romania	Nicolae Cinztea	
24. Slovakia	Tatiana Dubinová	
25. Slovenia	Matej Krumberger	
26. Spain	Fernando Vargas/Cristina Iglesias-Sarrià	
27. Sweden	Martin Noréus	Olof Sandstedt
28. UK	Sasha Mills	Fiona Mann

¹ Accompanying experts: Ingeborg Stuhlbacher (Austrian Finanzmarktaufsicht); Veerle de Vuyst (National Bank of Belgium); Marek Sokol (Czech Česká Národní Banka); Maurizio Trapanese (Banca d'Italia); Olena Loboiko (De Nederlandsche Bank); Izabella Szaniawska (Polish Komisja Nadzoru Finansowego); João Marques (Banco de Portugal); Lisa Robinson-Hammond (UK Prudential Regulation Authority).

² Representatives from Deposit Guarantee Schemes (DGS): Roman Kahane (Czech Deposit Insurance Fund); Janis Placis (Financial and Capital Markets Commission of Latvia); Jerzy Pruski (Polish Bankowy Fundusz Gwarancyjny); Lars Hörngren (Swedish Riksgälden).

³ Representatives from Resolution Authorities: Pierre Wunsch (National Bank of Belgium); Stelios Kiliaris (Central Bank of Cyprus); Marek Petruš (Czech National Bank); Henrik Bjerre-Nielsen (Danish FSA); Pauli Kariniemi (Finnish Ministry of Finance); Dominique Laboureix (French Autorité de Contrôle Prudentiel et de Résolution); Maria Mavridou (Bank of Greece); John Coyle (Central Bank of Ireland); Janis Placis (Latvian Financial and Capital Markets Commission); Tomas Garbaravičius (Bank of Lithuania); Romain Strock (Commission de Surveillance du Secteur Financier); Marc Roovers and Frank Elderson (De Nederlandsche Bank); Jerzy Pruski (Polish Bankowy Fundusz Gwarancyjny); Peter Penzes (National Bank of Slovakia); Mario Delgado Alfaro (Spanish FROB); Lars Hörngren (Swedish Riksgälden); Andrew Gracie (Bank of England).

<u>Country</u>	<u>Observer⁴</u>
1. Iceland	Lilja Rut Kristófersdóttir
2. Liechtenstein	Rolf Brueggemann
3. Norway	Morten Baltzersen

<u>Non-voting Members</u>	<u>Representative</u>
1. ECB SSM	Korbinian Ibel/Panagiotis Strouzas
2. Commission	Sabino Fornies-Martínez
3. EIOPA	Katja Wuertz
4. ESMA	Verena Ross
5. ESRB	Francesco Mazzaferro

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Director of Oversight	Piers Haben
Director of Regulations	Isabelle Vaillant

Mario Quagliariello; Lars Overby; Stefano Cappiello; Dirk Haubrich; Corinne Kaufman; Jonathan Overett Somnier; Mark Adams; Elisabeth Noble, Santiago Barón-Escámez

⁴Accompanying experts, DGS and Resolution: Jonas Thordarson (Central Bank of Iceland); Sindre Weme (Norwegian Finanstilsynet)