

## Minutes of the EBA Management Board meeting 20 November 2013<sup>1</sup>

20 November 2013, 10:30-16:00hrs  
Location: EBA, London

### Agenda item 1: “Opening & approval of the agenda and minutes”

1. The draft Agenda and the draft minutes of the meeting of 17 September 2013 were approved.

### Agenda item 2: “Stress Test Preparation of 2014: Discussion on the Threshold and other Key Methodological Issues”

2. The Chairperson recalled that the BoS previously agreed to postpone the EU wide stress until 2014 and to freeze work on the methodology. He also referred to the Conference Call held on 15 November 2013, where the conceptual setting of the 2014 EU wide stress test towards a pass/fail capital type exercise was discussed.
3. The opinion of the MB was requested on: a) the next steps to be taken regarding the EU wide stress test; b) the level of the threshold and what information the BoS will need to make this decision; c) the treatment of convertible capital instruments. The MB’s input was also requested on issues that should be considered in the context of consistency of its decisions.
4. The following comments were expressed by the MB: the EBA staff should identify the common building blocks of an EU wide stress test and make a proposal in this regard; it is necessary to find a compromise on a common stress test; to limit national discretion to avoid ending up with different stress tests; but in favour of a common methodology but to give the option to each supervisory authority to impose stronger criteria if required; some MB members raised concerns about the publication of the stress test exercise.

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

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- The Chairperson stated that the stress test exercise should be used as a tool for assessing the situation of banks. He added that the ECB suggested reviewing some areas of the methodology. For this reason, the Chairperson stated that a restricted team should be set up to make a proposal, submit some suggestions and design a timetable for the methodology at the BoS meeting. A high level restricted meeting should then be set up for early January to discuss and agree on the basis of a staff proposal the way forward.

### Conclusion

- The MB supported a common scenario, methodology and disclosure. An agreement is needed on what would constitute the core building blocks of a stress test onto which competent authorities could add additional sensitivity which would properly take account of their needs and situations in the stress test. It would be also useful to involve the ECB and the ESRB in this exercise.

### Agenda item 3: “Update on Q&A Process and Related Observations”

- The Director of Regulation underlined that due to a significant number of questions received and their complexity, several changes to the Q&A tool and process should be introduced to ensure the success and quality of this initiative. She briefly introduced the four proposals and asked for the guidance of the MB members particularly on proposals 1 and 3 of the note.
- MB members supported the need to prioritise questions and to find other ways to reduce the number of questions.
- The representative from the EU Commission agreed with proposal 2, i.e., to communicate with institutions and professional associations with a view to improving the coordination/discussion of questions before submission. While highlighting the complexity of the questions and hence the necessity of sufficient time to address them, he also suggested introducing a new IT tool to keep track of the questions raised and to avoid any possible repetition.

### Conclusion

- The Chairperson stated that the time period for addressing questions should be reviewed for a fast track process where delegations could be sought for Screpol when it comes to simpler questions while lengthening time for more complex ones. There is a need to improve resources and focus on the process where the availability of hyperlinks on the Single Rule Book will also help the filtering stage. Institutions and professional associations should be involved in the process to clear questions and improve coordination/discussion of questions before submission. Advice will be sought from BSG.
- BoS members will be verbally updated on these proposals at the December BoS meeting and final approval will be requested by written procedure.

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#### Agenda item 4: “NCAs Notifications Process: Notifications”

12. The EBA staff prepared a Project Brief on the IT project for Notifications as requested at the last MB meeting in order to develop the appropriate tools to process the notifications listed in the CRD4 and the CRR. This tool should be developed by the EBA with a tentative kick-off date of July 2014.
13. This Project Brief on Notifications, which contained a list of all possible notifications to be sent by competent authorities to the EBA, was submitted for approval to MB members.
14. The EBA staff also suggested to accelerate the collection of information to be published by the EBA according to Articles 115, 150(1) and 199(8) of the CRR without waiting for the IT Notifications tool to be operational. Several MB members expressed their concern on the tight deadlines foreseen for NSAs to submit the EBA such information.

#### Conclusion

15. The Project Brief on Notifications was approved, albeit with some concerns as regards the timeframe and the resources needed. Accelerated collection of information in the field of the Notifications project will be re-examined during the first quarter of 2014.

#### Agenda item 5: “Own Funds List”

16. The Chairperson introduced this topic. According to Article 26 of the CRR, the elaboration and publication of a list of CET1 instruments is required from the EBA. This mandate for the list gives both NSAs and the EBA part of the responsibility, since the list will be an EBA product published by the EBA, but the content of the inaugural list will be the responsibility of the Member States in terms of which instruments qualify or not as CET1 instruments in their respective jurisdictions.
17. The MB was asked to agree on the process suggested in the tabled note.
18. Whereas MB Members were in general in agreement with the process presented in the note, they objected to spot instruments for which the EBA has performed a monitoring (see paragraph 13 of the note). They were of the view that, by doing so, it may make the instruments which are not spotted as monitored by the EBA suspicious to external stakeholders and may wrongly give a negative signal on these instruments. Members did not object nevertheless to distinguish between grandfathered and fully eligible instruments. They also agreed with the approach of inserting strong disclaimers when publishing the list.

#### Conclusion

19. The MB agreed on the general process as presented in the note, except for identifying separately the instruments reviewed by the EBA.

#### Agenda item 6: “Revision of the 2011 EBA Decision on the Register”

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20. The MB members were asked to approve the draft new Decision/User Manual Draft that would replace the existing one, with the view to launch a written procedure to the BoS. The Chairperson stated that the EBA staff was working on the implementation of Phase 2 of the Financial Institution Register, of which the Management Board already approved the Project Charter in an April 2013 meeting. He added that there was a relevant change which was the proposal to decouple the User Manual from the Decision.
  21. One MB member suggested replacing the name “Financial Institution Register” by “Credit Institution Register”, given the fact that only credit institutions (branches included) are included in its scope. Should the EBA be mandated in the future to add other type of financial institutions, a new Register might be created.

### Conclusion

22. It was agreed: a) to replace the title “Financial Institution Register” by “Credit Institution Register” and b) to send to the BoS the Decision on the Credit Institution Register for endorsement via written procedure.

### Agenda item 7: “Approval of Establishing a Task Force on Macroprudential Matters”

23. The Director of Regulation introduced this topic. She recalled that at the June 2013 Screpol meeting, it was agreed to establish a macroprudential network. As a result, the mandate of the Task Force on Macroprudential Matters was drafted and circulated among Screpol members.
24. In accordance with the EBA Regulation, the MB was requested to agree on the establishment of the Task Force on Macroprudential Matters and its mandate.

### Conclusion

25. The MB agreed on the establishment and mandate of the Task Force on Macroprudential Matters.

### Agenda item 8: “Update on Review of the European System of Financial Supervision”

26. The Chairperson informed the MB of the EP’s review of the ESFS, and cited recent ECON hearing and reports that the EP had commissioned from Mazars to review ESAs and Oxford Analytica to review the ESRB.
27. He also flagged to MB some emerging messages on the ESAs, namely that the ESAs have made significant progress but more could be done with regard to ensuring consistent supervision, in consumer protection. Mazars suggested changes to the governance arrangements, transforming the Management Board into an Executive Board.
28. The MB took note that the ESAs opinion on the ESRB was due by 17 December 2013, as per the ESRB founding regulation and expressed the following views on the assessments of the

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ESFS: that there is a need to strengthen supervision at EU level; and that its decisions should remain non-binding.

### **Conclusion**

29. It was agreed to include the following points in the proposed ESA's Opinion on the ESRB review: a) ESAs cooperation with ESRB has worked effectively; there should be a mutual obligation to provide feedback for the performance of respective tasks, b) the non-binding nature of ESRB outputs should be maintained, c) there should be some rebalancing of its composition of its governing bodies.

### **Agenda item 9: "Amendment to Reimbursement Policy"**

30. The Executive Director introduced a slight change to the EBA's Reimbursement Policy allowing reimbursement of BSG members belonging to the category of "SMEs" in order to reflect a comment received from one of the newly appointed representatives in this category and to align the EBA policy with those of the other ESAs and the Commission. From a financial perspective there will be a minimum additional cost to the EBA budget.

### **Conclusion**

31. The MB agreed with the proposal and approved the amendment to the Reimbursement Policy.

### **Agenda item 10: "Administrative and Operational Status Report"**

32. The Director of Operations provided an overview of supporting areas since the last MB meeting held in September 2013.

### **Conclusion**

33. The MB took note of the Administrative and Operational Status Report.

### **Agenda item 11: "EBA Office Solution"**

34. The Executive Director provided the MB with a detailed description of all the steps taken chronologically through 2011-2013 concerning the EBA Office solution. He added that in June 2013, the EU Commission informed the EBA that the European Parliament and the Council should have been formally notified on the short term solution. The EBA provided the notification in July 2013, but it was not considered sufficient as it was ex post.

35. The selection process followed by the EBA on the EBA short term office solution was questioned at the hearing that took place at the European Parliament (Committee on Budgets) in September 2013. The Executive Director added that the Committee on Budgets was expected to adopt an Opinion on a building project notified by the European Banking Authority on 27 November 2013.

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36. The Executive Director stated that the EBA is required to provide a notification on a building project to identify a long term office solution for the Agency for a rental period of 12 years with a break option after 6 years to the European Parliament and the Council by end of January 2014.
  37. The selection criteria and award criteria were presented to the MB. The MB members were kindly asked to approve the proposed minimum selection criteria and award criteria for the long term office solution for the EBA.

### Conclusion

38. The MB approved the proposed minimum selection criteria and award criteria for the long term office solution for the EBA. It was agreed that the short list of selected buildings that meet the minimum selection criteria would be submitted to the MB for approval.

### Agenda item 12: “Banking Stakeholder Composition - Ombudsman Complaint 1966-2011- (EIS) LP” (B-point)

39. The Chairperson informed the MB that the EBA had received the European Ombudsman’s Decision in respect of the complaint from UNI Euribor further to the set-up of the first composition of the BSG, over 2 years after the original complaint had been lodged. Moreover, that this Decision was received after the EBA BoS’ appointment of the 2<sup>nd</sup> term of the BSG. Furthermore that the European Ombudsman had taken into account the EBA’s written statement sent to the Ombudsman’s office on 31 January 2012 and also the outcome of an on-site inspection at the EBA’s offices by Ombudsman staff on 19 March 2013.
40. The MB noted the Ombudsman’s opinion, reflected that the EBA had to a significant extent included the recommendations of the Ombudsman in its selection process for the composition of the 2<sup>nd</sup> term of the BSG. Furthermore the MB noted the practical difficulty in respecting the EU 28 MS’s geographical balance in the sub categories of a BSG Membership of 30 people, relative to the applications for BSG Membership that the EBA had received in the selection for the 2<sup>nd</sup> composition of the BSG.

### Agenda item 13: “Report on the Annual Accounts of the EBA for the Financial Year 2012”.

41. The report on the Annual Accounts of the EBA for the Financial Year 2012 was submitted to the MB for information.

### Conclusion

42. The MB took note of the report on the Annual Account of the EBA for the Financial Year 2012.

### Agenda item 14: “Conflict of Interest Policy”

43. The MB was informed of the Conflict of Interest policies. The Executive Director stated that in 2012 four regulatory EU Agencies were audited by the European Court of Auditors for the

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Conflict of Interests policies they had in place. The ESAs were informed that they would be the next Agencies subject to a specific audit from the European Court of Auditors on their conflict of interest policies in place.

#### **Conclusion**

44. The MB took note of the draft Conflict of Interest Policies. It was agreed that the MB would provide written comments to these policies, if any, and subsequently, they would be tabled for endorsement by the MB via written procedure.

#### **Agenda item 15: “Update of the IT Strategy”**

45. The MB was updated on the IT Strategy. The EBA staff reported that the implementation of the IT Strategy is according to the originally approved schedule for 2013 and that all projects scheduled for 2013 will be completed as planned.
46. One MB member pointed out that no financial aspect was included in the IT Strategy update.

#### **Conclusion**

47. The MB took note. The Director of Operations confirmed that the financial aspect would be included in the progress report presented at the December BoS meeting.

#### **Agenda item 16: “A.O.B”**

48. The BoS draft Agenda and the draft BSG/BoS meeting agenda were both tabled and discussed at the MB meeting.

Andrea Enria  
Chairperson

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## List of Participants

Andrea Enria	Chairperson
Pedro Duarte	Alternate Chairperson
Frederic.Visnovsky	MB member
Katharine Braddick	MB alternate
Jan Sijbrand	MB member
Raimund Roeseler	MB member
Andrzej Reich	MB member
Fernando Vargas	MB member
Dominique Thienpont	European Commission
Adam Farkas	Executive Director
Isabelle Vaillant	Director Regulation
Peter Mihalik	Director Operations
Mario Quagliariello	EBA Staff
Corinne Kaufman	EBA Staff
Andreas Weller	EBA Staff
Markus Trzeciok	EBA Staff
Patricia Juanes Burgos	EBA Staff