



**2012 ANNUAL REPORT**

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# Abbreviations

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<b>ABAC</b>	accrual-based accounting	<b>ESRB</b>	European Systemic Risk Board
<b>AMA</b>	advanced measurement approaches	<b>ETFs</b>	exchange-traded funds
<b>AML</b>	anti-money-laundering	<b>EU</b>	European Union
<b>BCBS</b>	Basel Committee on Banking Supervision	<b>FICOD</b>	financial conglomerates directive
<b>BSG</b>	Banking Stakeholders Group	<b>FINREP</b>	financial reporting framework
<b>BTS</b>	binding technical standards	<b>FSB</b>	Financial Stability Board
<b>CCP</b>	central counterparty	<b>G20</b>	Group of Twenty Finance Ministers and Central Bank Governors
<b>CEBS</b>	Committee of European Banking Supervisors	<b>G-SIFIs</b>	global systemically important financial Institutions
<b>CFDs</b>	contracts for difference	<b>HQLA</b>	high-quality liquid assets
<b>CMGs</b>	Crisis Management Groups	<b>IAS</b>	Internal audit service
<b>COREP</b>	common reporting	<b>ICS</b>	internal control standards
<b>CPSS</b>	Committee on Payment and Settlement Systems	<b>IMA</b>	internal model approach
<b>CRD IV</b>	capital requirements directive IV	<b>IOSCO</b>	International Organisation of Securities Commissions
<b>CRR</b>	capital requirements regulation	<b>IRB</b>	internal ratings-based
<b>CT1</b>	Core Tier 1	<b>IRC</b>	incremental default and migration risk charge
<b>CTF</b>	counterterrorist financing	<b>ITS</b>	implementing technical standards
<b>DP</b>	discussion paper	<b>KRIs</b>	key risk indicators
<b>DPM</b>	data point model	<b>LCR</b>	liquidity coverage ratio
<b>EBA</b>	European Banking Authority	<b>NCA</b> s	national competent authorities
<b>EC</b>	European Commission	<b>NSA</b> a	national supervisory authorities
<b>ECAIs</b>	external credit assessment institutions	<b>OLAF</b>	European Anti-Fraud Office
<b>ECB</b>	European Central Bank	<b>OTC</b>	over-the-counter
<b>EDPS</b>	European Data Protection Supervisor	<b>PRIPs</b>	packaged retail investment products
<b>EEA</b>	European Economic Area	<b>QIS</b>	Quantitative Impact Study
<b>EFC</b>	Economic and Financial Committee	<b>RRD</b>	recovery and resolution directive
<b>EIOPA</b>	European Insurance and Occupational Pensions Authority	<b>RTS</b>	regulatory technical standards
<b>EMA</b>	European Medicines Agency	<b>RWAs</b>	risk-weighted assets
<b>EMIR</b>	European market infrastructure regulation	<b>SME</b>	small and medium-sized enterprise
<b>ESAs</b>	European supervisory authorities	<b>SRB</b>	Single Rulebook
<b>ESCB</b>	European System of Central Banks	<b>SREP</b>	supervisory review and evaluation process
<b>ESFS</b>	European System of Financial Supervision	<b>SSH</b>	Single Supervisory Handbook
<b>ESM</b>	European Stability Mechanism	<b>SSM</b>	Single Supervisory Mechanism
<b>ESMA</b>	European Securities and Markets Authority	<b>VaR</b>	value-at-risk
		<b>XBRL</b>	Extensible Business Reporting Language

## Andrea Enria

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## Foreword by the Chairperson

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The *EBA 2012 annual report* portrays the work of the European Banking Authority in its second year of activity. It has been another very challenging year, still characterised by difficult market conditions for European banks and a complex process of institutional and regulatory repair. But much progress has been made, and I believe we can be proud of the role played by the EBA in shaping the environment for a more stable banking and financial sector in the European Union.

The first priority we faced was to significantly strengthen the capital position of EU banks and dispel concerns on their ability to withstand further shocks. Market concerns were driving a funding squeeze for European banks, which was adversely impacting the banks' lending capacity and the recovery of the European economy. We focused our attention on the capital of the highest quality (Core Tier 1 – CT1) and requested a buffer well above the minimum requirements, even with reference to the stronger benchmarks foreseen by the G20 agreements for the first years of implementation of the so-called Basel III standards. We also asked for a conservative treatment of sovereign exposures, which was in our view essential to alleviate the perverse interconnection between the banks and their sovereigns and ensure additional safety for the banks of the countries under stress. The Ecofin Council strongly supported the EBA recommendation and requested that the necessary balance sheet adjustment were not achieved through a pro-cyclical reduction in lending to the economy. Another important element of the puzzle was to ensure that this complex adjustment was conducted through capital plans thoroughly discussed and agreed within colleges of supervisors, so as to avoid a home bias in the deleveraging process. Looking backwards, I believe we achieved all the objectives we had set: in 2012 banks improved their capital positions by more than EUR 200 billion and are now fairly close to fulfilling the final Basel III requirements for CT1; the shortfall we identified was almost entirely (96 %) covered with direct capital actions, while reduction in lending was recognised only in a few, marginal cases in which specific requirements were imposed by national and European authorities; the whole process was managed with the active involvement of colleges of supervisors; the banks that didn't manage to achieve the targets were supported by government backstops or put under restructuring.

It is important that supervisory pressure on balance sheet repair remains high. Asset quality has been deteriorating and in-depth reviews conducted by supervisors have been essential in ensuring an adequate recognition of losses. Further efforts are needed to address remaining pockets of vulnerabilities and dispel market concerns on asset quality. The work initiated by the EBA to reach consistency in the calculation of risk-weighted assets is another important element in the action for strengthening the confidence in European banks' balance sheets. Banks should prepare and implement plans for further capital strengthening, in order to comply with the internationally agreed standards, also under stressed conditions. We continue emphasising the role colleges of supervisors should play in smoothly driving this adjustment process, and the EBA staff is fulfilling an important task in coordinating the supervisory activities within the colleges of the 40 largest EU cross-border banks. Such coordination has proved crucial especially against the backdrop of risks of fragmentation of the EU single market triggered by the deterioration of the financial crisis.



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Policymakers, on their side, should help this process by providing a greater degree of certainty on the regulatory framework, in particular on the approach to restructuring and resolving banks under stress. The uncertainties shown in dealing with the crisis in Cyprus have proven a destabilising force, determining some backtracking in the progress achieved in stabilising funding markets. A new, clear and credible pan-European framework for crisis management and resolution is an absolute priority, and the EBA is committed to contributing to its effective design and implementation.

The second priority for the EBA has been the realisation of the Single Rulebook in banking, i.e. the design of a more uniform regulatory framework based on technical standards directly applicable throughout the EU, without any need for national implementation. As pointed out in the report of the de Larosière Group, which led to the establishment of the EBA, the Single Rulebook is a key policy tool for the effective functioning of the single market: without using exactly the same definition of regulatory aggregates and the same methodologies for the calculation of key requirements, the problem of regulatory arbitrage, which played such an important role in the run up to the crisis, will not be fixed.

The capital requirements regulation and directive (the so-called CRD IV package), which is being finalised, will provide the basis for the Single Rulebook in banking. In 2012, the EBA conducted public consultations on 23 draft technical standards. The bulk of our work — 16 draft standards — has focused on the definition of capital, possibly the most important area in which truly uniform standards are required. Preparing standards of good quality in a very tight time frame is not the only challenge facing the EBA. We will also have to maintain these standards against financial innovation and the development of business practices. This is why we have also developed a framework for questions and answers, which will provide a web-based tool to ensure that the standards are actually leading to consistent supervisory outcomes in a fast changing world.

Finally, let me turn to the great challenge of repairing the institutional framework for financial stability. The sovereign debt crisis sent strong signals that a rapid change of gear was needed to place the banking sector on a more sound footing and restore confidence in the euro as part of a longer term vision for economic and fiscal integration. One of the key steps of this process was the decision to shift the direct supervision of banks to the European level through the establishment of the Single Supervisory Mechanism (SSM) under the umbrella of the European Central Bank (ECB). The SSM is a real window of opportunity to ensure that a similar need for consistency to that underlying the Single Rulebook arises also in terms of supervisory practices. This is an area where the EBA is willing to bring in its contribution and expertise with the development of a Single Supervisory Handbook: a common framework for the identification, measurement and analysis of risks at banks, together with common guidance for supervisory intervention and corrective action across the whole European Union could be a step change towards consistent and higher quality supervision and effective oversight of cross-border groups in colleges of supervisors.

The concrete achievements of the EBA in its second year of existence could not have been possible without a cumulative combination of factors: hard work of committed staff, active participation of experts from national supervisory authorities, and an open internal debate coupled with the application of majority voting. I would like to take this opportunity to thank the members of the Board of Supervisors for the support provided to the development of the Authority. A special thank you goes to Matthew Elderfield, who just recently stepped down as alternate Chair of the EBA, after having contributed enormously to the progress in our internal discussion and in fostering open and constructive discussion in our decision-making bodies. Our internal processes are now better established and have proven their ability to deliver, also under stressed conditions. Looking forward, all our energies will be required to continue the repair process of the European banking sector, contrast the worst legacy of the sovereign debt crisis, the segmentation of the single market along national lines, and make progress in the construction of a true Single Rulebook.

## Adam Farkas

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## Interview with the Executive Director

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The EBA has been up and running for more than 2 years now. Could you give an assessment of its expansion, outlining, in particular, the major operational challenges faced by the Authority?

In its second year of activity, the EBA nearly doubled its headcount, thus a key challenge was to expand its facilities and to revise its organisational structure to cater for this growth. Middle management layers were established around the core areas of the three main departments: Regulation, Oversight and Operations; and a new Head of the Consumer Protection Unit was appointed. We have now reached a certain stability in our organisational structure and this will allow us to accommodate the expected future growth in the next 2 to 3 years.

We had to achieve all the operational targets in the context of an on-going financial crisis in Europe and in times of serious economic uncertainty and also while discussions on major legislative proposals were taking place, all putting strong pressure on the current resources of the Authority.

One of the major operational developments was the approval of a new IT strategy. We are now in the process of implementing it and, when accomplished, this strategy will create a robust IT environment capable of providing the analytical tools that are crucial for performing our risk-quantitative and impact analyses and for supporting our disclosure activities.

**What do you think will be the impact of the forthcoming Single Supervisory Mechanism on the day-to-day management and operations of the Authority?**

The EBA has been consistently arguing for the establishment of the Single Supervisory Mechanism (SSM) and has always been a strong supporter of this decision which we hope will ultimately contribute to the stability of the European financial sector as a whole. However, the creation of the SSM won't go without an impact on the daily operations of the EBA. A large single supervisor within the EU will call for enhanced operational relationships in all the fields and with all the parties involved. As to the specific impacts on the EBA, there will be changes to our voting modalities. On the EBA's work on colleges of supervisors, there will be a shift of focus towards those colleges with significant operations in the SSM as well as outside the SSM. On the mediation front, the role of the EBA will be strengthened and we need to be prepared to take up this function. We will keep on doing our ad hoc and regular risk analyses but it's clear that a stronger coordination with the ECB is indeed needed also at operational level. We are not expecting any changes in the area of consumer protection.

**Are the available and planned resources adequate to cater for the growing needs of the Authority?**

As already mentioned, during the second year of our existence, we have significantly increased our resources. This growth is fully in line with the start-up phase of the Authority. Furthermore, we are envisaging new tasks in the area of mediation and crisis management stemming from the entry into force of the new legislative proposals on crisis management. In terms of constraints, the inflexibility of our establishment plan as for headcounts has often been an obstacle to our ability to perform our tasks in a timely fashion. In this respect, we need to acknowledge that thanks to the provision of short- and longer-term seconded personnel by different national authorities, we have been able to meet our growing resource demands and to bridge the gap between our needs and the timely availability of experts.

**Considering the review of the European System of Financial Supervision which is due in January 2014, could you already provide an assessment in practical terms of the progress done so far by the EBA to meet its objectives? In particular, what progress and achievements have you made in the area of consumer protection?**

Throughout the last 2 years, we have widely used all of the powers conferred to us by the EBA regulation. Since its establishment, the EBA has been working towards the achievement of a single set of harmonised rules, the so-called 'Single Rulebook'. This work intensified significantly in 2012 despite the pending finalisation of the CRD IV/CRR text: six guidelines, four discussion papers, 14 consultation papers and 23 draft technical standards, of which 16 on own funds, were published for public consultation. Furthermore, the EBA, in an effort to technically influence legislative proposals, provided several opinions which were sent to the EU Commission, the European Parliament and the EU Council to enhance the scope and quality of the Single Rulebook.

One of the key components of the EBA's oversight activities in 2012 was the completion of the recapitalisation exercise following a recommendation which called banks to set aside a temporary capital buffer against sovereign debt exposures and to increase their Core Tier 1 capital ratio to reach a level of 9 % by 30 June 2012. The recommendation led to an increase of European banks' overall capital positions of more than EUR 200 billion and marked significant progress in strengthening the overall resilience of the European banking system. In preparation for the next round of pan-European stress tests, to ensure a more robust and analytically sound stress test of EU banks, the EBA has been assessing lessons learnt from the 2011 exercise, engaging with a wide range of stakeholders and working to develop its methodology.

Another area of progress has been that of consumer protection where the EBA, following a survey conducted in 2011 aiming at identifying the key issues and the potential concerns in relation to complex financial products, worked on developing opinions on good supervisory practices on borrowers in payment difficulties and on responsible lending. In the area of financial innovation, the EBA's work focused on three specific areas: exchange-traded funds (ETFs), contracts for difference (CfDs) and structured products. Finally, the EBA organised its first EBA Day on Consumer Protection, where 135 representatives of the banking industry, national supervisory authorities, consumer organisations and academia met and discussed issues related to consumer protection and financial innovation in banking at European level.

Let me conclude by highlighting the joint effort made by the EBA and ESMA to strengthen the Euribor and rate-setting processes to ensure a transparent and reliable benchmark for financial transactions within the European Union.



# MANDATE, TASKS AND GOVERNANCE



# 1. Mandate, tasks and governance

The European Banking Authority (EBA) is part of a European System of Financial Supervision (ESFS) which is helping to rebuild trust in the financial sector. It does this through the promotion of supervisory convergence and by providing advice to EU institutions in the areas of banking, payments and e-money regulation as well as on issues related to corporate governance, auditing and financial reporting. Through the development of a Single Rulebook for banking it helps guarantee financial stability and a level playing field across financial markets.

As one of the three new European supervisory authorities (ESAs) that were created as a response to shortcomings in the supervision of increasingly interconnected and international financial markets and institutions highlighted during the financial crisis of 2007/08, the EBA is accountable to both the European Parliament and Council and has the power to temporarily prohibit or restrict financial activities that threaten the orderly functioning and integrity of financial markets or the stability of the financial system.

Together with the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA), the EBA is charged with improving the functioning of the internal financial market by means of ensuring a high, effective and consistent level of prudential regulation and supervision, protecting depositors and investors, protecting the integrity, efficiency and orderly functioning of financial markets, maintaining the stability of the financial system, and strengthening international supervisory coordination. It works to improve the quality and consistency of national supervision, to strengthen oversight of cross-border groups and acts as an independent advisory body to the European Parliament, the Council and the Commission on banking issues.

One of the EBA's key tasks is to harmonise regulatory technical standards in financial services into a Single Rulebook in order to create a level playing field and adequate protection of depositors, investors and consumers across the EU. The financial industry contributes to the creation of those technical standards through participation in the Banking Stakeholder Group, which is consulted on proposed measures and contributes to the creation



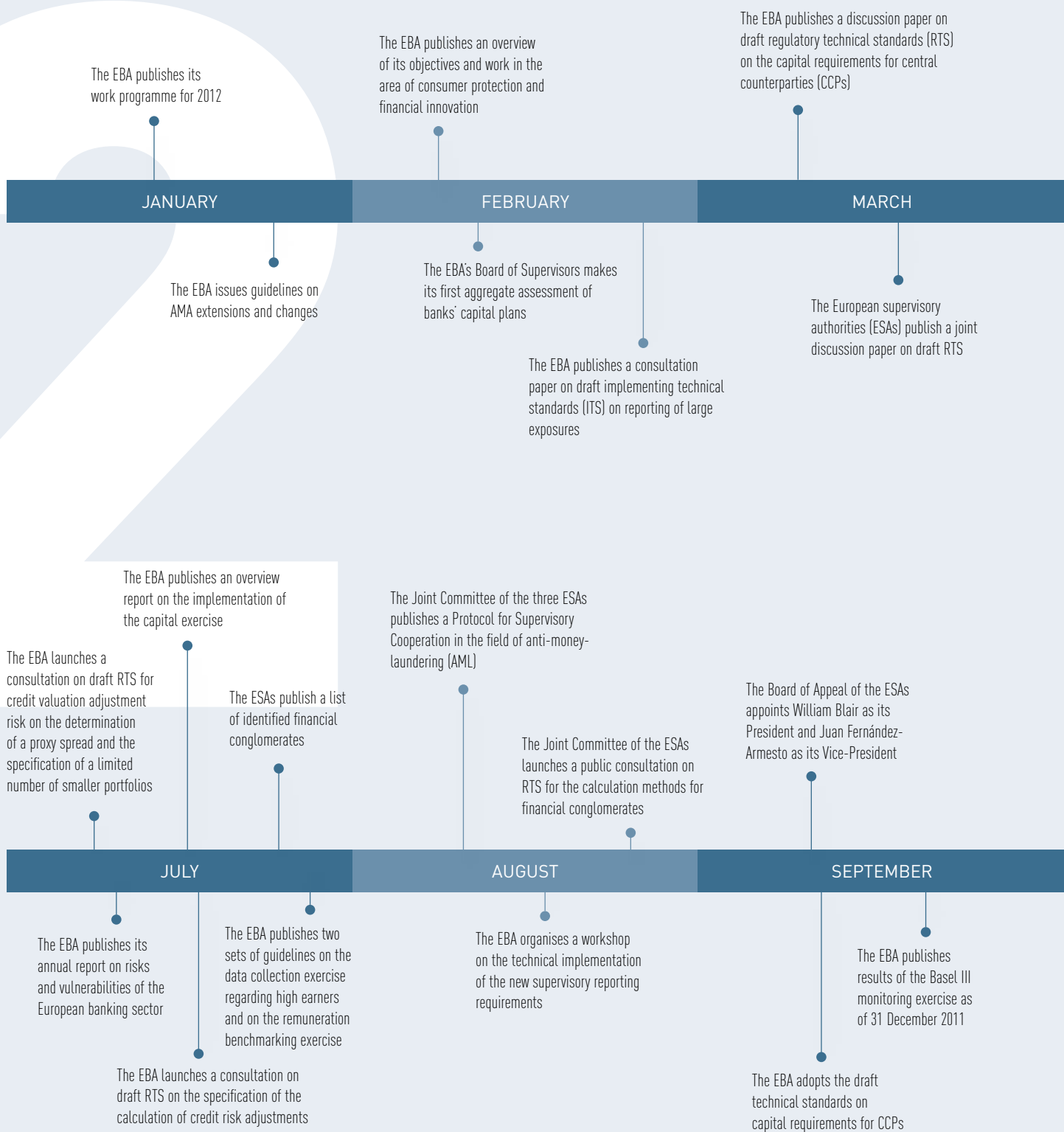
of an impact study into the effect the proposed new standards will have on the sector.

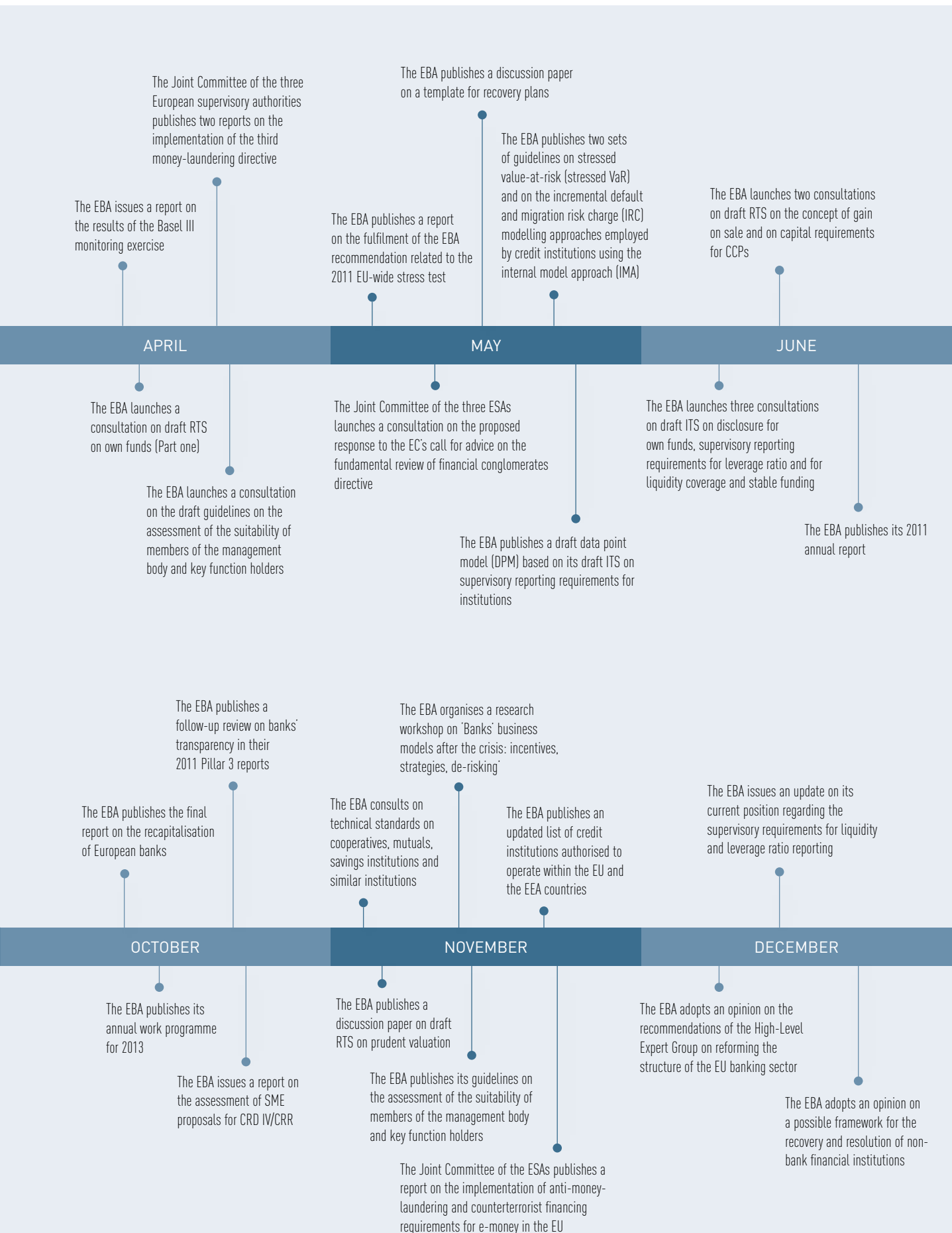
The EBA has the power to investigate incorrect or insufficient application of Union law by a national supervisory authority, can compel that authority to take necessary actions to become compliant and can require it to take specific courses of action in emergency situations.

A Board of Supervisors (BoS), composed of the heads of the relevant competent authorities in each Member State and chaired by the Chairperson of the Authority, is the principal decision-making body of the EBA. Representatives of the Commission, the European Systemic Risk Board (ESRB), the European Central Bank, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority participate as observers. Croatia is already participating in the Board of Supervisors meetings as an observer during the interim period until its accession as an EU Member State on 1 July 2013, whereby it will participate as a full voting member.

The Management Board ensures that the EBA carries out its mission and performs the tasks assigned to it. It is composed of six members elected from the Board of Supervisors by and from its members. The EBA Chairperson is also a member of and chairs the Management Board. The Executive Director and a representative from the European Commission attend as non-voting participants (except that the European Commission will have a vote on budget matters).

## 2. Highlights in 2012







ACHIEVEMENTS IN 2012







## 3. Achievements in 2012

### 3.1. Regulation

#### 3.1.1. The expansion of the Single Rulebook in light of the adoption of the CRD IV package

##### a. Active preparation of the Single Rulebook and the status of final deliveries

In 2012, the EBA devoted its resources to the preparation of the regulatory standards and guidelines in anticipation of the mandates laid down in the proposed legislation for the capital requirements directive (CRD IV) and the capital requirements regulation (CRR), which together form the CRD IV package. While following the CRD IV triologue negotiations and its related regulatory mandates, the EBA issued consultation papers for a number of highly prioritised areas. These were mainly related to the areas of own funds and reporting requirements — the latter in order to allow banks to prepare for the adaptation of their systems. All the draft technical standards on which the EBA publicly consulted in 2012 will be reviewed to reflect any changes to the final CRR text.

Based on the EU Commission's draft CRR proposal, three consultation papers related to the field of regulatory own funds were issued, respectively on 4 April 2012 about features linked to capital instruments and reserves, on 7 June about the disclosure of own funds, and on 9 November about the recognition of undertakings as a mutual, cooperative society, savings institution or similar institution. These consul-

#### SINGLE RULEBOOK

A single set of harmonised prudential rules for banks which are binding in their entirety and directly applicable throughout the EU. The **Single Rulebook** will ensure uniform application of Basel III in all Member States, closing regulatory loopholes and thus contributing to a more effective functioning of the internal market. The new rules remove a large number of national options and discretions from the CRD, and allow Member States to apply stricter requirements only where these are justified by national circumstances.

The Single Rulebook stems from the new legislative framework proposed by the European Commission, referred to as 'the CRD IV package' and made up of two distinct legislative instruments: a directive and a regulation.

The Single Rulebook consists of binding technical standards (BTS) which supplement the legislative instruments to which they relate.

tations gave the opportunity to the public and stakeholders to express their comments and a public hearing was organised on 14 June. Twenty-seven bodies responded to the consultation on the regulatory standards and 17 to the consultation on the disclosure of draft requirements. Following the end of the consultation period, the EBA took into account the comments of stakeholders. The resulting draft technical standards have been preliminarily endorsed by the Board of Supervisors of the EBA and are pending the final text of the CRR.

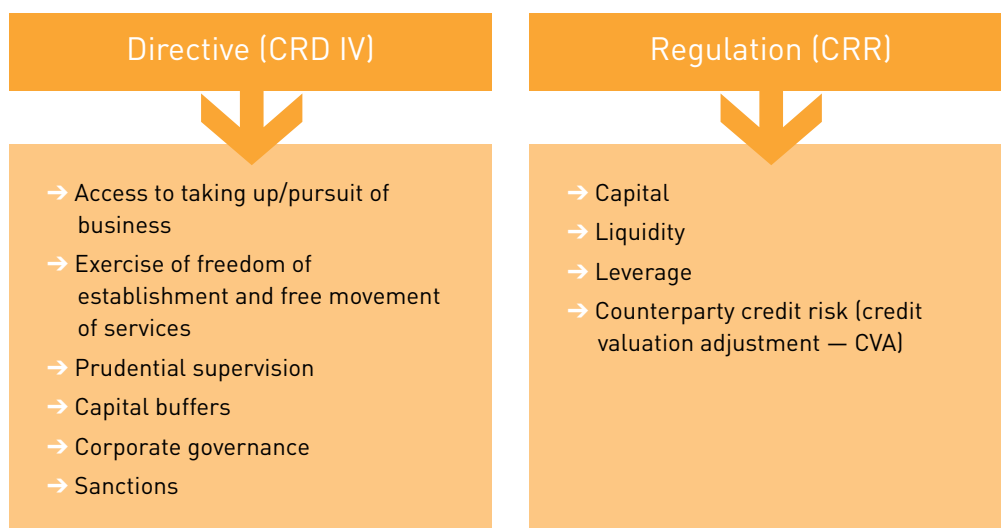
Another priority was the work on the new requirements in the area of credit and market risk where significant adjustments were deemed necessary to ensure a better valuation of the exposures and of their related risks. In May 2012, the EBA issued guidelines including provisions on stressed value-at-risk (VaR) modelling by credit institutions using the internal model approach for the calculation of the required capital for market risk in the trading book. The main provisions of the guidelines related to the identification and the review of the stressed period, the stressed VaR methodology and the use test. In addition, the EBA published guidelines on the incremental risk charge aimed at complementing the additional standards being applied to the VaR modelling framework in the trading book on the incremental default and migration risk charge (IRC). In July 2012, the EBA issued consultation papers to prepare for its mandates on regulatory technical standards (RTS) on credit risk adjustments and credit valuation adjustments. The consultations lasted around 10 weeks and were commented by a number of stakeholders. Again, the EBA reflected upon the comments and will finalise the regulatory standards once the final CRR text is adopted.

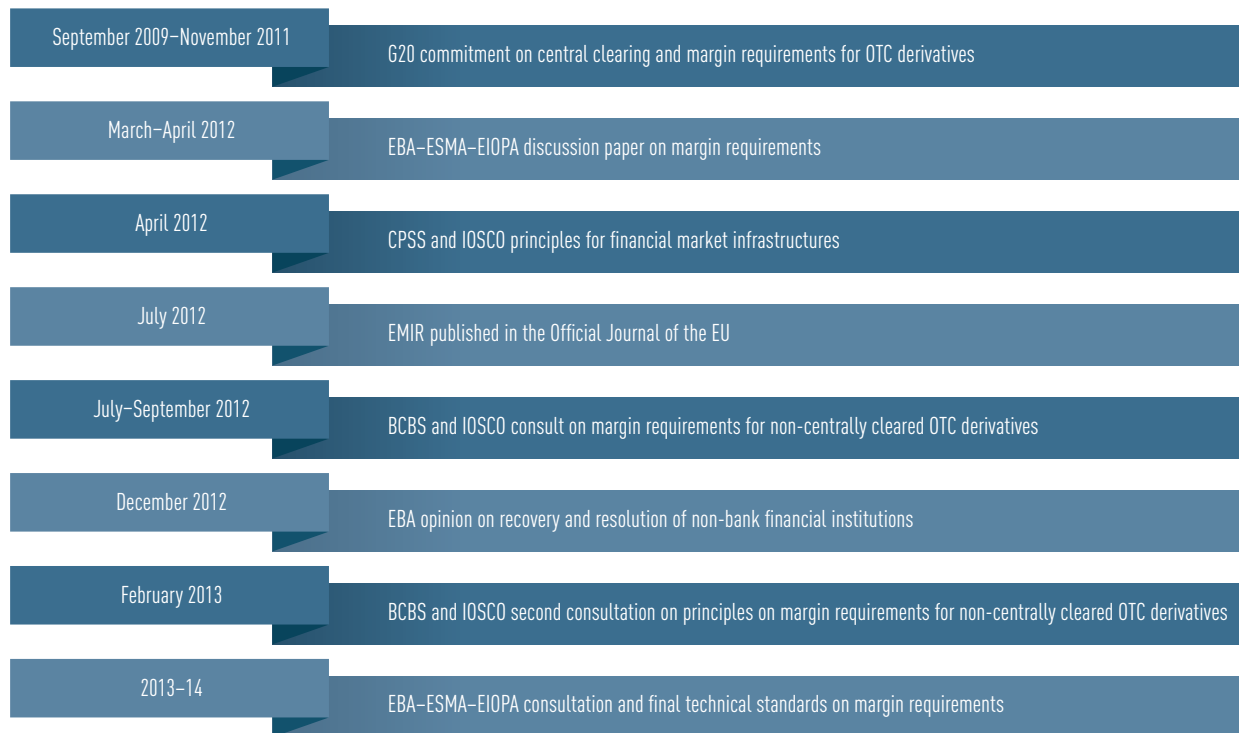
Some other regulatory areas deserved some preliminary work given their novelty. To this end, the EBA produced a number of discussion papers, among which one on prudent valuation. The correct pricing of the assets is a prerequisite for correctly managing risks. The financial crisis revealed that pricing of fair value positions was not always done in a sufficiently prudent manner. The EBA has been given the mandate in Article 100 of the draft

CRR to develop RTS to harmonise practices of prudent valuation where the intended effect of these adjustments is to set valuations at a level that achieves an appropriate degree of certainty that the valuation used for regulatory purposes is not higher than the true realisable value. With this aim in mind, the discussion paper considered the possibility of defining what the appropriate degree of certainty or level of confidence is that the requirements wish to achieve in the adjusted valuation. The EBA continued its work on this and launched a public consultation in July 2012 with the aim of finalising the draft RTS by the end of 2013.

With the entry into force of the European market infrastructure regulation (EMIR) on 16 August 2012, several provisions required a number of technical standards to be developed by the EBA along with ESMA and EIOPA. Among the EBA's key deliverables in 2012, the draft technical standards on prudential requirements for central counterparties (CCPs) were developed in close collaboration with ESMA and the ESCB. Prudential requirements are needed for market, credit and counterparty credit risks that are not covered by dedicated financial resources, like reinvestment or exposures to other CCPs. In addition to this, additional regulatory capital is required to mitigate operational and business risks that arise from all its activities. The EBA sought the industry opinion publishing a consultation paper in June 2012 and held a public hearing. Taking also into account the comments of the Banking Stakeholders Group, the draft technical standards were amended before the formal submission to the Commission.

## What goes into each instrument?



**Figure 1:** Market infrastructures and OTC derivatives: key dates and milestones

In the course of the development of these draft RTS, it became evident that while from a supervisory viewpoint it was imperative to include certain requirements, given the boundaries of the mandate in the EU law it was not possible to include them in the RTS stemming from the EMIR. This led to the issuance by the EBA of an opinion addressed to the European Commission in view of giving the possibility to the national supervisory authorities (NSAs) of applying additional capital requirements for risks not fully covered by the capital requirements in Article 16(2) EMIR, similarly as 'Pillar 2' requirements in the banking sector. In addition, this opinion elaborates on the treatment of intra-day exposures and the treatment of interoperability arrangements for non-cash products. It is the EBA's view that these points should be accommodated in some part of the EU rulebook on the capital for CCPs.

#### **b. Facilitating the implementation of the forthcoming regulatory framework**

##### **Providing transparency on reporting liquidity and launching a voluntary exercise**

In June 2012, the EBA launched a 3-month consultation on draft implementing technical standards (ITS) on supervisory reporting requirements for the liquidity coverage and net stable funding reporting. These ITS, which

stem from Article 403(3)(a) of the draft CRR, aim at providing national authorities with harmonised information on institutions' liquid assets, inflows and outflows and their stable sources of funding using uniform reporting formats developed by the EBA.

The purpose of collecting this information is twofold: (i) to inform the economic impact assessment of the liquidity requirements the EBA is asked to perform during the LCR monitoring period, and (ii) to enable competent authorities to monitor institutions' compliance with the liquidity requirements once they have been introduced as binding minimum standards. The EBA received 28 responses to its public consultation. In the absence of a final CRR text, it was not possible to publish a finalised draft ITS. However, in order to provide transparency and facilitate the institutions' timely preparation towards a harmonised liquidity ratio reporting, the EBA published feedback documents and amended templates following its consultation on 20 December 2012.

In order to inform its economic impact assessment on liquidity regulation, the EBA had already started in December 2011 to monitor the liquidity coverage requirement. This exercise, done on a voluntary basis, will continue throughout 2013 before being replaced by mandatory liquidity reporting on the basis of the above ITS.

## Reporting leverage

From 7 June to 27 August 2012, the EBA held a consultation on ITS on supervisory reporting requirements for the leverage ratio. These ITS aim at providing national authorities with harmonised information on the leverage ratio and its components using uniform reporting formats developed by the EBA. Such ITS will become part of the general supervisory reporting framework, and will serve at least two purposes. Firstly, the leverage ratio will be part of the supervisory review by national authorities in order to assess the risk of excessive leverage in their institutions. Secondly, the reporting framework will give the EBA the ability to quantitatively assess the impact and effectiveness of the leverage ratio, on which the EBA is required to produce a report by 2016.

These ITS have been developed based on the template used for the Quantitative Impact Study (QIS) by the Basel Committee on Banking Supervision (BCBS) and on the COREP and FINREP guidelines. To take into account that the leverage ratio should apply to institutions, which differ in size, nature and complexity, it has been deemed necessary to apply the requirements for more detailed reporting of the components of the leverage ratio in a proportionate manner. The scope and level of application of these ITS are in line with the capital requirements regulation (CRR) text.

On 20 December 2012, the EBA published a feedback statement on the consultation of the ITS which had attracted 24 responses. The final draft ITS, including the legal text and the updated templates and instructions, will be published once the final CRR text enters into force. However, limited changes are expected to be introduced compared to the consulted version of the ITS, primarily to reflect the wording and definitions in the final CRR.

Awaiting the publication and the subsequent implementation of the CRR, the EBA has been collecting information on the leverage ratio by means of a voluntary exercise, in order to gather sufficient data and observation points for its economic impact assessment. This voluntary exercise is based on the templates also used in the monitoring exercise of the Basel Committee on Banking Supervision (BCBS), which have been adapted to accommodate European specificities.

## Governance and remuneration

In November 2012, the EBA published guidelines on the assessment of the suitability of members of the management body and key

function holders. These guidelines set out the process, criteria and minimum requirements for assessing the suitability of those persons and are ultimately aimed at ensuring robust governance arrangements and appropriate oversight. They also contain a notification requirement and provide that in cases where a member of the management body is not suitable, the credit institution and, if necessary, the competent authority shall take appropriate action.

In July 2012, the EBA issued guidelines on the remuneration benchmarking exercise to ensure and facilitate a consistent collection of data to benchmark remuneration trends and practices at EU level and guidelines with regard to the collection of data on staff earning EUR 1 million or more p.a. (high earners). The proposed CRD IV contains mandates for the EBA to develop RTS aimed at setting the criteria to determine the appropriate ratios between the fixed and the variable component of the total remuneration, as well as at specifying the classes of additional Tier-1 instruments that appropriately reflect the credit quality of the institution and the criteria to identify categories of staff whose professional activities have a material impact on the institutions' risk profile. The EBA has started to develop the respective draft regulatory standards, based on the guidelines on remuneration policies and practices and the experience gained with their application. However, the political process has brought about some changes to the CRD IV initial proposal regarding the provisions of remuneration, which need to be taken into account in the respective consultation papers before they are published.

### c. Keeping a robust and unified regulatory policy in crisis times

In addition to work on the technical standards mentioned above, the EBA published opinions on some amendments introduced in the draft CRR, notably concerning own funds. The EBA voiced its concerns about some proposals weakening the initial text of the Commission, and in some cases even leading to lower standards than those currently applicable. Notably, in November 2012, the EBA addressed a technical opinion to the Cyprus Presidency of the Council, the European Commission and the European Parliament underlining the need for harmonising the different methodologies currently being used for the calculation of transitional floors and proposing the use of a consistent method.

### 3.1.2. The integration of the international supervisory benchmarks in the EU: the road ahead

#### a. Regulating the clearing activities

Besides capital requirements, the EBA and ESMA consulted each other on technical standards on central clearing. Although mandatory central clearing is one of the main innovations introduced by the EMIR, a substantial part of the OTC derivatives will not be subject to clearing obligations. In order to avoid any regulatory arbitrage and to incentivise central clearing, one of the main G20 commitments requires the implementation of regulations on additional margin requirements for uncleared derivative transactions. To guarantee a full and consistent implementation and conscious of its potential economic impact, the EBA has been closely monitoring the development of the international proposal of the Basel Committee on Banking Supervision (BCBS) and the International Organisation of Securities Commissions. The EBA and the other ESAs already joined their efforts, publishing a discussion paper in March 2012 outlining their preliminary views on this topic. As a sign of high interest, the discussion paper received more than 70 responses from banks, corporates, insurance companies and supervisors. The ESAs plan to finalise the technical standards on margin requirements for uncleared OTC derivatives as soon as the international principles will be available. Those technical standards remain one of the main EBA priorities for 2013.

In December 2012, the EBA delivered an opinion stressing the importance of consistency between a European framework for resolution and recovery and the initiatives under way in the Committee on Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organisation of Securities Commissions (IOSCO) and the Financial Stability Board (FSB) about globally aligned crisis management approaches with respect to the financial market infrastructures and financial institutions. In a broader sense, the overall aim is to harmonise the regimes for recovery and resolution across the European Union, to avoid regulatory arbitrage and thus potential customer or taxpayer detriment.

#### b. The FSB key attributes in Europe: recommendation on recovery plans

As part of the EBA's general task to 'contribute to and participate actively in the development and coordination of effective and consistent recovery and resolution plans, procedures in emergency situations and preventive measures to minimise the systemic impact of any



failure' (pursuant to Article 25 of Regulation (EU) No 1093/2010), already in May 2012, before the official publication of the recovery and resolution directive (RRD) proposal by the Commission, the Authority issued a discussion paper (DP) presenting its preliminary views on the structure and key elements of the recovery plans, and a European common template for drafting recovery plans along the same standards. The objective of this DP was to encourage discussion and gather stakeholders' opinions regarding the proposed template. Drawing on the positive feedback received on this DP, and considering that at least 15 banks within the Union had already started drafting recovery plans following the initiative of the FSB and other national initiatives were under way, in the second half of 2012 the Authority decided to issue a recommendation to ensure consistency across the Union on the development of recovery plans, convergence on the highest standards, and adequate discussion on these plans within supervisory colleges. This recommendation is expected to be published at the beginning of 2013 and it will require 39 major EU cross-border banks to develop, by the end of 2013, group recovery plans and have the plans discussed within the supervisory colleges, closely monitored by the EBA. These plans should be drafted in accordance with the international standards, agreed under the auspices of the FSB, and consistently with the template prepared by the EBA, following the DP.

### c. The global requirements towards remuneration and their European preparation

Following the FSB publication in October 2011 of a thematic review on compensation and its detailed ongoing monitoring programme in the European Union, the EBA started monitoring remuneration practices and levels in institutions across the Member States. A benchmark exercise based on remuneration data collected in accordance with the criteria for disclosure established in point 15(f) of Part 2 of Annex XII to CRD III was released in 2012. Twenty-one supervisors participated in the survey; questions in the survey were mainly open and of qualitative nature, but for some aspects, numerical information was asked



for a sample of institutions that represents 60 % of total assets in the banking sector or at least the 20 largest institutions in a particular Member State. Answers about practices in institutions relate mainly to the 2010 remuneration cycle (i.e. for performances in 2010), the first year of application of the CRD III requirements. The findings of the survey showed a satisfactory implementation of the guidelines into the respective legal and supervisory frameworks and good progress by the industry was reported namely as to the practices in the governance of remuneration. However, the scope of the guidelines is one of the areas for concern as considerable variations exist in the extent to which the remuneration requirements are applied beyond the scope of the CRD. With regard to the identification of risk takers, the survey highlighted inconsistencies across institutions in the criteria used to identify staff that have a material impact on the firm's risk profile. Furthermore, such criteria have not always proved to sufficiently grasp the risk impact aspect of the exercise. Inconsistencies have also emerged in the application of the proportionality principle with practices varying from predetermined fixed criteria to open case-by-case approaches to determine if the set of specific remuneration rules should be applied to the identified staff.

Finally, the survey showed that risk alignment practices across the industry remain underdeveloped, namely with regard to the interaction of parameters used for risk management and the structure of bonus pools. Following this survey, the EBA published two sets of guidelines on the data collection exercise regarding high earners and on the remuneration benchmarking exercise. The objective of these guidelines is to streamline the data collection and to increase the consistency and comparability of the information collected by national competent authorities. As a transitional arrangement, the first set of data was submitted to the EBA at the end of December 2012 and a report is due to be published by the first half of 2013.

## 2012: regulatory products

Topic	Regulatory products
Own funds	Consultation paper on 14 draft RTS on own funds
	Consultation paper on 1 draft RTS on cooperatives, mutuals, savings institutions and similar institutions
	Consultation paper on 1 draft ITS on disclosure for own funds
	Opinion on the methodology for the calculation of transitional floors
	Opinion on some amendments introduced in the CRR
Credit risk	Consultation paper on 1 draft RTS on the calculation of credit risk adjustments
	Consultation paper on 1 draft RTS on the capital requirements for central counterparties (CCPs)
	Opinion on capital requirements for CCPs
	Discussion paper on draft RTS on capital requirements for CCPs
Market risk	Guidelines on the incremental default and migration risk charge
	Guidelines on stressed value-at-risk
	Consultation paper on 1 RTS on the concept of gain on sale associated with future margin income in a securitisation context
	Discussion paper draft regulatory standards on prudent valuation
Operational risk	Guidelines on AMA extensions and changes
Remuneration	Guidelines on the data collection exercise regarding high earners
	Guidelines on the remuneration benchmarking exercise
Supervisory reporting	Consultation paper on 1 draft ITS on reporting of large exposures
	Consultation on 1 draft ITS on supervisory reporting requirements for liquidity coverage and stable funding
	Consultation on 1 draft ITS on supervisory reporting requirements for leverage ratio
	Consultation on draft ITS on supervisory reporting requirements for FINREP and COREP
Recovery and resolution	Opinion on a possible framework for the recovery and resolution of financial institutions other than banks
	Discussion paper on a template for recovery plans
Structural reforms	Opinion on the recommendations of the High-Level Expert Group on reforming the structure of the EU banking sector
Shadow banking	Opinion on the European Commission consultation on shadow banking
Internal governance	Guidelines on the assessment of the suitability of members of the management body and key function holders

Discussion papers

Guidelines

Opinions

Consultations on draft RTS and ITS

## 3.2. Oversight

### 3.2.1. Cornerstones of the EBA’s bank oversight work in 2012

In 2012, the EBA’s work on bank oversight focused on the following activities: undertaking risk assessments; promoting the collection, organisation and common reporting of regulatory data; investigating risk-weighted assets (RWAs) discrepancies; ensuring the efficient functioning of colleges of supervisors as part of the effective oversight of cross-border banking groups; and concluding the work on the EBA recommendation on the capitalisation of banks.

The EBA prioritised developments in its risk analysis framework to facilitate oversight such as its system-wide and firm-specific risk dashboard whilst also continuing efforts to strengthen the European banking system, which in fact saw banks strengthening their capital position by over EUR 115 billion in fresh capital in the first half of 2012 in response to meeting the requirement of the EBA recommendation for 9 % Core Tier 1 capital. The EBA also progressed on the substantial policy work aimed at strengthening the colleges of supervisors and increasing consistency of their functioning through the developing series of technical standards to be finalised in 2013 with a focus on developing crisis management preparedness.

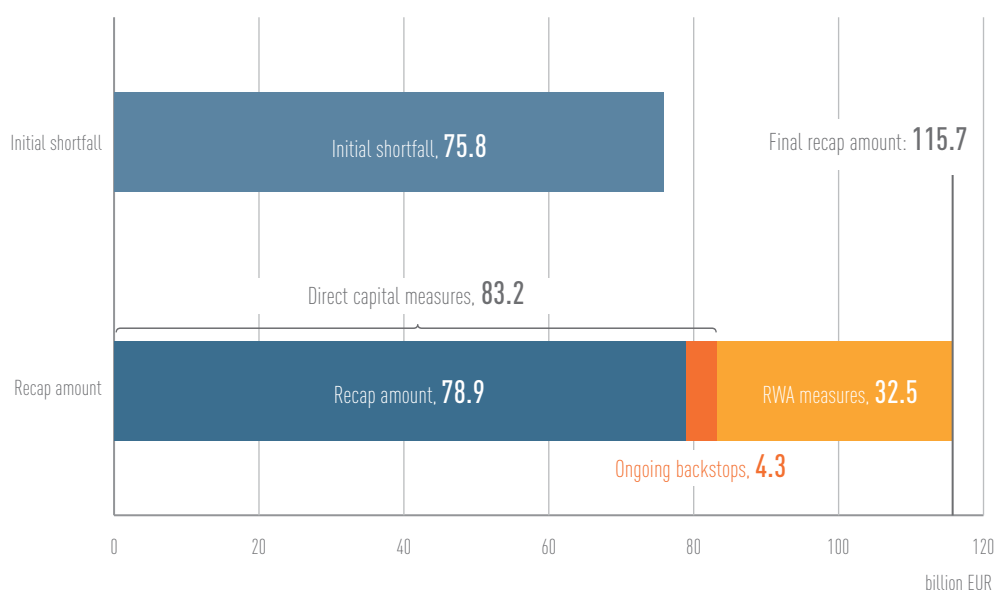
The EBA’s oversight work remains categorised under two specific functions: (i) risk analysis, which involves the monitoring, assessment, analysis and reporting of risks and vulnerabilities in the EU banking sector; and (ii) oversight of colleges, which involves ensuring effective and efficient cooperation between national supervisory authorities in banking supervision, through both policy work and active participation in the colleges of supervisors. Below, we look at the work undertaken in 2012 by these functions, as a response to the crisis and building the infrastructure to deliver robust regulatory outcomes in the future.

### 3.2.2. Responding to the crisis

#### a. From the stress test to the bank capitalisation exercise

As the EBA reported in its annual report for 2011, a major piece of work for that year was the stress test exercise. Although the macroeconomic environment deteriorated rapidly during the course of the exercise, the exercise nonetheless achieved an unprecedented transparency of results and methodology, and a common EU definition of Core Tier 1 capital, which allowed analysts to make clear assessments of banks. Moreover, the EBA immediately followed up the stress test exercise in the latter half of 2011 with a recapitalisation recommendation to national competent authorities requiring banks to raise their capital levels.

Figure 2: Initial capital shortfall and final recapitalisation amount





This recommendation, finally published in December 2011, required competent authorities to ensure participating EU banks raised their Core Tier 1 (CT1) ratio to 9 %, after setting an additional buffer against sovereign risk holdings, as part of a suite of policy measures to restore confidence in the EU banking sector. The objective was to ensure sufficient capital against unexpected losses if the economic situation deteriorated further.

The EBA identified a shortfall for 27 banks of EUR 76 billion, to be addressed by end-June 2012 via an increase of the capital elements of the highest quality and via a limited set of actions aimed at reducing risk-weighted assets (RWAs), without impacting lending into the real economy. Comprehensive measures were subsequently implemented by banks to comply with the recommendation.

The capital exercise, which triggered a deep restructuring process for four of the banks with an initial shortfall, resulted in an aggregate EUR 115.7 billion recapitalisation for the 27 banks after the implementation of their respective capital plans.

Compliance with the recommendation has been achieved mainly via new capital measures (retained earnings, new equity and liability management) and, to a lesser extent, by releasing capital through measures impacting RWAs.

This exercise was a necessary step on the road to repairing EU banks' balance sheets, and was one of a series of coordinated policy measures agreed by the European Council in October 2011. Although the external environment remains challenging, the recapitalisation contributed to strengthening the capital base of the banking system and has put banks in a stronger position to continue lending to the real economy. Overall, taking into account the capital strengthening of the remaining banks in the sample, including capital impact of RWA measures, and the capital injection already realised in Greek and Spanish banks involved in the exercise, the banks' capital position was stronger by more than EUR 200 billion in June 2012 compared to December 2011.

The vast majority of the banks involved in the EBA capital exercise showed a CT1, as of end of June 2012, above the 9 % after accounting for the sovereign buffer.

Going forward, the EBA will continue to monitor banks' capital levels. The implementation of the CRD IV/CRR framework will change the legal setting for assessing capital levels. To that end, as the final CRD IV/CRR package enters into force, the EBA decided, in October 2012, to issue a new recommendation, replacing the requirement for a 9 % CT1 ratio with a capital preservation requirement. Under this new requirement, competent authorities should ensure that banks have credible capital plans for converging towards the new CRD IV/CRR standards and, in the transitional period, maintain a nominal level of CT1 capital corresponding to 9 % of risk-weighted assets as at June 2012 ('the nominal buffer').

#### **b. Colleges role in the recapitalisation and restoration of order**

Colleges of supervisors played an integral role in the fulfilment of the EBA's capital exercise (see above). In particular, in the context of implementation of the capital plans colleges were necessary to ensure a coherent approach of the plethora of national measures introduced. The relevant banks submitted their capital plans to NSAs and, in coordination with the EBA, these plans were discussed in supervisory colleges, where host supervisors had the opportunity to raise any concerns on those measures having an impact on their own jurisdictions and credit markets. Colleges provided an open and secure forum for information exchange whereby all relevant host authorities were kept up to date, with the consolidating supervisor leading on interaction with the bank. The colleges also played an important role in facilitating the coordination of the final communication phase of the exercise.

Colleges have also played a vital role during the crisis in ensuring adequate information flows about both emergency situations and relevant supervisory responses to bring a degree of coordination to what could otherwise be a disorderly series of national measures. By facilitating a forum for confidential and secure information exchange, colleges of supervisors have helped improve coordination and information exchange in stressed situations. In some circumstances improvements in reaching this stage are necessary, for example there have been instances where the EBA has intervened to ensure colleges play that role and, where colleges have failed, competent authorities have sought guidance from the EBA.

### c. Asset quality and risk-weighted assets

Following on from the recapitalisation exercise, and as part of its efforts to assist in restoring confidence in banks' balance sheets and hastening the process of repair, the EBA took steps for addressing uncertainty on the consistency of risk-weighted assets (RWAs). The issue of the dispersion in the estimates of credit risk parameters across banks had been already flagged in the report on the results of the 2011 EU-wide stress test.

During 2012, the EBA undertook significant work in assessing the consistency of RWAs. Differences in risk parameters and capital requirements between banks are not a sign of inconsistency per se. For example, the composition of portfolios and so the underlying risk profile may differ across banks as a result of differences in markets (e.g. geography), risk appetite or borrower selection criteria. However, a substantial divergence between banks may signal that the methodologies used for estimating risk parameters by some banks will require further analysis regarding the drivers and potential explanations for those differences.

Initially, the EBA focused its analysis on credit risk, mainly IRB, postponing the work on the trading book. The work covered analysis of the risk parameter estimates used in the RWA and expected loss (EL) calculations and investigated to what extent any differences may reflect individual experience and risk management practices, different features of the internal models, and/or varying interpretation/practical application of the capital requirements directive (CRD). Some attention has been given to the computation of RWAs under the standardised approach, with particular reference to risk classification, usage of external ratings (ECAIs) and credit risk mitigation techniques.

The other aspect of confidence in banks' balance sheets has been questions about the underlying asset quality. Although the EBA does not have responsibility for assessing asset quality in individual banks it has been working to support the work of relevant competent authorities in this regard. One notable step forward was EBA work, initiated in late 2012, to provide common definitions on forbearance and non-performing loans. The definitions will provide supervisors and colleges with a tool to monitor asset quality of banks' books on a common basis, and will provide crucial input to future stress tests.

### d. Bank funding

Concerns about bank funding have focused not only on banks' efforts to restore private funding but the implications of the narrowing of the funding market for banks' future balance sheets. To better understand the challenges the EBA worked closely with the ESRB to assess funding conditions with a focus on asset encumbrance. In particular, the Expert Group on Bank Funding, chaired by the EBA, collected granular data that allowed an in-depth analysis and the identification of a series of policy recommendations that were approved in December 2012.

The analysis showed an increase in asset encumbrance along with wide dispersion across institutions, highlighting the need for effective management by the banks and monitoring by both banks and NSAs. The ESRB recommended that the EBA produces harmonised definitions and templates both for funding plans and asset encumbrance that will allow regulatory reporting and assessment on a common basis. Furthermore, the EBA has been asked to produce guidelines on transparency requirements and coordinate the identification of best practices regarding covered bonds and other instruments that generate encumbrance.

The fulfilment of the recommendation on asset encumbrance templates is largely complete, and the EBA is starting work on the development of funding plan templates. The recommendations will be pursued by the EBA over the next few years, in tandem with guidelines for the supervisory review and evaluation process (SREP) for liquidity, so that European supervisors can monitor and assess bank funding on a common basis.

### e. Euribor investigation

A joint EBA/ESMA work addressed governance aspects of the Euribor rate setting mechanism and complemented the legal investigations related to Libor/Euribor being conducted by competent authorities within the EU in 2012.



### 3.2.3. Building the infrastructure

#### a. Data and common supervisory reporting

The key risk indicators (KRIs) are the main source of supervisory data available at the EBA. They have been designed in accordance with FINREP and COREP definitions and are collected for a sample of 57 European banks, with the banks in the sample representing at least 50 % of each national banking sector. This allows the EBA to monitor the different drivers of banks' performance and provide an aggregate view of the EU banking system. In 2012, the EBA intensified efforts for improving the quality and robustness of the reported data.

Following a public consultation in 2012, the EBA worked on finalising the technical standards on supervisory reporting, the definitions templates and data point models for COREP (own funds and own funds requirements), FINREP (financial information), large exposures and liquidity and leverage ratios. The technical standard will be published once the final text of the CRD IV/CRR is available. The new supervisory reporting framework is a major driver of supervisory convergence, and its delivery will enable carrying out peer analyses and benchmarking exercises, as well as facilitating a common base upon which colleague-related information can be exchanged.

The EBA has also conducted intensive work to incorporate harmonised definitions of forbearance and non-performing loans into the FINREP framework in order to empower supervisors with the appropriate tools to assess credit quality on a comparable basis across the EU. As institutions may deal with non-performing exposures by extending forbearance measures, consistent definitions and reporting are preconditions for effectively managing the uncertainties surrounding asset quality for European banks.

#### b. Regular risk assessment and risk dashboard

The EBA is mandated by its founding regulation to regularly assess the risks and vulnerabilities of the European banking system. This activity results in the preparation of reports for internal as well as for external use. In 2012, the EBA started publishing its risk assessment reports on a semi-annual basis and sharing them with the Parliament, Council and ESRB. The reports condense the analyses carried out, leveraging on the key risk indicators as well as on market intelligence and other sources of information. An impor-



tant tool for enhancing the forward-looking component of the risk reports is the Risk Assessment Questionnaire, a survey conducted on a sample of large banking groups, which elicits expectations of respondents on current challenges and future risks. The discussion with the members of the EBA subgroups and standing committees also provide input for forward-looking analysis.

During 2012, the EBA finalised its risk dashboard. The system-wide version of it is a quarterly report based on the KRIs and provides an overview on the performance of the banking system. A colour-code system facilitates the identification of major sources of risks and trends in banks' risk profiles. A firm-specific version of the risk dashboard has also been released and is now subject to a testing phase with internal users. It provides KRIs for a specific firm and compares those with various peer groups, both predetermined and user-defined. The firm-specific dashboard will gradually become part of the toolbox for the colleges of supervisors.

Additional regular risk assessment products include: the 'Weekly overview on liquidity and funding' that summarises views of market analysts and supervisory views on local liquidity and funding conditions and is delivered weekly to the members of the Board of Supervisors; and the 'Report of the Joint Committee of the ESAs on risks and vulnerabilities in the EU financial system', which provides the Financial Stability Table of the Economic and Financial Stability Table of the Economic and Financial Stability Committee and the ESRB with an assessment of micro-prudential sectoral and cross-sectoral risks twice a year.

c. College infrastructure

**EBA support and monitoring of college activities**

The EBA is mandated to contribute to promoting and monitoring the efficient, effective and consistent functioning of colleges of supervisors established in the EEA. At the beginning of 2012, the EBA conducted its mapping exercise working closely with national competent authorities to identify the total number of EEA colleges established. This exercise, requesting data from the competent authorities, revealed that the total number of EEA colleges with parent institutions in the EEA was closer to 90 in comparison to the over 100 at the start of 2011. This reduction was due, in part, to various bank restructuring activities during the course of 2011. Figure 3 demonstrates the distribution of these colleges per consolidating

supervisory country. This annual exercise also serves to inform on the level of cross-border activity for each of these banks, which helps the EBA conduct analysis and monitor colleges appropriate to their size and complexity.

The list of ‘closely monitored’ colleges for 2012, consisting of the largest cross-border banks headquartered in the EEA and which the EBA staff engage in and monitor more closely stood at 40 banks. Figure 4 demonstrates the distribution of the closely monitored colleges per consolidating supervisory country. With these banks the EBA follows their progress throughout the year by monitoring their supervisory planning and reviewing, and discussing the group risk assessment and joint decisions on capital adequacy for the group, as well as overseeing their crisis management planning.

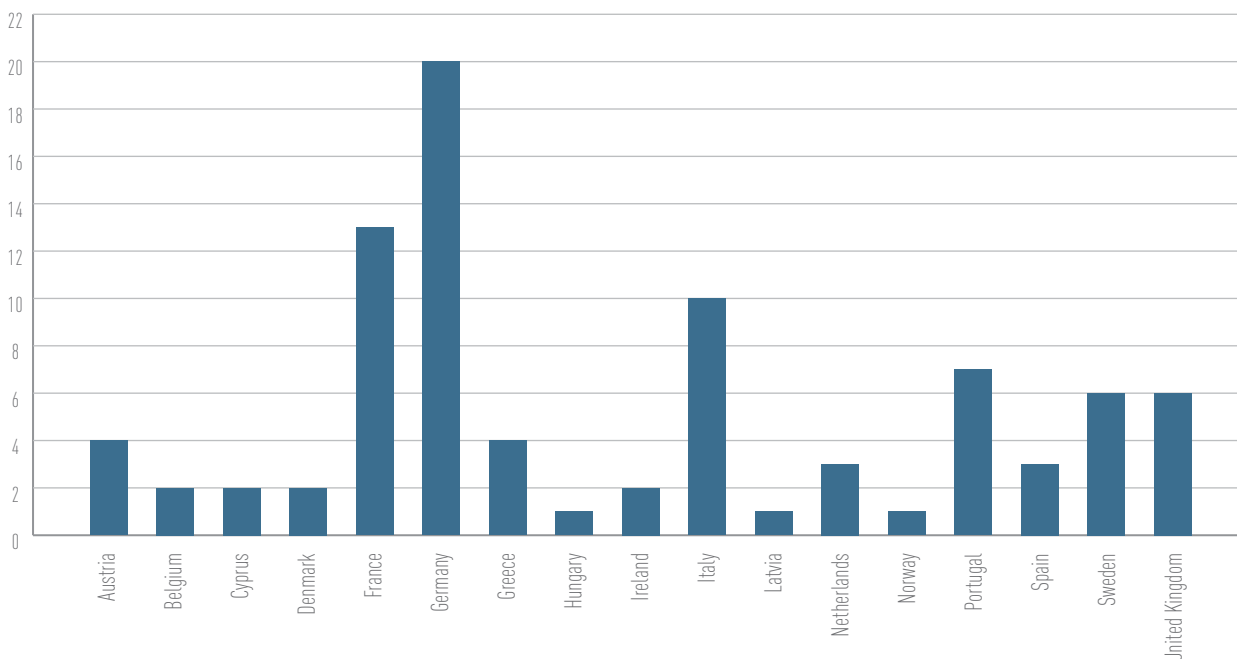
Specifically, the EBA engagement with the ‘closely monitored’ colleges could be divided into two components:

- (i) active participation in over 70 physical college meetings and teleconferences and an additional 22 college meetings dedicated to crisis management, known as Crisis Management Groups (CMG) (see Figures 3 and 4, where the EBA is a full member of the college);
- (ii) close cooperation with the college to ensure adherence to the annual EBA action plan for colleges, which focused this year on crisis management preparedness-related issues as well as on the fulfilment of

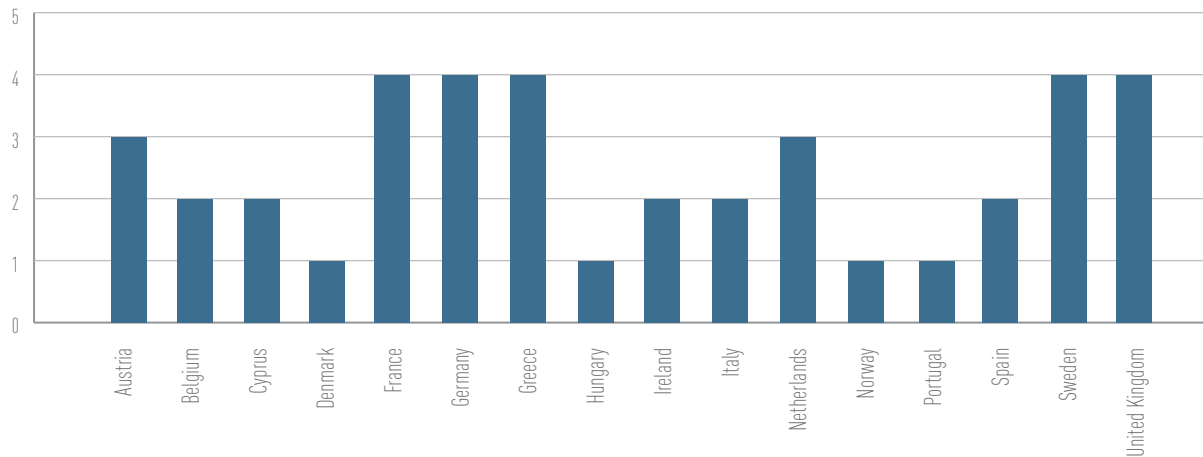
**COLLEGES OF SUPERVISORS**

Permanent and flexible structures for the coordination of supervisory activities. They are established under EU law for EEA banks with subsidiaries or significant branches in other EEA countries. They may include supervisors in non-EEA countries, where relevant.

**Figure 3:** EEA supervisory colleges in place (where the parent institution is in the EEA) – distribution per home country



**Figure 4:** List of EBA ‘closely monitored’ supervisory colleges – distribution per home country



the legal requirement of the joint risk assessment and joint decision on the level of risk-based capital adequacy on a consolidated and solo level (joint risk assessment and decisions (JRAD)). The EBA interacted with colleges to ensure that any shortfalls experienced in meeting their legal and regulatory requirements were addressed and guidance provided as soon as possible.

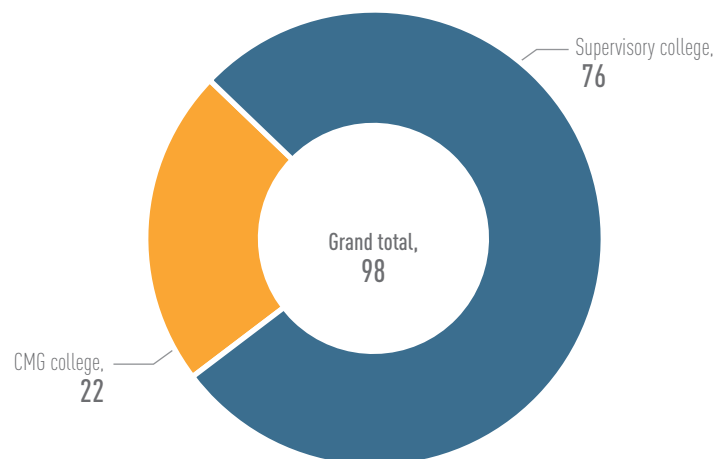
In participating and in having close dialogue with the colleges, the EBA staff have a broad view which enables the EBA to monitor and oversee the effective functioning of colleges and their compliance with both legal requirements and the EBA action plan. The EBA aims to bring its insight to the benefit of all colleges through providing regular direct feedback to the consolidating supervisors and also through its policy work. For example, in 2012, after noticing deficiencies in the way joint decisions on institution-specific prudential requirements are reached and articulated, a ‘Good practices’ paper was developed and communicated to supervisors suggesting improvements both in the process of reaching a joint decision and in their articulation, communication and application. With such documents the EBA promotes convergence of practices across the colleges and will continue to do this going forward.

Findings from participation in the work of colleges of supervisors in 2012 indicate that significant improvements have been reached specifically in information sharing and integrated risk assessment cycles where both consolidating and host supervisors dedicate substantial resources to the colleges’ work. Additionally in a small but increasing number of colleges, examples of joint work, including but not limited to on-site inspections, were noted. In general, supervisory activities performed within the college framework appear

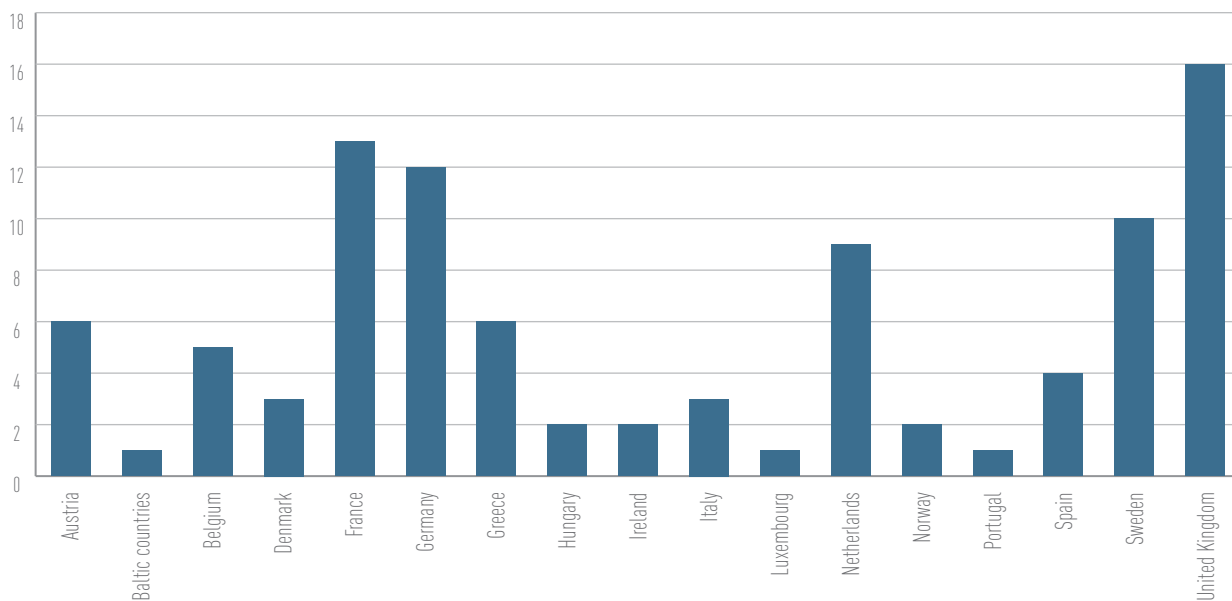
to have increased compared to 2011 (partly attributed to the emphasis placed on colleges during the EBA capital exercise). Nonetheless, stressed conditions still have a negative effect on the functioning of colleges whereby information exchange often retreats to within national borders, and the framework for information sharing and supervision of cross-border banking entities becomes less effective.

Additionally, the EBA engaged with banking supervisors of cross-border entities through the organisation of its second seminar on colleges. This seminar engaged heavily with supervisors to focus on the main challenges they face, especially in reaching and articulating the joint decision on institution-specific prudential requirements, interaction between global and European colleges, crisis management and future regulatory changes. The ultimate aim of such regular training sessions is to foster a common supervisory culture and promote consistency across the colleges, through positive direct engagement with supervisors of colleges involved in the seminar.

**Figure 5:** Number of college meetings attended by EBA staff – distribution per type of college



**Figure 6:** Number of college meetings attended by EBA staff – distribution per home country



**Crisis management in supervisory colleges**

The EBA is mandated by its founding regulation to contribute to, and to actively participate in, the development of effective and consistent recovery plans in the EU. In 2012, the EBA began attending a broad range of Crisis Management Groups (CMGs) and cross-border stability

groups (CBSGs) for major European banking groups. In carrying out this role, the EBA sought to give guidance to competent authorities on the development of robust crisis management procedures with the majority of work devoted to the completion of group-wide recovery plans of those banks which met the FSB definition of systemically important financial institutions (G-SIFIs) and, to a lesser extent, on resolution planning for those institutions.

**CRISIS MANAGEMENT GROUPS (CMGS)**

CMGs comprise the consolidating and key host authorities that are material to the resolution of a group. They are established with the objective to enhance preparedness for and facilitate the management and resolution of a cross-border financial crisis affecting institutions.

**CROSS-BORDER STABILITY GROUP (CBSG)**

A group which involves all relevant supervisory authorities, ministries, ECB/central banks from different Member States with the objective to enhance preparedness in normal times and which may facilitate the management and resolution of a cross-border financial crisis.

**G-SIFIS**

These are global financial institutions whose distress or disorderly failure would cause significant disruption to the wider financial system and economic activity, because of their size, complexity and systemic interconnectedness.

**RECOVERY PLANS**

Recovery plans are developed by the institutions themselves to identify options to maintain or to restore financial strength and viability when the institution comes under severe stress.

An additional area of activity in the 2012 action plan was the assessment of supervisory colleges' arrangements for dealing with emergency situations whereby colleges were requested to coordinate and communicate the existence of frameworks for the planning and coordination of supervisory activities during crisis situations. The number of such frameworks increased significantly after the EBA's engagement with the relevant competent authorities, where the EBA provided guidance based on the college guidelines.

While the initial focus of the crisis management work in 2012 was on G-SIFI institutions, the EBA considered that the preparation of recovery plans should be expanded to other major European banks and, in the second half of 2012, commenced a process to adopt a formal recommendation to national competent authorities in this regard. This recommendation will seek to ensure that the major EU cross-border banks develop group recovery plans by the end of 2013. This initiative also requests that all supervisory colleges discuss the development of these plans within the college framework and this will be an area of attention over the coming year.

### Development of regulatory and implementing technical standards in the area of home-host and colleges

In 2012, the EBA put much emphasis on increasing convergence in college practices in the run up to the development of the binding technical standards (BTS) for home-host cooperation and college functioning. The legislative proposals for the revision of the CRD (CRD IV/CRR package) mandate the EBA to develop draft regulatory and implementing technical standards in the area of home-host cooperation and various aspects of the functioning of colleges of supervisors. The EBA is currently drafting nine technical standards relating to supervisory colleges.

#### Technical standards relating to colleges of supervisors

1.	Colleges of supervisors	2 technical standards
2.	One each for joint decisions on capital adequacy, model validation and liquidity	3 technical standards
3.	Information exchange	2 technical standards
4.	Passport notifications	2 technical standards

## 3.3. Consumer protection

The roles and tasks of the EBA related to consumer protection and financial activities are set out in Article 9 of the regulation establishing the EBA as comprising the following tasks:

- (a) collect, analyse and report on consumer trends in the EU;
- (b) review and coordinate financial literacy and education initiatives;
- (c) develop training standards for the industry;
- (d) contribute to the development of common disclosure rules;
- (e) monitor existing and new financial activities;
- (f) issue warnings if a financial activity poses a serious threat to the EBA's objectives; and
- (g) prohibit or restrain temporarily financial activities if they pose a threat to the financial system.

In 2012, the EBA prioritised its efforts on three of the above tasks: (a) collecting and reporting on consumer trends; (e) monitoring existing and new financial activities; and (f) the issuing of a warning. Each of these efforts has resulted in specific outputs, which are described in detail below.

### 3.3.1. Key achievements

#### a. EBA Consumer Trends Report 2012

The EBA worked on its annual report on consumer trends, in fulfilment of the underlying task provided for in Article 9(1)(a) of the EBA regulation. The 2012 report, which is due to be published in March 2013, identifies key issues in the area of consumer protection and financial innovation in 2012 and highlights the new trends and the key areas of concern to the EBA for 2013.

The report is a sequel to the report that had been developed in 2011 and that was published in February 2012. It consists of two parts: a description of the work done by the EBA, other EU institutions and Member States to address the key issues that had been highlighted in the previous year's report; and a second part with a revised set of issues, trends and products for 2013, based on a non-comprehensive survey of national supervisory authorities conducted in the second quarter of 2012.

While not claiming to present a comprehensive picture of all relevant risks or potentially harmful products from a consumer perspective, the report identifies six main consumer issues: indebtedness and responsible credit; transparency and levels of charges; scope of mis-selling of financial products; issues arising from specific products such as foreign currency loans, payment protection insurance and complex products; security of new technologies used for banking services; and emerging new forms of liquidity raising.

#### b. Joint EBA/ESMA warning on contracts for difference

The EBA and the European Securities and Markets Authority (ESMA) worked jointly to assess the consumer risks associated with contracts for difference (CFDs). The two authorities were concerned that during the current period of low investment returns, inexperienced retail investors across the EU are being tempted to invest in complex financial products which they may not fully understand and which can end up costing them money they cannot afford to lose. The efforts will culminate in the issuing of a joint warning in early 2013, based on Article 9(3) of the EBA regulation.

#### c. EBA opinion on good practices for the risk management of exchange-traded funds

As part of its work on monitoring existing and new financial activities and product innovation, the EBA worked on regulatory issues around the risk management of exchange-traded funds (ETFs). ETFs are, generally, securities that track a commodity, an index, or a basket of assets like an index fund, but trade like a stock on an exchange and therefore experience price changes throughout the day.

The EBA was keen to ensure that potential risks associated with ETFs are managed adequately from the perspective of the credit institution — and indirectly from the perspec-

tive of its customers. The good practices that resulted from the work include a list of questions to assist national supervisory authorities in gaining an accurate picture of banks' involvement in the ETF business, and the adequacy of banks' management of associated risks such as liquidity and market risks.

The good practices will be adopted in March 2013 as an EBA opinion under Article 29, are therefore not legally binding, and will contribute to the convergence of supervisory culture and practices in the EU. Their implementation will depend on the specific characteristics of the credit institutions concerned as well as on their involvement in ETF operations.

#### d. EBA Consumer Protection Day 2012

In October 2012, the EBA held its first Consumer Protection Day, an event at which representatives of the banking industry, national supervisory authorities, consumer organisations and academia met and discussed issues related to consumer protection and financial innovation at the European level.

The programme of the day included an opening speech and keynote speech, followed by three separate panel discussions on consumer indebtedness, complex financial products, and consumer trends in EU retail banking. The event attracted 135 participants and 18 speakers presented their views on particular topics.





## 3.4. Policy analysis and coordination

### 3.4.1. Legal and impact assessment support

In the context of the EBA's policy analysis and coordination activities, the EBA has established processes of internal legal analysis and 'quality control' of EBA policy, regulatory and supervisory products (including technical standards, guidelines, opinions, supervisory recommendations, dispute resolution, peer reviews, etc.). This has been carried out in two ways: first, by providing legal support and advice surrounding the legal mandates and legislative drafting; and second, by providing guidance on impact assessment methodology applied in the preparation of these products.

The EBA's legal work has included: provision of legal support and advice on mandates, as well as on procedures, drafting and consultation matters regarding the development of the technical standards, guidelines and recommendations; provision of legal advice on an ad hoc basis, in relation to other supervisory actions and legal issues arising within the activities of the EBA; and development of processes for other parts of the EBA regulation, such as in relation to possible EBA investigations into breach of EU law and cases of EBA binding and non-binding mediation.

Besides the legal work, the EBA's coordination activities have also included provision of guidance and support on impact assessment methodology. This has aimed at ensuring that the EBA's policy decisions are informed by high-quality objective reasoning, rationale and evidence, and that the impact assessment in the preparation of the EBA regulatory products, which includes cost-benefit analysis, is duly performed. On 5 October 2012, the EBA hosted the ESAs' Network on Impact Assessment, comprising impact assessment experts from the national supervisory authorities. The network members discussed issues on the procedure and timeline of conducting impact assessment studies as well as the potential contribution of the network to assure the high quality of EBA's as well as ESMA's and EIOPA's deliverables. Also the EBA has supported the coordination of the Impact Study Group, a joint ECB and EBA group which is responsible for conducting and presenting the Quantitative Impact Study of the implementation of CRD IV/CRR of around 150 EU banks from 18 Member States.



### 3.4.2. Peer reviews of national competent authorities

Another key aspect of the EBA's work relates to peer reviews of national competent authorities (NCAs), which the EBA views as important to further strengthen consistency in supervisory outcomes; this is also mentioned in Article 30 of the EBA regulation. These peer reviews address the adequacy of competent authorities' resources, their governance arrangements, the degree of convergence in the application of European laws and supervisory practice as well as the identification of possible best practices.

The peer review work is carried out by the EBA's Review Panel, using a peer review methodology agreed by the EBA's Board of Supervisors in June 2012. All NCAs completed a self-assessment questionnaire in relation to their adherence to specific aspect of EBA 'Guidelines on stress testing (CEBS GL32)' by January 2013. This has been followed up by the review by peers phase and the Review Panel plans to develop the final report by mid-2013. Furthermore, the EBA Board of Supervisors has agreed to conduct a review of EBA Guidelines GL31 on concentration risk in 2013.

### 3.4.3. Involvement of stakeholders in the EBA's work

Consultation with stakeholders in areas relevant to the tasks of the EBA is being facilitated and taking place through the Banking Stakeholder Group (BSG). In particular, the group is consulted on actions concerning regulatory technical standards and implementing technical standards, and guidelines and recommendations, to the extent that these do not concern individual financial institutions. The group may also submit opinions and advice on any issue related to the tasks of the EBA, with particular focus on common supervisory culture, peer reviews of competent authorities and assessment of market developments. The BSG may also submit a request to the EBA, as appropriate, to investigate the alleged breach or non-application of Union law.

The track record of the BSG with regard to providing their advice to the EBA is considered to be very valuable and also timely. In 2012, the BSG provided opinions, namely in relation to: own funds; disclosure for own funds; credit valuation adjustment risk; specification of the calculation of specific and general credit risk adjustments; supervisory reporting requirements for leverage ratio; supervisory reporting requirements for liquidity coverage and stable funding; prudent valuation; and on capital requirements for CCPs. Further, the BSG also provided its opinion on the Joint Committee's proposals on the draft regulatory technical standards for the calculation methods under the financial conglomerates directive (FICOD). Further, the BSG produced a position paper 'New bank liquidity rules: dangers ahead'. Last but not least, the BSG has provided its input through responding to EBA's public consultations as well as its informal feedback and contributions to the EBA's work on technical standards and guidelines.

The EBA's Banking Stakeholder Group is composed of 30 members appointed to represent in balanced proportions credit and investment institutions operating in the Union, their em-

ployees' representatives as well as consumers, users of financial services and representatives of small and medium-sized enterprises. The EBA undertook a rigorous selection process of the members of the BSG to ensure that its composition is in line with the respective requirements in the EBA regulation.

With the aim of streamlining the functioning of the BSG, the BSG established four technical working groups on systemic issues, bank capital, consumer protection and bank liquidity. In 2012, the BSG held five regular meetings and two joint meetings with the EBA's Board of Supervisors. Also some BSG members have been actively involved in other activities of the EBA, e.g. as speakers at the EBA Consumer Protection Day in October 2012, and also as presenters at the EBA's research workshop in November 2012.

The EBA has endeavoured to ensure full transparency of the BSG's activities. In this context, the EBA website contains a specific section on the BSG, which includes information on the BSG members, its meeting dates and minutes, membership of BSG technical working groups, its rules of procedure, as well as all the opinions the BSG has provided to the EBA. Also, meeting dates and the list of BSG members including their CVs have been published online. The BSG currently envisages producing a final report disclosing its activity and achievements by the end of the term of the current BSG (i.e. by September 2013 at the latest).

With the aim to ensure that stakeholders outside the BSG are also appropriately informed and engaged in the EBA's work, the EBA has established the practice of regular bilateral meetings with representatives of some industry trade associations, consumers and employees. In addition, the EBA, in line with its obligation to follow due process, has organised open consultations on all its technical standards and guidelines that are being drafted to ensure that input and comments are gathered from all interested parties.

### 3.4.4. Strengthening common supervisory culture through training programmes

#### Sectoral training

One of the EBA's objectives is to develop a common supervisory culture and build common supervisory skills and approaches shared by EU supervisors. In this respect, the EBA provides training seminars, conferences and roadshows which aim to:

- enhance supervisory convergence by disseminating sound supervisory standards, guidance and practices in the EU;
- assist supervisors in implementing these standards, guidance and practices;
- keep supervisors updated with the latest information on market products, practices and techniques;
- provide a venue for policy discussion and sharing of supervisory practices and experiences;
- promote cross-sectoral and cross-border supervisory contacts and cooperation.

In 2012, the EBA organised 10 sectoral training activities for representatives from national supervisory authorities, the list of which is



provided in Figure 7. Trainings provided to date have been well received based on EBA staff analysis of feedback received from participants. Moreover, many of the training activities have been oversubscribed, and the EBA has received several requests from NSAs for the training to be repeated for a number of courses, e.g. on anti-money-laundering and e-money and drafting technical standards.

**Figure 7:** External seminars organised by the EBA in 2012

No	Name of the training activity	Date	Location	Host	Number of participants
1	Drafting technical standards	22 February	London	EBA	62
2	Anti-money-laundering and e-money	22–23 March	London	FSA	59
3	Basel III and CRD IV	24–26 March	London	EBA	45
4	SREP and Pillar 2	7–8 June	Bratislava	Bank of Slovakia	21
5	Drafting technical standards	5 July	Bonn	Bafin	29
6	Workshop on colleges	11–12 September	London	EBA	40
7	Market risk	11–12 September	Paris	ACP	28
8	Data analysis	24–25 September	London	FSA	30
9	IFRS issues for supervision	27–28 November	Madrid	Bank of Spain	23
10	Counterparty credit risk	27–28 November	Rome	Bank of Italy	50
<b>Total:</b>					<b>387</b>

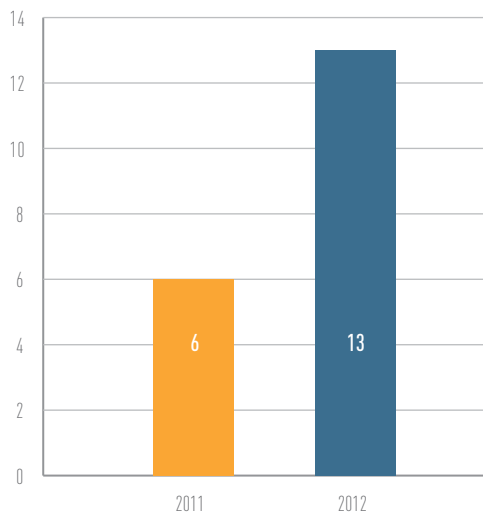
### Cross-sector training

In 2012, the ESAs continued to play an active role in further strengthening a common supervisory culture through establishing a cross-sectoral training programme in addition to each ESA's sectoral training programme.

**Figure 8:** Cross-sectoral training programme for 2012

No	Name of the training activity	Date	Location	Host	Number of participants
1	Update on ESAs	8–9 March	Paris	EBA	35
2	Corporate governance	12–13 March	Paris	ESMA	73
3	Seminar on-site supervision	14–15 March	Paris	ESMA	30
4	Colleges of supervisors: decision-making in a college	26–27 April	Warsaw	KNF	32
5	Legal English	16–May	Paris	ESMA	13
6	XBRL Implementation	29–30 May	Madrid	Bank of Spain	56
7	EU law for non-lawyers	18–19 June	Luxembourg	CSSF	18
8	Financial consumer education	8–9 October	Budapest	HFSA	34
9	Supervision of financial conglomerates	24 October	Frankfurt	EIOPA	31
10	General course on derivatives, central counterparties and trade repositories and implementation of EMIR	30–31 October	Frankfurt	BaFin – Deutsche Bundesbank	52
11	IT assessment for IT supervisors	5–7 November	Budapest	HFSA	23
12	CRA	9 November	Paris	ESE – ESMA	51
13	Seminar on-site supervision	6–7 December	Lisbon	CMVM	12
<b>Total:</b>					<b>460</b>
<b>SOFT-SKILL COURSES</b>					
14	Presenting with impact	6–7 March	Frankfurt	EIOPA	12
15	Written English communication	21–22 May	Paris	ESMA	12
16	Presenting with impact	17–18 July	Frankfurt	EIOPA	10
17	Presenting with impact	25–26 October	Paris	ESMA	10
<b>Total:</b>					<b>44</b>

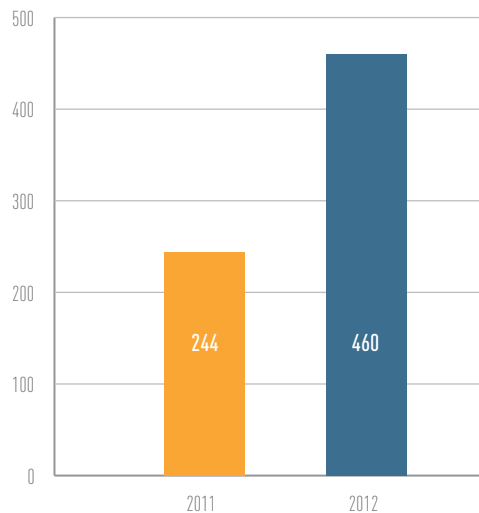
**Figure 9:** Number of cross-sectoral seminars 2012 (excluding soft-skill courses) compared to 2011



As can be seen in Figure 9, the ESAs have increased the number of cross-sectoral seminars from six (in 2011) to 13 in 2012. In addition the ESAs have offered four soft-skill courses on presentation skills, which were open to supervisory staff of all three sectors. Compared to 2011, participation in ESA cross-sectoral training courses (excluding soft-skill courses) has almost doubled from 244 supervisors attending to 460 (see Figure 10).

In order to ensure that all national supervisory authorities are represented equally at ESA training sessions, in 2011 it was decided to provide financial support for ESA training participants of national supervisory authorities with financial constraints and budgetary restrictions. This support measure has been continued and, therefore, in 2012 training par-

**Figure 10:** Number of participants at cross-sectoral seminars 2012 (excluding soft-skill courses) compared to 2011



ticipants from such authorities have received reimbursement of travel and accommodation expenses.

The ESAs' training programme 2013 was developed, as in previous years, by assessing the demand and needs for training, as well as identifying hosts via an online questionnaire. Thirty-nine national supervisory authorities have responded to the online survey and its assessment has been the basis for establishing the ESA training programme 2013 containing 11 cross-sector training activities. In addition, each ESA has developed a sectoral training programme and might organise soft-skill courses which are open to all three sectors. All training programmes were approved by the Joint Committee and respective Board of Supervisors in November to December 2012.





### 3.4.5. External coordination

The EBA has engaged in regular contacts with third countries' regulatory and supervisory authorities, think-tanks and international financial standard setters.

The EBA has been participating in the European Commission's financial markets regulatory dialogues, including dialogues with the United States, Russia, Japan, Switzerland and Brazil.

The EBA has also been cooperating closely with Croatia, which will join the EU in July 2013, as well as with the European Economic Area countries (Iceland, Liechtenstein and Norway) and Switzerland. Representatives of the EEA countries and Croatia are invited to the EBA Board of Supervisors' meetings as observers, are included in the contact list for receiving discussed documents and are also part of selected EBA groups and institutional substructures.

The EBA has been directly involved in work of several international bodies. It has been participating as an observer at the meetings of the Basel Committee on Banking Supervision, some of its substructures (the Policy Development Group and the Standards Implementation Group) and, since 2012, also at the meetings of the Group of Governors and Heads of Supervision, the oversight body of the Committee. The EBA has also been participating in some of the work streams of the Financial Stability Board, including its Data Gaps Implementation Group and its Cross-Border Crisis Management Group. In the context of cooperation with the International Monetary Fund, the EBA was subject to the IMF's EU-wide financial sector assessment programme in 2012 and has also held bilateral dialogues, including in relation to conducting stress tests. Furthermore, the EBA has held bilateral supervisory discussions with the Federal Reserve Bank of New York, the Swiss Finma, Turkey, the United Arab Emirates, Hong Kong and the Chinese authorities.

## 3.5. Joint Committee

The mission of the Joint Committee is to serve as a forum in which the ESAs 'shall cooperate regularly and closely and ensure cross-sectoral consistency in a number of areas' (Article 54 of the ESAs' regulation). Through the joint efforts and significant commitment of the three ESAs, the Joint Committee has ensured not only the consistency of their views on topics of common interest, but has also been instrumental in developing common solutions and the exchange of information amongst the respective sectors. In 2012, the Joint Committee was chaired by ESMA.

### 3.5.1. A hub for cooperation, contributing to financial stability

The Joint Committee work programme has been supported by four subcommittees: Risk, Consumer Protection and Financial Innovation, Financial Conglomerates and Anti-Money-Laundering.

In addition to the work of the subcommittees, bi-monthly physical meetings of the Joint Committee, completed with teleconferences and ad hoc discussions of the ESAs, have allowed its members to have regular exchanges on market developments and to assess any potential cross-sectoral contagion effects. The chairpersons have conferred frequently outside the confines of the regular meetings, when confronted with adverse market developments, in order to exchange information and to maintain a coherent cross-sectoral approach.

### 3.5.2. A catalyst for efficient cross-sectoral processes

The Joint Committee has carried out its work through its subcommittees dedicated to key areas of cross-sectoral concern.

#### Risk Subcommittee

The crisis has shown the importance of cross-sectoral interconnectedness as a driver of risk. This subcommittee has been a key forum for sharing information and data on risks between the ESAs, allowing better understanding and anticipating risks, developing the joint 'Report on risks and vulnerabilities in the EU financial system'. This report, produced twice a year, contributes to a cross-sectoral approach to risk analysis and financial stabil-

ity, and is shared with the European Systemic Risk Board (ESRB) and the Council's Economic and Financial Committee (EFC). In addition, information has been exchanged on specific topics, including for example the structure of the credit default swaps market.

#### Consumer Protection and Financial Innovation Subcommittee

This subcommittee has begun work and has set up three subgroups:

- (i) complaints handling;
- (ii) product oversight and governance (mapping of product approval and government process); and
- (iii) packaged retail investment products (PRIIPs) — development of proposals for the European Commission concerning delegated acts, and for the development of draft regulatory technical standards in the areas envisaged by the PRIIPs legislative proposal.

To reach out to consumers of financial services, retail investors and other stakeholders, the ESAs will together organise in 2013 their first Joint Consumer Protection Day.

#### Financial Conglomerates Subcommittee

This subcommittee developed the ESA's response to the call for advice from the European Commission on the review of the financial conglomerates directive (FICOD), in relation to the scope of application, internal governance, as well as supervisory empowerment and sanctions issues. Following a public consultation in the second quarter of 2012 the final advice was provided to the European Commission in October 2012.

The subcommittee also prepared a proposal for draft regulatory technical standards on the uniform conditions of application of the calculation methods of own funds under Article 6(2) of the FICOD, and a joint public consultation was launched on 31 August 2012.

The Joint Committee further published its annual update of the list of identified financial conglomerates in July 2012.

The ESAs have also hosted several training sessions for national competent authorities on the supervision of financial conglomerates under the FICOD, to assist supervisory convergence in this regard.

### Anti-Money-Laundering Subcommittee

This subcommittee has assessed the situation across EU Member States of the legal and regulatory provisions, as well as supervisory standards, in relation to the application of the third money-laundering directive (third MLD), regarding beneficial ownership 'customer due diligence' requirements and 'simplified due diligence requirements', inter alia, publishing two reports in April 2012.

Additionally, in August 2012, the subcommittee published a protocol on cooperation between home and host supervisors, to facilitate effective anti-money-laundering supervision of agents and branches of payment institutions in host Member States in accordance with the payment services directive.

In December 2012, a joint report was published on the application of anti-money-laundering and counterterrorism financing (AML/CTF) obligations to, and the AML/CTF supervision of, e-money issuers, agents and distributors in Europe. The report highlights significant differences in Member States' interpretation of the second e-money directive and the treatment of e-money issuers.



### 3.5.3. Other areas

One of the key tasks in 2012 was the Joint Committee's work on the European market infrastructure regulation, where the regulation requires that regulatory technical standards are developed jointly by the three ESAs. In March 2012, the Joint Committee put forward its 'Joint discussion paper on draft regulatory technical standards on risk mitigation techniques for OTC derivatives not cleared by a CCP under the European market infrastructure regulation'. This work will benefit in 2013 from the progress by the different work-streams on OTC derivatives regulation, both in Europe and globally.

The Joint Committee and the Boards of Supervisors of the EBA and ESMA agreed in September 2012 to work on benchmark-related issues.

The ESAs also jointly provided support to the Board of Appeal, which was formed in December 2011. Since then, the Board of Appeal elected its president and vice-president and set up its rules of procedures.

The ESAs have strived to adopt a coordinated approach vis-à-vis the European System of Financial Supervision (ESFS) evaluation by the Commission, by jointly providing a self-assessment report, as well as a joint response to the European Parliament's set of common questions in view of the public hearing of September 2012. More generally, the ESAs adopt a coordinated approach to questions of common interest when it comes to interacting with EU institutions and stakeholders. They will further cooperate to the evaluation by the Commission in 2013.



## 3.6. Operations

### 3.6.1. Financial management

In the area of financial management, the EBA implemented a number of improvements to ensure better management and control of financial resources, e.g. ABAC assets for managing all its fixed assets or simplified workflows to increase efficiency of a number of internal processes. The quality of the work in the financial management area was also confirmed by audits performed in 2012.

The budget execution (total funds committed/total budget) in 2012 was 89 %, which represents an increase of 18 percentage points compared to the year 2011. See the annex for more information on the 2012 budget execution and outturn.

The EBA has adopted the Internal Control Standards for Effective Management, which is the set of management principles intended to provide reasonable assurance regarding the achievement of the EBA's objectives. The EBA is fully committed to continuously improve internal controls to ensure that –

- operational activities are effective and efficient;
- legal and regulatory requirements are met;
- financial and other management reporting is reliable;
- assets and information are safeguarded.

### 3.6.2. Human resources

Throughout 2012, recruitment and related administration have remained the main priorities of the work in the area of human resources.

In the course of 2012, the EBA recruited 28 temporary agents, six contract agents and nine seconded national experts, bringing the total staff number to 94 by the end of the year.

The EBA staff members are geographically diverse and come from 20 countries of the European Union. Of the total number of the EBA staff 44 % are women and 56 % are men.

In 2012, the EBA received 1 689 applications for all types of positions which represents a significant increase of 64 % compared to the previous year, showing a high interest of the public in positions at the EBA.

Significant progress has been achieved in adopting HR implementing rules to the Staff Regulations in cooperation with the European Commission, EIOPA and ESMA.

### 3.6.3. Procurement

In 2012, EBA launched 19 procurement procedures. The total maximum value forecast for the contracts signed in 2012 is in excess of EUR 20 million. During the year the main focus of the procurement has been to continue to develop, improve and support the internal infrastructure of the organisation. The main procurements launched during the year were the procedures for IT infrastructure (i.e. managed data centre capacity, IT network storage and server capacity, remote access solution, project support services, etc.), legal services related to the extension of the lease contract for the premises, supply of interim staff for IT and general administration, consultancy services for banking stress tests, IT hardware, SAS software licences and services, travel services, catering services and website hosting and maintenance. One important component of the procurement strategy is to make use of any European Commission (EC) framework contracts which the EBA may be eligible to join in its capacity as an agency of the EU. By participating in EC framework contracts for widely used and general purpose goods and services the EBA is able to take advantage of the purchasing power, experience and technical expertise of the EC as well as minimise the number of procurements it has to undertake itself. During 2012 the EBA participated in a number of EC procurement procedures in the area of IT, e.g. Oracle software and services, audio and web conferencing services, ICT training, printers and related supplies. In addition to joint procurement with the European Commission, the EBA collaborated with the European Insurance and Occupational Pensions Authority (EIOPA) in Frankfurt and the European Medicines Agency (EMA) in London. For example, the EIOPA was invited to participate in the EBA's procurement procedures for IT infrastructure and interim staff. The EMA invited the EBA to participate in its procurement procedure for language and soft-skills training. Such procurement delivers greater efficiency and economy than if the organisation carries out the procurement alone. During 2012, EBA procurement staff provided a number of training sessions in-house. The main purpose of the training was to develop the procurement capacity of individual EBA staff members.

### 3.6.4. Information technology

Besides maintaining and supporting production systems for data collection and general infrastructure, the Information Technology Unit has established its IT strategy for the coming years. The new strategy aims at reviewing the status quo in line with the objectives and goals set out in the EBA's mandate.

The EBA's IT functions and tasks can be clustered into three core domains; the 'harmonisation' of banking supervision in the single market, the 'execution' of banking supervision of systemic banks in the EU and the 'administration' of the organisation. The fourth domain covers common IT services and IT infrastructure. It builds the foundation to deliver the IT systems required for the three core domains.

To enhance the comparability of regulatory information in the EU the EBA IT Unit continues to maintain in 'harmonisation' the financial and common regulatory framework (FINREP and COREP) while preparing the transition of these frameworks into binding technical standards. The comparability of data is an essential precondition for carrying out peer analyses and benchmarking exercises. The binding technical standards will cover reporting of capital adequacy, financial information, liquidity, large exposures and leverage ratio and it will specify uniform data elements, frequencies and remittance dates as well as IT solutions to be applied by credit institutions and investment firms in

Europe — namely XBRL. The IT Unit prepared the delivery of the IT solutions for the binding technical standards in the form of a pre-defined XBRL taxonomy.

In the 'execution' domain the IT Unit has enhanced, maintained and operated a technical platform and organisational procedures for gathering supervisory information and conducting risk assessments of credit institutions. The current IT platform supports regular and ad hoc exercises and includes functionalities for data acquisition, dissemination, storage and presentation, as well as analytical tools for the production of risk assessment reports. In addition, the EBA implemented the first phase of the Credit Institution Register.

To support the work on colleges, the IT Unit provided a collaboration tool to facilitate the tasks of college members. The tool provides a secure way to exchange and store documents and reports and simplify the joint work of national and EBA experts in a geographically distributed set-up and doubled its user community in 2012.

Common IT services lay the foundation for the functioning of the IT application systems of the EBA and provide day-to-day IT services to all users. The IT Unit enhances, maintains and operates the common IT services in accordance with applicable IT policies of the European Commission and internal service requirements.



### 3.6.5. Communication

The EBA's press and communication activities aim at providing the media and stakeholders with easily accessible information in a timely and effective manner; to enhance the understanding of the Authority's role, objectives and tools, and to foster the interaction and exchanges with all interested parties.

In 2012, the communication activities were focused, in particular, on promoting two core EBA projects: the recapitalisation exercise and the building up of the Single Rulebook.

In preparation for the recapitalisation exercise, whose final results were published in October with disclosure on a bank-by-bank basis, an ad hoc communication strategy was developed and a number of technical background briefings were organised with the press before the release of each interim publication. Close coordination with the national authorities was also ensured through the network of national press officers.

In parallel, the press work focused on the communication around the building up of the EU Single Rulebook with the overall objective of explaining the concept of the Single Rulebook and the role of the EBA. A number of consultations were launched and the EBA's work was promoted through public speeches delivered by the EBA Chairperson.

To provide easy access to the EBA's work and information, a project for the redesign of the EBA's website was launched. The overall objective is to make the website more user friendly and to increase the visibility of the EBA as well as to better reflect its tasks and mandates. The new website is expected to be launched during the summer of 2013.

Finally, the EBA organised several events targeting specific audiences in order to exchange with and gather feedback from stakeholders. In this respect, in 2012, the EBA organised, among other events:

- its first EBA Consumer Protection Day,
- the first EBA research workshop, bringing together economists from national supervisory authorities and leading academics with the objective of stimulating discussion on the impact of the crisis and the Basel III rules on EU banks,
- nine public hearings held as part of the consultation processes on guidelines and technical standards,

- a workshop on the implementation of supervisory reporting requirements to exchange on the technical documents to be developed by the EBA.

To increase the accessibility of the EBA's work to all stakeholders and citizens in Europe, the EBA decided to translate all its guidelines and recommendations into all the EU official languages. All guidelines published in 2011 and 2012 were translated as well as some guidelines published by the CEBS which were deemed of specific interest.

Throughout 2012, several tools and services were designed to foster internal communication and to support the work of the policy areas. At the beginning of 2012, an intranet portal was launched with the objective of providing information and useful tools to the EBA staff.

### 3.6.6. Internal control standards

Since 2011, the EBA has had a set of internal control standards (ICS) in place. They specify the necessary requirements, actions and expectations in order to build an effective system of internal control that could provide a reasonable assurance on the achievement of the EBA objectives. These control standards were developed along the lines of the European Commission's internal control standards. The standards cover the areas of mission and values, human resources, planning and risk management processes, operations and control activities, information and financial reporting, and evaluation and audit. Each internal control standard is made up of a number of requirements to be met.

A review of the implementation of the ICS was performed by the Commission's Internal Audit Services. The identified gaps will be addressed, in order to make sure all ICS are fully implemented.





# OUTLOOK



## 4. Outlook

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### 4.1. Regulation

#### 4.1.1. The SRB in depth

The EBA has a large number of deliverables under the CRD IV/CRR framework being prepared in 2013. The final delivery date still remains uncertain and dependent on the final CRD IV/CRR legislation. The EBA is however working on the assumption of a finalised CRD IV/CRR in order to minimise the uncertainty for market participants and ease a consistent implementation of the CRD IV/CRR framework. In 2013, the EBA expects several mandates for regulatory technical standards to be added to the CRR compared to the EU Commission's initial proposal. All the technical standards which were prepared in 2012 will also be checked against the final text. Moreover some recurrent tasks will start with the effective implementation of various provisions of the CRD/CRR. For instance, in the area of own funds the EBA expects to establish a list of the instruments qualifying as CET1 in Member States. After the entry into force of the CRR, the EBA will also monitor new issuances of regulatory own funds.

In December 2012, the EBA adopted a decision to set up an implementation questions and answers process (Implementation Q & A process), which will be a key feature in contributing to the Single Rulebook in banking regulation by providing regulatory and supervisory guidance with a view to ensuring consistent and effective application of the regulatory framework. This process foresees close and ongoing interaction between the EBA and the European Commission to ensure that the responses to the questions submitted remain fully consistent with the European legislative texts. The mandate stems from Article 1(5)(a) of Regulation (EU) No 1093/2010 that requires the EBA to ensure consistent and effective application of the European legislation within its scope. The Single Rulebook in banking regulation also comprises delegated acts (RTS and ITS) adopted by the European Commission (based on EBA work) as well as EBA guidelines. Regulations and related technical standards, albeit directly applicable to the industry without national implementation, are still expected to give rise to questions regarding their practical application. For directives and guidelines, the room

for implementation questions is obviously higher. The mandate also calls on the EBA to address the evolution of supervisory practices and developments in banking practice and financial innovation. The process as such is consistent with Article 29 of Regulation (EU) No 1093/2010, asking the EBA to 'develop new practical instruments and convergence tools to promote common supervisory approaches and practices'. It offers a single point of entry and procedure for addressing questions and thereby provides an efficient tool for dealing with issues that can be expected to cut across various layers of the Single Rulebook, or concern various areas simultaneously. Peer review and pressure are expected to play a driving force in ensuring adherence to and compliance with the responses provided in the Q & A process, even though they have no force in law. With the impending relaunch of the EBA public website a dedicated tool will be introduced to allow for questions to be submitted online by institutions, supervisors or other stakeholders. Depending on the priority attributed to a question, the process will take, in principle, between 6 to 8 weeks before a final answer will be published on the EBA website. The number of questions under review and the complexity of the topics might at times lead to longer response time. All Q & As will be collected in a 'library', that will be edited and updated as questions and responses are finalised. The nature of questions, evolution of banking operations or of supervisory practices, may in some cases establish the need for new or for the review of existing rules or guidelines. The Q & A process thus will contribute to and supplement the Single Rulebook and moreover ensure that the latter embodies a 'living' and evolving regulatory framework.

#### 4.1.2 Preparation for a new crisis management regime

In June 2012, the European Commission published a proposal for a directive establishing a framework for the recovery and resolution of credit institutions and investment firms — the recovery and resolution directive (RRD). This directive introduces a Union-wide crisis management framework and defines a three-fold role for the EBA in recovery and resolution procedures, giving the EBA mandates to develop binding technical standards and guidelines forming a Single Rulebook, vesting the EBA with a mediation role between national authorities for cross-border groups and

setting the EBA as a point of contact and coordinator for relationships between the EU and third countries. The EBA initiated its preparatory work in view of the legislative mandates which will be assigned to the Authority upon the approval of the RRD in 2013. Given the preliminary stage of the discussion on the RRD until the end of 2012, this rule-making activity was limited to the area of recovery plans and resulted in achieving a significant progress in developing draft technical standards specifying the content, scenarios and assessment of recovery plans.

At the beginning of 2013, the EBA is expected to publish a recommendation requiring 39 major EU cross-border banks to develop group recovery plans and have them discussed within the supervisory colleges, closely monitored by the EBA. These plans, to be in place by the end of 2013, should be drafted in accordance with the international standards, agreed under the auspices of the FSB, and consistent with the template prepared by the EBA, following the relative discussion paper.

Furthermore, in 2013, the EBA will provide its technical advice for the assessment of the interplay between the RRD regime and various legislative proposals regarding structural measures for a banking sector, such as the so-called Liikanen Report, and for the possible legislative proposals on 'shadow banking', and on the recovery and resolution of financial institutions other than banks. On each of these issues the EBA provided ad hoc opinions during 2012. In particular, in its December 2012 opinion on the Liikanen report the EBA emphasised the need to strike an appropriate balance in the trade-off between preserving the core features of the traditional European model of universal banking and strengthening the resilience of the financial sector by segregating riskier capital market business into a separate legal entity. Only a thorough impact assessment could provide an evaluation of the potential benefits of such measures on the European banking sector and on the real economy and compare them with their costs. The EBA also stressed the need to maintain full consistency between the legislation on bank recovery and resolution and any additional structural measures.

#### 4.1.3. Impact of regulation on the economy and growth

In 2012, the EBA issued a report on the prudential treatment of SMEs. The report provided an analysis of the appropriateness of the risk weights (RWs) for retail SME lending proposed in the CRD IV/CRR framework and assessed the possible effects of a reduction by one third in relation to the current regulation and the effect of an increase from EUR 1 million to EUR 5 million on the regulatory thresholds for SMEs. The report also included proposals for alternative measures to be taken to create the right incentives to SME lending. The report was submitted to the European Commission in September 2012 and based on supervisory authorities' data and central banks' balance sheet data, it concluded that a great caution should be exercised in altering the RWs or the threshold for SME retail exposures to avoid any risk of jeopardising financial stability while advising to consider alternative measures to provide capital alleviation.

Under the current timelines, the EBA will within the area of credit risk prepare a report on the pro-cyclicality and comparability of IRB models. The EBA is mandated in Article 477 to report on this to the Commission. Given the importance of IRB models in the risk management of institutions, the EBA considers this work important for a uniform implementation of the CRR across institutions, as different implementation practices may lead to inefficient and less prudent risk allocation within institutions.

In 2013, the EBA foresees to produce a number of deliverables in the new prudential area of liquidity and leverage where it is crucial to avoid unintended consequences. Work will continue on definitions for high-quality liquid assets (HQLA) and the economic impact assessment, with the aim to report to the EU Commission by the end of the year. In cooperation with the ECB, ESRB and ESMA, the EBA will consider a large span of potential consequences of the liquidity coverage ratio such as the impact on SMEs, trade finance and monetary operations. The EBA will also continue to assess the impact of the leverage ratio based on the interim reporting exercise for the leverage ratio.

According to the European Commission's proposals on the SSM, the EBA's voting mechanism is expected to change while the Authority will maintain its role in setting single rules for the single market as a whole. The new voting mechanism will provide enhanced guarantees to the non-SSM supervisors so as to ensure the right balance in the rule-making process.

## 4.2. Oversight

In 2013 the EBA staff will continue its efforts to improve information exchange among competent authorities by promoting good practices identified through its participation in college and CMG meetings and by providing guidance, e.g. through its intended development of a good practices document focused on emergency plans, in order to help improve and coordinate actions and information flows in times of heightened concern.

In 2013, the European Commission will publish the final text of the directive on bank recovery and resolution. This will launch a new regime for crisis management in Europe, including resolution authorities and resolution colleges. It is expected that the role of the EBA will be developed under this directive and additional tasks and responsibilities will be assigned to it.

The EBA intends to become more active in its engagement in CMGs and CBSGs in 2013 and will actively monitor the compliance with the recommendation on recovery plans. In this respect, the EBA will contribute to the development of recovery plans through highlighting best practices and encouraging the adoption of common templates and structures.

The EBA will continue its policy work for the development and delivery to the European Commission of technical standards (TS). The preparatory work on the standards that already started in 2011 and intensified in 2012 will lead to the publication of consultation papers

on some of these standards (joint decision on capital, information exchange and passport notification) by mid-2013, albeit subject to the finalisation of the legislative proposals and in line with the deadlines envisaged in the CRD IV for the respective standards. Further TS on colleges of supervisors and joint decisions for model validation and liquidity will continue for their delivery to the EC by end-2014.

The EBA will also continue its risk analysis work, including work on bank funding, risk assessment reports, and work to further build the data infrastructure and reporting frameworks. During 2013, the following pieces of work will be completed or continued:

- Euribor investigation with a recommendation due in January 2013;
- risk-weighted asset consistency with an interim report due in February 2013;
- common definitions of forbearance and non-performing loans with a consultation paper due in March 2013.

The EC's proposal for the establishment of the SSM is expected to be consistent with the objective of enhancing the convergence of supervisory practices across the whole single market. The EBA is best placed to prevent such inconsistencies and is expected to create a supervisory manual or handbook in conjunction with all EU supervisors, including with the SSM. Furthermore, it will continue to be deeply involved within colleges of supervisors, especially those of credit institutions operating in both the SSM and non-SSM countries.

## 4.3. Consumer protection

The EBA will increase the quality of its outputs and deliverables by building up a much stronger evidence base on consumer trends and wider market developments through which the need for EBA action can better be identified. It will also intensify its cooperation with the other two ESAs, with EBA's Banking Stakeholder Group, and will set out more explicitly how the EBA and its Standing Committee on Consumer Protection and Financial Innovation (SCConFin) will jointly develop policy and carry out initiatives. The EBA will also collaborate with EIOPA and ESMA in preparing the Joint Consumer Protection Day in 2013.

Regarding the substance of its consumer protection work, the EBA will pick up several of

the issues identified in the EBA Consumer Trends Report 2012. This includes work on consumer issues arising from new forms of raising liquidity by credit institutions, security issues arising from new technologies used for banking services, and responsible lending.

The last of these areas is expected to result in an EBA opinion on good practices for responsible lending and an EBA opinion on good practices for the treatment of borrowers in arrears, in the second quarter of 2013. Depending on the outcome of the pending directive on credit agreements relating to residential property, these opinions could be the starting point for developing guidelines later that year. Further outputs are envisaged on complaints handling, structured products, and product oversight and governance.



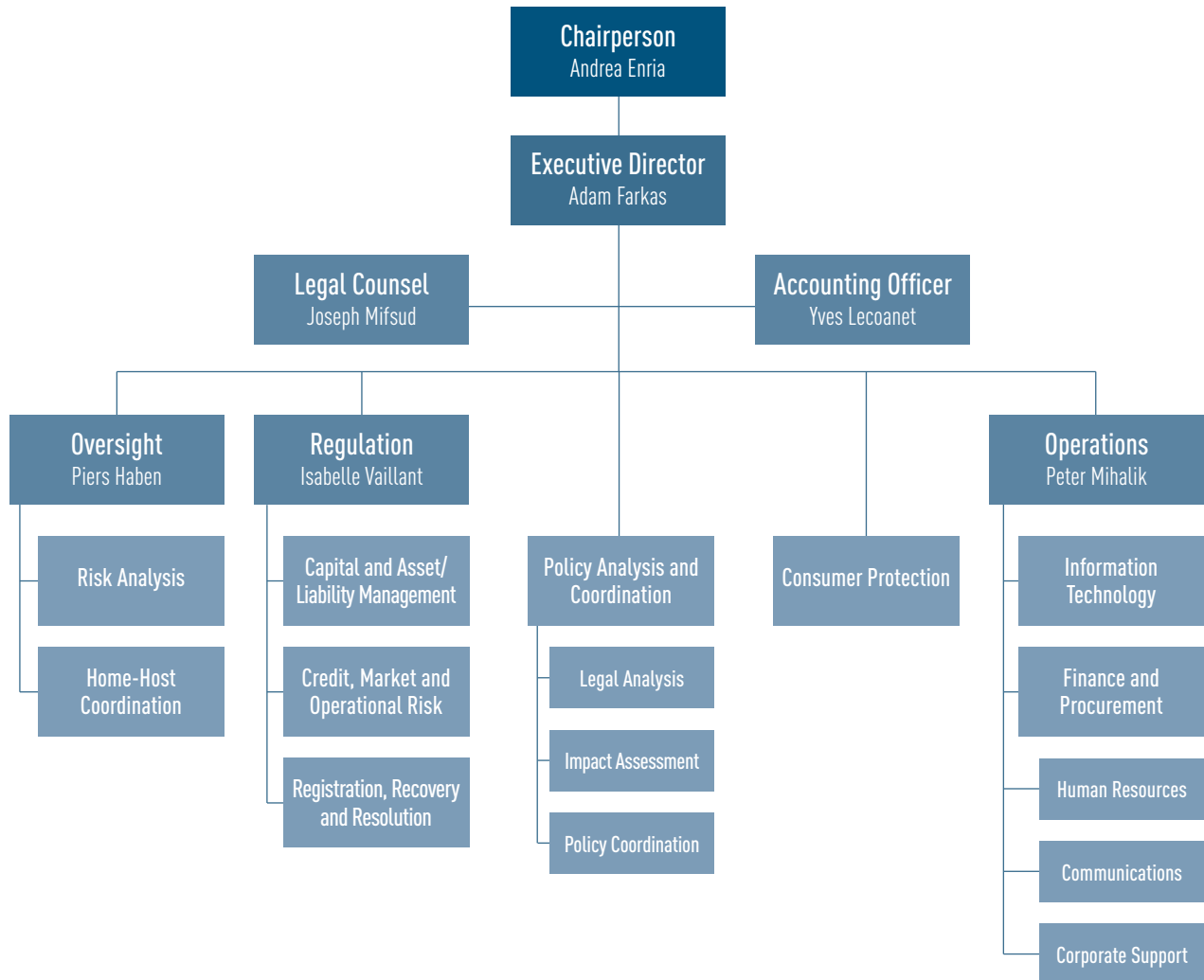
# ANNEXES





## 5. Annexes

### 5.1. Organisation chart



## 5.2. Declaration of assurance from the Authorising Officer

I, the undersigned, Adam Farkas, Executive Director of the European Banking Authority, in my capacity as Authorising Officer,

- Declare that the information contained in this report gives a true and fair view <sup>(1)</sup>.
- State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principle of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.
- This reasonable assurance is based on my own judgement and on the information at my disposal such as the results of the self-assessment, *ex-ante* verifications and *ex-post* controls performed during the year, or the reports of the Internal Audit Service and of the European Court of Auditors.
- Confirm that I am not aware of anything not reported which could harm the interests of the European Banking Authority.

London, 15 June 2013

**Adam Farkas**

Executive Director of the European Banking Authority

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<sup>(1)</sup> True and fair view in this context means a reliable, complete and correct picture of the state of affairs.

## 5.3. The EBA's financial performance in 2012 <sup>[2]</sup>

The annual accounts of the EBA have been established in accordance with the EBA's Financial Regulation adopted by the EBA's Board of Supervisors, as well as with the 'Framework Financial Regulation' (Commission Regulation (EC, Euratom) No 652/2008 of July 2008 amending Regulation (EC, Euratom) No 2343/2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities).

[2] The final report from the European Court of Auditors on the EBA 2012 accounts is expected to be received in June 2013.

The accounting rules, methods and guidelines are those adopted and provided by the Accounting Officer of the European Commission.

### 5.3.1. Budgetary outturn account for 2012

The budgetary accounts below give a detailed picture of the implementation of the budget in 2012. They are based on the modified cash accounting principle.

In 2012 the EBA used only non-differentiated appropriations. The total consumption of commitment appropriations reached EUR 18 380 342, of which EUR 11 832 534 has been paid and EUR 6 547 808 were automatically carried over as per Article 10 of the EBA's Financial Regulation.

		2012	2011
<b>REVENUE</b>			
Balancing Commission subsidy	+	7 561 538	5 073 000
Contributions from national supervisory authorities	+	11 045 491	7 413 000
Contributions from observers	+	296 513	199 000
Other income	+	295 651	
<b>Total Revenue (a)</b>		<b>19 199 193</b>	<b>12 685 000</b>
<b>EXPENDITURE</b>			
<b>Title I: Staff</b>			
Payments	-	8 953 661	5 308 649
Appropriations carried over	-	206 048	501 809
<b>Title II: Administrative expenditure</b>			
Payments	-	2 029 498	1 400 590
Appropriations carried over	-	1 643 935	458 729
<b>Title III: Operational expenditure</b>			
Payments	-	849 375	726 978
Appropriations carried over	-	4 697 825	657 275
<b>Total Expenditure (b)</b>		<b>18 380 342</b>	<b>9 054 030</b>
<b>Outturn for the financial year (a - b)</b>		<b>818 851</b>	<b>3 630 970</b>
Cancellation of unused payment appropriations carried over from previous year	+	364 529	
Adjustment for carry-over from the previous year of appropriations available at 31.12 arising from assigned revenue	+		
Exchange differences for the year (gain +/- loss -)	+/-	(83 318)	(51 109)
<b>Balance of the Outturn Account for the financial year</b>		<b>1 100 062</b>	<b>3 579 861</b>

Balance year <i>N</i> - 1	+/-		
Positive balance from year <i>N</i> - 1 reimbursed in year <i>N</i> to the Commission	-		
Result used for determining amounts in general accounting		1 100 062	3 579 861
Commission subsidy — agency registers accrued revenue and Commission accrued expense		6 461 476	1 493 139
Pre-financing remaining open to be reimbursed by agency to Commission in year <i>N</i> + 1		1 100 062	3 579 861
Not included in the budget outturn:			
Interest generated by 31/12/ <i>N</i> on the Commission balancing subsidy funds and to be reimbursed to the Commission (liability)	+	53 004	57 250

### 5.3.2. Budget implementation in 2012

The table below shows the status of commitments and payments as of 31 December 2012, together with the amounts carried over to financial year 2013.

At the end of 2012, the EBA had a budget execution rate of 89 % for commitments and 57 % for payments.

Underspend in Title 1, in spite of the fact that the recruitment plan had been fully achieved, was largely due to the non-payment of the salary adjustments proposed by the Commission and disputed by the Council.

In Title 2, planned funds associated with the relocation of the Authority into new premises at the beginning of 2013 were not used as the Authority did not receive the support of the

European Commission for the project. A new procurement procedure will be launched in 2013. This was the main reason for underspending in this title.

In Title 3, whereas the commitment execution rate reached 100 %, the payment execution rate was only 15 %. During 2012, the EBA IT strategy, inherited from CEBS, was revisited in order to align the strategy with the objectives, goals and needs related to the mandate, mission and strategic tasks of the Authority. The new IT strategy was approved by the Management Board in September 2012. Although the work on the procurements procedures to implement the new strategy was started in the first half of 2012, the related contracts were signed late in the year. The related services will be provided in 2013, which explains the biggest part of the carry forward in Title 3.

Title	Appropriations (1)	Committed (2)	% committed (2/1)	Paid (3)	% paid (3/1)	Carried forward (2) - (3)	Appropriations cancelled (1) - (2)
Title 1 — Staff expenditure	10 908 000	9 159 710	84 %	8 953 661	82 %	206 048	1 748 290
Title 2 — Administrative expenditure	4 272 000	3 673 434	86 %	2 029 498	48 %	1 643 935	598 566
Title 3 — Operational expenditure	5 567 000	5 547 199	100 %	849 375	15 %	4 697 825	19 801
<b>TOTAL</b>	<b>20 747 000</b>	<b>18 380 343</b>	<b>89 %</b>	<b>11 832 534</b>	<b>57 %</b>	<b>6 547 808</b>	<b>2 366 657</b>

### 5.3.3. Economic outturn account for 2012

The financial statements below show all charges and income for the financial year based on the accrual accounting rules complying with the European Commission's accounting rules.

The high amount of the economic outturn is explained by the high level of carry forward to 2013. The corresponding expenditure has been committed and financed from the 2012 budget, but the related services, for their biggest part, will be provided in 2013.

	2012	2011
<b>OPERATING REVENUE</b>		
Contribution from the Member States	11 045 491	7 413 000
Contribution from EFTA countries	296 513	199 000
EU subsidy	6 461 476	1 493 139
Foreign currency conversion gains	268 686	124 415
Other administrative revenue	72 318	-
<b>TOTAL OPERATING REVENUE</b>	<b>18 144 484</b>	<b>9 229 554</b>
<b>OPERATING EXPENSES</b>		
Staff expenses	8 979 990	5 359 276
Building and related expenses	1 230 740	864 118
Other expenses	3 459 456	2 538 050
Depreciation	214 415	449 258
Foreign currency conversion losses	352 004	175 525
<b>TOTAL OPERATING EXPENSES</b>	<b>14 236 605</b>	<b>9 386 227</b>
<b>SURPLUS/(DEFICIT) FROM OPERATING ACTIVITIES</b>	<b>3 907 879</b>	<b>(156 673)</b>
<b>NON-OPERATING REVENUES (EXPENSES)</b>		
Financial expenses	(6 870)	(2 862)
<b>SURPLUS/(DEFICIT) FROM NON-OPERATING ACTIVITIES</b>	<b>(6 870)</b>	<b>(2 862)</b>
<b>SURPLUS/(DEFICIT) FROM ORDINARY ACTIVITIES</b>	<b>3 901 009</b>	<b>(159 535)</b>
<b>SURPLUS/(DEFICIT) FROM EXTRAORDINARY ITEMS</b>	<b>-</b>	<b>-</b>
<b>ECONOMIC OUTTURN FOR THE YEAR</b>	<b>3 901 009</b>	<b>(159 535)</b>

### 5.3.4. Balance sheet

The balance sheet provides the financial position of the EBA as at 31.12.2012 and 31.12.2011.

ASSETS	31.12.2012	31.12.2011
<b>NON-CURRENT ASSETS</b>		
Intangible fixed assets		
Computer software	28 186	-
Tangible fixed assets		
Computer hardware	89 220	74 816
Furniture	71 255	84 247
Other fixture and fittings	346 388	418 310
<b>Total</b>	<b>535 049</b>	<b>577 372</b>
<b>CURRENT ASSETS</b>		
Current receivables	172 537	170 754
Sundry receivables	19 264	206 683
Prepaid expenses	291 924	66 360
Cash and cash equivalents	8 945 787	6 378 023
<b>Total</b>	<b>9 429 512</b>	<b>6 821 820</b>
<b>TOTAL ASSETS</b>	<b>9 964 561</b>	<b>7 399 192</b>
<b>LIABILITIES</b>		
<b>NON-CURRENT LIABILITIES</b>		
Provision for risks and charges	1 403 155	784 316
<b>Total</b>	<b>1 403 155</b>	<b>784 316</b>
<b>CURRENT LIABILITIES</b>		
Current payables	2 824 557	2 319 491
Sundry payables	29,070	4 569
EU entities	1 153 066	3 637 111
<b>Total</b>	<b>4 006 693</b>	<b>5 961 172</b>
<b>TOTAL LIABILITIES</b>	<b>5 409 848</b>	<b>6 745 488</b>
<b>NET ASSETS</b>		
Accumulated surplus/(deficit)	653 704	813 239
Economic outturn for the year — profit/(loss)	3 901 009	(159 535)
<b>TOTAL NET ASSETS</b>	<b>4 554 713</b>	<b>653 704</b>

## 5.4. Legal Counsel

### 5.4.1. Key achievements

Key deliverables provided by the Legal Counsel Unit in 2012 mainly related to the drafting of the Authority's legal framework and the provision of legal advice pertaining to fields across the EBA departments and units. The unit also managed and oversaw the organisation and functioning of the two main governing bodies, i.e. the Board of Supervisors and the Management Board. The unit operates both on its own initiative and after requests, and has a mandatory function vis-à-vis the implementation of the governing bodies' decision-making process.

Resources in the unit were also allocated to the provision of legal advice related to the EBA's founding regulation, the drafting and interpretation of implementing rules, rules of procedure, codes of conduct, together with the drafting of numerous decisions taken by the Board of Supervisors, the Management Board, the Chairperson and the Executive Director, all of which were required for the Authority to fulfil its duties as intended in its founding regulation.

Numerous other legal responsibilities were derived from the EBA's institutional setting such as inter alia, the negotiation and drafting of agreements and other undertakings, advisory support, conclusion of contracts, service-level agreements, framework agreements, MoU's and the completion of all related formalities.

The unit oversaw requests related to transparency and public access to documents pursuant to Regulation (EU) No 1049/2001, provided interpretation of the Staff Regulations and the Conditions of Employment of Other Servants (CEOS), and dealt with complaints received directly from individuals and also those received via the European Ombudsman's office.

Furthermore, the unit was also responsible for issues related to intellectual property rights, professional secrecy, and also to data protection in light of Regulation (EU) No 45/2001 whereby the unit liaised with the Office of the European Data Protection Supervisor (EDPS).

In 2012 the unit liaised with the European Anti-Fraud Office (OLAF) and oversaw the accession of the EBA to the Interinstitutional Agreement concerning the terms and conditions for inter-

nal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Union's interests.

Maintaining high ethical standards is a key priority for the EBA. It is important in retaining the legitimacy of the Authority's role and in protecting the Authority's interests and reputation. Maintaining appropriate standards of behaviour lends credibility to the EBA's work. Within this context, in 2012 the Legal Unit developed ethics guidelines, which are applicable to all EBA staff, regardless of grade or category.

The unit also dealt with protocol and matters arising in connection with the Authority's relations with EU Member States, EU accession or candidate countries, non-EU countries, international organisations, and relations with the host state. Regarding the latter, the unit oversaw the notion of privileges and immunities and saw to the successful conclusion of both the revised administrative agreement and a new headquarters agreement with the host state.

One of the key challenges in 2012 was related to the proactive contribution to the further overall development of the EBA's legal framework, as the unit advises on any internal issues which could potentially give rise to litigation, providing legal advice and assistance on and managing cases of litigation at both administrative and judicial levels and representing the EBA in legal disputes before the ESA's Joint Board of Appeal, the European Civil Service Tribunal, the General Court and the Court of Justice of the European Union.

Existing rules of procedure were amended and updated, such as those relating to the EBA Board of Supervisors, whilst new rules of procedure were drafted, such as those relating to the internal processing rules on the investigation regarding breach of Union law. Elections for positions within the EBA's structures were conducted and overseen, such as for members of the EBA Management Board and the EBA Mediation Panel.

Apart from preparing legal instruments, the unit also addressed questions relating to the interpretation of the Treaty on European Union and the Treaty on the Functioning of the European Union, and contributed to the EBA's legal position vis-à-vis the European Union institutions and bodies.

Throughout 2012 the unit continued to provide legal assistance pertaining to fields across the

EBA, in order to ensure a legally sound environment for the Authority, whereby it identified possible legal problems associated with the EBA's activities. The unit provided constant monitoring and implementation of laws applicable to the Authority to prevent it from incurring legal risks and developed solutions for them. The unit also ensured the proper interpretation and implementation of primary and secondary legislation applicable or pertaining to the EBA and its activities, and ensured the regularity and legality of the Authority's measures.

#### 5.4.2. Governing bodies

The Legal Unit also managed and oversaw the overall functioning of the Board of Supervisors and the Management Board, the two main governing bodies of the EBA.

##### The Board of Supervisors

The Board of Supervisors is the main governing body of the Authority. It provides guidance to the work of the Authority within the EBA's governance structure. The Board of Supervisors is the final decision-making body that gives its agreement to the implementation of the tasks assigned to the Authority by the EBA's founding regulation.

Pursuant to Article 40 of the EBA regulation, the Board of Supervisors is composed of the Chairperson and the 27 national supervisory authorities, where applicable accompanied by a representative of the national central bank, with observers from the European Commission (EC), the European Systemic Risk Board (ESRB), the European Central Bank (ECB), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pension Authority (EIOPA).

During 2012, the Board of Supervisors met 11 times. Seven of these meetings were physical meetings and four of them took place via conference calls. The level of participation at the Board of Supervisors meetings during 2012 has been significantly high. Croatia is already participating in the Board of Supervisors meetings as an observer during the interim period until its accession as an EU Member State on 1 July 2013, whereby it will participate as a full voting member.

A significant number of decisions related to the core functions of the EBA were adopted by the Board of Supervisors throughout 2012. Twenty-seven decisions were adopted by written procedure (three of them were approved by qualified majority voting; the rest of the decisions were adopted via written procedures by simple majority voting). Moreover, six guidelines and one technical standard were also adopted at the Board of Supervisors' physical meetings during 2012. The conclusions of the Board of Supervisors' meetings, (both physical and conference calls) are minuted, including how decisions were assessed, and are subsequently published on the EBA webpage.

In July 2012 an Away Day meeting was organised in Dublin, where voting members were in attendance. This particular meeting proved to be an opportunity for the Board of Supervisors voting members to exchange views and openly discuss supervisory issues such as lessons learnt from the crisis.

##### The Management Board

The Management Board is composed of six members elected from the Board of Supervisors by and from its members. The EBA Chairperson is also a member of and chairs the Management Board. The Executive Director and a representative from the European Commission attend as non-voting participants (except that the European Commission will have a vote on budget matters).

As established in the EBA founding regulation, the Management Board ensures that the EBA carries out its mission and performs the tasks assigned to it. Acting within this scope, in 2012, the Management Board met six times physically and had three conference calls.

During 2012, all tasks assigned to the Management Board by the EBA founding regulation had been accomplished, such as the adoption of the work programme 2013, the implementation of a significant number of decisions related to the HR implementing rules. The Management Board also exercised its budgetary powers as regards, inter alia, the draft preliminary budget for 2013, the EBA budgetary surplus for 2013 and the Internal audit service (IAS) strategic audit plan 2012–15.



## 5.5. Regulatory compliance of guidelines and recommendations

The level of compliance with EBA guidelines and recommendations remained high during 2012. No case of non-compliance was reported, while there were only six cases of partial compliance, as follows:

- With regard to GL 2012/03 on Incremental Default and Migration Risk Charge, Banca d'Italia notified the EBA that it will defer its compliance with permanent partial use and IRC approaches based on different parameters until adoption of the CRD IV, due to constraints in Italy's current domestic regulation.
- With regard to GL 2012/04 on Remuneration Benchmarking Exercise and GL 2012/05 on

Data Collection Exercise for High Earners, the Polish Financial Supervision Authority notified the EBA that it will not apply the guidelines as regards data collection for past data, i.e. 2010 and 2011, but will submit data for 2012 onwards.

- With regard to GL 2012/06 on the assessment of the Members of the management body and key function holders' suitability, Banca d'Italia and the Central Bank of Slovakia notified the EBA that they will defer implementation of the guidelines until the national implementation of the CRDIV. Furthermore, the Swedish Financial Supervisory Authority notified the EBA that it will not comply with points 6.3, 15.1 and 15.3 of the guidelines on the collective suitability of the members of the management body. An appropriate composition of the board will be required within CRD IV and will, therefore, form part of the future national legislation.

## 5.6. Statistics on disclosure

In 2012 two formal public access to documents requests were lodged at the EBA pursuant to Regulation (EU) No 1049/2001.

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