

Banking Stakeholder Group Meeting - Minutes

Date(s) 24 September 2012 / Time 09:30 to 16:15

Location: EBA

Agenda item 1: Welcome and approval of Agenda

The BSG Chair welcomed the members of the group to the EBA's offices and the agenda for the meeting was approved. The minutes from the last meeting were formally adopted.

Agenda item 2: Developments in EU banking

The EBA Chairperson then presented a synopsis of key matters of concern, major developments and horizon issues in EU banking. He advised that the EBA final report on the EBA Recapitalisation exercise was due to be published shortly. Similar to that advised at the last meeting, deleveraging concerns have predominantly been allayed. Overall, taking into account the capital injection already realised in Greek banks and in one Spanish bank involved in the exercise, there has been an increase of banks' capital positions of more than €200bn. Of the 27 banks, with an initial shortfall that submitted capital plans, they have strengthened their capital position by €116bn. EBA managed this complex process ensuring that banks did not achieve the capital target by cutting back on lending to households and corporates, especially small and medium enterprises (SMEs).

There are two main areas of concern, namely asset valuation issues and funding. With regards to asset valuation, asset quality reviews are being performed as a result. Further, EBA welcomes the results of the independent valuation of the Spanish banking sector. This assessment process and the stress test results, to be disclosed on 28 September, are a major step towards strengthening and restoring the soundness of the Spanish banking system, which is ultimately crucial for a sustained recovery of economic growth and employment. With regards to funding, the main focus is on restoring stable and viable funding models, and this will be a main driver for changes in banks' business models going forward

The EBA Chairperson updated on developments in relation to the Banking Union, and reference was made to the EC's draft proposals¹, published on 12 September 2012. In particular, he welcomed developments to split the interconnectedness between sovereigns and banks in the Euro area. The Banking Union should reinforce the need for an even stronger commitment to the Single Rulebook and for a leap towards truly unified supervisory methodologies to assess the risks at banks and to trigger corrective actions. Such an effort is essential to avoid a polarisation of the Single Market between the euro area and the rest of the Union. This also requires continued good cooperation between EBA and the ECB.

Further consideration is needed for the legal basis for the stress test, where EBA needs also to have the ability to verify the integrity and reliability of the data. Currently, EBA can only initiate and coordinate the stress testing. The EC's communiqué provides for a future strengthening of the legal underpinnings for the EBA's conduct of stress tests.

The BSG noted also the EC's proposed framework for bank recovery and resolution². Some BSG members viewed that whilst a review and greater centralisation of arrangements for Deposit Guarantee Scheme is generally needed, it is not as urgent compared to creating a possible Resolution Authority or the Single Supervisory Mechanism.

The BSG Vice-Chair gave his overview on market developments. He noted that banks' sovereign exposures were reducing, credit default swaps were at a lower level, the cost of collateralised borrowing was decreasing, albeit the volumes in this market were low. However, the inter-bank market remains weak. Further banks remained dependant on ECB liquidity and the sustainability of this in the medium term is questionable. Credit conditions are still tight and profitability still subdued. Further he noted a trend of reverse disintermediation given some bank customers were now able to borrow at a lower rate than banks. BSG Members concurred with this and also noted a continuing decline in bank lending activities.

The BSG Chair questioned whether there was a trend towards the flight of deposits from banks in weaker Member States. Furthermore, he also questioned to what extent do ECB rules have an impact on the use of collateral. Several BSG Members suggested that EBA should analyse the different behaviour of retail and wholesale deposits. The EBA Chairperson advised that EBA does not have such data; whereas the ECB does, but only in respect of banks in programme countries (i.e. IE, EL and PT).

The EBA Chairperson noted that EBA was monitoring developments in banks' deposits and funding conditions via weekly calls with national authorities, and had started to note some improvements recently. Further, he welcomed the recent ECB commitment to allay redenomination risk concerns.

Both the EBA Chairperson and BSG Members noted the increased segmentation in the Single Market. Several BSG Members expressed their concern on some Member States' domestic fiscal regimes and on some National Supervisory Authorities' supervisory measures on foreign banks operating in their

¹ http://ec.europa.eu/internal_market/finances/docs/committees/reform/20120912-com-2012-511_en.pdf.

² http://ec.europa.eu/internal_market/bank/docs/crisis-management/2012_eu_framework/COM_2012_280_en.pdf.

jurisdiction. In particular, there was concern that some supervisory authorities were impeding cross border transfers of liquidity including, in some cases, within a single banking organisation.

In this regard, the EBA Chairperson advised that the EBA has limited powers in such cases. Whilst EBA could instigate a mediation process, this would require some willingness to enter the process by the national authorities involved and the possibility to have binding outcomes in the absence of a breach of EU law or the Treaty is under question. To date EBA has adopted cooperation tools, pushing authorities adopting requirements that could have an impact on lending in other jurisdictions to discuss in depth and agree the way forward with host authorities.

The EBA Executive Director also advised that EBA had created a Code of Conduct for the Members of its Board of Supervisors, with the aim to establish rules of engagement for possible crisis situations. But under the EBA Regulation there is a limit to the extent that EBA can act. Further, the EBA is involved in the Vienna Initiative between the Eurozone Member States and some Eastern European countries in order to enhance supervisory coordination.

Agenda item 3: Formulation of BSG's opinion to

3.1 EBA CP EBA's Consultation the calculation of credit risk adjustments (EBA CP 2012 10)

EBA staff (Angel Monzon) gave a presentation on the key policy proposals. BSG Members suggested that this RTS should be consistent with the future IASB Impairment rules and the possibility to wait until the new impairment rules are finalised. BSG Members also cited an issue in regard to the exposures values, and questioned the treatment of the CRR text for general credit risk adjustments, but were mindful of possible change to the CRR Text in this regard. BSG members also referred to the fund for general banking risks and its interaction with the general credit risk adjustments. EBA staff advised that they need to assess how to consider future changes in the IASB impairment rules, for instance through a review clause.

3.2 EBA/ESMA/EIOPA's Joint Consultation on application of the capital calculation methods for financial conglomerates (JC CP 2012 02)

EBA staff (Corinne Kaufman) gave a presentation on the key policy proposals. A BSG Member questioned the short time frame for transferability in respect of the banking activities; why the Coordinator should ultimately determine the capital for the financial conglomerate; and the proposed prudential treatment in respect of insurance undertakings for a banking-led financial conglomerate. The EBA advised that the ESAs intended that the RTS would align the outcomes of whichever method of calculation of Own Funds was selected at supplementary level, whilst acknowledging that there are differences between the sectors for the determination of capital at the sectoral level.

Agenda item 4: Regulatory Developments

EBA Staff (Isabelle Vaillant, Director) presented the next six month plan for regulatory developments, and highlighted the following key priorities for 2013:

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- Liquidity and leverage: data collection and drafting of reports for an effective calibration of the requirements, with an efficient phasing-in.
 - Crisis managements directive: a number of technical standards to be developed.
 - Significant risk transfer in securitisations: risks and convergence in implementation practices.
 - Defining and notifying ancillary services: preparing targeted contribution to Shadow banking developments.

In response, the BSG suggested that the ESAs might wish to work jointly on the issue of Shadow banking. In respect of liquidity developments, it was noted that EBA was going to align these with the Basel Committee rules; similarly EBA is waiting for BCBS developments in respect of the trading book. In respect of ancillary services, EBA is preparing a RTS, and wishes to understand the impact of such services on shadow banking.

Agenda item 5: EC's Recovery and Resolution Proposals

EBA Staff (Stefan Nebesky) presented EBA's workload stemming from the EC's proposals concerning the establishment of a framework for recovery and resolution of credit institutions and investment firms published in June 2012.

BSG Members related the following concerns:

- The need to take into account employee staff considerations such as involvement of staff in early warning systems, and also be mindful of confidentiality constraints. EBA staff pointed out that according to EC's proposal, EBA has a limited mandate in this regard which does not mean that this issue could not be addressed as a specific governance topic.
- The assessment of a bank's point of non-viability is key, and the determination of triggers for haircuts to different classes of creditors. Moreover this is important for current bond issuances, as bond holders seek to understand when conversion to equity would be triggered. Furthermore, investors want to know what the risks are, and that this has an impact on pricing. BSG suggested more clarity on these instruments, and the triggers, and more details on the tail risk. Further, they stressed that the legal risks could be very high.
- The link with of the proposed resolution framework with the Systemic Risk buffer, and which buffers can be used for contingency purposes. Further, they stressed that it is key to establish clear rules concerning the hierarchy of claims to which the application of the bail-in tool would apply to have a clear picture on the "waterfall". Moreover, the EBA should seek to assess the State Aid link in this regard.
- The need to be mindful of discretionary trends, noting that in some non EU countries, there have been capital injections on a pre-emptive basis (i.e. pre trigger or non viability).

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- The need to reflect the EC's Banking Union proposal, Spanish developments, and the outcome of Report of the European Commission's High-level Expert Group on Bank Structural Reform (so called "Liikanen report").
 - Whether resolution powers can become supranational if funds remain national.

In response, EBA staff referred to an EBA opinion³ in this regard, whereby the EBA proposed criteria for identifying a specific class of bail-inable instruments, with common EU-wide criteria, ensuring a clear hierarchy between different categories of investors. Furthermore, the EBA Chairperson cited that at the global level, the FSB is working on the resolution of G-SIFIs, and that EBA is closely following the progress made in order to prepare for the moment when this translates into EU Legislation and national transposition.

Agenda item 6: Report from the BSG Working Group on Liquidity

The BSG Working Group on Liquidity Chair (Andrea Resti) advised that its draft report is near finalisation and BSG Members were asked to provide their comments by 3rd October 2012. He highlighted issues in relation to the Liquidity Coverage Ratio (LCR) and potential unintended side effects. Broadly the BSG support the LCR provided it is well calibrated. The report was very well received. The BSG requested that the report be sent to the EBA's Board of Supervisors, and that the EBA could publish it. Further BSG Members sought a disclaimer being added, if published, to state that it is the BSG's opinion, and not EBA's view, and also that BSG Members acted in their personal capacity (as per the EBA's Regulation).

Agenda item 7: Consumer Protection Priorities and Cross Cutting Themes

The BSG Consumer Working Group Chair (Robin Jarvis) gave a short presentation on key issues identified by the BSG that EBA could explore. These were:

- Consumer debt problems
- Mis-selling issues
- Responsible consumer lending
- Consumer trust
- Analysis of consumer trends and supervisory concerns
- Interaction of remuneration structure with financial advice.

It was noted also that the FSUG had recently commissioned research on the position of savers in private pension funds.

³ <http://www.eba.europa.eu/cebs/media/Publications/Other%20Publications/Opinions/EBA-opinion.pdf>.

The EBA Executive Director updated on the ESAs work. He cited that under the aegis of the Joint Committee, the ESAs were looking at selling practices under its PRIPs workstream; and consumer risk / governance when designing products. EBA was monitoring the consumer impact in Spain, as part of its follow up work on the recapitalisation exercise.

Further, EBA together with ESMA, under the aegis of the Joint Committee are undertaking joint work in the respect to the LIBOR/EURIBOR rate setting. EBA has been involved in discussions with the European Banking Federation on the EURIBOR setting, and is proposing guidelines in this regard.

It was noted that the UK and NL were reforming their domestic selling practices and fee structure, such that there would be an explicit transparent price to the financial services advice provided.

It was agreed that the BSG Consumer Working Group should continue to work closely with EBA's Standing Committee on Consumer Protection and Financial Innovation and also the EBA's Consumer Unit, by providing input to EBA's work.

It was noted that ESMA had recently issued warnings on some products, and that EBA had no such power under its Regulation as this is also not further specified in the CRD/CRR.

Agenda item 8: The role of the EBA in a Banking Union & State of Play in EU Banking

See also Agenda item 2.

Further the BSG Chair asked BSG Members their views on the Banking Union proposal. BSG members were broadly supportive of the proposal, albeit some expressed preference for stronger political integration first. There was some divergence on the scope of ECB supervision, and the implications of the split between the Euro and non-Eurozone and what this means for the Single Market; and concerns of EBA's role versus that of the ECB. Furthermore, some members felt that the banking union should not entail further harmonisation of European deposit insurance.

Agenda item 9: Challenges & Changes to Liquidity, Funding & Capital

The BSG Working Group on Capital Chair (Louise Lindgren) presented some challenges in the changes of capital requirements, such as:

- Interactions and dependencies between the different regulations are highly complex and difficult to foresee.
- The implementation of Basel II brought risk awareness to the management and pricing of banks products – the new proposed requirements (Basel III) may undermine this (i.e. buffers will have a significant impact, and replace Pillar II as a key indicator).

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- To obtain the concept of a single rulebook there must be harmonised capital requirements.
 - The uncertainty in timing of the coming regulatory environment puts high strain on the industry. Implementation should be delayed until, at least, 1 July 2013.
 - According to the BSG, a massive effort is required for banks to comply and report. Reporting requirements should not be phased-in, the implementation of the regulation should rather be delayed.
 - Major changes to the treatment of derivatives might have unintended consequences:
 - CVA
 - CCP
 - Financial intermediaries
 - Margin requirement on OTC (Basel/IOSCO).
 - Implementation costs of small banks.
 - Use of derivatives/collateral management and its impact on the asset size of the balance sheet.

Some BSG Members questioned whether regulation is becoming too complex, and whether there should be a change towards seeking more simplicity on business models/regulation. In respect to Liquidity, the BSG's position paper was noted.

Agenda Item 11 – EBA 2013 Work Programme

BSG Members provided no specific comments on the EBA 2013 proposed work programme.

Agenda Item 12 – Discussion of annual report of the BSG's work, co-ordination with other ESA Stakeholder Groups & Working of the BSG (B point)

The BSG Chair suggested that the BSG might like to produce an Annual report of its work, noting the other ESAs Stakeholder Groups were considering likewise or are already in the process of such work.

Agenda Item 13 - AOB

No items were tabled.

Participants at the 9th meeting of the Banking Stakeholder Group (BSG)

London, 24 September 2012

<u>BSG Member</u>	<u>Representing</u>
Andrea Cesare Resti	Top-ranking academics
Andrew Thomas Procter	Industry
Arnold Kuijpers	Industry
Birgit Roos	Industry
Bostjan Krisper	Consumers
Christian Lajoie	Industry
Daniel Gros	Top-ranking academics
David T Llewellyn	Top-ranking academics
Giles Williams	Users of banking services
Giovanni Ferri	Top-ranking academics
Guglielmo Zadra	Industry
Hiltrud Thelen-Pischke	Users of banking services
Holger Schwannecke	SMEs
Javier De Andrés	Top-ranking academics
Louise Lindgren	Industry
Lubomir Christov	Consumers
Magdolna Szóke	Industry
Michel Barbet-Massin	Users of banking services
Michelle Brennan	Users of banking services
Monica Cueva Díaz	Industry
Pamela Walkden	Industry
Robin Jarvis	SMEs
Rudi Vander Vennet	Top-ranking academics
Sony Kapoor (Chairperson)	Consumers
Sylvie Bourguignon	Users of banking services
Ute Meyenberg	Trade Unions

From the EBA

Andrea Enria
Adam Farkas
Corinne Kaufman
Angel Monzon
Isabelle Vaillant
Lars Overby
Stefan Andresen
Stefan Nebesky
Tea Turcaniova