

EBA BSG 2018 070

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Banking Stakeholder Group

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4 October 2018

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EBA Regular Use

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# Banking Stakeholder Group – FINAL Minutes

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## Item 1.: Welcome and adoption of the agenda

1. The BSG Chairperson together with the EBA's Chairperson welcomed BSG Members.
2. The agenda was approved.

## Item 2: BSG update on the latest developments

### A) BSG Chairperson to report on BSG activities and present the 'End of term' report.

3. The BSG Chairperson presented the ongoing EBA consultations noting that the end of the current BSG's mandate was the 17 October.
  4. Regarding the recommendation on equivalence of confidentiality of third countries with deadline 8 October, all members agreed with the recommendation and arranged to send a formal reply by email. BSG members also agreed to answer by email the consultation on ITS on supervisory reporting on FINREP and COREP.
  5. The BSG Chairperson presented the 'End of term report' (ETOR), thanking all for their contributions, and especially the working groups (WG) coordinators. He noted that the BSG main achievement during this term was its ability to be more prospective and active in anticipating the EBA's future needs.
  6. Regarding the lessons learned and future recommendations, the BSG had identified difficulties to reply, or to provide a useful insight to some consultation papers or Q&As. The BSG Chair suggested that these difficulties could be mitigated with the EBA providing an initial overview on strategic issues and encouraging cross fertilisation and regular bilateral meetings between members of the WG and EBA staff.
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7. The EBA Chairperson acknowledged the recommendations and noted that the response rate to consultation papers was not particularly relevant for the EBA whilst the follow-up and due process of the opinions produced is very important.

## B) Update of BSG Technical Working Groups' Activities

8. The leader of the BSG Technical WG in Capital Liquidity and Risk presented an update on their work since last BSG meeting.

### Item 3: EBA update on general developments

9. The EBA Chairperson provided an update to the BSG on the state of play of the ESAs review file and of the Risk Reduction Measures (RRM), which are currently under finalisation by the EU legislators. He expressed his concern with the fact that latest developments at Council level suggest that the development of independent review, which the most crucial proposal for the EBA in the ESAs review, is scaled down to a minimum compared to the initial proposal by the Commission.
10. A BSG member expressed his support for increasing the EBA's governance independence in the ESAs review. Particularly, he insisted on having independent members at the EBA Management Board. Another BSG member asked additional information on the ESAs review funding on which no progress has been observed by the EBA over the last months.
11. The outlook of the RRM seems more promising, with EU Parliament offering a coordination role to the EBA on reporting, which would reduce the reporting burden for smaller institutions and increase transparency. A BSG member welcomed the EBA envisaged work on streamlining reporting requirements whilst flagging the risk of a possible increase of the reporting burden, as in general, it appears more difficult to reduce reporting requirements than to increase them.
12. The EBA Chairperson also commented on the Commission's recent proposal to strengthen the Anti-Money Laundering (AML) framework and EBA's role on the topic, following a series of scandals that have affected the EU. The EBA supports this proposal but has also concerns regarding the resources allocated as AML-related tasks have increased substantially whilst the allocated staff is currently 2 FTEs. The Commission's proposal is now enshrined in the ESAs review but the European Institutions may decide to follow a different path in the future.
13. He informed BSG members that the 2018 EU-wide stress test exercise was about to be completed. The results would be published on 2 November 2018. For several reasons, this exercise had been difficult and resource intensive for both supervisors and institutions therefore a revision of the exercise by the BSG would be beneficial to explore future areas for improvement. Some BSG industry representatives welcomed this proposal to increase its efficiency and insisted on the need of providing realistic results to be effective.

14. The EBA Chair understood this call for realism but also noted that since the exercise was based on static balance sheet which is not realistic by definition, it was important to rely on a methodology that provides balance to this axiom.
15. He also noted that that EBA Transparency exercise was about to be launched with the objective to publish more than 1000 data points and to increase the amount of disclosure by institutions to the public. This exercise would benefit the industry as it would alleviate the cost of Pillar 3 disclosure for small banks that are not subject to transparency requirements since they are not listed. A BSG member welcomed this transparency effort and insisted that data shared in the context of stress test was extremely beneficial for the market.
16. The EBA Chair informed that the three ESAs Chairpersons have sent a letter to the Commission on PRIIPS to express their concerns regarding the possibility of duplicating information requirements for investment funds from 1 January 2020 and the importance of legislative changes to avoid such a situation. The letter has been published on the EBA website. Even though this is not a main focus of the EBA as only structured deposits are under its remit, the EBA Chairperson acknowledged that there is a lot of concern from the industry with PRIIPS and UCITS KID regulation. This concern was also echoed by a BSG member who encouraged the ESAs to participate on the renewal of the regulations and asked to postpone UCITS exemption as well.
17. The Executive Director provided an update on the progresses regarding the EBA relocation. He commented in particular on the IT aspects, with the scheduled move of EBA servers from the UK to Germany; on the support to EBA staff to ensure a smooth transition to Paris; and on the built up of reserve lists to cover from possible resignations of staff in the coming months. He underlined that the most difficult file was the office preparation, which had been disrupted by the lack of agreement between the Council and the Parliament on the seat change in the EBA founding regulation.

#### Item 4: Update on risk and vulnerabilities in the EU

18. The Head of Risk Analysis and Stress Testing presented an update on risk and vulnerabilities in the EU banking sector plus the EBA funding plans report. The discussion among the BSG members was mainly focused on the NPLs issue identified as being one of the main drivers of the low profitability in the EU banking sector. Some BSG members suggested further analyses on the NPL strategy of banks to get a better understanding of the trade-off between “workouts” and asset disposals as well as the valuation of assets. Banks under market pressure could be forced to consider the outright sale instead of workouts their NPLs that can probably reap higher value.
19. BSG members suggested areas that would deserve further analysis: exposures to illiquid assets, deep dive of L2 and L3 assets, market liquidity valuation, loan growth and the level of impairment, interconnectedness between the sellers and buyers of the “bail-inable” instruments.
20. A BSG Member presented a study on the links between Eurozone banks’ core earnings, NPLs and new lending with the objective to understand the low level of return on equity (ROE) in some Eurozone countries. In a context of continued asset reduction, core earnings are stagnant with a

profitability of the EU banking sector slightly higher than during the financial crisis (IMF). Banks' earnings should increase thanks to technology improvements, new lending and a better management of NPLs. However, latest EBA surveys show that banks do not forecast lending the whole increase of their liabilities and the price offered by NPLs purchasers has decreased way below book value over time. He concluded that the EU should be inspired by the US example where the treatment of NPLs is impartial and carried out as part of a reorganisation.

21. Another BSG member presented his analysis in the EBA presentation commenting that the NPL issue should be assessed on a case by case basis in order to take into account the type of assets and the risk profile of the bank. He also noted that removing NPLs from the balance sheet via Asset Management Companies is less efficient than using a Corporate Restructuring Vehicle, which look to turn around distressed companies by restructuring their debts and reorganising their operations.

## Item 5: EBA update on NPLs

22. EBA staff gave an update on the timeline of the major deliverables on the NPL policy work and provided a summary overview of the products including the draft Final Report on the Guidelines on the management of non-performing and forborne exposures, the (revised) NPL transaction templates after their testing period and the draft Guidelines on loan origination and monitoring.
23. Regarding the draft Guidelines on loan origination and monitoring, it includes amongst others, sections on the governance in the context of credit risk, creditworthiness assessment of the prospective borrowers and monitoring. The draft is structured by different asset classes such as retail lending, corporate lending, specialised finance and other special lending. Under secured and unsecured retail lending, there is an interaction between prudential requirements and the consumer protection framework. The EBA staff strongly encouraged BSG members to submit their opinion on these Guidelines that are under consultation.
24. At the discussion, following several points raised by the BSG members, the EBA staff further clarified i) the potential interaction between consumer protection aspects and prudential considerations in the draft Guidelines on loan origination and monitoring, ii) the potential role of the NPL transaction templates in other secondary market initiatives such as the EU-wide NPL transaction platform as put forward in the Council Action Plan, and iii) the non-mandatory nature of these NPL transaction templates.

## Item 6: EBA update on other regulatory deliverables

### **A) EBA's staff to present the report on LCR and on capital monitoring**

25. EBA staff presented the key results published in the Basel III monitoring exercise report and LCR report on 4 October 2018. He also presented the main methodological aspects and assumptions made during the analysis phase and provided an update of the way forward in the conduct of future monitoring exercise reports. He informed BSG members about the way forward on the report

replying to the Commission's Call for Advice. Finally, he answered questions on the methodology used in both reports.

**B) EBA staff to present an update on Banking Markets, Innovations and Consumers.**

AML Strategy

26. The Director of Banking, Markets, Innovation and Consumers presented an update on the EBA work on AML so far and on the recent proposal from the Commission which envisages a strengthening of EBA powers with regards to AML. This objective should be reached by improving efficiency through concentrating ESAs powers in the EBA hands, adding clarity on EBA powers for AML purposes and giving more resources to the EBA, who is fulfilling its current mandate on AML with only 2 FTEs.

27. A BSG member asked how the input of the banking industry should be taken into account in these developments. It was explained that AML activities are currently under the aegis of the AML Committee (AMLC) which falls under the umbrella of the ESAs Joint Committee. The regulatory work of the AMLC would continue to be subject to public consultation. Other BSG members expressed concern with the resources to be allocated to fulfill these new tasks.

EBA update on Depositors protection and Payment Services

28. The Head of Banking Markets, Innovations and Consumers presented an update on its work on payment services, explaining that the EBA had delivered all of its mandates under PSD2. On the draft Guidelines on the exemptions to the fallback under the RTS on SCA&CSC, he reported that 68 responses had been received, that these were currently being assessed and that the final Guidelines would be published by December 2018. Finally, he reported that the EBA had extended its Q&A tool to PSD2 and 130 questions had been received so far.

29. On depositor protection, the EBA staff explained that the EBA has set up a dedicated taskforce exclusively on depositor protection topics, and that the primary task would be to complete the mandates conferred on the EBA in Article 19(6) DGSD, by supporting the Commission in its review of the DGSD. This would be done via three opinions planned to be issued between 2019 Q1 and Q3.

30. On payment services, one BSG member asked whether any delay in the publication of the recommended API functionalities by the API Evaluation Group (EG) would have an impact on the publication date of the final Guidelines on the exemptions under the RTS on SCA&CSC. The EBA staff clarified that there was a delay in the publication of the API EG document due to some unhelpful stances taken by the representatives of that group, but that there was no interdependence between the API EG and the final Guidelines.

31. Another BSG member asked whether the EBA had considered submitting Q&As on PSD2 to the BSG for discussion. The EBA staff clarified that the Q&As process on PSD2 mirrors the approach taken for other Q&As. The EBA does not develop new requirements through Q&As. Rather, Q&As clarify the application of existing requirements to specific scenarios or cases that are being raised by the

requestor and add value by ensuring that said application is done consistently across the 28 EU Member States.

32. On depositor protection, another BSG members queried whether, for the purpose of the review of the DGSD, the EBA would take into account only the NCAs views or also of depositors themselves. The EBA staff responded that the EBA would not rely only on NCAs but also on other sources of information, including desk based research by EBA staff, but that there were no plans to approach depositors directly. BSG members were invited to submit their suggestions on how the EBA could proceed.

## Item 7: Discussion on topics presented by BSG Members

### A) BSG Members to present an update on Brexit

33. A BSG member presented a possible relationship between the UK and the EU in a post Brexit environment, stressing the benefits of an enhanced equivalence framework. The BSG Chair expressed some sympathy for an enhanced equivalence framework as the current equivalence framework would need to be improved.

34. Another BSG member commented that the UK should elaborate further on the WTO framework, which offers more opportunities for developing regional agreements instead of trying to maintain a sort of status quo that would limit possibilities for regional agreements. He noted that sectoral agreements may not offer passport equivalence but could still offer market access.

### B) BSG Members to present the new EU risk free trade rate 'ESTER'

35. A BSG member presented the proposed new EUR wholesale unsecured overnight bank borrowing benchmark rate 'ESTER', intended to replace EONIA. She outlined work of the industry-lead ECB Working Group on Risk Free Rates and outlined the way forward with the proposed way forward with ESTER. The BSG expressed its main concern regarding the very tight timeline for application and compliance with the new Benchmarks Regulation by 1 January 2020. ECB planning would target to publish ESTER on a daily basis by October 2019, which would leave just 3 months preparation before the application of the benchmarks regulation.

36. BSG members expressed some concerns about potential market disruption in the transition from EONIA to ESTER, and that there would be uncertainty over compliance of EURIBOR with new benchmark regulations. The presenting BSG member considered unlikely to have the replacement rate available by the start of new benchmark regulation.

37. The EBA Chairperson noted the leading role of ESMA within the ESAs in drafting the new benchmark regulation and the EBA following the ongoing work in light of potential financial stability risks. The BSG expressed his intention to liaise with the ESMA stakeholder group, and considered to draft a joint letter to the Commission and EU Presidency to express their concerns.

## Participants

### BSG:

#### **Chairperson – Santiago Fernández de Lis, BBVA**

Gerda	Holzinger-Burgstaller	Erste Group Bank AG	Austria
Søren	Holm	Nykredit	Denmark
Michel	Bilger	Crédit Agricole	France
Mark	Roach	Ver.di	Germany
Ernst	Eichenseher	UniCredit Group	Germany
Sabine	Masuch	Association of Private Bausparkassen	Germany
Nikos	Daskalakis	GSEVEE	Greece
Dermott	Jewell	Consumers Association of Ireland	Ireland
Sergio	Lugaresi	Italian banking association	Italy
Giovanni	Petrella	Catholic University (Milan)	Italy
Giedrius	Steponkus	Lithuanian Investors association	Lithuania
Monika	Marcinkowska	University of Lodz	Poland
Alin	Iacob	Association of Romanian Financial Services Users	Romania
Angel	Berges	AFI-UAM	Spain
Simon	Hills	UK Finance	UK
Dominic	Lindley	Independent	UK
Jesper Bo	Nielsen	FSU-dk	Denmark
Luigi	Guiso	Einaudi Institute for Economics and Finance and University of Rome Tor Vergata	Italy
Herve	Guider	European Association of Co-operative Banks	Belgium
Guillaume	Prache	BETTER FINANCE	Belgium
Martin	Schmalzried	COFACE-Families Europe	Belgium
Mike	Dailly	Solicitor, Govan Law Centre	UK

### EBA staff:

**Andrea Enria, EBA Chairperson**

**Adam Farkas, EBA Executive Director**

Ester Botica Alonso

Philippe Allard

Angel Monzon

Nassira Abbas

Dirk Haubrich

Piers Haben

Christophe Khun