



EBA BSG 2018 013

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Banking Stakeholder Group

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21 February 2018/9:30-16:45

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Location: London

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EBA-Unrestricted

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## Banking Stakeholder Group – Minutes

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

1. The BSG Chairperson together with the EBA's Executive Director welcomed BSG Members.
2. The agenda was approved. The BSG Minutes from the last meeting held on 14 December 2017 were approved.
3. The EBA Executive Director apologised for the absence of the EBA Chairperson who had been called to a meeting at the European Parliament that day.

### Item 2: BSG update on the latest developments

#### A) BSG Chairperson to update on recent developments and to allocate the work on the EBA's Consultation Papers

4. The BSG Chairperson informed that he and the BSG Vice Chair had reviewed the BSG's Rules of Procedure (RoP) in the light of the discussion at the last BSG Meeting on the possibility of replying to third parties' consultations , and concluded that no change was needed to BSG's RoP.
  5. The BSG Chairperson recalled the BSG responses to the EBA's consultation papers issued since the last BSG meeting and allocated the preparation of responses to EBA's papers under consultation amongst the various BSG Technical Working Groups.
  6. The BSG Chairperson reminded BSG Members to provide their comments on proposed BSG responses in precise drafting format to facilitate the revision process, and to respect the agreed deadlines, to be able to have a version at latest two working days before the EBA consultation deadline, so as to enable the BSG Chair/Vice Chair to duly review proposed BSG response.
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7. BSG Members agreed to contact the other European Supervisory Authorities (ESAs)' Stakeholders Groups with a view to preparing a joint ESAs Stakeholder Groups response to the European Commission's Proposal on the Review of the ESAs.
8. BSG Members agreed to draft an "End of Term" report of the BSG, noting the membership term of the majority of BSG Members was drawing to a close in October 2018, and the precedence established of producing such reports by previous formations of the BSG. The EBA Executive Director clarified that the report was not mandatory or an expectation but based on past experience it could be beneficial to the EBA to assist its engagement with the BSG and could inform the EU Institutions on the functioning of the BSG.

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

9. The respective leaders of the BSG Technical Working Groups presented their work.
10. It was proposed to update the overview of the BSG's Technical Working Groups on the EBA's website.

## Item 3: EBA update on general developments

11. The EBA Executive Director provided an update to the BSG regarding ongoing regulatory developments.
12. On Brexit, EBA's work continues to focus on identification of relevant risks for the EU 27 banking sector arising from Brexit, to quantify them where possible, and to see what actions are being taken or could be taken to mitigate them. He cited that the EBA is looking at bank contingency planning (including relocation) and level of readiness; direct cross-border exposures between the EU27 and UK; issues related to contract continuity; amongst others. On supervisory cooperation and equivalence, whilst cognisant of political negotiations, the EBA is undertaking some preparatory work to minimise to the extent possible any cliff edge effect.
13. Regarding the package of reforms agreed by the Basel Committee in December 2017, the EBA is envisaging that the Commission will take forward the BCBS proposals, predominantly under the new term of the Commission, rather than using the CRR2/CRD5 proposal currently under review. Further, the EBA stands ready to assist and conduct preparatory technical work, such as Impact Assessment reports, where sought.
14. The EBA continues to work on its tasks sought under the Council Action Plan, summer 2017, to tackle Non Performing Loans (NPLs). He recalled that in 14 December 2017, the EBA published standardised data NPL templates to reduce information asymmetries between potential buyers and sellers of NPLs. He informed that the EBA is working on draft Guidelines on Effective Risk Management of Non-Performing and Forborne Exposures, which it hopes to consult shortly, and on providing a response to a request for Technical Advice by the European Commission on Statutory Prudential Backstops for Non Performing Exposures. In response to BSG Members questions, he advised that the EBA is contributing to others' work under the Council Action Plan,

including the Asset Management Company national blue print. BSG Members asked whether the EBA had any data on who the buyers were of NPLs, to which the EBA responded that they do not collate such data.

15. He referred to the joint ESAs warning to consumers on virtual currencies, published on 12 February 2018, a response to the request received by the three ESAs from the Commission's Vice-President Dombrovskis to update with urgency their warnings on virtual currencies and calling on the three ESAs to 'assess and potentially improve' the applicability of the EU regulatory framework to cryptocurrencies'. One BSG Member observed that the use of the term "currency" is potentially misleading and has implications for retail investors.
16. He informed that the ESAs next Joint Consumer Day would be held on Friday 22 June in Lisbon, and that the potential agenda topics were still under discussion.
17. He informed of the European Commission publication on 31 January 2018 of the final report by its High-Level Expert Group on Sustainable Finance (HLEG), which sets out strategic recommendations for a financial system that supports sustainable investments, which proposed inter alia, making sustainability part of the mandates of the European Supervisory Authorities (ESAs). He informed as a first step work is to start in producing a taxonomy, and at a later stage the EBA may assess whether there should be prudential risk metric for sustainable finance.
18. He also updated the BSG on progress in the EBA's relocation to Paris, and plans to facilitate the retention of appropriate staffing levels.
19. One BSG Member raised his concern of the backlog of dealing with Suspicious Transaction Reports from banks, in his country, noting the responsible FIU has recently changed hands.

#### Item 4: EBA update on BSG Membership renewal

20. The EBA Executive Director provided an update on the proposed timetable for the renewal of the BSG, noting that at this juncture 22 BSG Members' terms are due to expire on 14 October 2018, as the EBA appointed BSG members for the "3<sup>rd</sup> term" of the BSG on 15 April 2016, to serve for a period of two-and-a-half years.
21. The EBA proposes to apply the selection procedure used for the last renewal in 2016, with a few small changes, namely, consideration be given to investment firms explicitly, in the category of financial institutions, noting the Commission's proposed Regulation on Investment Firms and a likely change to the EBA's remit; and seek a broader publication of the Call for interest.
22. He noted that the EC's proposal of its review of the ESAs Regulations contains several proposed changes to the EBA's Founding Regulation, which may affect the BSG. However, he viewed that the EC's proposal is subject to change and unlikely to be effected until after this BSG renewal.
23. He informed that the EBA is planning to launch the Call for expression of interest in March 2018.

24. In response to BSG Members' questions regarding the UK, he informed that the BSG composition should respect the EBA's founding Regulation, which requires that the BSG should represent stakeholders across the Union.

## Item 5: EBA update on key risks in the EU banking sector

25. EBA Staff gave a presentation on risks and vulnerabilities in the EU banking sector. He highlighted that the BCBS reforms agreed in December 2017 have allayed some regulatory uncertainty but it remains too soon to assess IFRS9 and MREL implementation. He informed that European banks' capital positions keep on improving – mainly through lower RWAs, with almost all banks having a CET1 ratio above 11%. Further asset quality is improving, but the overall EU NPL ratio remains higher than non-EU regions; noting a decreasing trend for forborne loans, in line with Non-Performing Loans (NPLs) ratios, albeit with a wide dispersion amongst countries. On profitability, some improvements have been noted, with return on equity increasing in 2017Q3 to 7.1%, albeit significant dispersion for some countries. Improvements in profitability were driven by persistent high trading income and cost of risk decreasing further, with lower provisioning. Further the persistent low interest rate environment remains, with Net Interest Margins decreasing slightly further and limited progress on cost cutting.

26. In response to BSG Member questions, he informed that on NPLs management, there are different approaches depending on the assets, which can help both disposal and internal management of such assets.

27. Several BSG Members asked further details on risks stemming from NPLs, where the EBA informed that it provides data analysis per Member State in its Risk Dashboard.

28. Several BSG Members raised questions on the impact of Brexit, to which the EBA noted that it continues to incorporate its assessments of risks stemming from Brexit within its general risk analysis, such as the risk categories, Regulatory and legal environment and in the EBA's risk dashboard; and that post Brexit, the EBA is not envisaging to collect data on UK banks, although this will also be driven by what happens with the transition and future relationship.

29. One BSG Member asked if the EBA had considered the collective impact of the materialisation of multiple Brexit risks at the same time, such as from a modelling perspective. The EBA responded that it was looking at individual risks, and their potential knock on impact, but at this juncture was not undertaking any specific modelling, although noted that the ECB was undertaking macro modelling along these lines. The EBA's analysis was an input into the EU Commission's work, which was looking at the impact at the macro EU27 level. EBA staff also noted that current analysis suggests that steps can and are being taken to mitigate cliff edge effects, although implementation remains a risk in this regard. Further, he advised that it is the role of credit and financial institutions' Competent Authorities to monitor individual plans, and that the EBA is monitoring such aggregate contingency plans. The EBA is noting some dispersion in the quality of such plans, and seeking that some CAs put pressure on their institutions to fix these and to encourage timely implementation.

30. The EBA remains cognisant of concerns on the late legal timing for the transitional agreement, which may delay the triggering of some plans. Political developments are taken into account, but industry and regulators need to be aware that legal certainty remains a key risk.
31. In response to a question from a BSG Member on the EBA's work on equivalence, the EBA Staff clarified that in banking, the legal scope/remit of equivalence is narrow, and in the context of Brexit, there is no equivalence mechanism for comprehensive market access in banking.
32. One BSG Member asked how the UK's status would change on the EBA's Board of Supervisors, to which the EBA replied that pending transition arrangements, it is likely that the UK will no longer be a voting Member, but may be invited in "exceptional circumstances" as per the EU27 Council paper<sup>1</sup>, to attend the EBA's BoS.
33. Finally, there was a discussion about the mandate of BSG members from the UK, and the EBA clarified that the relevant language was still being considered, but any Brexit-related impact would not relate to the nationality of the individual, but rather the geographical remit of the institution they were representing.

## Item 6: EBA update on its Work Programme (A-Point)

### A) EBA's work on the 2018 EU-wide Stress Test exercise

34. EBA staff presented an update on the 2018 EU-wide Stress Test exercise, which was launched on 31 January 2018. She informed that the stress test is designed to provide supervisors, banks and other market participants with a common analytical framework to consistently compare and assess the resilience of EU banks to economic shocks.
35. The EU-wide stress test will be conducted on a sample of 48 EU banks – 33 from countries under the jurisdiction of the Single Supervisory Mechanism (SSM) – covering roughly 70% of total banking sector assets in the euro area, each other EU Member State, and Norway, as expressed in terms of total consolidated assets (>EU30bn) as of end 2016. The exercise will be run at the highest level of consolidation. This exercise will involve close cooperation between the EBA and the competent authorities (including the SSM, the ECB and the ESRB). No pass-fail threshold has been included as the results of the exercise are designed to serve as an input to the Supervisory Review and Evaluation Process (SREP).
36. She highlighted the main changes to the previous EU wide stress test exercise performed in 2016, mainly the implementation of IFRS 9 in the credit risk methodology.
37. She informed also the EBA has published a set of anticipated FAQs for banks, and have launched a FAQ process enabling banks the ability to ask questions on the process.
38. The EBA expects to publish the results of the exercise by 2 November 2018.

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<sup>1</sup> <http://www.consilium.europa.eu/media/32236/15-euco-art50-guidelines-en.pdf>

39. In response to BSG Member questions she clarified that the main purpose of the ECB's work on Credit Risk benchmarks was to assist CAs in performing an Asset Quality Review, and underlined that the EBA acknowledges that the calibration of the benchmarks has been particularly challenging for the 2018 exercise due to the implementation of IFRS 9 and therefore benchmarks should be applied by competent authorities with flexibility in the current exercise. In response to a BSG Member question as to whether the EBA would provide any LG or PD figures to be used as a benchmark by banks, given the challenges of the IFRS 9 implementation, the EBA staff suggested that banks could also make use of the CR benchmarks. She also provided further details on the new stress on Level 2 and Level 3 instruments under Market risk.

40. Some BSG Members asked questions on the macro economic scenario provided by the ESRB, and viewed it gave a different impact of the shock between Member States and questioned the quality assurance.

#### **B) EBA's work on Credit Risk Mitigation**

41. The EBA staff presented EBA's work on Credit Risk Mitigation, explained its rationale, taking on board stakeholders feedback to the EBA's Consultation Paper on credit risk, its Discussion Paper on the future of the IRB Approach and industry concerns. He also informed of the use of the CRM framework to date and elaborated on the EBA's policy proposals under consideration, citing eligibility of credit protection, technical specifications and Article 194 (10). One of the main conclusions of the report was for the EBA was that there is a clear need to develop Guidelines on the usage of the CRM framework for IRB banks, which will be started in the coming months.

42. Several BSG Members sought clarifications as to how this work linked to the BCBS proposals for IRB Model repair given the impact on banks processes and systems.

#### **C) EBA's work on Consumer Protection, Financial Innovation and Payments**

43. The EBA staff informed of its proposed first Financial Education Report (FER), which is based on the EBA repository, which consists of 84 financial education initiatives that were taken by the national authorities responsible for supervising the financial services and products that are within the EBA's scope of action. EBA staff explained that the report presents a general view of the most common approaches used by the NCAs in the initiatives collated in the repository, and NCAs' lessons learned and experiences when carrying out the financial education initiatives. EBA staff informed that the 84 initiatives were listed in the annex of the FER.

44. In response to BSG Members questions, EBA staff clarified that whilst the EBA sought all EU CAs to participate in its work, a few of them did not respond. In this regard, EBA staff observed that not all CAs have financial education within their remit. EBA staff also clarified that the FER repository consists of financial education initiatives addressed to consumers, given that this is a consumer protection mandate.

45. One BSG Member suggested to look at financial education initiatives performed by other international bodies, to assess their usefulness and effectiveness, their relative costs, and audience.
46. The EBA staff also updated on the EBA's work on Virtual Currencies (VCs) and the status of the amendment to the Money Laundering Directive (4AMLD) that will bring VC exchanges and wallet providers within the scope of the 4AMLD. EBA staff also provided an outline of the recently published Joint ESAs Warning to consumers on VCs and informed of further follow-up work that the EBA intends to carry out on VCs.
47. Several BSG Members highlighted some of the challenges that VCs, given the decentralised, open-source and peer-to-peer nature of VC schemes. They also viewed that there is a need for a more in-depth assessment to understand the diversity and particularities of crypto currencies, noting that around 1,500 cryptocurrencies have emerged in recent years, and to follow the developments of ICOs.
48. Several BSG Members observed that VC data was scarce. One BSG Member viewed that the phenomena of decentralised distributed ledger technology was completely underestimated.
49. EBA staff took note of the BSG Members comments and informed that they are actively following the developments of virtual currencies, that they are conscious of the challenges highlighted by BSG members and of the complexity of this task and have indeed initiated a more ample analysis on cryptocurrencies to respond to the Commission's request, noting also their respective legal remit.
50. The EBA staff provided an update on the EBA's work under its mandates under the PSD2.

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

### (A) PSD2 Transition

51. One BSG Member presented some issues with regard to PSD2 transition. He expressed disappointment with the EU Institutions amending the EBA's RTS proposals on SCA and Secure Communication; and their subsequent delay in their adoption, and then the 18-month implementation timeline. He expressed concerns relating to legal certainty, supervisory expectations and security given this legal lacuna.
52. The EBA Staff clarified that in the absence of the adoption of the RTS, the EBA Guidelines on the Security of Internet Payments remain in place and so industry is already subject to requirements for Strong Customer Authentication, which helps to mitigate the security risks. EBA staff also informed that the EBA intended to extend its Q&A process to cover PSD2. Further, with regard to liabilities between PIs and CIs, the starting assumption is that the customer is always put right and the legislation provides the framework for allocation of liability between the actors. The EBA staff elaborated that EBA's tools are limited in this legal lacuna, and hence the EBA had

sought that its Opinion on PSD2 transition, which was addressed to NCAs, could provide transparent guidance to the greatest extent.

### **(B) Pros and cons of fixed versus variable rate Mortgage products**

53. One BSG Member gave a presentation on the advantages and disadvantages of fixed rate versus variable rate mortgage products; the risks associated with the different products, highlighted some experience from the recent crisis, and pointed out that advice from mortgage brokers can be biased, amongst others. He concluded that vast dispersions in the range of mortgage rate products offered amongst Member States.

54. BSG Members took note of the presentation, expressed their views on customers understanding of the complexity of the products, the information provided to the borrowers, the availability of products at the time the customer sought to take out a mortgage, and the different macro policies of some Member States.

55. One BSG Member mentioned that in his country, consumers could not choose between fixed and variable rate, because the fixed option is not available for the whole life of mortgages. He also mentioned that, before crisis, many credits were offered at “discretionary” interest rates, because banks included in the contracts clauses which gave them the right to adjust interest rates as they wanted, without any reference to an index as EURIBOR, LIBOR, etc.

## **Item 8: Suggestions for possible topics for the next Joint BoS/BSG Meeting to be held on 18th April 2018**

56. BSG members were asked to suggest possible topics for the next Joint BSG/BoS Meeting, by written procedure.

### **Item AOB**

57. The date of the October BSG Meeting was changed to Thursday 4<sup>th</sup> October 2018. BSG members took note of the future meeting dates of the BSG.

## Participants

### BSG:

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

Gerda	Holzinger-Burgstaller	Erste Group Bank AG	Austria
Anne	Fily	Finance Watch	Belgium
Hervé	Guider	European Association of Co-operative Banks	Belgium
Guillaume	Prache	BETTER FINANCE	Belgium
Martin	Schmalzried	COFACE	Belgium
Søren	Holm	Nykredit	Denmark
Jesper Bo	Nielsen	FSU-DK	Denmark
Michel	Bilger	Crédit Agricole	France
Christophe	Nijdam	Independent	France
Mark	Roach	Ver.di	Germany
Ernst	Eichenseher	UniCredit Group	Germany
Nikos	Daskalakis	GSEVEE	Greece
Dermott	Jewell	Consumers Association of Ireland	Ireland
Luigi	Guiso	Bank of Italy	Italy
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
Thaer	Sabri	EMA	UK
Mike	Dailly	Govan Law Centre	UK
Simon	Hills	UK Finance	UK
Dominic	Lindley	Independent	UK

### EBA staff:

#### **Adam Farkas, EBA Executive Director**

Corinne Kaufman  
Ester Botica Alonso  
Dragan Crnogorac  
Chris Mills  
Pilar Gutierrez  
Lars Overby  
Dirk Haubrich  
Nilixa Devlukia  
Larisa Tugui  
Santiago Escudero