

## Banking Stakeholder Group Meeting - Minutes

30 October 2013 / 09.30 to 17.00

Location: EBA

### Agenda item 1: Welcome and approval of Agenda

1. Prior to the appointment of a BSG Chairperson and in the absence of the EBA Chairperson, the EBA Executive Director chaired the meeting until agenda item 4. The EBA Executive Director welcomed the new composition of the BSG and apologised that the EBA Chairperson would only be present for the afternoon session of the BSG, due to other commitments.
2. The BSG approved the draft agenda.

### Agenda item 2: Tour de table – Introduction of BSG Members

3. BSG members introduced themselves and provided a brief overview of their professional background and expectations on what they could provide to the work of the BSG. It was noted that the EBA Staff had uploaded the CVs of BSG members on the EBA's website.

### Agenda item 3: Rules of Procedure of the BSG

4. The BSG was asked to discuss and agree its revised Rules of Procedure. The EBA Executive Director and EBA Staff (Stefan Andresen) introduced the proposed changes to the existing Rules of Procedure (RoP), which had been agreed by the BSG in its first composition in 2011.
5. The main changes related to:
  - Clarifications with regards to the removal of a BSG member in case of relevant professional changes (e.g. if a “consumer” representative were to start working for a bank) or other potential conflicts of interest. The revised RoP require members to notify such changes to the EBA as soon as possible.
  - Clarification on the appointment process of a new Chairperson of the BSG to be conducted as soon as possible, were the Chairperson to vacate this position.
  - Consistency with changes recently made by EIOPA to their Stakeholder Groups' RoPs as well as the existing ESMA Stakeholder Group RoP.

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6. In the discussion, some BSG members questioned to what extent conflicts of interest could arise, given that members generally served on the BSG in a personal capacity. The EBA Staff clarified that the intention was not to disallow members to speak on behalf of their constituency but to exclude cases where members would no longer clearly represent one particular category of stakeholders. Further, it was clarified in the RoP that such conflicts of interest mentioned in Article 12, Paragraph 47 of the RoP need to be highlighted in case these conflicts relate to the position or role of the BSG member in respect to a specific entity or position.
  7. Furthermore, a majority of members agreed to amend Article 11, Paragraph 46, so as to raise the number of consecutive meetings missed that would be deemed as a failure to perform the member's duties from two to three, in line with ESMA and EIOPA Stakeholder Groups' RoPs.
  8. In addition, regarding confidentiality and professional secrecy, it was clarified that any unpublished documents made available by the EBA to the BSG shall not be made public nor be shared with the general public by BSG members, but can be shared within the BSG members' organisation with technical experts on a confidential basis.
  9. One member also enquired the reasons why only some categories of BSG members are eligible for reimbursement and not, for example, credit and investment institutions. It was clarified by EBA Staff that this is in line with Article 37 (4) of the EBA Regulation, which explicitly prevents "industry representatives" from reimbursement.
  10. The revised Rules of Procedure were approved, incorporating some changes suggested by BSG members at the meeting. The EBA Staff were asked to upload the revised Rules of Procedure on the EBA website.

#### Agenda item 4: Election of the BSG Chairperson and Vice-Chairperson

11. The EBA had sought nominations for both BSG Chairperson and Vice-Chairperson in advance of the meeting. Further, nominations for these positions were also possible at the meeting, prior to a vote being called. As the vote took place, there was one candidate for the Chairperson position, and four for the position of Vice-Chairperson.
12. Candidates were asked to introduce themselves and explain their motivation. The CVs and motivation letters of the candidates that were nominated in advance of the meeting had been circulated in advance of the meeting by EBA Staff. A vote through written procedure or proxies was not allowed.
13. The vote took place via a secret ballot. David Llewellyn was elected as BSG Chairperson. Andrea Resti was elected as BSG Vice-Chairperson.

#### Agenda item 5: Introduction to the EBA and its Consultation Practices

14. EBA Staff presented the EBA's role and tasks with particular reference to its consultation practices, including engagement with the BSG. The presentation also gave an overview of the EBA's

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founding regulation (including its amendment due to the Single Supervisory Mechanism), and the EBA's organisation, objectives and tasks.

15. The EBA Staff presented the general work underway in terms of the Single Rule Book, i.e. Binding Technical Standards (BTS), consumer protection, risk assessment, supervisory colleges, crisis management, and breach of union law, binding mediation, the risk dashboard and stress testing.

16. Further, the EBA was asked by BSG members to consider how to enhance stakeholder access to its public hearings. It was also asked whether on the EBA website, the BSG's opinions could be listed first, within the list of received responses to EBA's consultations.

## Agenda item 6: Housekeeping and Practical Matters

17. The EBA Staff briefly informed members about a few practical matters (i.e. the EBA Extranet, reimbursement rules etc.). BSG members eligible for reimbursement were asked to note the EBA's reimbursement policy as communicated to them via email on 18 October 2013. These members were requested to return to the EBA their completed responses to the requested financial forms as soon as possible. Further, EBA Staff highlighted that reimbursement claims are required to be submitted to the EBA no later than 30 days after the final day of the meeting, by using the appropriate travel expenses template and providing original travel documents.

## Agenda item 7: Update on regulatory developments

### i. EBA Chairperson to update on general developments

18. The EBA Chairperson reported on the Asset Quality Review (AQR) process initiated recently, and that the EBA had issued a recommendation to supervisors to conduct AQRs on major EU banks. The EBA noted that while banks' capital positions were significantly strengthened during the EBA's recapitalisation exercise, the objective of the asset quality exercise will be to review banks' classifications and valuations of their assets so as to help dispel concerns over the deterioration of asset quality due to macroeconomic conditions in Europe.

19. Since appropriately reviewed balance sheets are a key input to an effective stress test, the EBA has adjusted the timeline of the next EU-wide stress test exercise in 2014 to be performed once the AQRs are completed. Moreover, prior to the 2014 stress test, and in order to provide transparency and assist comparability against previous years, the EBA will provide, in the second half of 2013, appropriate disclosure on the actual exposures of the EU banking sector.

20. The EBA Chairperson drew reference to a recent public statement by the ECB regarding the comprehensive balance sheet assessment to be performed in advance of the ECB's acceding its direct supervisory role. Besides the AQR, this will entail a stress test to examine the resilience of banks' balance sheet to stress scenarios. The assessment will be based on a capital benchmark of 8% Common Equity Tier 1, drawing on the definition of the CRD IV/CRR (including transitional arrangements) for both the AQR and the baseline stress test scenario. The details concerning the stress test will be announced at a later stage, in coordination with the EBA.

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21. Reference was made to two reports recently issued by the EBA, regarding risk-weighted assets. One on a top-down assessment of the banking book, the other providing a low default portfolio analysis. The EBA sought greater standardised disclosure and noted inconsistencies from banking practices.
22. In the standard setting area, the EBA has finalised its first package on Own Funds and Reporting Technical Standards, which were submitted to the European Commission in July 2013. Going forward, EBA's key standard setting work includes the liquidity coverage ratio, the net stable funding ratio, the leverage ratio and standards mandated by the Recovery and Resolution Directive (RRD).
23. Regarding consumer protection, the EBA noted the limited delegated task it had received on Mortgage Indemnity Insurance. Nonetheless, the EBA is working on product oversight and governance aspects as well as possible impacts on SMEs and borrowers. For example, the EBA was monitoring potential concerns regarding the repatriation of assets along national lines having regard to the Single Market. The concern was shared by several of the BSG members who also highlighted the EBA's role with regards to mediation.
24. One BSG member enquired whether the review of the European System of Financial Supervision (ESFS) was likely to enhance the EBA's role in consumer protection, e.g. a greater role regarding payments accounts. The EBA Chairperson responded by advising that the EBA was proposing to raise its concern in this regard with respect to Art 9(5), Art 18 and Art 1(2) of the EBA Regulation.
25. The BSG Chairperson noted that besides responding to official EBA requests, the BSG may also work at its own initiative, which could especially be useful in the area of consumer protection, for example, in terms of identifying consumer trends for the EBA to further study.
26. One BSG member enquired about the current status of the EBA's work on Pillar 2 risks. The EBA Chairperson explained that the EBA was currently developing Guidelines on the Supervisory Review and Evaluation Process (SREP). In the work on the Single Supervisory Handbook the EBA would, furthermore, also focus on banks' business models.
27. Further, the EBA was asked to consider in the forthcoming European stress test exercise whether guidance on the calculation of banks' conduct risk provisions should be included.

## **ii. 2014 EBA Work Programme**

28. EBA Staff presented an update on the EBA's 2014 work programme as well as the Joint Committee's 2014 work programme. It was noted that the key inputs to the EBA's 2014 work programme are the CRD IV/CRR package as well as tasks relating to the proposed banking recovery and resolution framework.
29. It was noted that the EBA's work programme contains a large number of regulatory products under the CRD IV/CRR legislation with a deadline for submission between January and December 2014 (namely 48 RTS, 23 ITS, 7 Guidelines, 9 Reports, 5 Opinions/Consultations and 2 Notifications).

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Regarding the RRD there are likely to be 23 BTS stemming from it, 5 Reports and 4 Framework Agreements/Notifications.

30. Further, in the area of oversight, the EBA is required to identify, analyse and address key risks as well as monitor capital levels and capital plans. This entails the EBA assessing the impact of deteriorating asset quality on banks' balance sheets and to continue its work on the consistency of outcomes in risk weighted assets (RWAs), to develop guidelines on the SREP, and to promote and monitor supervisory colleges (including the establishment of resolution colleges).

31. Regarding consumer protection and financial innovation, the EBA was likely to receive tasks stemming from the Mortgage Credit Directive (MCD), the proposed bank account package, the review of the Payment Services Directive (PSD) and on initiatives such as the self-placement of financial instruments.

32. Other EBA tasks relate, among others, to the impact of EBA's policy proposal, peer reviews of Competent Authorities and the coordination of support in relation to the EBA's chairmanship of the ESAs Joint Committee in 2014.

33. The BSG Chairperson suggested that the BSG should seek to prioritise its work in order to better plan its own resources and its Technical Working Group structure. In order to facilitate this process, the EBA Staff was asked to circulate the Work Programme in Excel format. BSG members were asked to consider its work planning and possible prioritisations based upon the EBA's work ahead.

### **iii. EBA Staff to Present Update on EBA's Regulatory and Oversight Work Under Development**

#### **(a) EBA Recommendation on the use of the Legal Entity Identifiers (LEIs)**

34. EBA Staff presented the Draft Recommendation on the use of the Legal Entity Identifiers (LEIs) [EBA CP 2013 42]. He noted that the work stems from a global initiative of the Financial Stability Board (FSB) to determine such identifiers. The FSB proposed a Legal Entity Identification system which was also endorsed by the G20, aimed at achieving a unique, worldwide identification of parties to financial transactions. The global LEI system is not yet fully operational but a number of entities, sponsored by national authorities, already started to issue LEI-like identifiers (pre-LEIs) in order to satisfy local reporting requirements.

35. The EBA Staff noted the importance of the EBA's single European reporting framework (FINREP and COREP) in that respect and that this will greatly facilitate the EBA's risk work (e.g. its risk dashboard), stress testing and impact assessment, amongst others.

36. The BSG largely supported the EBA's proposal as a useful way forward but noted that for smaller banks there were concerns about their more limited IT architecture capacity. The BSG was asked to consider whether to formulate an official opinion on [EBA CP 2013 42] by the EBA's sought deadline of 28 November 2013.

#### **(b) EBA work on Consumer Protection**

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37. EBA Staff gave a presentation on recent consumer protection work performed by the EBA. He also noted the EBA's general objective in this area, namely "to protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses" (Art. 1(5) of the EBA Regulation), as well as one of the means by which the EBA is to achieve this objective, namely "enhancing customer protection" (Art. 1(5) (f) of the EBA Regulation).
38. He clarified that the EBA can become active in consumer protection & financial innovation issues based either on the receipt by EBA of an explicit mandate through an EU Directive or Regulation and/or if the EBA has identified risks to its ability to fulfil its existing objectives and tasks, as defined in the EBA Regulation.
39. He noted that risks to the EBA's objectives can have various origins and may materialise in different ways, i.e. the consumer protection objective might arise from risks through credit and financial institution's retail conduct and/or their prudential operations (e.g. their funding model; prudential soundness, etc.). Conversely, credit and financial institution's retail conduct may pose a risk to objectives other than consumer protection. The banking products that fall into the EBA's scope are mortgages, personal loans, credit/debit cards, current accounts, savings products and payment services. It was noted that ESMA and EIOPA have similar mandates within their respective founding Regulations to protect consumers with regard to investment and insurance products, and as such joint initiatives amongst the ESAs are at times appropriate when credit institutions, as the EBA's core constituency, intermediate such products.
40. BSG members noted that regulation tends to look at the past rather than the future and wondered how the EBA intends to identify root causes of future detriment. The EBA explained that this is a general problem with the development of regulation. It was noted that EBA's mandate covers financial innovation, too.
41. Also, one BSG member wondered whether the EBA intended to develop risk indicators for retail risks, e.g. the number of complaints regarding specific products, and suggested the EBA could differentiate between leading and lagging indicators in such work. The EBA Staff explained that the EBA was not intending to develop a risk register for consumer risks. However, in its Consumer Trends Report, the EBA does look at complaints data from various European financial services' Ombudsmen, data from National Competent Authorities and third party research on consumer trends, amongst others.
42. Further, some BSG members noted the need for better financial literacy, in general. The EBA Staff responded that whilst the EBA has an objective on financial literacy, any such initiatives in this area would only become effective in the long run with a significant time lag. In addition, education is often not within the scope of the national supervisory authorities represented on its Board of Supervisors.
43. The BSG asked that the consumer section on the EBA's website could be translated into other languages than English.

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44. BSG members were reminded to send in their requested input to the EBA regarding consumer trends by 01 November 2013, if not already done so.

**(c) EBA work on Liquidity**

45. EBA Staff consulted the BSG on the “Draft Report on the Impact Assessment of Liquidity Measures under Article 509 (1)” and the “Draft Report on Uniform Definitions of Liquid Assets under Article 509 (3)”.

46. With regard to general legislative developments on liquidity, it was noted that the CRR tasks the EBA with advising on appropriate uniform definitions of liquid assets for such a liquidity buffer, and for this purpose defines two categories of transferable assets: assets of ‘extremely high’ and of ‘high’ liquidity and credit quality. The CRR also specifically tasks the EBA with advising on the impact of the liquidity coverage requirement, on the business and risk profile of institutions established in the Union, on the stability of financial markets, on the economy and on the stability of the supply of bank lending.

47. The Report on HQLA shall inform the Commission for the purpose of reporting on uniform definitions of extremely high liquidity and credit quality of transferable assets, uniform definitions of high liquidity and credit quality of transferable assets, and haircuts on transferable assets that are of high liquidity and credit quality. The EBA shall furthermore report on operational requirements for the holdings of liquid assets in line with international regulatory developments.

48. Preliminary outcomes within asset classes indicated that:

- Credit quality has a significant impact on liquidity for all asset classes (apart from equity of course), but the sensitivity varies from one asset class to another.
- The impact of issue size and time to maturity for each asset class has also been examined.
- In general terms, sovereign bonds show a better performance in terms of liquidity than other public sector debt.
- In covered bonds, variables capturing the existence of regulatory characteristics which reduce credit risk and enhance transparency are significant predictors of liquidity.
- For ABS, RMBS are the most liquid sub class.
- No metrics have been found that reliably segments the equity class into more and less liquid categories.
- The analysis has shown that the precise choice of liquidity metrics is not crucial.

49. Regarding asset classes without empirical data, the lack of data on trading in credit claims suggests this asset class should not be defined as a liquidity asset.

50. The Report on the impact assessment voluntary exercise started in 2012 and now includes a sample of around 350 banks, which represents more than two-thirds of total EU banking assets.

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The EBA was asked to report to the Commission on whether a specification of the LCR is likely to have a material detrimental impact on the business and risk profiles of institutions, the stability and orderly functioning of financial markets, the economy and the stability of the supply of bank lending (i.e. SME, TF).

51. The preliminary outcomes and policy recommendations indicated that:

- No material detrimental impact had been established so far on:
  - ▶ the stability and orderly functioning of financial markets;
  - ▶ the economy;
  - ▶ the stability of the supply of bank lending (i.e. SME & TF).
- No indication that CET1/LR constitutes constraints on banks' adjustment to the LCR.
- No evidence so far of any detrimental impact of an inflow cap of 75% on aggregate, but some impact on different business models.
- No evidence supporting a reduction of run-off rates of outflows on other liabilities according to Art. 422(7) CRR compared to the GHOS 2013 calibration.
- The reduction of roll-over rates for loans according to Art. 425(2) CRR from 50 to 0 per cent is not realistic.
- The rationale of setting a cap on level 2A/B assets as envisaged by the Basel rules text seems justified.
- Monetary policy implementation:
  - ▶ Banks should not be enabled or even incentivised to arbitrage liquidity regulation via central bank operations. Treatment of CB repo exposure to be further assessed. Work continues in close cooperation with EU central banks.

(ii) Committed Liquidity Facilities (CLFs)

- ▶ A very broad range of eligible liquid assets in the LCR corresponds to the assumption of a committed liquidity line of the central bank. Without limiting these quasi-committed lines appropriately, either in terms of price or of the share of HQLA they can account for, regulation would be ineffective.

(iii) EU money markets

- ▶ The European and, especially, the Euro unsecured money markets feature much lower volumes and significantly shorter maturities than before the crisis.
- ▶ It is unlikely that the LCR contributes much to the explanation of the current situation on European unsecured money markets.

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- ▶ In the future, MM functioning might be largely determined by the behaviour of non-bank market participants (e.g. insurance companies, money market funds), which in turn will be a function of the confidence in the European banking sector.

(iv) Price stability

- ▶ Basel III survey & case studies do not point to a negative impact. EBA together with central banks will analyse granular bank/monetary policy data in order to generate firmer and more useful results to guide policy-making

52. The EBA Staff informed that the final draft reports will be presented to the EBA Governance Structures in November and to the Board of Supervisors in December. The outcome of these two Reports will be submitted to the Commission by 31 December 2013. The Commission can take them into account when drafting the delegated act - which must be adopted by 30 June 2014 - to specify in detail the liquidity coverage requirement. This delegated act will come into force by 31 December 2014 but will not be applicable before 01 January 2015. BSG members were asked to submit written comments regarding the liquidity reports by 08 November 2013 COB on an individual basis, if no overall BSG opinion was feasible.

## Agenda item 8: BSG Working Groups

53. In relation with the on-going work of the EBA, the BSG was asked to consider establishing Technical Working Groups and members were asked to make suggestions about what topics could be considered. The BSG noted that the BSG in its first composition consisted of four permanent working groups: Bank Liquidity, Bank Capital, Systemic Issues and Consumer Protection.

54. Various opinions were expressed by BSG members at the meeting and no clear consensus emerged. Some suggested Working Groups on Recovery and Resolution and on Asset Quality Review/Risk Weighted Assets. Others proposed Working Groups on governance and controls or the structural issues. Other suggestions also related to stress testing, systemic issues, supervisory consistency and/or the leverage ratio.

55. Regarding consumer protection, some members would prefer this to be a general theme in all of the Working Groups, to the extent possible, rather than being limited to one dedicated Working Group. At the same time, others expressed a preference for a Working Group on consumer protection.

56. The BSG Chairperson noted that at the moment the BSG could have Standing Groups (as before) but also Ad Hoc groups focussing e.g. on specific BSG initiatives.

57. The EBA Staff was asked to circulate an overview of the EBA's working group structure. The BSG was asked to further consider establishing Technical Working Groups, including how many and on what issues. Once such a decision has been reached by the BSG, BSG members will be asked to volunteer for participating in these groups, including acting as Working Group coordinators.

## Agenda item 9: Next Meetings

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58.BSG members noted the 2014 meeting dates:

- 10/11 December 2013: BSG only and Joint BSG/BoS, London
- 06 March 2014: BSG, London
- 12/13 May 2014: BSG only and Joint BSG/BoS, London
- 26 June 2014: BSG, London
- 18 September 2014: BSG, London
- 09/10 December 2014: BSG only and Joint BSG/BoS, London

59.BSG together with the EBA would prepare for the Joint BSG/BoS meeting in December.

### Agenda item 10: AOB

60.BSG members were invited to suggest agenda items for discussion in preparation for future meetings to the BSG Chairperson and EBA Staff. Further, the EBA Staff would circulate a list with contact details of BSG members.

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## Participants at the meeting of the Banking Stakeholder Group (BSG)

London, 30 October 2013

<u>BSG Member</u>	<u>Representing</u>
David T. Llewellyn (Chairperson)	Top-ranking academics
Andrea Resti (Vice-Chairperson)	Top-ranking academics
Alf Alviniussen	Users of banking services
Jean Berthon	Consumers
Michel Bilger	Credit and investment institutions
Kay Blair	Consumers
Javier Contreras	Consumers
Nikolaos Daskalakis	SMEs
Santiago Fernandez De Lis	Credit and investment institutions
Eilis Ferran	Top-ranking academics
Dorothee Fuhrmann	Credit and investment institutions
Jose Antonio Gonzalo-Angulo	Top-ranking academics
Sandra Hafner	Credit and investment institutions
Zdenek Hustak	Top-ranking academics
Troels Holmberg	Consumers
Alin Iacob	Users of banking services
Bostjan Krisper	Consumers
Nina Dietz Legind	Top-ranking academics
Louise Lindgren	Credit and investment institutions
Dominic Lindley	Users of banking services
Marco Mazzucchelli	Credit and investment institutions
Jesper Bo Nielsen	Employees
Robert Priester	Credit and investment institutions
Magdolna Szóke	Credit and investment institutions

### From the EBA

Andrea Enria  
Adam Farkas  
Stefan Andresen  
Luis del Olmo  
Dirk Haubrich  
Ivo Jarofke  
Corinne Kaufman  
Delphine Reymondon