

EBA BSG 2014 83

BSG

18 September 2014 / 09.30-17.00

Location: London

Banking Stakeholder Group Meeting – Minutes

Agenda item 1.: Welcome and Approval of the Agenda

1. The BSG Chairperson and the EBA Executive Director welcomed the BSG Members. The EBA staff were asked to upload the minutes of the 3 June 2014 ESA Stakeholder Group Chair- and Vice-Chairperson meeting on the EBA's extranet.

Agenda item 2.: BSG Chairperson to update on developments

2. The BSG Chairperson reported on the BSG's activities since the last BSG meeting on 26 June 2014. It was noted that the BSG had since produced a further five responses to EBA Consultation Papers (CPs), using a new dedicated BSG template ensuring a consistent style of BSG submissions. Further submissions to the EBA were underway.
3. He mentioned the BSG's letter regarding the EBA's draft budget, which was sent to the Commission and other EU institutions on 21 July 2014. In that letter the BSG noted that "the wide and increasing mandate assigned to EBA by European regulations, a reduction in the EBA's budget is most likely to have a major detrimental impact on its ability to perform statutory tasks". The BSG expressed "its strong surprise and great concern at this very unwelcome development".
4. The EBA Executive Director noted that the European Parliament's Committee on Economic and Monetary Affairs (ECON) had since issued an Opinion on the ESAs' budget.¹
5. Regarding the previously discussed cooperation with other ESA Stakeholder Groups, the BSG agreed that it preferred that the possibility for joint submissions should be considered regarding all ESA Consultation Papers and in particular regarding those coming from the Joint Com-

¹ See <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-%2f%2fEP%2f%2fNONSGML%2bCOMPARL%2bPE-536.152%2b03%2bDOC%2bPDF%2bV0%2f%2fEN>.

mittee of the ESAs. Furthermore, the BSG was in favour of sharing its meetings agendas with the other ESAs' Stakeholder Groups.

6. The BSG would also further consider undertaking work regarding financial conglomerates at its next meeting.

Agenda item 3.: Workstream of BSG Technical Working Groups

i. Allocation of work

7. The BSG Chairperson explained that further BSG Opinions on EBA regulatory products were underway. The BSG agreed to develop further Opinions, as set out in [EBA/BSG/2014/64] and to await further consultations by the EBA to be issued shortly.

ii. Discussion of proportionality and complexity

8. The Coordinator of the Ad hoc Working Group on Proportionality updated the meeting on the current status of this BSG own-initiative work. It was reconfirmed that the objective was to submit the Working Group's position paper to the full BSG at the 9 December 2014 BSG meeting.
9. Some BSG Members noted that the Ad hoc Working Group on Proportionality should also be conscious of possible implications regarding consumer protection aspects, given that the cost of regulation would also be borne by consumers. Further, it was mentioned that the upcoming EBA Consultations on Simplified Obligations (with regard to the BRRD) should be noted by the Ad hoc Working Group and consideration should be given as to whether these are of relevance for the BSG position paper.
10. The EBA staff and the Ad hoc Working Group were asked to liaise on the logistics of convening a Working Group meeting (possibly in Brussels) before December in order to finalise the position paper.

Agenda item 4.: Update on Regulatory and Oversight Developments

(a) EBA Executive Director to Update on General Developments

11. The EBA Executive Director updated the BSG on ongoing regulatory developments. He made reference to the discussions at the BoS meeting which took place on 16/17 September 2014 and noted that a number of Consultation Papers would shortly be launched by the EBA. Many of the upcoming CPs would refer to the mandates the EBA received under the Bank Recovery and Resolution Directive (BRRD), e.g. group financial support, resolution tools, early interventions measures/resolution triggers, or Guidelines on public support measures.

12. Other topics included Guidelines on payment commitments to Deposit Guarantee Schemes (DGS), the timing of the implementation of Guidelines on the security of internet payments prior to the transposition of the PSD2, interpretation issues on deferred tax assets, the results of the first monitoring of AT1 instruments, liability management exercises, a Discussion Paper on derivatives valuation, or simplified obligations.
13. Regarding the Asset Quality Review (AQR) and the EU-wide Stress Test, the EBA Executive Director explained that the EBA had developed a communications protocol as guidance to assist all relevant competent authorities in ensuring effective communication and coordination during the 2014 AQR and Stress Test exercises. The publication of the results was scheduled for the second half of October 2014.

(b) EU Commission Report on the review of the ESFS

14. The BSG noted that the European Commission had published its Report on the operation of the ESAs and the European System of Financial Supervision (ESFS) in August 2014. The report recognised the overall effectiveness and efficiency of the three ESAs in contributing to restoring confidence in the financial sector and promoting the Single Rulebook. It also identified areas where adjustments might be needed in order to improve and strengthen the functioning of the current institutional set up.
15. Regarding the funding of the EBA and whether to base the EBA's funding on levies on the banking industry or other sources, various views were expressed. Consensus was that the funding should be appropriate regardless of the particular source of funding.
16. Some BSG Members noted that a majority of the consultations undertaken by the EBA were of a technical nature. Consideration could be given to different BSG meeting formats in order to make the best use of the different kinds of expertise represented by BSG Members. Further, staggered appointments of BSG Members could be considered as well as increased resources available to the BSG. Alternatively, the BSG could be comprised of fewer members, whose expertise could be sought more intensely.
17. The BSG agreed to further develop its possible comments on the Commission Report and to discuss these at its next meeting. Furthermore, the BSG would discuss whether changes could be made in its internal procedure, e.g. with regards to the structure of its agenda. For example, use could be made of "break-out sessions". The issue was also raised as to whether the meetings had been too crowded with too many agenda items. A trade-off had to be made between the different advantages of having more time for Members to discuss issues versus the advantage of being presented with a wide range of issues under consideration by the EBA.

(c) Update on risks

18. The EBA staff updated on the main content of the EBA's next bi-annual Risk Assessment Report, which would be published by the end of 2014.

19. Among the current main risks was prolonged low growth combined with high indebtedness in private and public sectors. Also, continued low interest rates and an associated search for yield were mentioned, as well as risks in emerging markets (including heightened geopolitical risks), conduct of business, IT-related operational risks and cyber-attacks. Most of these risks would be directly addressed in the scope of the EU-wide stress test, while operational and reputational risks were not explicitly picked up and depended on the assumptions made by banks.
20. Some BSG Members noted that high debt would generally be problematic, regardless of whether a low- or high-growth environment persisted. Conduct risk was also noted by some BSG Members as a potential risk factor combined with a lack of transparency in some areas.
21. Also, the BSG mentioned that financial market bubbles might currently present a risk and were driven through market liquidity. Another potential risk could exist where shadow banking entities assume operations that had traditionally been performed by banks.
22. The BSG was asked to raise any further comments/observations on the EBA's Risk Assessment Report direct to the EBA staff.

(d) Discussion Paper on High-Quality Securitisations

23. The EBA staff presented the current work of the EBA regarding the status of a Discussion Paper on the topic, while recalling discussions at the 13 May 2014 Joint BSG/BoS meeting. The Discussion Paper would be published in October 2014.
24. The EBA had received a mandate to work on qualifying securitisation through a Call for Advice by the European Commission (January 2014). In order to promote "the development of safe and stable securitisation markets", the EBA was "invited to identify which characteristics would be the most appropriate to designate 'high-quality' transactions", having particular regard to (a) categories of underlying assets; (b) structural features; and (c) transparency features.
25. The EBA was working on defining criteria for 'simple', 'standard' and 'transparent' securitisations alongside criteria of regarding the underlying credit risk for potential regulatory recognition; this would entail more risk-sensitive regulatory capital which may contribute to revive investment/issuance. However, capital treatment would by itself not solve all issues. Information and data on SMEs' credit performance would also need to be enhanced and harmonised. Further, CRAs' sovereign rating caps would impair SME issuances in peripheral countries. In addition, a potential broadening of the investor base could be considered.
26. Some BSG Members argued that such qualified securities would also need to have an investor base, which could possibly come from insurance undertakings and other market participants. Thus, it was considered important that the EBA consults the other ESAs on this topic. The EBA staff explained that EIOPA had been consulted by the Commission beforehand and already gave its views, which have been taken into account by the EBA. International developments at the level of the Basel Committee or IOSCO would also be considered.

(e) Home-Host Cooperation and Colleges

27. The BSG decided not to develop BSG Opinions on the [EBA/CP/2014/12] (on RTS and ITS on the functioning of colleges of supervisors) and [EBA/CP/2014/13] (on standards on joint decisions on approval of internal models).

(f) Supervisory Review and Evaluation Process (SREP) Guidelines

28. The EBA staff updated on the Consultation Paper on the Draft Guidelines for common procedures and methodologies for the supervisory review and evaluation process [EBA/CP/2014/14]. It was recalled that the EBA staff had presented the EBA's initial thinking regarding the Guidelines already at the BSG's meeting on 12 May 2014.

29. The EBA's primary objective of the Guidelines was to increase the consistency and quality of competent authorities' SREP practices, and hence of their outcomes. As such, the Guidelines are primarily directed towards national supervisory authorities and not directly towards credit institutions. The Guidelines provided methodological support to joint decisions on capital and liquidity adequacy to be reached by colleges of supervisors and would increase the consistency of supervisory responses.

30. The Guidelines would ensure a common approach/process to all institutions, while recognition to the principle of proportionality was given through categorisation of institutions. This would entail common scoring definitions and considerations (risks scores and 'viability' scores for SREP elements and an overall SREP score). However, importance would also be given to supervisory judgement.

31. Further, the EBA decided to build links between on-going supervision and recovery and resolution regimes (triggers for early intervention and assessment of whether institution is 'failing or likely to fail'). The overall SREP score would constitute an indication of the institution's overall viability and provide an indication of the likelihood that early intervention measures should be taken, and to act as a trigger for them. Thus, the overall SREP score has an additional grade indicating an institution 'failing or likely to fail'.

32. The BSG Members generally supported the process of convergence of supervision, especially with regard to Pillar 2 which was felt to be treated heterogeneously in different EU Member States. However, the BSG found the timing of the consultation over the summer inconvenient, and considered the timeframe for providing its Opinion as insufficient. Thus, the BSG asked the EBA to consider whether it could have an extension to its timeline to provide its opinion.

33. Further, some BSG Members raised concerns that the Guidelines would contradict the "spirit of Pillar 2" and not sufficiently take into account diversification effects. With regards to the latter, Solvency II and its use of correlation factors could be considered as a framework that the

EBA may refer to. The role of the ICAAP and the use of benchmarks and buffers were also questioned.

34. The EBA staff explained that the CRD text in Article 104 (2) requires additional own funds at least where risks or elements of risks are not covered by CRR or CRD buffers. Diversification between risks is not recognised in Pillar 1 and is not generally considered by supervisors in Pillar 2 as part of the determination of additional own funds requirements. Competent authorities should ensure that additional own funds requirements set for each risk ensure a sound coverage of the risk. Assessment of the ICAAP is covered in two parts of the Guidelines, as part of the risk management framework and in the assessment of capital adequacy. Benchmarks will be used as an additional tool for supervisors in order to challenge the ICAAP, or provide the supervisory estimation in case that the ICAAP calculation is not considered reliable.

35. Further, the EBA staff noted that competent authorities should regularly (depending on the category of institution) inform the institution of the outcome of the overall SREP assessment. This should be accompanied by a statement on the quantity and composition of the own funds the institution is required to hold in excess of the requirements set out in Chapter 4 of Title VII of the CRD and in the CRR.

36. The EBA staff offered the BSG to host a dedicated meeting regarding the Guidelines in order to discuss the BSG's concerns in more detail. Such a meeting would be organised shortly. The Guidelines were due to be finalised by December 2014 with a planned implementation by 1 January 2016. Some specific provisions in the Guidelines are subject to the longer transitional arrangements, i.e. regarding the implementation of the approach to the diversification between risks.

(g) Recovery and Resolution

37. The EBA staff presented its work under development, including the on-going public consultations (draft RTS on the content of resolution plans and the assessment of resolvability, draft Guidelines on the specification of measures to reduce or remove impediments to resolvability and draft RTS on independent valuers).

38. It was explained that the BRRD required resolution authorities to draw up resolution plans, updated at least annually, for institutions and groups. The EBA was mandated to develop draft RTS further specifying the contents of the resolution plan.

39. In parallel with updating resolution plans, resolution authorities were required to assess the extent to which institutions and groups were resolvable, without assuming extraordinary public financial support, central bank emergency liquidity assistance, or other non-standard central bank liquidity assistance. The EBA was mandated to develop draft RTS specifying the criteria for this assessment. If this process identifies impediments to resolvability, a process to address them kicks in.

40. The assessment of resolvability serves three purposes: quality assurance for resolution plans and strategies, informing their development and updating, and identification of impediments. For groups, such an assessment would be done in the resolution college.
41. The BSG Working Group Coordinator on Recovery, Resolution and Systemic Issues updated BSG Members on the Working Group's activities. The BSG had responded to the Draft GL on the types of tests, reviews or exercises that may lead to support measures under Article 32(4)(d)(iii) of the BRRD [EBA/CP/2014/17]. Further four submissions regarding CPs in the area of recovery and resolution were underway.
42. The BSG viewed that the BRRD acknowledged the existence of situations where extraordinary public support may not in itself be a condition that sufficiently demonstrates that an institution is failing or likely to fail.
43. It was noted that banks may cooperate in drawing up the resolution plan, but that coordination between the resolution authority and the supervisor would be welcome. The resolution authority should carry out the resolvability assessment annually and after any material change and should notify the supervisor, the EBA, and the Commission whenever the bank is deemed not to be resolvable. Further, the resolution authority should assess the feasibility and credibility of the liquidation of the institution under normal insolvency procedures.
44. Regarding the identification of other systemically important institutions (O-SIIs), the EBA staff explained that a two-step approach would be followed, i.e. a quantitative framework with supervisory overlay. In the first step, the mandatory quantitative framework would be applied, while in a second step the supervisory overlay is applied. The latter would leave limited room for supervisory judgment and national specificities, where these are required.
45. It was agreed that the Working Group on Recovery and Resolution would take forward its work underway, as scheduled, and await further EBA Consultation Papers.

(h) Risk concentration and intra-group transactions under Article 21a (1a) of the Financial Conglomerates Directive

46. It was noted that the Joint Committee was mandated to develop these RTS. The draft RTS focused on the minimum requirements Member States, coordinators and relevant competent authorities should consider for identifying and supervising significant Risk Concentrations (RC) and Intra Group Transactions (IGT). The draft RTS sought to clarify the meaning of "significant" RC and IGT given significant RC and IGT have to be reported.
47. The BSG agreed to develop an Opinion on JC CP 2014 04.

(i) EBA work on consumer protection

48. The EBA staff reported on the outcomes of the recent BoS meeting, i.e. the Guidelines on Payment Commitments to DGS and the timing of implementation of Guidelines on the security

of internet payments prior to the transposition of the PSD2. Also, the EBA would work on the Payments Accounts Directive (PAD), which included its mandate for the comparison of bank accounts and their costs to consumers.

49. It was also noted that the three ESAs had issued a reminder to financial institutions regarding some institutions' practices that include selling to their own client base financial instruments that they themselves have issued and that are eligible to comply with capital requirements. This practice may breach a number of rules governing the conduct of these institutions.

50. The BSG discussed whether the EU institutions should be approached to argue that the EBA's legal powers regarding the banning of products/practices is too restrictive as it is dependent on the EU Council declaring a risk to financial stability. A product ban for consumer protection reasons is not provided for in the EBA's regulation.

51. Regarding several of the EBA work products the lead contributors for the BSG Opinions were assigned, i.e. on:

- Structured deposits,
- Guidelines on Product Oversight and Governance,
- Mortgage Credit Directive - Creditworthiness assessment,
- Mortgage Credit Directive - Arrears handling.

52. No lead had yet been assigned to:

- Security of Internet Payments.

Agenda item 5.: BSG Standing Technical Working Group on Consumer Issues and Financial Innovation

53. The BSG Chair explained that he had been invited to attend the next FSUG meeting on 23/24 October 2014. Further, the EBA's Head of Consumer Protection and Financial Innovation was awaiting an invitation, if the FSUG agrees, as mentioned by some Members of the BSG.

Agenda item 6.: Presentation on banking culture

54. It was intended to discuss a presentation on banking culture, which followed from a report issued by ResPublica titled "Virtuous Banking: Placing Ethos and Purpose at the Heart of Finance" to which the BSG Chairperson contributed. Reference would also have been made to the proposed Banking Standards Review Commission in the UK. The presentation was postponed to the December BSG meetings.

Agenda item 7.: Report from the BSG Standing Technical Working Group on Capital and Risk Analysis

55. The Coordinator of the Standing Technical Working Group on Capital and Risk Analysis updated on recent work undertaken by the Working Group. Since the 26 June 2014 BSG meeting, the

Working Group had completed responses on four Consultation Papers, i.e. [EBA/CP/2014/06], [JC/CP/2014/03], [EBA/CP/2014/07] and [EBA/CP/2014/08].

56. Another three responses were currently under preparation within the Working Group, i.e. regarding [EBA/CP/2014/10], [EBA/CP/2014/11], and [EBA/CP/2014/14]. It was decided not to respond to [EBA/CP/2014/12] and [EBA/CP/2014/13].

Agenda item 8.: Preparation of the next Joint BSG/BoS meeting

57. It was noted that the meeting format of the last Joint BSG/BoS meetings worked sufficiently well and that the BSG would suggest continuing with that approach, i.e. that a Member of the EBA staff, a BoS Member and a Member of the BSG would give a presentation of a particular topic of their choice, followed by contributions from discussants.

58. The BSG Members were asked to suggest any possible items for discussion at the Joint meeting to the BSG Chair by 5 November 2014. Subsequently, the BSG Chair and the EBA staff would further liaise on the agenda for the next Joint BSG /BoS meeting on 10 December 2014.

Agenda item 9.: Preparation of the next meeting and 2015 meeting dates

59. The BSG was reminded of the remaining 2015 meeting dates. BSG Members were reminded to provide suggestions for the structure/content of BSG meetings and Joint meetings.

Agenda item 10.: AOB

60. The EBA staff thanked the BSG for comments to the EBA's draft 2015 Work programme and informed that the EBA's and the Joint Committee's 2015 Work Programmes would be published soon.

61. The BSG Members asked the EBA to publish its BoS meeting minutes more timely.

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

London, 18 September 2014

<u>BSG Member</u>	Representing
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
Javier Contreras	Consumers
Mike Dailly	Consumers
Nikolaos Daskalakis	SMEs
Santiago Fernández De Lis	Credit and investment institutions
Chris De Noose	Credit and investment institutions
Ernst Eichenseher	Credit and investment institutions
Jose Antonio Gonzalo-Angulo	Top-ranking academics
Sandra Hafner	Credit and investment institutions
Troels Hauer Holmberg	Consumers
Zdenek Hustak	Top-ranking academics
Alin Iacob	Users of banking services
Robin Jarvis	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
Ute Meyenberg	Employees
Jesper Bo Nielsen	Employees
Robert Priester	Credit and investment institutions

From the EBA

Adam Farkas

Mark Adams

Stefan Andresen

Samuel Da Rocha Lopes

Thomas Dohrn

Slavka Eley

Dirk Haubrich

Corinne Kaufman

Massimiliano Rimarchi