



EBA BSG 2014 95

BSG

9 December 2014 / 9.30-17.00

Location: London

Banking Stakeholder Group Meeting – Minutes

Agenda item 1.: Welcome and Approval of the Agenda

1. The BSG Chairperson and the EBA Chairperson welcomed the BSG members. The BSG Chairperson stated that this meeting would be the last held in the EBA's current premises before the EBA moves to Canary Wharf. The agenda was approved.
2. With regard to the European Commission's Report¹ on its review of the European System of Financial Supervision (ESFS), the BSG Chairperson proposed that the BSG members reassess (in the first half of 2015) whether to provide a submission to the European Commission, possibly in conjunction with the other ESA Stakeholder Groups, especially noting the ESAs' budgetary constraints.

Agenda item 2.: BSG Chairperson to update on developments

3. The BSG Chairperson referred to the Financial Services User Group (FSUG) meeting held on 24 October 2014 to which he was invited, together with the EBA's Head of Unit for Consumer Protection and Financial Innovation. The BSG members who also participate in FSUG reported that the FSUG supported collaboration with the BSG on possible joint projects. It was noted that the FSUG had more resources available compared with other Stakeholder Groups, including the BSG.
4. The BSG Chairperson provided feedback on the EBA's Policy Research Workshop, where the BSG Chairperson and Vice-Chairperson contributed. He informed that the papers have been published on the [EBA's website](#).

¹ See http://ec.europa.eu/finance/general-policy/docs/committees/140808-esfs-review_en.pdf published on 8 August 2014.

Agenda item 3.: General Updates on Regulatory and Oversight Developments

a) EBA Chairperson to Update on General Developments

5. The EBA Chairperson updated the BSG on on-going regulatory developments. First, he informed on the result² of the EU-wide stress test exercise, whose results were published on 26 October 2014. He informed that the EBA's Board of Supervisors (BoS) would consider in early 2015 whether to conduct a stress test exercise in 2015
6. Some BSG members raised certain concerns on the stress test exercise, particularly on the methodology.
7. Also noted, was the EBA's on-going work on its regular risk assessment report. Another Consumer Protection Day is to be organised on 3 June 2015 in Frankfurt together with EIOPA and ESMA.
8. With regard to the Basel Committee on Banking Supervision (BCBS)'s review on the consistency of the implementation of the Basel III standards, the EBA Chairperson indicated that the prudential regulatory framework in the EU was evaluated as "materially non-compliant" with regards to some of the minimum standards prescribed under the Basel framework, whereas the United States was assessed as "largely compliant". The EBA Chairperson stated that this assessment gave the Europeans the opportunity to develop greater compliance with the Basel III standards, since many of the non-compliant points were currently being discussed through regulations/delegated acts under the CRDIV-CRR.
9. With regard to the review of the European System of Financial Supervision (ESFS), the EBA Chairperson informed that the conclusions of the Economic and Financial Affairs Council's meeting discussing the review had recently been published³. In respect of the EBA's resources, the EBA Chairperson noted that in President Juncker's Mission letter⁴ to Jonathan Hill (European Commissioner for Financial Stability, Financial Services and Capital Markets Union) the Commissioner was tasked with exploring the possibility for the ESAs to go to a market-based funding solution. Due to EBA's 2015 budget cut, the EBA Chairperson emphasised the possibility for reprioritising the EBA's 2015 work programme.

b) Short update on EBA and Joint Committee Work Programme

10. The EBA staff updated on the EBA's envisaged consultations for December 2014 and for the first two months of 2015. Also, the EBA staff presented the Joint Committee's envisaged

² <http://www.eba.europa.eu/-/eba-publishes-2014-eu-wide-stress-test-results>

³ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ecofin/145696.pdf

⁴ http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/hill_en.pdf

consultations in the next three months and the EBA's reports and the opinions that may be published in December 2014.

11. The BSG Chairperson raised the possibility for the BSG to have discussion(s) with EBA staff on specific topics when necessary as this was found to be helpful in the past.

Agenda item 4.: Workstream of BSG Technical Working Groups

a) Reports from BSG Standing Technical Working Group

12. The BSG Chairperson explained that the BSG had submitted 10 responses to EBA papers since the last BSG meeting held on 18 September 2014 and 7 further opinions to EBA consultation papers would be submitted over the coming days. The BSG members were requested to consider whether to provide a response to the EBA's envisaged Consultation Paper on proposed Guidelines on limits to exposures to shadow banking entities. The BSG Chairperson also invited the BSG members to contribute to the EBA's next Risk Assessment Report.

13. The BSG Working Group Coordinator on Capital and Risk Analysis updated BSG members on the Working Group's activities. She mentioned that the Working Group had planned to respond to three Consultations that had not yet been allocated, namely on :

- Consultation on draft RTS on materiality threshold of credit obligation past due (EBA/CP/2014/32) – Deadline: 31/01/2015
- Consultation on RTS on minimum requirement for own funds and eligible liabilities- MREL (EBA/CP/2014/41) – Deadline: 27/02/2015
- Consultation on RTS on assessment methodology for IRB approach (EBA/CP/2014/36) – Deadline: 12/03/2015

b) Allocation of BSG work

14. The BSG decided to respond to the following Consultation papers, and allocation amongst BSG Members as to leading in preparing the BSG's response was respectively allocated:

- Consultation on draft Regulatory Technical Standards on materiality threshold of credit obligation past due (EBA/CP/2014/32) – Deadline: 31/01/2015
- Consultation on Guidelines on methods for calculating contributions to Deposit Guarantee Schemes (DGSs) (EBA/CP/2014/35) – Deadline: 11/02/2015
- Consultation on Regulatory Technical Standards on assessment methodology for IRB approach (EBA/CP/2014/36) – Deadline: 12/03/2015
- Consultation on Guidelines on product oversight and governance arrangements for retail banking products (EBA/CP/2014/37) – Deadline: 10/02/2015
- Consultation on Guidelines on the rate of conversion of debt to equity in bail-in (EBA/CP/2014/39) – Deadline: 06/02/2015
- Consultation on Guidelines on the treatment of shareholders in bail-in (EBA/CP/2014/40) – Deadline: 06/02/2015
- Consultation on RTS on minimum requirement for own funds and eligible liabilities (MREL) (EBA/CP/2014/41) – Deadline: 27/02/2015

- Joint Discussion Paper on Key Information Documents (KIDs) (JC/DP/2014/02) – Deadline: 17/02/2015
15. Regarding one outstanding Consultation Paper (EBA/CP/2014/32), the BSG members were requested to appoint a drafting team leader, if they judge it is worth submitting some comments.

c) Discussion of Proportionality project

16. The BSG coordinator of the Ad Hoc Working Group on Proportionality reported on the work done to date by the Working Group, and presented its draft report.
17. The BSG Chairperson whilst recognising the need to strike a balance between perfect harmonisation and complexity, suggested that the Working Group edit its draft report, introduce some case studies adding more analytical input, and possible specific recommendations.
18. It was noted that a further meeting of the Proportionality Working Group may be convened (which may be held by conference call).

Agenda item 5.: Specific Updates on Regulatory and Oversight Developments

a) Supervisory Review and Evaluation Process (SREP) Guidelines

19. One BSG member presented the BSG's position on the EBA's Draft Guidelines on the SREP. He thanked the EBA staff for hosting a meeting between some BSG members and EBA staff so as to clarify several points in the Consultation Paper.
20. The BSG member emphasised the positive key points reached. The BSG highlighted the importance of the dialogue between supervisors and banks, which was also supported by the EBA. The BSG members also stressed the added value of banks' own internal models. Some BSG members viewed that banks should have the option available to them to develop their own approaches. The EBA staff pointed out that the starting point of the SREP capital assessment for Pillar 2 risks are the internal estimates coming from the ICAAP which, however, are challenged by supervisory benchmarks. The overall ICAAP is subject to a more comprehensive supervisory review for the purposes of assessing the risk and capital management framework of banks. The EBA staff provided the BSG with further clarifications regarding the use of benchmarks in the SREP. Benchmarks in the SREP are different from peer group reviews, and have to be understood as a control methodology used to challenge banks' internal capital estimates.
21. The BSG raised concerns on lack of recognition for sectoral and geographical diversification, but the EBA staff clarified that, under the condition that the Pillar 1 requirements represent a risk-by-risk floor, the Guidelines recognise intra-risk diversification, which includes sectoral and

geographical diversification, but not the inter-risk diversification. This is consistent with the CRDIV text on diversification. However, from the BSG's point of view, it remained a concern on the articulation between Pillar 2 capital add-ons and combined buffer requirements with respect to the practical implementation of Article 141 of CRDIV.

22. The draft Guidelines have incorporated a new concept in the legislation, known as "Total SREP Capital Requirement" (TSCR) which is defined as the sum of own funds requirements as set out in Article 92 of CRR ("Pillar 1") and additional own funds requirements as set out in Article 104 of CRD ("Pillar 2"). However, the TSCR (i.e. a combined Pillar 1 and Pillar 2 requirement) is placed below the capital conservation buffer, since it is a binding requirement which shall be met at all times. Reference was made to the Commission's FAQ with regard to the CRDIV-CRR.
23. Further, the issue of transparency of this additional Pillar 2 minimum capital requirement was raised, as the disclosure on a case by case basis might be problematic in certain countries. The EBA staff mentioned that the disclosure could not be addressed directly by the Guidelines. It was noted that the EBA's BoS was still assessing this issue. The EBA staff offered to update the BSG in due course.

b) Update on risks

24. The EBA staff presented the main findings of its upcoming Risk Assessment Report which would be published soon. It was based on key risk indicators and a risk assessment questionnaire filled in by the banks and the bank analysts.
25. The EBA staff noted several improvements regarding banks' increasing capital level, and also the decreasing volatility on market risks. The EBA staff indicated that some banks expected a steady state or marginal improvement of their credit portfolios over the next year. However, the main risks are focused on liquidity and funding. In terms of profitability, profits remain under pressure, partly due to the clean-up after the ECB's comprehensive assessment and litigation costs. In the second half of 2014, return on equity (RoE) continued to decrease. Further, IT and cyber risks appeared to be increasing.
26. Some BSG members drew attention to the impact of the fines imposed on some banks in respect of misconduct that have reduced banks' profitability. From a consumer protection perspective, certain BSG members questioned whether the fines were ultimately paid by the banks or would they eventually be passed on to consumers.
27. BSG members identified other increasing risks, such as higher credit spreads, covered bonds and internal model risks. They considered that there was generally a high risk environment. To mitigate such risks, some BSG members suggested that increasing amounts of capital would reduce intrinsic risks but also have an impact on the banks' environment. The banks should also focus on operational risks. They noted the impact of the continued low interest rate environment that improved liquidity in the markets but subdued profitability.

28. Some BSG members observed that cost cutting was a response to the decrease of banks' RoE.

29. BSG members were invited to provide the EBA with further comments as soon as possible.

c) Draft RTS on assessment methodology for internal ratings-based (IRB) approach

30. The EBA staff updated the on-going Consultation Paper on draft RTS as required by Articles 144(2), 173(3) and 180(3)(b) of the CRR to specify the assessment methodology which competent authorities shall follow in assessing the compliance of an institution with the requirements to use the Internal Ratings Based Approach (IRB Approach). The EBA staff informed that a public hearing will take place at the EBA's premises on 9 February 2015 and the consultation was planned to run until 12 March 2015.

31. The EBA staff highlighted that these draft RTS set out standards for competent authorities to help them assess an institution's compliance with minimum IRB requirements and gave further explanations on the assessment methodology of the IRB approach.

32. The EBA staff was asked to provide further clarifications on the independence of validation function from the risk control unit.

33. It was viewed by some BSG members that governance issues should be further clarified. Particular attention should be paid to small and medium size institutions that would face more difficulties to fund themselves when banks apply strict IRB approaches.

d) Recovery and Resolution

34. The EBA staff updated on the various recovery and resolution draft regulatory products under consultation, including on MREL, valuation, simplified obligations, triggers for early intervention and resolution, recovery plan indicators, and DGS contributions. The continuum between on-going supervision, early intervention and resolution was also explained.

35. One BSG member observed that the EBA Consultation Papers had reached a good equilibrium between the main aspects laid down by the BRRD and the Financial Stability Board's TLAC framework as approved in the recent Brisbane G20 meeting.

36. Regarding the Consultation Paper on draft Guidelines on triggers for resolution, concern was raised on the role of the National Competent Authorities (NCAs). It was noted that in some cases both the NCA and the Resolution Authority can take decisions. The EBA staff recalled that final decision-making responsibilities were set through a combination of level 1 text and national discretions, so could not be changed in these products. Resolution Authorities and the NCA have access to the same information and should each be able to take informed decisions in respect of their respective competences. Where Member States have chosen this option, the Resolution Authorities can take a decision to intervene, after consultation with NCAs; these products try to ensure that this does not result in inconsistent approaches being applied.

37. Further, the BSG members called for enhanced flexibility in the application of the Guidelines on triggers due to the interplay between mandatory and optional indicators.

e) EBA work on consumer protection

38. The EBA staff provided an overview of the recently published consultations and discussion papers, such as the forthcoming regulatory products subject to public consultation regarding Consultation paper on the EBA Guidelines on the security of internet payments, final Consultation paper on the EBA Technical Advice on intervention criteria for structured deposits under MiFIR, a Discussion Paper on draft requirements on passport notifications for credit intermediaries under the MCD, a Consultation Paper on draft guidelines on creditworthiness assessment under the MCD, and Consultation Paper on draft Guidelines on arrears and foreclosure under the MCD and updated the BSG on the forthcoming regulatory products to which the EBAs' BoS approval would shortly be sought.

39. The EBA staff informed that it intended to publish the EBA's Consumers Trend report in June 2015. It would focus on two major aspects: i) a common set of topics every year – mortgages, personal loans, bank accounts, savings, payments and ii) more topical issues reported by national supervisory authorities and the BSG. The EBA will send a questionnaire to the BSG in January 2015, in this regard, and also request that the BSG identify 5 important issues for the EBA to monitor.

40. Regarding the Consultation Paper on security of internet payments, the BSG pointed out its concern in relation to the existence of competent authorities to implement EBA guidelines on the security of internet payments. The EBA staff was requested to provide the BSG with further information.

f) Packaged Retail and Insurance-based Investment Products (PRIIPs)

41. The EBA staff shortly presented the Joint Discussion paper on Key Information Document for Packaged Retail and Insurance-based Investment Products (PRIIPs).

42. The BSG sought detail on the proposed consumer testing and process to be followed by the EBA/ESAs staff. The EBA staff explained that the qualitative and quantitative testing will be conducted by the European Commission, and will include face to face and focus group interviews.

Agenda item 6.: Presentation on Chartered Banker: Professional Standards

43. One BSG member gave a presentation on the Professional Standards Board (PSB⁵) work on professional banking standards as a response to the crisis of the banking sector. He demonstrated that regulation had not substantially impacted the banking culture. Thus, an alternative to regulation could be considered. The BSG member explained further the structure, the development and the monitoring of standards.
44. BSG members drew a parallel with the medical profession that is funded by medical practitioners and issues its own rules. They questioned whether such a regime might be applied to the banking industry.
45. BSG members noted the wide diversity of people working in banking, and questioned whether banking could be considered as a profession. Further, they questioned whether it was appropriate to impose a threshold on the profession, potentially limiting the access to the profession and the involvement of employees.
46. Also BSG members noted that it might be difficult to introduce ethical rules when people were already advanced in their career, compared to professions where ethical rules are adopted at entry, such as post-graduation from university.
47. More broadly, BSG members viewed that bankers should provide more clarity in distinguishing between their individual profits and the common interest so as to avoid an opaqueness which is detrimental to the whole profession.

Agenda item 7.: Preparation of the next day's Joint BSG/BoS meeting

48. The BSG members took stock of the agenda and the BSG proposed speakers for the BSG/BoS joint meeting to be held on 10 December 2014.

Agenda item 8.: Next meeting dates

49. The BSG Chairperson reminded the BSG members of the 2015 meeting dates:

- 03 March 2015 – BSG only, Canary Wharf;
- 27/28 April 2015 – BSG only and Joint BSG/BoS, Canary Wharf;
- 23 June 2015 – BSG only, Canary Wharf;
- 26/27 October 2015 – BSG only and Joint BSG/BoS, Canary Wharf;
- 15 December 2015 – BSG only, Canary Wharf.

50. One BSG member asked the EBA staff to consider whether to organise a joint dinner with BoS members ahead of the next Joint BSG/BoS meeting.

Agenda item 9.: Any other items

⁵ The PSB is an initiative of the UK banking community launched in October 2011 and focused on individuals rather than banks



51. The BSG chairperson informed the BSG that 2 members were standing down from the BSG, Erin Mansfield and Magdolna Szőke. He thanked them for their contributions to the BSG.

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

London, 9 December 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
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
Eilis Ferran	Top-ranking academics
Jose Antonio Gonzalo-Angulo	Top-ranking academics
Sandra Hafner	Credit and investment institutions
John Hollows	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
Magdolna Szóke	Credit and investment institutions

From the EBA

Andrea Enria
 Adam Farkas
 Mark Adams
 Stefan Andresen
 Cédric Coraillon-Parquet
 Malgorzata Florczak
 Piers Haben
 Dirk Haubrich
 Corinne Kaufman
 Alessandro Nardi
 Tomasz Nastarowicz
 Elisabeth Noble
 Tea Turcaniova