



# END OF TERM OF OFFICE REPORT OF THE EBA'S BANKING STAKEHOLDER GROUP

**EBA**

EUROPEAN  
BANKING  
AUTHORITY

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## PREFACE

We have pleasure, on behalf of the second Banking Stakeholder Group (BSG2) of the European Banking Authority (EBA), in submitting the end of term of office report of the Group, covering the period from its appointment in October 2013 to the expiration of its mandate in April 2016.

The BSG strongly supports all institutional arrangements (including the establishment of the stakeholder groups of the European Supervisory Authorities (ESAs)) that facilitate stakeholder inputs into the regulatory process. The BSG is an integral and important part of the requirement for EBA to consult with stakeholders in areas relevant to the tasks of the EBA. Discussions at BSG meetings, the work of its Technical Working Groups (TWGs), and the reports produced by BSG, provide inputs to EBA and thereby hopefully creating value related to regulation of the European banking and financial industry.

This report covers five main areas: the appointment, structure and working methods of the BSG and its interface with EBA; the activity and output of BSG2; the work of the three Standing Technical Working Groups and *Ad Hoc* TWGs that were established early in the BSG's term of office; and an overview of some common themes that emerged in the BSG's responses to EBA Consultation Papers. The report concludes in section 5 with a set of recommendations for the future role and work of successor stakeholder groups with a view to enhancing the effectiveness. Further detail, most especially with regard to the output of the BSG, is available on the EBA website and summarised in Annex 1 of this report. Annex 2 lists the members of BSG2 and Annex 3 gives the membership of the three Technical Working Groups.

According to Article 37[5] of the Regulation establishing the EBA, "the Banking Stakeholder Group may submit opinions and advice to the Authority on any issue related to the tasks of the Authority with particular focus on the tasks set out in Articles 10 to 16 and Articles 29, 30 and 32". These relate to: Regulatory Technical Standards (RTS); Implementing Technical Standards (ITS); Guidelines and Recommendations; Common Supervisory Culture; Peer Reviews, and market developments.

The mission of the BSG is, therefore, to inform and advise the EBA on all aspects of its work drawing on the perspectives, expertise, and experience of the different constituencies represented in its membership. Within this context, it is committed to promoting regulation that is both effective (in that it achieves what it is designed to do) and efficient (in that it is proportional and not unnecessarily burdensome). It is further committed to the objective of establishing a common rule book for the EU area and a common supervisory culture so as to limit the scope for regulatory arbitrage both within countries and between them. In pursuing this mission, the specific roles of the BSG are: to engage in a dialogue with the EBA on regulation before final decisions are made most especially with respect to RTSs and ITSs; to monitor the work of EBA and its work programme; and to advise on market trends. A major role of the BSG is to give detailed and considered published comments on RTSs and ITSs (see below and Annex 1).

The BSG has not restricted itself only to commenting on EBA consultation papers even though this is one of its key functions. Through its *Ad Hoc* Technical Working Groups it has also taken initiatives independently of the EBA's day-to-day workflow. For instance, it produced a major report on *Proportionality in Bank Regulation* and made a submission to the BCBS on Capital Floors and Risk Weights (both are discussed further later in this report). The whole work of the BSG is strictly independent of the EBA and should never be ascribed to the EBA's experts and top

officials, and this is especially true in the case of such special reports and *ad hoc* submissions, which do not entail any type of endorsement, or implicit approval, by the EBA.

As set out in the EBA Regulation, the main tasks of the BSG are:

- ▶ To advise the EBA on actions taken in accordance with Articles 10 to 15 of the EBA Regulation concerning regulatory technical standards and implementing technical standards. In particular, the BSG shall be consulted on actions concerning Regulatory Technical Standards (RTS) and Implementing Technical Standards (ITS), guidelines and recommendations, to the extent that these do not relate to individual financial institutions
  
- ▶ To advise the EBA on measures taken in accordance with Article 16 of the EBA Regulation concerning guidelines and recommendations, to the extent that these do not concern individual financial institutions.

Furthermore, and without necessarily being invited by EBA, the BSG may submit opinions and advice to the EBA on any issue related to the tasks of the EBA with particular focus on:

- ▶ a common European supervisory culture and consistent supervisory practices,
  
- ▶ peer reviews of competent authorities, and
  
- ▶ contributing to the EBA's assessment of market developments.

Also, the BSG may request the EBA, as appropriate, to investigate the alleged breach or non-application of European Union law (Article 17 [2]).

Because of its diverse membership from six different constituencies, the BSG represents an unrivalled combination of different expertise and perspectives on regulatory issues related to banking. It is a major resource. The key is how to harness this for maximum advantage. There are several ways through which the BSG can add value to the regulatory process and contribute to the ultimate objective of effective and efficient regulation in the banking sector:

- By bringing to the process the different expertise, experience and perspectives of the wide range of stakeholders represented in the BSG. In this regard, and through the six constituencies, the BSG represents an unrivalled combination of expertise and perspectives where we judge that its total value is greater than the sum of the parts.
  
- Commenting with an adequate level of technical detail on the documents (most especially, but not only, RTSs and ITSs) issued by EBA. This contributes in turn to the key EU regulatory objective of creating a sound common rule book and supervisory culture.
  
- Advising and assisting the EBA in assessing the potential impact of proposed draft regulation and IT standards, guidelines, and recommendations.



- Providing market intelligence on developments and innovation in banking and financial markets and highlighting potential problem areas.
- Contributing to longer-term strategic issues in the regulatory process, highlighting in particular areas insufficiently or excessively covered by regulation. In this context, we mention the BSG report on *Proportionality in Bank Regulation* issued by the BSG in December 2015, which was written not in response to any particular regulatory requirement but to raise awareness with the EU legislator and competent authorities that proportionality needs to be respected when legislation and detailed regulatory requirements are being drafted or further interpreted and applied.
- Submitting relevant opinions on the initiative of the BSG rather than as a response to an EBA document.

The BSG's ability to effectively discharge such duties has greatly benefited from the professionalism and commitment of Andrea Enria (Chairperson of EBA), Adam Farkas (Executive Director), who have attended virtually all meetings, and their colleagues at the EBA. We would like to pay tribute to them for the substantial assistance given to the BSG most especially with regard to the preparation of meetings and their presentations at its meetings. There is a strong commitment to the BSG by EBA and the potential value of its work, and its support, cooperation and assistance is much appreciated. We are also particularly grateful to Corinne Kaufman, Stefan Andresen, and Cédric Coraillon-Parquet, who have been important channels of communication between the BSG and the EBA and who have given assistance to BSG in many ways. With respect to the production of this report, we gratefully acknowledge the technical assistance of Cédric Coraillon-Parquet. However, this is a report exclusively of the BSG and any opinions expressed do not necessarily reflect the views of any EBA staff member or of the EBA generally.

Lastly, but by no means least, we pay tribute to all BSG colleagues and the collegiate ethos that developed over the two and a half years of its operation, and for the dedication and substantial input of time they have given to making the BSG an effective and integral part of the regulatory process. Their expertise and commitment has been an invaluable asset, without which the BSG could not be effective.

A general concern relates to the funding of the EBA itself. At a time when the demands made upon it have increased and more areas of responsibility are being added, it is anomalous that the EBA's budget has been cut significantly. Of course, we recognise that, as with all institutions, the EBA is required to be efficient in the way its limited resources are used. But equally, it needs to operate with maximum effectiveness and this has important resource implications in terms of both personnel and finance.

David T Llewellyn (Chairperson)  
Loughborough University  
15<sup>th</sup> April, 2016

Andrea Resti (Vice-Chairperson)  
Bocconi University

## 1. APPOINTMENT AND STRUCTURE

In this section we outline some features of the operation of BSG and in particular its membership, its working structure, and the conduct of BSG meetings

### 1.1. Membership

Many of the members of the BSG are, in one way or another, directly or indirectly involved in implementing EBA regulation and, therefore, their perspectives and expertise are particularly valuable. We strongly believe that the diversity of membership from the six constituencies (see below) brings strength to the work of the BSG which is not dominated by a single constituency. However, whilst all members are appointed by the EBA's Board of Supervisors to reflect the perspectives and expertise of different constituencies, each member serves in a personal capacity and is committed to take into account the views and concerns of other classes of stakeholders

The setup of the BSG and its general features are set out in Article 37 of the EBA Regulation. This states that members shall serve on the BSG for a period of 2½ years, with the possibility of renewal for one further term of office. The mandate of the current BSG terminated formally on 15<sup>th</sup> April 2016. We believe that, due to the steep learning curve for members, the mandate of each BSG should be extended to four years. It is important to strike a good balance between continuity of membership and the introduction of new members. For this reason, we welcome the change in approach compared with BSG1 which means that in the event of a member standing down before the expiry of his/her mandate, a successor is appointed for a full term rather than for the remainder of the term of the person who has stood down. This enables there to be a good balance of continuity and the introduction of new members. Several members of BSG1 were re-appointed to BSG2.

The BSG is composed of thirty members to represent in balanced proportions credit and investment institutions operating in the EU, their employees' representatives as well as consumers, users of banking services, representatives of Small and Medium-sized Enterprises, and independent Top-Ranking Academics (see EBA Regulation Article 37[2] and [3]). The EBA and the BoS undertake a rigorous selection process from those persons who, in response to a public Call for the Expression of Interest, had expressed interest in membership.

It may not always be easy to fulfil the somewhat rigid requirements of the balance of BSG membership as between different constituencies, and in 2013 the Ombudsman was critical of some aspects of the membership of BSG1. This may also be compounded by also having additional requirements with respect to nationality, gender etc. We believe that the issue of effectiveness of BSG (and recognising the sometimes limited number of applications to fill each of the six constituencies) is equally, if not more, important. Consideration should be given to whether the formal structure of BSG membership could be made more flexible.

The full membership of the BSG is given in Annex 2 of this report. The structure of membership is designed to reflect the experience, expertise and diversity of a wide range of stakeholders. The composition of the BSG2 has been composed of thirty members (from 13 countries) representing these constituencies:

- ▶ 10 representatives of Credit and Investment Institutions (four of whom represented Cooperative or Savings Banks);
- ▶ 6 independent Top-Ranking Academics;
- ▶ 4 representatives of Users of Banking Services;
- ▶ 6 Consumer representatives;
- ▶ 2 representatives of Small and Medium Enterprises (SMEs); and
- ▶ 2 Employee representatives.

At its first meeting, the BSG members elected Professor David T Llewellyn as Chair of the BSG, and Professor Andrea Resti as Vice-Chair, both of whom had been members of BSG1 (Professor Llewellyn as Chair for part of the time).

The role of the Chair and Vice Chair of BSG can at times be demanding which means that the people elected to these positions should have the time and flexibility to devote to it.

## 1.2 BSG working structure

In order to enhance the efficiency and effectiveness of BSG, three Standing Technical Working Groups were established at its first meeting: *Capital and Risk Analysis*; *Recovery, Resolution and Systemic Issues*, and *Consumer Protection and Financial Innovation*. This structure was designed to reflect the key priorities of the EBA.

In addition, the BSG decided to establish the principle of *Ad Hoc* Technical Working Groups to consider broader issues not immediately emanating from EBA, but rather at its own initiative. In this regard, an ad hoc TWG was established to undertake an in-depth study of proportionality and it issued a detailed report (*Proportionality in Bank Regulation*) in December 2015. Also, a group was established to make a response to the BCBS's discussion papers on Capital Floors and the New Standardised Approach.

## 1.3 BSG meetings

The Regulation establishing the EBA requires the BSG to meet on a minimum of four occasions each year though there is the possibility of more frequent meetings. The second BSG revised Article 11, paragraph 38 of the Rules of Procedure so that failure to attend two consecutive meetings of the Group shall be deemed to be a failure to perform the member's duties. In such a case, in consultation with the BSG Chairperson, the Authority may ask the Board of Supervisors to vacate the current position and to select a new Group member.

Typical agenda items of BSG meetings include updates on regulatory and market developments, updates on the work programme of the EBA, the future flow of consultation documents and ITs and RTs, allocations of responsibility to take the lead in writing BSG submissions, presentations by EBA staff and BSG members, discussion of BSG opinions regarding EBA (or Joint Committee) regulatory products, and reports of the BSG Technical Working Groups. The Chair of the EBA gives regular and extremely valuable updates on regulatory issues.



While the period of time allocated to the consultation with the BSG (on ITSs, RTSs and Guidelines) overlaps with that of the public consultation (i.e., the two run in parallel, not in sequence), in some cases the EBA has given presentations to the BSG ahead of the launch of the formal consultations. This has proved hugely beneficial, not only in allowing the BSG more time to draft its response, but also in facilitating a dialogue with EBA experts since the early stages of the consultation process.

The agendas of each meeting have been determined jointly by the EBA and the Chairperson and Vice-Chairperson of the BSG having consulted all members of the BSG. Every BSG member is given the opportunity to suggest agenda items. Staff of EBA typically open the discussion of each substantive agenda item with a presentation outlining the EBA's policy and plans for RTSs and ITSs.

The BSG met in full on thirteen occasions over its two-and-a-half year mandate. The agenda and minutes of all of the meetings are available on the EBA website.

## 2. BSG ACTIVITY AND OUTPUT

This section gives an overview of the BSG's activity and output with more detail given in the following section.

### 2.1. Work of the BSG

The work of the BSG extends far beyond the four or five meetings it has held each year. It also includes conference calls to discuss drafts of BSG submissions, writing of opinions both in response to documents issued by the EBA and at its own initiative, liaising with EBA staff on technical and other issues, and contributing (individually and collectively) to the review of the ESAs conducted by the European Commission, the European Parliament, and the European Economic and Social Committee.

In addition, members of the BSG made contributions to the Joint ESAs Consumer Days, two EBA Proportionality Workshops held in 2014 and 2015, and to the EBA's two-day Research Workshops held in London in November, 2014 and 2015. The BSG strongly supports the EBA's initiative in organising such meetings and is gratified that they have become regular events. It is a matter of regret to BSG that, due to budgetary constraints imposed by the European Council, the EBA was forced to cut on travel reimbursements and could not extend financial support to BSG members working for non-profit organisations (other than speakers) wishing to attend such events.

The EBA has sought the opinion of BSG on its proposals in relation to its draft Regulatory and Implementing Technical Standards, as well as its proposed Guidelines and Recommendations. In some cases EBA has consulted BSG ahead of a public consultation and at an early stage in the construction of RTSs and ITSs. In addition, the BSG at its own initiative has issued opinions on issues related to EBA's remit.

The BSG has made a total of 73 submissions in response to EBA on the EBA's consultation papers on its Draft Regulatory and Implementing Technical Standards. These are available on the EBA website and are summarised in Annex 1.

In addition to the activities already mentioned, other activities include advice on the conduct of the EBA's stress tests, advice on the use of consumers' data by financial institutions, regular contributions to EBA's *Consumer Trends Reports*, a year-long study of proportionality (culminating in the publication of *Proportionality in Bank Regulation* and discussed at a joint BSG-BoS meeting and a workshop held for the Brussels community in January, 2016), an informal meeting with EBA staff on SREP guidelines, and advice to EBA on an *ad hoc* basis (e.g. innovative payments services).

## 2.2. Joint BSG-BoS meetings

It is a formal requirement that on two occasions each year there are to be joint meetings of the Banking Stakeholder Group and the EBA's Board of Supervisors (BoS) which are jointly chaired by the chairs of the BSG and EBA. These give useful opportunities for exchanges of views between the Group and the Board on key regulatory and related issues. The combined group met on five occasions.

The agenda for these meetings is set jointly by the BSG and EBA (on behalf of the BoS) and presentations have been given by members of both constituencies and the EBA. The usual format of each half-day meeting is that representatives of the BSG, the BoS and the EBA give presentations on key topics which are then discussed by the full meeting (starting with a discussant chosen from one of the other two constituencies). Issues discussed have included *inter alia*: market developments, consumer protection, the Recovery and Resolution regime, bank culture, proportionality in bank regulation, the reform of the standardised approach to credit risk, the ideal requisites for high-quality securitisations, the MREL, the TLAC, and securitisation.

The BSG has found these meetings to be potentially a valuable opportunity of exchanging views on key regulatory issued given the different perspectives and expertise of the two constituencies. However, we judge that more use could be made of these meetings which might, for instance, include a different format of the meetings. This is an issue that needs to be addressed jointly by the successors to BSG2 and the BoS.

## 3. TECHNICAL WORKING GROUPS

The work of the BSG is time-consuming most especially when several RTS and ITS documents emerge at the same time. Many of the documents are highly technical in nature, which means that the technical expertise within the BSG is crucially important. For this reason, and with the aim of streamlining its functioning and enhancing its effectiveness and efficiency, BSG created a dual structure of Technical Working Groups. Three Standing Technical Working Groups were established to undertake detailed work in the areas of *Capital and Risk Analysis; Recovery, Resolution and Systemic Issues; and Consumer Protection and Financial Innovation*. Each BSG member became a member of one or two of the specialist groups. The choice of these three areas was designed to reflect the immediate priorities of the EBA and the likely workflow from the Authority and especially with regard to the Recovery and Resolution regime.

The normal working pattern has been the following: one or more rapporteurs have written a draft text of the submission, which has been first shared with other Working Group members. The amended output has then been sent to all BSG members and, whenever possible, discussed in a plenary meeting. Comments and revisions by individual members were carefully considered and

included in the final text. When necessary, diverging positions have been carefully discussed and merged into a unitary statement. It should be highlighted that, in this process, the various members and constituencies of the BSG have constantly refrained from vetoing each other: instead, they have worked in good faith to merge different perspectives and sensitivities, in order to achieve a more robust and balanced text.

All submissions were made by the Chairperson or Vice Chairperson on behalf of the BSG.

### 3.1. Capital and Risk Analysis

The Working Group on Risk and Capital has delivered a number of submissions on EBA consultation during the period of BSG2. In this section we comment on some of the most important contributions during the period of BSG2. We chose two consultations from EBA and one consultation from BCBS

#### Draft Guidelines for common procedures and methodologies for the supervisory review and evaluation process under Article 107 (3) of Directive 2013/36/EU

This consultation is important because it translates the EU CRR/CRD4 regulation into the EU supervision, and describes the new general framework in which supervisors will work. However there are some key points that BSG emphasized in its submission. First of all, BSG emphasised strongly the importance of the dialogue that currently exists between institutions and their supervisors under the SREP: this should continue. There are specificities of business models and of national markets which need to be correctly understood and taken into account in order to achieve a fair and comprehensive SREP assessment of each institution.

Pillar 2 is a process banks should develop for assessing their overall capital adequacy in relation to their risk profile and strategy for maintaining their capital levels. The ICAAP and ILAAP should be tailored to each institution to appropriately reflect its capital and liquidity needs and should be grounded to the largest extent on internal estimations, methodologies and risk parameters, as appropriate.

The BSG also added its view regarding the following subsections of the consultation.

*Internal capital:* ICAAP and SREP are two elements inextricably linked, which jointly build the foundations for Pillar 2. The BSG does not support the limited point of view, where Pillar 2 would gradually become a “Pillar 1-add on-approach”.

*Diversification:* It is BSG’s view that diversification between risks is a key strategic choice for some institutions that has proven to be an effective and strong risk mitigation in the context of the recent financial crisis. *The role of benchmarks:* An excessively strong focus on benchmarks by the competent supervisors could lead to unintended effects, e.g. propagation of systemic risk / model risk and pro-cyclicality, which is certainly not the aim of supervision.

*The reconciliation with existing buffers:* Reconciliation of the TSCR (Total SREP Capital Requirements) with capital buffers and other macro-prudential measures is an important issue.

The BSG submission also emphasised that macro-prudential measures should be dealt with through arrangements and processes that ensure appropriate coordination between supervisory

bodies, as provided by Directive CRD IV and the CRR regulation, and should not be remediated on a case-by-case basis as part of the SREP, which would be detrimental to convergence of supervisory practices in the EU.

### Consultation Paper EBA/DP/2015/01 on the Future of the IRB Approach.

In its submission on this Consultation Paper the BSG underlined some key issues of concern. The BSG judges that specific attention should be paid to the interference with IFRS 9 and the work of the Basel Committee. The BSG does not see the added value or rationale for certain specific proposals, such as number-weighted LGD/CCF and the requirement that the estimated PD should not be less conservative than the long-run average of one-year default rates estimated from available data.

The BSG agrees with the proposed prioritisation of changes, but believe the proposed timeframe is unfeasible. Besides the simultaneous stress on resources by IFRS 9, the length and uncertainty of the prior regulatory approval process are major sources of concern.

The general direction of the proposed changes in the Consultation Paper seems adequate and supports the intention to reduce divergences between different institutions. However, for a complete assessment of the adequacy of the changes, the BSG needs to await further clarification of the requirements and the degree of flexibility that will be left to allow for an accurate risk measurement. In addition, the BSG deem certain specific proposals not to be appropriate to address the weaknesses in models: number-weighted LGD/CCF and the requirement that the estimated PD based on the reconstruction method should not be less conservative than the long-run average of one-year default rates estimated from the available data.

Finally, the BSG would welcome further guidance related to the LGD calibration methodology, PD estimation and back-testing procedures for risk parameters.

### BCBS: Revisions to the Standardised Approach for credit risk and Capital floors.

The BSG made a submission on the BCBS consultative papers issued for comments by March 2015. The main focus in the BSG's submission was on the combined effect of the Basel Committees consultations on a new standardised approach for credit risk and new capital floors.

The new standardised approach for credit risk is considered as a basis for a capital requirement floor. Although the BSG understands the objective of using the standard method to challenge the IRB methods' results, it is strongly against any reintroduction of automatic floor(s) because it would have too many drawbacks. The proposals must be analysed jointly in order to appreciate their potential impact on the banks' ability to identify, measure and cover credit risks. In its submission, the BSG called for a very careful consideration of the impact of the standards on smaller banks relying on the standardised approach, as well as on larger IRB banks impacted by the capital floors.

One significant shortcoming is that some of the new rules are over-simplified, and cannot capture risk accurately across different countries and sectors. Risk drivers built upon concepts that have no harmonised definitions across jurisdictions would not be conducive to better comparability. Accordingly, it is surprising that the BCBS proposal not only disregards differences in jurisdictions, but also across industries and entities. The residential real estate portfolio provides a good case in point.

The proposed new standardised approach would serve as a floor for capital requirements derived from internal ratings. This is likely to have a most significant impact on IRB portfolios, as there is a risk that such floors prove binding for a vast proportion of IRB banks. If that were the case, incentives towards investing in sophisticated credit risk management models might be jeopardised, quickly destroying the invaluable flow of risk information that such models provide to bank managers, investors (via Pillar 3), supervisors and policy makers at global and national levels. This is not to say that bank internal ratings do not somehow need to be revisited and disciplined. The BSG is aware that risk weights based on the IRB approach have prompted increasing scepticism among market participants, scholars and rule makers. Yet, adding further constraints that would limit the benefits associated with sound, risk-sensitive rating systems may not be the best step towards improving IRB credibility.

### 3.2. Recovery, Resolution and Systemic Issues

In 2014 and 2015 the EBA developed a very intense production of level two legislation in the area of recovery and resolution following the approval of the Bank Recovery and Resolution Directive (BRRD) in February 2014. This Directive was an essential piece of legislation in response to the crisis, with the objective of ensuring that banks can be resolved in an easier, faster and more reliable manner that minimizes the use of public funds and ensures the stability of financial and banking services, without provoking systemic problems or a disruption of critical economic functions.

In its role of clarifying the more technical aspects of the regulation and ensuring harmonization in its implementation across the EU, the EBA developed 16 Guidelines, 13 Regulatory Technical Standards, 4 documents of Technical Advice, and 3 Implementing Technical Standards related to the BRRD.

Accordingly, these BRRD-related materials were by far the most important area of activity for the BSG's Technical Working Group on Recovery, Resolution and Systemic Issues. However, three more Consultation Papers that fell under the domain of the TWG were produced by the EBA, namely on systemically important institutions and deposit insurance.

The BSG provided feedback to most of these pieces of legislation (25 submissions related to the BRRD alone); concentrating on those issues that the TWG felt were the most critical.

The EBA's production on recovery and resolution can be grouped in six broad areas: recovery plans, resolution plans, resolution process, resolution tools, valuation, and the institutional framework. We briefly summarise the EBA's production and the BSG's submissions in these areas.

1. Recovery Plans refer to the actions banks plan to take to address problems in cases where their situation begins to deteriorate. The EBA guidelines and RTS cover the scenarios to be used in recovery plans, their minimum content, the criteria for the assessment to be undertaken by the competent authorities, and the minimum list of indicators to be used. The BSG generally agreed with the EBA approach to these issues. Specific comments were sent concerning the minimum list of indicators to be used, and stressing the need to apply the principle of proportionality. This was the case, in particular, for the so-called additional indicators, some of which were considered to be unnecessary. Some drafting changes were introduced by EBA in the final document to clarify the application of the principle of proportionality. Taking into account the comments received

from BSG and other stakeholders, the EBA redefined the minimum list of recovery plan indicators and the additional ones.

2. In the area of resolution plans, the EBA papers concentrated on the following issues: the definition of critical economic functions, simplified obligations, impediments to resolvability, the definition of Minimum Required Eligible Liabilities (MREL), and the stays on termination and intragroup support.

Although all of them were relevant, the most crucial was probably the RTS/2015/05 on criteria for determining the MREL, since it is a key element to ensure the feasibility of bail-in as a resolution tool. Indeed, the purpose of MREL is to define a buffer of liabilities with capacity to absorb losses in the case of resolution. The EBA proposal identifies two components of MREL: the loss absorption amount and the recapitalization amount, to which an adjustment is made for small institutions, to take into account the possible use of the Deposit Guarantee Scheme (DGS). Two constraints are relevant in this regard: (i) the 8% of liabilities that should be bailed-in before the resolution fund can be used, which is an important reference for the determination of MREL, and (ii) the need to ensure that no creditor is worse-off than would be the case in liquidation.

The BSG agreed with most of the content of the MREL paper, in particular the need to strike a balance between a harmonized approach and the need to adapt MREL to the business model and the resolvability assessment of each bank. However, in its submission the BSG made several points, including the need to avoid duplicating the buffers in the recapitalization amount as well as the advice from the supervisor that the resolution authority relies upon in the determination of the loss absorption amount (to avoid a potential conflict between authorities). Additionally, the BSG expressed doubts on the idea of estimating the re-capitalisation amount based on a peer group, on the grounds that it does not seem to be consistent with the BRRD, nor does it seem straightforward to implement. Changes to the draft Technical Standards have been incorporated as a result of the BSG and other stakeholders' responses, including the definition of the peer group.

3. As regards the resolution process, the EBA papers focused on the triggers for early intervention, the triggers to decide that an institution is failing or likely to fail, the public support measures when an institution is entering into resolution, the arrangements to be protected in a partial property transfer, and the procedures and contents of resolution notifications. The BSG comments emphasized the need for a dialogue between the authorities and the institution in the early stages of the process and for a tight coordination between the resolution authority and the supervisor.

Related to the early intervention triggers and on the triggers for resolution, the BSG highlighted the need to clarify the interaction between the SREP assessment and other indicators used in the recovery and resolution framework (quantitative and qualitative recovery actions and internal management indicators). The BSG emphasized that the conditions for initiating resolution must be clear in order to provide the market with reasonable certainty and assist investors to price risk. The final texts of the Guidelines have been updated to reflect the interaction with other recovery measures and clarified the elements that should be taken into account when competent and resolution authorities make a determination that an institution is failing or likely to fail.

4. In the area of resolution tools, the EBA issued guidelines dealing with: bail-in, asset separation, asset sale, bridge bank and business reorganization plans (that is, all four resolution

tools envisaged by BRRD). The most important one was the bail-in that was covered by three Guidelines, one Technical Standard and one Technical Advice. The key topics addressed were the treatment of shareholders, the conversion of debt into equity, the write down, the contractual recognition by foreign jurisdictions and the exclusions of certain liabilities from the bail in. The BSG in general found the EBA approach appropriate, suggesting more clarifications on certain issues, such as the conditions under which certain liabilities may be excluded from the bail-in.

5. The valuation of assets and liabilities is an essential aspect of the resolution process, since it is related to the size of the losses and how they should be apportioned to different types of creditors. It should be based on fair, prudent and realistic assumptions. The EBA issued three Technical Standards on general valuation aspects, the valuation of derivatives, and the requirements for independent valuers. The BSG responded to all these documents. Specific questions were raised regarding the methodology to value derivatives, as well as the need to ensure that the necessary interaction with the authorities does not undermine the independence of the valuers.

6. A further line of work related to the institutional framework for cross-border resolution, in particular in the context of resolution colleges. The Technical Standards covered the operational organization of resolution colleges, the joint decisions to be reached in the context of resolution planning, and the procedural steps to be taken for cross-border group resolution. Although the BSG was in agreement with the overall approach, it suggested some amendments and expressed some concerns on the possibility of disagreement between resolution authorities, the role of Crisis Management Groups and the role of third-country resolution authorities.

Apart from Level 2 legislation derived from the BRRD, the TWG on Recovery Resolution and Systemic Issues covered other related topics, such as the payment commitments for Deposit Guarantee Schemes (DGSs), cooperation agreements between DGSs and the identification of Other Systemically Important Institutions (OSIIs). On the DGSs, the BSG argued that fully-collateralized payment commitments are a valid alternative form of ex ante financing up to 30 per cent of the total amount of available financial means. On the identification of OSIIs, the comments sent by the BSG stressed the need to ensure consistency of this framework with that of Global Systemically-Important Financial Institutions set by the Financial Stability Board, in particular as regards the calibration of the capital surcharge. The BSG also questioned the excessive discretion left to national authorities in setting those surcharges.

### **3.3. Consumer Protection and Financial Innovation**

Consumer protection issues, given the diversity of the retail markets in Europe, are within the mandate of the EBA, EIOPA and ESMA. The EBA is responsible for consumer issues arising from “pure” banking products (such as mortgages, personal loans, current accounts, savings products, credit cards and payments services). However, the EBA will act in cooperation with ESMA and EIOPA when credit institutions act as intermediaries of investments and insurance products respectively. From an EBA perspective, issues of consumer protection focus predominantly on retail business which from an EU regulation point of view, includes SMEs. There is a reasonable amount of evidence suggesting that SME owners have similar needs in financial services as consumers. The BSG Technical Working Group addressing consumer protection issues therefore included SME issues in its work stream.

The BSG through its Consumer Issues and Financial Innovation working group over the last term have delivered the following responses to requests, papers, presentations and contributions in respect of:

- Requests from the EBA Consumer Protection and Financial Innovation and Payments Unit: these have included commenting on individual Guidelines published by the EBA. For example, Guidelines on Creditworthiness, Product Oversight and Governance and on Passporting for Mortgage Credit Intermediaries under the Mortgage Credit Directive.
- *Joint ESAs Consumer Protection Days* in 2013, 2014 and 2015. The main purpose of these Consumer Days is to enable regulators, a wide range of stakeholders, and other interest groups to explore key consumer issues in finance, and to enable the EBA to outline its approach to consumer protection. The BSG strongly supports such meetings and the dialogue they facilitate, and is always ready to contribute to the planning and delivery of the events. From the banking perspective issues addressed ranged from Conduct Risk, Digitalisation, Financial Innovation and Product Oversight.
- *EBA's Annual Consumer Trend Reports*: one of the tasks of the EBA is to collect, analyse and report on consumer trends. The BSG surveyed its members to establish what the Group thinks are the most pressing issues in Consumer Protection. The three top issues for 2015 were: House Indebtedness, Transparency and Comparability of Banking Fees and Innovation in Payments.
- *Joint meetings with the Board of Supervisors* where consumer issues are discussed: at these meetings BSG Consumer Protection Group have made presentations including Reducing Conduct of Business Risks in EU Banking and the Damaging Impact of Inappropriate Sales Incentives on Consumer Protection and Financial Stability.
- *SME Financing*: There have been three presentations by the BSG Technical Working Group focusing on SME financing. An important message was that the constituency of SMEs consist of three subgroups of business entities (micro, small and medium) and that their needs differ and so do their experiences in attempting and successfully accessing finance. It is also clear that the detail picture of SME successes and failures across the EU are poorly researched. Of particular interest is the dynamic growth of peer to peer lending and the need for regulation to protect the lender but to also enhance the sustainability of this platform for finance.

Regarding the Future: Three issues have been identified as important issues that the BSG from a consumer protection and Innovation perspective. These are:

- *Supervision and enforcement*: this has been recognised as an important deficiency in the implementation of financial services regulation across the EU. The two main reasons identified for this deficiency are differing supervisory capacities and differing legal traditions of EU member states.



- *SMEs and Bank Lending*: more consideration needs to be given to micro entities and self-employed because of their growing contribution to the economy and the lack of understand of their finance needs.
- *Big Data*: there are many examples of the usefulness of accessing and using big data in making financial services processing and assessments more effective. However, there is a growing awareness that the use of this data will often exclude EU citizens from a range of financial products and services.

To work effectively in the arena of consumer protection and innovation we recognise that in the future it is important that there is more collaboration between EU consumer groups such as the EBA and the EU Financial Services User Group. Additionally, there would be advantage in collaboration between the respective stakeholder groups in the area of consumer protection.

### 3.4. Proportionality Working Group

#### Background/objective

The *ad hoc* Working Group on Proportionality was formed in June 2014 and consisted of 14 BSG members, including BSG Chairperson David Llewellyn, Vice-Chairperson Andrea Resti and was coordinated by Chris De Noose.

The BSG believes that there is currently no clear definition of the principle of proportionality, even though there have been attempts to define it by the Basel Committee, the European Commission and the EBA.

In this context, the BSG judged that an own-initiative report would be the best method to raise awareness of the existence and importance of this principle (which is vital in particular for the smaller and low-risk banks in the European Union).

The BSG therefore issued a Report entitled “*Proportionality in Bank Regulation*” which defines the principle of proportionality and offers recommendations for relevant stakeholders. Presentations were made in Brussels in January by BSG Chair, Chris De Noose, Isabelle Vaillant (EBA), and Eric Van der Plaats (European Commission). This report is the result of a long-standing workstream which involved all of the constituents of the BSG.

#### Outcome/achievement

The Group addressed the principle of proportionality in relation to the regulation of the banking sector. All aspects of economic activity are directly or indirectly affected by the banking system: this is the main reason why the regulation of the sector, and hence the proportionality of banking regulation, is a central issue.

The BSG posits that, in the interests of effective and efficient bank regulation, the principle of proportionality has to be recognised and applied at every step of the legislative and regulatory process so that existing and new legislation and regulations are applied to banks and financial institutions in a proportionate way. The overall administrative resources and cost of new

regulation – such as supervisory costs and new IT systems – have a substantial impact on all banking institutions, and an even more severe impact depending on criteria such as the size and complexity of institutions and their business models. As a result, disproportionate regulation could inhibit small banks from providing finance to the real economy to support innovation and growth.

For this purpose, the BSG made a constructive contribution to this issue for the benefit of all stakeholders. The objectives were to:

- Clarify the dimensions and nature of proportionality: what we term “The Five Pillars of Proportionality”;
- Construct an analytical framework for considering the five pillars;
- Indicate a *prima facie* case that the principle of proportionality has not always been applied to the full extent possible;
- Outline the costs of non-proportionality.

The BSG concentrated its reflection on four main dimensions of proportionality:

- Whether a particular regulation that is meant to apply to all regulated institutions is disproportionate in relation to the objective sought;
- Whether a particular regulation is disproportionate because it applies to regulated institutions to which it should not be applied: the materiality principle;
- The extent to which the totality of regulation (as opposed to each regulation taken separately) is excessive for the key regulatory objectives;
- Regulation is excessively and unnecessarily complex for the objectives that are sought.

In order to make concrete the application of this principle, some areas were selected and analysed in depth in order to illustrate how it could be applied. The six case studies selected were Supervisory Reporting; Liquidity; External Models; Governance relating to Risk Models; Leverage Ratio; and Corporate Governance.

In addition, the BSG examined how the constantly-increasing regulation of banking and financial activity, whilst conferring important benefits, comes at a substantial cost to stakeholders. Considering the ultimate incidence of the cost of regulation, it is inevitable that a major part of the cost may in the end be borne by bank customers through increased margins and fees.

Disproportionate regulation of the banking industry may not only unduly increase the cost charged to bank customers but also, in some cases, undermine the banks’ basic function as financial intermediaries. Whilst banks may be safer, their ability to meet customers’ and society’s need for banking services and financing may be compromised by non-regulated actors in the industry. It is partly for this reason that the case for regulating shadow banking activities is being

considered by regulatory agencies. Bank customers, and in particular consumers and SMEs, may in some cases find that the disadvantages outweigh the benefits created by regulation.

Based on the aforementioned reflections, the BSG offers a set of high-level and more detailed recommendations, namely:

- The principle of materiality and the definition of the principle of proportionality should be published in a harmonised, horizontal ESAs guideline.
- An enhanced focus on future Level 1 rules should be introduced with a view to providing a reasonable degree of flexibility.
- Consideration should be given to making adequate differentiations between different types of institutions, especially whether some regulations impose a disproportionate cost on different types of institutions.
- A high-level Task Force could be established by the European Commission in Level 1 to evaluate and describe how the Principle of Proportionality should be interpreted for the regulation of the financial industry. Sufficient resources (manpower and financial) must be allocated to secure a quick response to its defined mandate. A proposal for a possible mandate was included in the report.
- Regulatory agencies should establish within their organisations semi-autonomous Proportionality Review Groups accountable directly to the Chair and Chief Executive of the agency.
- Regular, independent reviews of the issue of excess complexity, and of the application of the principle of proportionality and its balance with other objectives of financial regulation, should be undertaken.
- Impact analyses should themselves be proportionate with respect to the significance and complexity of the issue being addressed.
- Processes for, and implementation of, cost/benefit evaluations should be clarified and improved.
- Supervisory reporting requirements should be reviewed, e.g. removing unnecessary duplication and introducing more differentiation between different types of institutions. Consideration should be given to adopting a differentiated leverage ratio for different business models.

The Report was distributed on 10 December 2015 to approximately 500 legislators, supervisors, and other interested stakeholders. Many of them have expressed interest, in particular the European Commission, which has encouraged the BSG to submit the Report as part of its 'Call for Evidence', deadline 31 January 2016.

An event was also organised in Brussels on 15 January 2016 to present the report to mainly Brussels-based interested parties and press in order to enhance its visibility and its chances to be taken on board by interested parties.

## 4. SOME EMERGING THEMES

Several key issues emerged during BSG meetings either when considering specific regulatory issues, RTSs, and ITSs, or during regular discussions of market and regulatory trends. With respect to regulatory issues, key areas of concern included:

- The timing and implementation speed of new regulatory requirements and the lack of a proper review of existing requirements for introducing new ones.
- The complexity (and excessive granularity) and, in some cases, too prescriptive nature of some aspects of new regulation and whether such complexity enhances the effectiveness and efficiency of regulation.
- The cumulative impact of regulation and whether, in strict cost-benefit analysis terms, the totality of regulation (as opposed to its components) satisfies the proportionality test.
- The particular difficulties faced by some small banks most especially with respect to data availability and the time-scale of implementing new regulation.
- The substantial detail (and possibly non-proportionality) of certain regulatory documents and some of the reporting requirements.
- The variation in the way that different banks (sometimes condoned by supervisory agencies in some countries) apply the risk-weight methodology for purposes of calculating capital requirements.
- EBA and EU are making huge progress in defining and implementing a common rulebook for bank regulation in the EU area. However, implementation of these rules by national regulatory bodies are timed differently from country to country and with various exceptions granted. A survey of the status of implementation of the different regulations should be made transparent by EBA.

Considerable attention has also been given to the budget cuts that were imposed on EBA by the European Council, especially in 2014 and 2015. The BSG unanimously agreed to formally express its opposition to such cuts in two letters signed by its Chairperson and Vice-Chairperson and addressed to the relevant offices of the Commission and the European Parliament. It is the BSG's opinion that those budgetary constraints were particularly unfortunate at a time when the EBA's statutory tasks had been considerably extended, and may harm the EBA's ability to promote a level playing field in European Banking and ensure that supervisory practices converge towards the most efficient and effective configurations. Additionally, in constraining the support that EBA could give to BSG in its day-to-day operation (e.g., as concerns travel expenses for additional

meetings), the budget cuts have had a negative impact of the BSG's ability to assist EBA in the assessment of the potential implication of new regulations for European banking stakeholders.

## 5. RECOMMENDATIONS FOR THE FUTURE

Our judgment is that the BSG has worked well during its second term of office and a constructive working relationship was established with the EBA. This is not to say that improvements are not possible to enhance the effectiveness of the BSG:

- Regarding the composition of BSG, there would be advantage in applying more flexibility. While it is important that the Group includes different constituencies so as to allow for interaction between members with different backgrounds and perspectives, a too rigid quantification of the principle is contrary to the interests of the Group and of European banking stakeholders. When the professional qualities of the applicants make it advisable, the composition requirements of the Group should not be interpreted in a rigid and mechanistic way.
- In particular, we judge that there would be advantage in having a representative of an audit firm, a rating agency, or bank consultancy as a member of the BSG as was the case in BSG1. Representatives of such firms have a particular expertise, experience, and perspective that are not always found to the same degree in other groups. They are able to challenge the Industry approach and can provide useful and relevant points of view on markets together with financial and accounting matters that may be intertwined with regulatory issues. The presence of a rating agency official would also provide a useful link with the perspective of institutional investors and a focus on public disclosure issues.
- To increase the effectiveness and efficiency of BSG advice, consideration should be given to being more selective in the responses to Consultation Papers, and focus more resources on providing input in the early stages of EBA's regulatory work. Whenever possible, there could be advantage in some BSG members on an *ad hoc* basis being informally involved with the regulatory process as early as possible.
- As suggested by the EBA, the BSG could play an important role in the elaboration of Q&As, an instrument that is increasingly relevant in the regulatory process, and where stakeholders' participation is particularly suitable.
- The experience of BSG2 shows that Technical Working Groups are an extremely useful structure through which to organise its work. It might be that smaller and more focussed TWGs, with a definition and mandate adapting to the changing EBA workplans, might be more effective.

- The BSG would welcome more explicit feedback from the EBA on the opinions published by the Group, so as to encourage a broader interaction and sharing of views. Whilst we acknowledge progress made in this regard, we would also wish to explore ways of providing more structured feedback (for instance, the reasons why a recommendation might not have been accepted) on BSG submissions.
- Future BSGs could usefully establish a system of tracking the effectiveness of BSG advice. Such a system could involve designing a system to monitor the extent to which BSG positions have or have not been taken into account in EBA final positions.
- Just as with the EBA itself, there is an important issue of BSG resourcing as many members do not have access to particular expertise from within their organisation. If maximum benefit is to be derived from the unique combination of expertise and perspectives of the balance of constituencies, dedicated resources could be made available to BSG. Some national regulatory agencies (for instance, the UK's Financial Conduct Authority) establish research budgets for its stakeholder groups and this has also been the case for the EU's Financial Services User Group. There have been occasions in the life of BSG2 where its work has been less effective than it could be because of a lack of resources (e.g. for holding meetings of its working groups).
- Whilst accepting that this is not entirely under the control of EBA, consideration should be given to enhancing the resources devoted to the BSG and its Technical Working Groups. Some members are very constrained in the extent to which they are able to receive financial and other support: this is most especially the case when non-scheduled BSG meetings would greatly enhance the effectiveness of the working groups. The BSG contains an unrivalled combination of expertise and perspectives and yet its full potential is not being realised due in part to the lack of dedicated resources compared, for instance, to the Financial Services Users Group.
- In the interests of proportionality, BSG would welcome more detailed and structured cost benefit analyses to be included in EBA regulatory papers.
- Compared with the situation that was faced by BSG1 in the period 2011-2013, the EBA has made huge progress in disclosing quantitative data on the banking industry. Transparency exercises are now run on a regular basis, and the data items gathered and disclosed through such exercises are defined in a way that allows a number of significant comparisons to be made across time (e.g., on the sovereign debt held by individual banks). The 2014 stress test confirmed EBA's commitment to transparency and has involved the disclosure of an unrivalled amount of detail on individual institutions, enhancing market scrutiny and investors' awareness. However, EBA holds a number of rich databases on specific issues (sometimes created as the result of industry surveys) that it has chosen not to disclose even on an anonymous basis. Whilst ensuring that confidential data on individual institutions are not disclosed to third parties, the use of independent research (perhaps commissioned by the EBA) could be undertaken, and be

of real value to EBA. The BSG should play an important role by helping to exploit data gathered by EBA and therefore contribute to creating a sound basis for regulatory initiatives. Pillar 3 data provide one example of non-confidential information which could be actively used by researchers if EBA were to provide them on a regular basis in a format that ensures cross-bank and time-series comparability.

- The cost of regulatory bodies at EU level or at national level are either charged to financial institutions as a fee (included as a general cost to be covered by bank customers through margins or fees) or covered by customers of financial institutions through their tax bill. EBA should make these different practices transparent on a country level and evaluate if a common set of regulation of these practices is needed.
- The EBA should identify differences in national regulatory practice which could have an impact on the competitiveness of banks in the open European financial markets.
- It would be useful if EBA could make press releases on BSG submissions.
- The BSG has found it constructive to have one or two “special projects” through *Ad Hoc* TWGs to work on chosen topics of relevance to EBA but which are not dictated by the stream of EBA initiatives. In the process, and through harnessing the different expertise and perspectives within the group, it can give constructive thought to wider topical issues. We suggest that this is a procedure that the successor BSG might usefully consider. As noted earlier in this report, BSG2 chose to research, write and publish, *inter alia*, a report on *Proportionality in Bank Regulation*. The special projects should ideally be chosen as early as possible, allowing time for research and members to have sufficient time to contribute and to agree on the final report.
- *Ad Hoc* TWGs can be extremely useful, but challenging to organize. Therefore, establishing such groups needs a firm commitment from the plenary BSG on the value of addressing the issue proposed, as well as from the members of the working group to commit to deliver according to a timeline and working scope agreed upfront.
- Future BSGs could usefully explore the scope for collaboration between other ESA stakeholder groups. The ESA stakeholder groups consist of a total of 120 people (1 group in EBA and ESMA each and 2 groups in EIOPA). Organising a close cooperation between these resourceful groups could contribute to improve the quality of regulatory work of the three ESAs and the Joint Committee. Joint submissions with other ESA stakeholder groups should be considered especially in cases of consultations proposed by the ESAs’ Joint Committee.
- To work effectively in the arena of consumer protection and innovation it is important that there is more collaboration between EU consumer groups such as the EBA and the EU Financial Services User Group. Additionally, there would be advantage in

collaboration between the respective stakeholder groups in the area of consumer protection particularly in cases of overlaps.

- Although large corporates are represented in the Users of Banking Services constituency of the BSG, the EBA focus has explicitly been expressed to be on consumer protection and innovation and not on customer protection more widely. Although large corporations and official bodies are in a better position than consumers to protect themselves, customer size per se should not be the criterion through which to evaluate the need for regulation in this area.
- The role of the TWGs should be more visible. When BSG choose to organise the work in working groups, due attention should be made to properly define overall TWG targets, working procedures and member roles and responsibilities. A structured and well-designed organisation of the TWGs could contribute to more efficient work, including better communication with responsible EBA departments. The communication between the BSG and EBA should, as previously stated, include regular and structured feedback on material submitted from BSG to EBA.
- The plenary meetings of BSG could from time to time lift the focus from the detailed technical issues to a helicopter perspective of the regulatory landscape. EBA should contribute to facilitate such updates.
- In order for the BSG to be more proactive, there would be value in forward-looking, high-level contributions on topics that EBA has on the horizon but which are not immediate or short-term priorities. This would require EBA to share with BSG its medium-term working plans well in advance.
- BSG2 made submissions to the great bulk of EBA papers which were issued for public consultation. Many of these EBA papers have been highly technical in nature and where there might be little scope for changes. This raises the issue for future BSGs to consider whether it should concentrate on a smaller number of submissions.

As emphasised at the outset of this report, the Banking Stakeholder Group is totally committed to institutional arrangements that facilitate transparent stakeholder inputs into all aspects of the regulatory process. The structure of the BSG, with its mix of different expertise and perspectives, adds significant value in the pursuit of effective and efficient regulation and supervision in the European Union. The period of the second BSG was challenging and was one of substantial change in many aspects of the reform of bank regulation.





### Annex 1- List of BSG2 submissions

- JC/CP/2015/080 on “Automation in Financial advice”
- CP/2015/23 on Draft Implementing Technical Standards amending Commission Implementing Regulation (EU) 680/2014 on supervisory reporting of institutions with regard to financial reporting (FINREP) following the changes in the International Accounting Standards (IFRS 9)
- DP/2015/03 on future Draft Regulatory Technical Standards on strong customer authentication and secure communication under the revised Payment Services Directive (PSD2)
- CP/2015/19 on stress tests of deposit guarantee schemes under Directive 2014/49/EU”
- CP/2015/21 on Guidelines on the treatment of cva risk under the supervisory review and evaluation process (srep)
- JC/2015/073 on “PRIIPS Key Information Documents”
- CP/2015/18 on “the provision of information in summary or collective form for the purposes of Article 84(3) of Directive 2014/59/EU”
- CP/2015/17 on “draft guidelines on communication between competent authorities supervising credit institutions and statutory auditor(s) and audit firm(s) carrying out the statutory audits of credit institutions”
- CP/2015/15 on Guidelines on the application of the definition of default under Article 178 of Regulation (EU) 575/2013)
- EBA/JC/2015/060 and EBA/JC/2015/061 on draft Guidelines on the characteristics of a risk-based approach to anti-money laundering and terrorist financing supervision and the steps to be taken when considering supervision on a risk sensitive basis
- EBA/CP/2015/16 on the EBA benchmark rate under Annex II of the MCD.
- EBA/CP/2015/13 on draft Guidelines on cooperation agreements between deposit guarantee schemes under Directive 2014/49/EU
- EBA/CP/2015/12 on draft RTS on conditions that CAs shall take into account when determining higher risk weights, in particular the term of “financial stability” considerations, and the conditions that CAs shall take into account when determining higher minimum LGD values under Article 164(16)CRR
- EBA/DP/2015/02 on call for evidence on SMEs and the SME supporting factor
- EBA/CP/2015/08 on Draft ITS on the mapping of ECAI’s credit assessments for securitisation positions under article 270 of regulation (EU) N° 575/2013 (capital requirements regulation – CRR)”
- EBA/CP/2015/10 on Draft RTS on the valuation of derivatives pursuant to article 49(4) of the Bank recovery and resolution directive (BRRD)”
- EBA/CP/2015/11 on draft Guidelines on passport notifications for credit intermediaries under the MCD
- CP/2015/03 on Draft Guidelines on sound remuneration policies under Article 74(3) and 75(2) of Directive 2013/36/EU and disclosures under Article 450 of Regulation (EU) No 575/2013
- EBA/CP/2015/04 on draft regulatory technical standard on a minimum set of information on financial contracts that should be contained in the detailed records and the circumstances in which the requirement should be imposed (article 71(8) Brrd)
- EBA/CP/2015/06 on draft Guidelines on exposure to shadow banking entities which carry out banking activities outside a regulatory framework under Article 395 para 2 Regulation (EU) No. 575/2103
- EBA/DP/2015/01 on the future of the irb approach

- EBA/CP/2015/01 on draft ITS on procedures, forms and templates for the provision of information for resolution plans
- EBA/CP/2014/36 on Draft RTS on the specification of the assessment methodology for competent authorities regarding compliance of an institution with the requirements to use the IRB Approach
- EBA/CP/2014/46 on Draft RTS on Resolution Colleges under Article 88(7) of Directive 2014/59/EU
- EBA/DP/2014/03 on Draft requirements on passport notifications for credit intermediaries under the Mortgage Credit Directive
- JC/CP/2014/05 on Guidelines for cross-selling practices
- EBA/CP/2014/37 on Draft Guidelines on product oversight and governance arrangements for retail banking products
- EBA/CP/2014/38 on draft RTS on valuation under Directive 2014/59/EU
- EBA/CP/2014/42 on Draft Guidelines on creditworthiness assessment under Directive 2014/17/EU
- EBA/CP/2014/41 on draft RTS on criterion for determining the minimum requirement for own funds and eligible liabilities under directive 2014/59/eu
- EBA/CP/2014/43 on Draft Guidelines on arrears and foreclosure
- EBA/CP/2014/35 on Draft Guidelines on methods for calculating contributions to Deposit Guarantee Schemes
- JC/DP/2014/02 on Key Information Documents for Packaged retail and Insurance-based Investment Products (PRIIPS)
- EBA/CP/2014/39 on Draft Guidelines on the rate of conversion of debt to equity in bail-in
- EBA/CP/2014/40 on draft Guidelines on the treatment of shareholders in bail-in or the write-down and conversion of capital instruments
- EBA/CP/2014/25 on draft Guidelines on the application of simplified obligations under Article 4 of BRRD
- EBA/CP/2014/34 on draft Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee
- EBA/CP/2014/99 on draft advice on delegated act on critical functions and core business lines
- EBA/CP/2014/100 on draft advice on delegated act on circumstances when exclusions from the bail-in tool are necessary
- EBA/CP/2014/21 on draft Guidelines on triggers for early intervention measures pursuant to article 27(4) of directive 2014/59/EU
- EBA/CP/ 2014/28 on draft guidelines on the minimum list of qualitative and quantitative recovery plan indicators
- EBA/DP/2014/02 on simple standard and transparent securitisations.
- EBA/CP/2014/27 on draft guidelines on payment commitments under Directive 2014/49/EU on deposit guarantee schemes
- EBA/CP/2014/24 on: i) draft Guidelines on the determination of when the liquidation of assets or liabilities under normal insolvency proceedings could have an adverse effect on one or more financial markets under Article 42(14) of Directive 2014/59/EU, and ii) factual circumstances amounting to a material threat to financial stability and of the elements related to the effectiveness of the sale of business tool under Article 39(4) of Directive 2014/59/EU
- EBA/CP/2014/22 on draft guidelines on the interpretation of the different circumstances when an institution shall be considered as failing or likely to fail under Article 32(6) of Directive 20014/59/EU

- EBA/CP/2014/31 on draft Guidelines on security of internet payments
- JC/CP/2014/04 on draft RTS on risk concentration and intra-group transactions under article 21a (1A) of the Financial Conglomerates Directive
- EBA/CP/2014/14 on draft Guidelines for common procedures and methodologies for the supervisory review and evaluation process
- EBA/CP/2014/19 on the draft Guidelines on criteria to assess Other Systemically Important Institutions (O-SIIs)
- EBA/CP/2014/18 on draft RTS on independent valuers
- EBA/CP/2014/16 on draft regulatory technical standards on the content of resolution plans and the assessment of resolvability
- EBA/CP/2014/15 on draft Guidelines on the specification of measures to reduce or remove impediments to resolvability and the circumstances in which each measure may be applied under Directive 2014/59/EU
- EBA/CP/2014/20 on draft Technical advice on possible delegated acts on criteria and factors for intervention powers concerning structured deposits under Article 41 and Article 42 of Regulation (EU) No 600/2014 (MiFID)
- EBA/CP/2014/10 on draft RTS on the sequential implementation of the IRB approach and permanent partial use under Articles 148(6), 150(3) AND 152(5) of EU Regulation (EU) No 575/2013 (CRR)
- EBA/CP/2014/11 on draft RTS on disclosure of information in relation to the compliance of institutions with the requirement of a countercyclical buffer under article 440 of regulation (EU) No 575/2013 (CRR)
- EBA/CP/2014/08 on draft RTS on assessment methodologies for the advanced measurement approaches for operational risk
- EBA/CP/2014/07 on draft RTS and draft ITS on benchmarking portfolios
- EBA/CP/2014/17 on Types of test, reviews or exercises that may lead to support measures under article 32 (4) (d)(iii) of the bank recovery and resolution directive (BRRD)
- JC/CP/2014/03 on draft RTS on risk-mitigation techniques for OTC-derivative contracts not cleared by a CCP
- EBA/CP/2014/06 on the treatment of equity exposures under the IRB Approach under Article 495(3) of Regulation (EU) No 575/2013 (CRR)
- JC / CP / 2014 /02 on draft Guidelines on the convergence of supervisory practices relating to the consistency of supervisory coordination arrangements for financial conglomerates
- JC/CP/2014/01) on the Draft ITS on the mapping of ECAs' credit assessments under Article 136(1) and (3) of Regulation (EU) No 575/2013 (CRR)
- EBA/CP/2014/02 on draft RTS specifying conditions according to which competent authorities may permit institutions to use relevant data covering shorter time period (data waiver permission)
- EBA/DP/2014/01 on the impact on the volatility of own funds of the revised IAS 19 and the deduction of defined pension assets from own funds under Article 519 of the Capital Requirements Regulation (CRR)
- EBA/CP/2013/47 on draft guidelines on harmonised definitions and templates for funding plans of credit institutions under ESRB Recommendation 2012/02 A.4
- EBA/CP/2013/48 on draft Guidelines on disclosure of encumbered and unencumbered assets
- EBA/CP/2013/46 on draft RTS on the minimum monetary amount of the professional indemnity insurance or comparable guarantee for mortgage credit intermediaries under

Article 29(2)(a) of the Directive on credit agreements relating to residential immovable property (Directive 2014/17/EU)

- EBA/CP/2013/45 on draft Guidelines on Significant Credit Risk Transfer relating to Article 243 and Article 244 of Regulation 575/2013
- EBA/DP/2013/04 on the methodology for the assessment of liquidity and funding risk under supervisory review
- JC/CP/2013/03 on draft Guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors
- EBA/CP/2013/41 on draft ITS on disclosure for the Leverage Ratio
- EBA/CP/2013/37, EBA/CP/2013/38 & EBA/CP/2013/39 on currencies with constrained availability of Liquid Assets
- EBA/CP/2015/29 on Draft guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services

**Annex 2 – BSG2 membership**

<b>NAMES</b>	<b>CATEGORY</b>	<b>INSTITUTIONS</b>
Contreras, Javier (ES)	Consumers	ADICAE
Holmberg, Troels (DK)	Consumers	Danish Consumer Council
Krisper, Bostjan (SI)	Consumers	Slovene Consumers Association ZPS
Dailly, Mike* (UK)	Consumers	Govan Law Center
Fily, Anne* (FR)	Consumers	BEUC
Dermott, Jewell* (IE)	Consumers	Consumers' Association of Ireland
Bilger, Michel (FR)	Credit institutions	Credit Agricole
De Noose, Chris (BE)	Credit institutions	WSBI/ESBG
Fernandez De Lis, Santiago (ES)	Credit institutions	BBVA
Hafner, Sandra (AT)	Credit institutions	EIB
Lindgren, Louise (SE)	Credit institutions	LF Bank (Länsförsäkringar Bank)
Priester, Robert (NL)	Credit institutions	EBF
Eichenseher, Ernst (DE)	Credit institutions	Unicredit
Hollows, John* (UK)	Credit institutions	Československá obchodní banka (ČSOB)/KBC Group
Kuijpers, Arnold* (NL)	Credit institutions	Rabobank
Masuch, Sabine* (DE)	Credit institutions	Verband der privaten Bausparkassen/credit and investment institutions
Meyenberg, Ute (FR)	Employees	UNI Europa Finance
Nielsen, Jesper Bo (DK)	Employees	Finansforbundet
Daskalakis, Nikolaos (EL)	SMEs	Hellenic Confederation of Professionals, Craftsmen & Merchants (GSEVEE)
Schwannecke, Holger (DE)	SMEs	Zentralverband des Deutschen Handwerks (ZDH)
Gonzalo-Angulo, José (ES)	Top-ranking academics	University of Alcalá
Hustak, Zdenek (CZ)	Top-ranking academics	Prague University of Economics
Legind, Nina Dietz (DK)	Top-ranking academics	University of Southern Denmark
Llewellyn, David T (UK)	Top-ranking academics	Loughborough University
Resti, Andrea (IT)	Top-ranking academics	Bocconi University
Avgouleas, Emilios* (EL)	Top-ranking academics	University of Edinburgh
Alviniussen, Alf (NO)	Users of Banking services	Norsk Hydro ASA
Iacob, Alin (RO)	Users of Banking services	Association of Romanian Financial Services Users
Jarvis, Robin (UK)	Users of Banking services	Special Adviser to the European Federation of Accountants and Auditors (EFAA) and a member of the Committee of

Lindley, Dominic (UK)

Users of Banking services

 Transparency<sup>1</sup>  
 Independent consumer  
 advisor

Members marked with asterisk replaced previous members who stood down for various professional or personal reasons.

In the category of representatives of Credit and Investment Institutions, John Hollows replaced Andrew Procter (Deutsche Bank), Ernst Eichenseher replaced Marco Mazzucchelli (Bank Julius Bär), and Erin Mansfield replaced Dorothee Fuhrmann (PIMCO). As Erin Mansfield in turn resigned in November 2014, she was replaced by Sabine Masuch, and Magdolna Szőke (Takarekbank Zrt.) was replaced by Arnold Kuijpers.

Emilios Avgouleas replaced Eilis Ferran (University of Cambridge) as a Top-Ranking Academic in June 2015. In the category of Consumers, Mike Dailly replaced Ann Kay Blair (Consentra) in May 2014. In September 2015, Dermott Jewell replaced Ernesto Fiorillo (studio Fiorillo) and Anne Fily replaced Jean Berthon (EuroFinuse).

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1. Also a member of the Committee of Transparency and Independence of Finance Watch.

### Annex 3 - Membership of Technical Working Groups

CAPITAL AND RISK ANALYSIS	RECOVERY, RESOLUTION AND SYSTEMIC ISSUES	CONSUMER PROTECTION AND FINANCIAL INNOVATION
Alviniussen, Alf	Alviniussen, Alf	Contreras, Javier
Avgouleas, Emilios	Avgouleas, Emilios	Dailly, Mike
Bilger, Michel	Bilger, Michel	Daskalakis, Nikolaos
De Noose, Chris	Contreras, Javier	De Noose, Chris
Eichenseher, Ernst	Daskalakis, Nikolaos	Fily, Anne
Fernández de Lis, Santiago	De Noose, Chris	Holmberg (Hauer), Troels
Gonzalo-Angulo, José Antonio	Eichenseher, Ernst	Hustak, Zdenek
Hafner, Sandra	Fernández de Lis, Santiago	Iacob, Alin
Hollows, John	Gonzalo-Angulo, José Antonio	Jarvis, Robin
Hustak, Zdenek	Hafner, Sandra	Krisper, Bostjan
Kuijpers, Arnold	Iacob, Alin	Kuijpers, Arnold
Llewellyn, David T	Kuijpers, Arnold	Legind, (Dietz) Nina
Masuch, Sabine	Krisper, Bostjan	Llewellyn, David T
Nielsen, Jesper Bo	Llewellyn, David T	Lindley, Dominic
Priester, Robert	Lindgren, Louise	Nielsen, Jesper Bo
Resti, Andrea	Lindley, Dominic	Masuch, Sabine
Schwannecke, Holger	Meyenberg, Ute	Meyenberg, Ute
	Priester, Robert	Resti, Andrea
	Resti, Andrea	





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