



BANKING STAKEHOLDER GROUP

CONSULTATION ON EBA/CP/2014/40 ON
“DRAFT GUIDELINES ON THE TREATMENT OF SHAREHOLDERS IN
BAIL-IN OR THE WRITE-DOWN AND CONVERSION OF CAPITAL
INSTRUMENTS”

General Comments and Reply to Question

BY THE EBA BANKING STAKEHOLDER GROUP

London, February 5, 2015

Foreword

The EBA Banking Stakeholder Group (“BSG”) welcomes the opportunity to comment on the Consultation Paper 2014/40 “Draft Guidelines on the treatment of shareholders in bail-in or the write-down and conversion of capital instruments”.

This response has been prepared on the basis of comments circulated and shared among the BSG members and the BSG’s Technical Working Group on Recovery and Resolution.

As in the past, the BSG supports an initiative that aims at harmonizing supervisory rules and practices across Europe, in order to ensure fair conditions of competition between institutions and more efficiency for cross-border groups. The BSG also expects these initiatives to facilitate data sharing between European supervisors and avoid reporting duplications for banks.

This response outlines some general comments by the BSG, as well as our answer to the question indicated in the Consultation Paper.

General comments

The treatment of shareholders in bail-in or the write-down or conversion of capital instruments is driven by the value of the shareholders’ claims. In BSG’s view the consultation paper provides adequate guidelines on which actions are appropriate or inappropriate depending on the value of the shareholders’ claims.

The value of the shareholders’ claims is determined through the ex ante valuation and the ex ante insolvency valuation. This highlights the importance that these valuations have for meeting the objective of treating the shareholders adequately in

such a situation. The respective methodology is outlined in EBA's Consultation Paper EBA CP/2014/38. The guidelines set out in this Consultation Paper will only be as effective in meeting its goals as the underlying ex ante valuation and ex ante insolvency valuations are. We refer to the respective comments of the BSG to that Consultation Paper.

BSG would also like to point out that one complexity in the case of cross-border groups that remains unsolved in this context of resolution is that insolvency law and procedures are national and not harmonized across the European Union. This affects primarily the ex ante insolvency valuation and decisions based on it.

Reply to Question

1. Do you agree with the classification of appropriate actions summarized in the table?

We do agree with the classification summarized in the table.

Submitted on behalf of the EBA Banking Stakeholder Group

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Chairperson