EBA BSG 2021 071

Banking Stakeholder Group

29 October 2021

BANKING STAKEHOLDER GROUP

Banking Stakeholder Group – 29 October 2021 - Draft minutes

Agenda Item 1: Adoption of the minutes of the last meeting and of the agenda

1. The BSG chair informed that the minutes of the 6 of July meeting were sent for comment via written procedure and no drafting suggestions were made.

Conclusion

2. The BSG approved the agenda of the meeting and the minutes of 6 July meeting.

Agenda Item 2: BSG update on the latest developments

3. The BSG chair informed that the BSG had produced the following outputs since the last meeting in July: response to EBA Consultation Paper (CP) on the revised Guidelines on limited network exclusion under PSD2; own-initiative paper on COVID-19 recovery and resilience; response to EBA CP on Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing under Directive 2013/36/EU; response to EBA CP on the draft RTS on Individual Portfolio Management of loans offered by crowdfunding service providers under Art. 6(7) Regulation (EU) 2020/1503; and response to EBA Consultation Paper on the revised Guidelines on recovery plan indicators under Article 9 of Directive 2014/59/EU.

4. The BSG chair gave the floor to the different coordinators for an update on their current work. She also informed that the BSG was organising a workshop on the "finalisation of Basel III" during second half of Jan 2022 targeting high-level speakers.

Agenda Item 3: EBA update on general developments

5. The EBA chair highlighted some of the major developments since the last BSG meeting. He started by mentioning the publication of the results of the 2021 EU-wide stress test end of July, which involved 50 banks from 15 EU and EEA countries, covering 70% of the EU banking sector assets. This exercise allowed to assess, in a consistent way, the resilience of EU banks over a three-year horizon under both a baseline and an adverse scenario, which is characterised by severe shocks taking into account the impact of the pandemic. He explained

that under a very severe scenario, the EU banking sector CET1 ratio would stay above 10%, with a capital depletion of EUR 265bn against a starting CET1 ratio of 15%.

6. He informed of the publication of the Guidelines on the monitoring of the threshold and other procedural aspects on the establishment of intermediate EU parent undertakings (IPU) which specified how third country groups should calculate and monitor the total value of their assets in the Union ensuring adequate supervision. He continued by mentioning the publication of the annual Report on resolution colleges for 2019 which sets out the EBA's observations on the efficiency, effectiveness and consistency of the functioning of resolution colleges during the year and the progress achieved in key areas of resolution planning.

7. The EBA chair also informed that the three ESAs delivered their Final Report with draft Regulatory Technical Standards (RTS) regarding disclosures under the Sustainable Finance Disclosure Regulation (SFDR) on the establishment of a framework to facilitate sustainable investment (Taxonomy Regulation). The disclosures relate to financial products that make sustainable investments contributing to environmental objectives. The draft RTS would provide disclosures to end investors regarding the investments of financial products in environmentally sustainable economic activities, providing them with comparable information to make informed investment choices; and would establish a single rulebook for sustainability disclosures under the SFDR and the Taxonomy Regulation. Moreover, he explained that following the ESAs review, the ESAs were mandated to prepare individual reports on the supervisory independence of competent authorities (CAs) in their sectors. These reports took stock of the factual situation on CAs' independence along key angles, namely, operational, financial and personal independence as well as accountability and transparency.

8. The EBA chair mentioned the publication of the regular monitoring Report on Basel III full implementation in the EU. Moreover, he highlighted the publication of the EBA 2022 annual work programme.

9. As per request of the BSG, the EBA Executive Director took the floor to give an update on the recent organisation changes at the EBA aiming at fostering synergies, increasing focus on the strategic priorities, and developing staff.

10. One BSG member enquired whether the EBA was planning to share more of its data with academia which could ultimately enhance research and benefit the overall community. The Executive Director confirmed that an increase data sharing in some areas was in the pipeline.

11. Concerning sustainability, one BSG enquired on the current timeline for responding to the Commission's request to the EBA to issue an opinion on the definition and supporting tools on green retail loans and green mortgages by Q2 of 2022. Another member added that there was a need for a barometer of 'green' loans; that these were difficult to find for consumers and usually more expensive than 'brown' ones.

12. One member made a comment on the stress test exercise and its feedback to all participants. She considered that whilst this exercise had a considerable impact on banks, what was received in return in terms of analysis conducted by the Authorities was limited. She also enquired about the methodology for the next stress test exercise and the possible changes to it.

13. Regarding the organisation changes and in particular initiatives to upgrade on data architecture at the EBA, two BSG opined further enhancement could be made by broadening the work to including also other authorities' such inter alia ESAs and SSM. One said that an increase of data pooling outside of the EBA would enhance transparency and reduce redundancy.

14. One BSG member showed interest in the call for advice on the review of the of the macroprudential framework for banking, which was linked to the capital adequacy regulatory framework, and thus highly relevant for the ongoing discussion on implementation of final Basel III in the EU.

15. Two BSG members welcomed the report on supervisory independence of CAs which could be prompt for some members states / CAs to reflect on where improvements might be needed to align with international best practice.

16. The EBA chairperson informed of the review of the stress test methodology for 2023 where there will be an introduction of top-down approach in some risk areas. Concerning the call for advice of the review of the macroprudential framework for banking, he agreed to devote a longer session at the next BSG meeting. With regards to discussion on data, he concurred to the need of a more agile coordination in data. He touched upon the EC data strategy and elaborated on the upcoming EBA work on feasibility study on integrated reporting which should be completed by Q1 2022. He also gave some insights of the close cooperation between the ESAs, like 'DPM Refit' and 'Digital Regulatory Reporting – tooling' and share of an Accounting Officer for ESMA/EBA, and the Joint Committee.

Agenda Item 4: Update on risks and vulnerabilities in the EU

17. EBA staff provided an overview of the current assessment of risk and vulnerabilities in the EU/EEA banking sector. The presentation covered consensus estimates for Q3 as a starting point, before providing a more in-depth analysis of Q2 numbers (Q3 results were not yet available at the time of presentation). Topics covered included banks' capitalisation and funding, loan volume trends (with e.g. mortgages and SME exposures showing significant growth in H1 2021), asset quality (NPL ratio down, but forborne loans up), deterioration of assets under support measures, profitability with particular focus on business models and fees income as well as operational risk with focus on cyber risk. The following discussion with members focused on the business model as well as fee income analysis (e.g. a further analysis by country and business model, as well as different fees related to assets under management, challenge that clients face constantly rising for banks' "basis products", too, etc.), but also the rising volume of forborne loans (banks addressing clients' credit quality deterioration, usage for prolonging loans provided during the pandemic etc.) and dividends (elevated dividend yields these days is not least explained by catchup dividends, following the dividend ban etc.).

18. Concerning revenues one BSG member demanded whether there was country specific data to understand which were the countries that were leading the increase in fees. She opined that business models of certain banks which are more retail orientated would be less inclined to higher fees from asset management activities. Another member pointed out that data in terms fees to the total size of banks would be helpful from a consumer protection point of view. He also suggested to make a distinction between the part relating to asset management and the fees on payment transaction.

19. One BSG member enquired whether economies of scale could not be considered a driving factor in the current macroeconomic environment. She wondered whether the role of fintech had pushed for more competition on cross-border banks or whether other factors could explain the profitability on such banks.

20. One BSG member considered that a graph displaying high percentage of dividend yields was misleading as banks did not pay dividends in 2020 and thus it should be considered as a form of excess capital. She said that, overall, the share of buyback yields was moderated. She concluded by stating that whilst this was positive for investors, it would not be as much for the financial sector lacking the opportunity to further grow.

21. One BSG member was concerned that forbearance as defined in the "Guidelines specifying the application of the definition of default across the EU" would create an increase in defaults in the coming years.

22. EBA staff took note of the demands to provide country specific and business models angles with regards to fee income. He clarified that fee income was more relevant for cross border banks. He also confirmed that the EBA did not have data that could identify whether increased fees came from new volumes, meaning new clients, or whether it was due to an increase of share price. With regards to the possible link between fintech and the increase cross-border business, EBA staff confirmed that fintech was not conceived in the EBA's analysis but could be accentuating the investments on fintech. Concerning dividend yields, EBA concurred with comments that there was catch up effect as there were no payments in 2020 and a gap existed for 2021 figures.

23. One BSG member remarked that fees for common services had risen: maintenance fees, provision of debit cards/credit cards, in branch withdrawal fees, and credit transfers. Another complemented by saying that such increase in the level of the fees and tariffs for consumers was not coupled by an increase of the volume and/or quality of the services, thus this increase of cost went to banks' profits. BSG members offered to provide more granular analysis and data on fee income trends.

24. One BSG member said that maybe the low cost of risk of non-EU businesses was driven by the respective US subsidiaries, which followed the same volatile provisioning trends as US banks, and that were currently writing back provisions.

Agenda Item 5: Discussion on CP of the Guidelines (GL) on common procedures and methodologies for the supervisory review and evaluation process (SREP) and supervisory stress testing

25. The BSG presenter reminded of the objectives of the EBA consultation which were: reviewing the categorisation to reflect the SNCI definitions, incorporate AML/FT risks, reviewing provisions on Pillar 2 add-on and ensuring microprudential guidance, clarifying assessment of risk excessive leverage and related Pillar 2 add-ons guidance, and adjusting assessment of interest rate risk in the non-trading book plus risk and adequacy of liquidity. He reminded that the review affected all main SREP elements.

26. With regards to proportionality, the BSG opined that it was too tied up to the concept of size and proposed to go further throughout the GL by providing some specific indications, for

instance geographical application of numerical thresholds. On internal governance, the BSG suggested recognition of single or multiple point of entry (SPE/MPE) business models and the recognition of dual and monist management bodies. With regards to risks to capital (credit-, operational, market risk and interest rate risk in the banking book (IRRBB), some members of the BSG suggested re-evaluating the importance of the ICAAP given the time invested in building its capabilities. The BSG noted that, concerning ICT risk, cybersecurity incidents represented a material source of risk, including a potential systemic component, and should be taken into account specifically when evaluating ICT risk. Concerning P2G setting, some members of the BSG were of the view that financial institutions' technical teams should be consulted by the EBA on the matter to ensure that the stress test exercise was a useful tool also for institutions. The BSG welcomed the EBA objective of enhancing transparency towards also on how supervisory authorities perform their analysis but was wary of unintended consequences of P2G disclosures.

27. The BSG reminded that they were in favor to include climate risk in the supervisory activity and supported the progressive and proportional implementation of this line of work. The BSG agreed with the EBA's line of work on the ML/TF risks, liquidity and funding risk, and communication and justification of additional own funds requirements to institutions.

28. EBA staff acknowledged the BSG comments and reminded members that the review of the feedback of the consultation was still ongoing. She informed that BSG concerns on proportionality was one of the main points for consideration the SREP GL. EBA staff said that the BSG input on this front as well as on internal governance would be borne in mind, confirming that the SREP GL are neutral towards specific group and management structures. With regards to the ICAAP proposal, it was confirmed that this is a very important tool but that it should remain an internal process of an institution, while enhanced dialogue with the supervisors should create incentive to maintain high quality of ICAAP. Regarding cyber risk and supervisory stress tests comments, it was reminded that this topic is already addressed through appropriate references to specific guidelines on this topic. Also, regarding the P2G disclosures, EBA staff said that this matter would not be included in the SREP GL. Last yet importantly, the EBA staff conveyed that it is planned to finalise these GL by Q1 2022.

29. One BSG member wondered if these would be applicable by the CAs in the 2022 SREP cycle.

30. Another member outlined the importance of the CRR3 legislative proposal and the potential excessive impact of the output floor in the context of some of the existing buffers.

31. EBA staff explained that the update on SREP GL took into account that the requirements of the CRR2/CRD5 are already in force and applicable. She confirmed that in principle the idea was to use these GL for the 2022 cycle but that this had not been formally decided yet. She confirmed that EBA would communicate about this matter in due course. Concerning the CRR3 application of the output floor, she confirmed that authorities should avoid double counting.

Agenda Item 6: The amendment of the RTS on strong customer authentication and secure communication (SCA&CSC) under Payment Services Directive (PSD2) with respect to the 90-days exemption for account access

32. EBA staff presented the EBA consultation paper (CP) on the amendment of the RTS SCA&CSC in relation to the exemption from SCA for account information services (AIS) that was published on 28 October, the issues that had been identified by the EBA and the proposed changes to the RTS. The aim of this CP is to address a number of issues that providers of account information services (AISPs) under the PSD2 had raised with the EBA with regard to the application of the “90-days exemption" from SCA for AIS. EBA staff explained that given the amendment is a very targeted one, limited to only one article, the consultation period was shortened to 4 weeks.

33. One member asked for an example of a legitimate use case where the AISP can access the customers’ account data without the customer’s involvement.

34. Another member was of the view that the requirement to perform SCA every 90 days was not so demanding and that, from a consumer protection point of view, it should be maintained. She said that treating the access to consumer data as an “open bar” should be avoided, which was supported by several members.

35. Several members concurred that a 4-week period to formulate a response to the CP was short and asked if there was a particular urgency to its completion.

36. In response to the first question, EBA staff provided several examples of business models that rely on the AISP’s possibility to access the data without the customers’ involvement, based on the explicit mandate received from the customer. This included for instance personal financial management applications that offer notifications to their customers based on their account data regarding due payments, or other insights into their financial situation to help customers better manage their finances.

37. In response to the comments raised by the second member, EBA staff explained that where the AISP aggregates multiple accounts of the same customer held with different account providers, the customer has to perform several SCA with each account provider, often at different points in time that do not overlap, and that the frequency of performing SCA with each account provider can vary from every 90 days (where the account provider applies the exemption) to every day (where the account provider does not apply the exemption). In such cases, the frequent application of SCA with each account provider, at various points in time, was negatively impacting the customer experience when using AIS, and also not allowing customers to make use of AIS that rely on the AISP accessing the data without the customers’ involved as described above. EBA staff also explained that the PSD2 and the RTS include numerous safeguards that ensure the security of the customers’ data and that the proposed amendments to the RTS aim to enable more customer convenience and address the issues raised by AISPs whilst ensuring the security of the customers’ data.

38. With regards to the short timeframe provided for the consultation, EBA staff explained that the motive was twofold: on the one hand, the CP includes a very targeted amendment limited to only one article and, on the other hand, the issues that had been raised with the EBA, that are threatening the business viability of some AIS business models, required a timely resolution. EBA staff also explained that given the various steps of the legislative process (including the assessment of the responses to the CP and submission of the final amending RTS to the European Commission (EC), the adoption and publication by the EC of the amending RTS, followed by the EU Parliament and Council scrutiny period), and factoring in a 6-months

implementation period as currently proposed in the CP, the EBA expects the proposed changes to the RTS will be effective as of the end of next year at the earliest.

Conclusion

39. The BSG said it would reconvene at working group level to assess if an input could be provided given the shortened 4-week timeline.

Agenda Item 7: Implications of the court case on GL on product oversight and governance arrangements (POG) for retail banking products

40. EBA staff presented the court case where a banking federation brought action seeking the annulment of Guidelines on Product Oversight and Governance before a national court. As the case concerned EBA guidelines, the court referred a number of questions to the European Court of Justice (ECJ). The ECJ established the validity of its Guidelines and ruled in support of the EBA's ability to reduce the prudential impact of misconduct for financial institutions and to protect consumers from banking products that are not fit for purpose. She continued by explaining that the GL were not legally binding however supervisory authorities and financial institutions needed to make efforts to comply with them and give reasons if they intended not to comply, and that national courts were expected to take EBA guidelines into consideration when resolving cases.

Conclusion

41. BSG members welcomed the presentation and requested to be informed of future similar cases.

Agenda Item 8: Update on the Q&A process

42. Following discussion at the previous BSG meeting, and as requested by a BSG member, the EBA Head of Policy Coordination (PC) provided an update on the Q&A process and reminded in which instance involvement of the BSG was sought. He gave an overview of the type and number of Q&As that have been processed by the EBA, the challenges faced by this process given the increasing number of legal acts under its scope and of the measures taken or considered to overcome those challenges. To conclude, he sought the input of the BSG on the quality and the usefulness of this process.

43. One BSG member suggested that when a question is rejected, there would be merit in having interaction with the issuer of the question.

44. Several members underlined that the absence of response to a Q&A brought uncertainty and that even tardy responses would be appreciated.

45. In order to streamline the inflow of questions, a member suggested the possibility of coordinating Q&As submission by trade organisations or equivalent as well as including a preliminary assessment of the materiality of the issue in the submission.

46. The head of the PC unit took note of the comments and thanked BSG members for their interest and continuous involvement in the process.

List of participants:

Consumers			
Monica	Calu	Asociatia Consumers United/Consumatorii Uniti	Romania
Tomas	Kybartas	The Alliance of Lithuanian consumer organisations	Lithuania
Vinay	Pranjivan	Associação Portuguesa para a Defesa do Consumidor	Portugal
Patricia	Suárez Ramírez	Asufin	Spain
Martin	Schmalzried	Confederation of Family Organisations in the EU	Czech Republic
Employees' representatives of financial services			
Andrea	Sità	UILCA Italian Labor Union - credit and insurance sector	Italy
Financial institutions			
Eduardo	Avila Zaragoza	BBVA Group	Spain
Sèbastien	De Brouwer	European Banking Federation	Belgium
Erik	De Gunst	ABN AMRO Bank	Netherlands
Søren	Holm	Nykredit Realkredit	Denmark
Christian	König	Association of private Bausparkassen	Germany
Julia	Kriz	Raiffeisen bank International AG	Austria
Johanna	Lybeck Lilja	Nordea Bank	Sweden
Vèronique	Ormezzano	BNP Paribas	France
Maria	Ruiz de Velasco	SIBS	Spain
Sebastian	Stodulka	European Savings and Retail Banking Group (ESBG) & World Savings and Retail Banking Institute (WSBI)	Austria
Elie	Beyrouthy	European Payment Institutions Federation	Belgium
Representatives of SMEs			
Constantinos	Avgoustou	Founder and Non-Executive Director of several enterprises	Cyprus
Top-ranking academics			
Rym	Ayadi	City University of London, Business School and CEPS	EU
Concetta	Brescia Morra	University Roma Tre	Italy
Edgar	Löw	Frankfurt School of Finance & Management	Germany
Monika	Marcinkowska	University of Lodz	Poland
Users of Banking Services			
Alin Eugen	Iacob	Association of Romanian Financial Services Users	Romania
Poul	Kjær	Copenhagen Business School	Denmark

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