Banking Stakeholder Group | BSG 2012 23

10 August 2012

Minutes

8th meeting of the Banking Stakeholder Group

5 July 2012

1. Greeting, Approval of Agenda & State of Play

1. The BSG Chair welcomed the members of the group to the EBA's offices and the agenda for the meeting was approved. The Chair then presented a synopsis of key matters of concern, major developments and horizon issues in EU banking.

1(a) Developments in the EU banking system: since the last BSG meeting

2. The EBA Chairperson updated the BSG on the current status of the EBA's work in relation to the implementation of Capital Plans following the EBA's 2011 Recommendation on the creation of temporary capital buffers to restore market confidence, noting the scope of deleveraging actions has been very limited, in line with the Recommendation.
3. The EBA Chairperson advised that the EBA is planning to issue a short overview report of this exercise in the coming days. The report will provide a broad overview, indicating the banks needing a capital injection, with a more granular report to be published in September with detailed data. He added that the valuation of Spanish banks' assets is subject to an external review exercise, to which EBA is participating.
4. The EBA Chairperson added that funding is a key issue and, over time, a review of banks plans to return to sustainable funding structures will be undertaken. Further the EBA's recommendation will remain in force until rescinded (noting the sovereign buffer can be reviewed at any time). The EBA is working to map the transition from the recommendation to CRDIV/CRR, with a view to avoid that capital is released from the higher level achieved under the recapitalisation exercise.
5. The BSG Chair invited the EBA Chairperson to comment on the statement from the European Council's meeting on 28/29 June 2012 on the establishment of a single supervisory mechanism is established, involving the ECB, for banks in the euro area the ESM, and its implications for the EBA. The EBA Chairperson highlighted the Council agreed to have direct capital injections in the banks and that this decision created the need for a more centralised supervision by Eurozone institutions. He added that he welcomed the decision taken and viewed it as an important and positive step forward.
6. The BSG members noted that the Council has decided to pursue the option of creating the EU banking supervisor under the ECB under Article 127(6) of the

Treaty. Further the Commission has been tasked to prepare a proposal for adoption by the end of the year, which is likely to seek a change to the regulation establishing the EBA.

7. The EBA Chairperson mentioned that there are four key issues that are relevant and should be taken into account for the establishment:
   a) Relationship between the Euro area and the single market,
   b) Need of a Single Rule Book for the whole of the EU,
   c) Need to develop a more unified framework for the conduct of supervision, possibly for the whole Single Market,
   d) Implications for the supervisory tasks of the EBA regarding Colleges, mediation, risk assessment and stress testing, inter alia.
8. BSG members discussed the above issues and it was noted that there is a very short time to finalise all these complex issues. It was also mentioned that the institutional changes will impact the role of the BSG.
9. Other issues that were mentioned in relation to the single supervisory mechanism / Banking Union and the role of the ECB were the impact on the Resolution Authority and deposit insurance. It was noted that if the resolution is linked to the European Support Mechanism and the Euro zone only, there might not be a role of the EBA.
10. It was also noted that changes to the role of the ECB under Article 127(6) of the Treaty requires unanimity in the Council but changes to the regulation establishing the EBA will be agreed with Qualified Majority Voting. BSG members added that if there are changes to the rule making function of the EBA, this could impact negatively on the drafting of Technical Standards for CRD IV/CRR. However, the EBA Chairperson mentioned that he did not see major changes at this juncture for work under development.
11. BSG members mentioned that resource issues will have to be more carefully assessed in any future arrangements, as the EBA was not endowed with all the resources needed to fulfil its tasks and responsibilities. They also noted that the implications of giving a micro prudential supervisory role to the ECB will create accountability issues that need to be well thought through. BSG members agreed that it is not clear how the new supervisory architecture will work and what will be the role of the National Supervisory Authorities. It was highlighted that what is important is good effective supervision and that finalising the new framework will take time. Another issue that was needed to be addressed was the supervision of smaller banks, as it was not clear how small domestic banks will fit in the new framework, and the implications for harmonisation of supervisory methodologies.
12. Some BSG members also pointed out equity/debt swap operations that were taking place in Spain, stressing the negative consequences of marketing complex instruments to retail investors, as it might be difficult for the regulator and the government to apply haircuts to these instruments because of social and political impact.

2. **BSG to discuss formulation of BSG's opinion to**

   (a) EBA's Consultation on Draft Regulatory Technical Standards (RTS) on own funds (EBA CP 2012 02). The consultation runs until 4 July 2012

13. This item was not discussed as the BSG had prepared an opinion.

   (b) EBA's Consultation paper on Draft Implementing Technical Standards (ITS) on Disclosure for Own Funds which focus on the disclosure requirements to be met by institutions in relation to Own funds. The Consultation runs until 31 July 2012.

14. The Chair of the BSG Technical Working Group on Capital provided an update on its Working Group's preliminary review of this ITS.

15. The aims of the ITS are to establish appropriate disclosure requirements to increase the transparency on regulatory capital held and to ensure a uniform approach to disclosure of own funds by institutions across jurisdictions in order to allow a detailed assessment of banks' capital positions and to make cross-jurisdictional comparisons.

16. The main features of the ITS are to facilitate international comparisons and to avoid different disclosure frameworks. It is also to ensure consistency with COREP.

17. Firms will be required to complete 3 sets of templates:

   (i) General own funds disclosure template

   (ii) Transitional disclosure template

   (iii) Template describing the main features of capital instruments

18. EBA staff added that in providing its opinion the BSG may wish to include in its consideration:

   (i) The level of detail of the disclosure templates (which is fairly granular and perhaps demanding) and whether there is room for simplifying the templates without losing the information

   (ii) Possible practical difficulties in completing the templates in the short term and precisely what kind of difficulties (bearing in mind that large international banks will have to do it under the Basel III guidance), major impediments to publish some of the data required and which kind of impediment;

   (iii) Any other problems, such as IT issues, link with EBA's COREP templates.

19. BSG members mentioned that since large credit institutions are very complex, it may not be possible for them to complete these templates. The deadlines are too short to develop the necessary reporting framework. BSG members mentioned that the level of granularity of the templates was very high and that the templates will be understandable only by a very small number of stakeholders. They mentioned that the detail of information to be disclosed is too extensive. The information on how complete in the templates for cooperative shares was seen as not clear.

(c) EBA's Consultation paper on Draft Implementing Technical Standards on supervisory reporting requirements for liquidity coverage and stable funding (EBA/CP/2012/05). The consultation runs until 27 August 2012.

20. EBA staff presented the highlights of the ITS. It was mentioned that the key objectives of the ITS were to develop a uniform reporting template that will facilitate similar reporting standards of the liquidity coverage and stable funding for European institutions.

21. The ITS will allow the EBA to quantitatively assess the impact of introducing the LCR and the NSFR as required in Article 481. The public consultation document was sent on 7 June 2012 and the consultation periods will end on 27 August 2012. The EBA will organise a public hearing on 18 July and the deadline for delivery to the Commission is 1 January 2013.

22. EBA staff mentioned that the reporting will be integrated in the COREP/FINREP framework thereby allowing institutions to have integrated reporting.

23. The ITS will be subject to finalisation of the CRR and may be changed to reflect changes in the CRR mandate. It is based on the Commission proposal and there could be changes on liquid assets reporting. First reporting is planned for February 2013 and will be on a monthly basis.

24. The Chair of the BSG Technical Working Group on Liquidity shortly briefed the BSG on recent developments. It was agreed that the position paper being prepared by the WG over the latest weeks cannot be effectively finalised unless the final CRR text is in place (since the differences between the 2011 proposed text and the final CRR are likely to be substantial); It was therefore possible that the Working Group would have a draft position paper before the next BSG meeting if there is an agreement between the Council, Parliament and Commission before the end of August. Further, the WG was willing to collect comments from all BSG members and draft a short response to EBA concerning the current draft ITS on liquidity reporting; To this aim, comments should be sent to andrea.resti@unibocconi.it by July 20, while a draft response note will be circulated to all BSG members by July 30; requests for modifications sent to the above address by August 8 will be accounted for in the final text, which will be circulated and submitted to EBA by August 27 via the BSG Chair.

25. BSG members were concerned with uncertainties regarding the legislation but recognised that the EBA needs to operate under known timelines/constraints. They stressed that the requirements should not go beyond the CRR and we should be mindful of cost versus benefit implications if the EBA will ask for more granular data and that banks may not be able to provide such granular data at such frequency.

26. The first remittance of data was discussed and that one option would be to allow a minimum time period of 6 months after the release of the CRR so that banks have enough time to put in place reliable data collection procedures. It was also observed that smaller credit institutions are unlikely to pose a systemic threat and hence it was suggested that they did not take part in the data collection exercises of the supervisors, and a longer first remittance date could be introduced. This would however not be possible to change within the ITS, given the ITS could not change the scope of the CRR.

27. Other issues that were highlighted by BSG members were: the remittance period of 15 days, liquidity outflows, liquid assets, and the proposed next steps for the Working Group.

(d) EBA's Consultation paper on Draft Implementing Technical Standards on supervisory reporting requirements for leverage ratio (EBA/CP/2012/06). The consultation runs until 27 August 2012.

28. EBA staff mentioned that the development of a uniform reporting template will facilitate similar reporting standards of the leverage ratio and its components across European institutions. It will in addition allow the EBA to quantitatively assess the impact and effectiveness of the leverage ratio as requested in Article 482 CRR. The deadline for delivery to the EU Commission is 1 January 2013.

29. The ITS on leverage ratio reporting will be integrated into COREP/FINREP, allowing institutions to have integrated reporting and avoid double reporting for different reports. Minimum thresholds will be proposed with respect to derivatives reporting to relieve reporting burden for institutions with limited derivatives exposure.

30. The ITS is subject to finalisation of CRR and may be changed to reflect changes made to the CRR. There will be quarterly reporting based on monthly averages as stipulated in the CRR (unless derogation in Article 475 (3) is applied. First reporting is planned for May 2013.

31. BSG members stated that requesting a calculation of the quarterly leverage ratio on monthly data is not achievable in the near future. There was a preference for quarterly reporting, although it was noted by EBA that it would not be within the scope of the ITS to change this reporting format, but national authorities could derogate from this requirement.

32. The other concern raised was about who will use the data and whether it will be disclosed. It's still not clear whether investors will use this data but they may be useful when there is a need for regulatory intervention. Concerns were raised about the fact that banks will have to publish the ratio from 2015 even if the ratio will not be fully calibrated. The development of a disclosure template will be done at a later stage by the EBA.

33. BSG members also mentioned whether it would be necessary to report on both a solo and consolidated basis since legal entity data is often more problematic. They would welcome some exemptions for legal entities and that same scope as COREP should be requested. Again this would be beyond the scope of the ITS, as the CRR explicitly request reporting on both a consolidated and individual levels.

34. Realistic timeframe for consolidated reporting is needed. It was noted that it may be difficult to report to the same deadline for consolidated reporting.

35. BSG members also mentioned that the threshold to be applied for reporting will only be for the reporting of derivatives. There is no global threshold for the entity itself. In addition there is lack of clarity for the reporting of some elements such as calculation of the total exposure measure and the calculation of the threshold for the derivatives.

(e) EBA's Consultation paper on Draft Regulatory Technical Standards on the concept of Gain on Sale associated with future margin income in a securitisation context. The consultation runs until 12 August 2012.

36. EBA staff presented the key issues of the Technical Standards. According to Article 29 of the CRR an institution shall exclude from any element of own funds any increase in its equity under the applicable accounting standard that results from securitised assets including association with future margin income that results in a gain on sale for the institution and where the institution is the originator of a securitisation, net gains that arise from the capitalisation of future income from the securitised assets that provide credit enhancement to positions in the securitisation.

37. EBA will develop draft Regulatory Technical Standards to specify further the concept of a gain on sale. EBA are required to submit the draft RTS to the Commission by 1 January 2013.

38. EBA staff also provided more information on background to the Guidelines, concept of gain on sale in accounting, future margin income as the key element and prudential filters in Article 9 Components.

39. The BSG chair asked whether this was a priority issue for the BSG. After discussion it was decided that the BSG will not prepare an opinion on this issue.

(f) EBA's Consultation paper on Draft Regulatory Technical Standards on Capital Requirements for Central Counterparties (CCPs).

40. EBA staff highlighted the key points in the draft technical standards and provided an overview. The European Market Infrastructures Regulation (EMIR) Article 16 requires the EBA to develop a draft regulatory technical standard on the capital requirements for CCPs. The EBA should do so after close cooperation with the ESCB and after consulting ESMA. The aim of the capital requirement is to ensure an orderly winding down or restructuring of the activities over an appropriate time span and that the CCP is adequately protected against credit, counterparty, market, operational, legal and business risks which are not already covered by specific financial resources.

41. EBA staff provided the key points on the default waterfall and the EBA's mandate, the capital requirement main drivers, notification threshold and operational expenses for winding down or restructuring.

42. It was mentioned that in Article 7 of the standard, the Basic Indicator Approach is a valid starting point for the calculation of the capital requirements to cover operational risk. CCPs should be allowed, subject to the same strict organisational and quantitative standards as for banks and to the permission of the competent authority, to use the Advanced Measurement Approach (AMA) in order to incentivise them to increase their operational risk management.

43. BSG members viewed that the standardised model seems sensible as a model for CCPs, which are are not too complex and that investment firms are a better reference for modelling CCPs risks as they too do not take deposits. In the BSG's opinion, the key risk facing CCPs is operational risk. Therefore more advanced models should be used. The CCPs have to collect many data points to apply the AMA and those will unlikely be available in the next few

years. The specialist business of the CCP also suggests not to estimate operational risk based only on the volume. One BSG member suggested to investigate a recalibration of the Standardised Approach adapting the business lines to the characteristic of a CCP.

44. EBA staff pointed out that if EBA allowed for advanced models for market, credit and counterparty credit risks, these would create additional costs for supervisors but would likely reduce the capital requirements for CCPs. However, given the constraints on the investments policy, those items should not be very material and the introduction of internal models is not deemed necessary.

3. EBA's proposed consultation on Credit Valuation Adjustment (CVA) Charge

45. EBA staff mentioned that Article 373 (6) of the CRR requires EBA to draft RTS to specify in greater detail how a proxy spread should be determined for the purposes of identifying market implied Loss Given Defaults (LGD_{MKT}) for the purposes of the calculation of Advanced CVA capital charge and the number and size of portfolios that fulfil the criterion of a limited number of smaller portfolios referred to in Article 373 (4). It was also mentioned that the application of the advanced method to the determination of own funds requirements for CVA risk is liable to involve counterparties for which no credit spread is available.

46. EBA staff also provided more information for the calculation of the Advanced CVA capital charge and circumstances in which credit institutions may be permitted by competent Authorities to use the advanced method for the calculation of the CVA capital charge for the portfolios that are not covered by the internal EPE model. A two month public consultation is due to be launched in the coming week. Further EBA is required to submit the technical standards to the Commission by 1 January 2013.

47. The Chair of the Capital Working Group offered that the Working Group will look at the consultation and that they would prepare a draft BSG opinion by the end of August, with a view that the BSG could submit to the EBA in September.

48. The BSG members had a preliminary discussion on some of the issues and risks regarding the proposal.

4. EBA, EIOPA and ESMA's joint consultation to the European Commission's Call for Advice on the fundamental review of the Financial Conglomerates Directive (FICOD)

49. EBA staff provided a summary of the ESAs' draft advice covering the scope of application, the group wide internal governance requirements and sanctions and supervisory empowerments under the FICOD.

50. The ESAs were proposing a series of recommendations for the review of the FICOD, including the widening of the scope of supervision, to include SPEs/SPVs inter alia, and appointing a designated entity within the financial conglomerate to whom to address specific addressing requirements and responsibilities, and that this entity could be subject to sanctions.

51. BSG members discussed the issues around the establishment of such a designated entity, and noted the merits that were such an entity to be a Holding Company; this had benefits for the recovery and resolution.

52. It was proposed the Technical Working Group on Systemic Issues will look into this paper, and assess whether to prepare a response on behalf of the BSG to ESAs joint consultation, which closes on 13 August 2012.

5. Horizon Issues: Developing Matters of Concern to the BSG, Regulations and State of EU Banking

53. Please see section 1(a).

6. Update on regulatory planning including EBA regulatory work under development and also potentially envisaged work

54. EBA staff provided an overview of EBA's work under development, including the proposed workstreams coming out of the EC's proposals on the EU framework for bank recovery and Resolution (published in June 2012) and also regulatory developments of the Joint Committee was also presented.

55. A short discussion ensued on some of the work under development. It was also mentioned that the Commission has asked the EBA to expedite the timeframe for its report on the SMEs, which now has to be delivered in September 2012.

7. Technical Working Group on Consumer Protection Issues

56. EBA staff presented an update on EBA's work on Consumer Protection issues.

57. Some BSG members highlighted the sale of capital instruments to retail investors in Spain and the financial stability implications. It was noted that criminal proceedings have been launched for some banks and that EBA's powers were limited in this area.

8. Technical Working Group on Bank Capital

58. The Chair of the Working Group on Capital updated BSG members on the recent work carried out by the Working Group, and advised that it had prepared the BSG's response to EBA's consultation on Own Funds. and that it was preparing the BSG's response to EBA's consultations on:

   a) Draft RTS on Capital Requirements for CCPs
   b) Draft ITS on Supervisory Requirements for leverage ratio
   c) Draft ITS on disclosure of own funds

9. Technical Working Group on Bank Liquidity

59. Please see section 2(c)

10. Technical Working group on Systemic Issues

60. Please see section 1(a).

11. AOB

61. BSG members discussed the preparation for the next joint meeting of the BSG with EBA's Board of Supervisors. The EBA Chair mentioned that ESMA and EIOPA tried a different format for such joint meetings. For instance, one option could be to have more structured sessions focussed on specific topics,

while another would be to have meetings with the Management Board of the EBA.

62. BSG Chair will draft a one page note with some options and will circulate to Chairs of the BSG's Technical Working Groups and the Vice Chair of the BSG. Another idea that was mentioned was for the BSG to review the progress made since the G20 meeting in 2009 in the area of bank regulation.

Participants at the 8th meeting of the Banking Stakeholder Group (BSG)

London, 5 July 2012

BSG Member	Representing
Andrea Cesare Resti	Top-ranking academics
Andrew Thomas Procter	Industry
Arnold Kuijpers	Industry
Birgit Roos	Industry
Christian Lajoie	Industry
Daniel Gros	Top-ranking academics
Erik Berggren	SMEs
Giles Williams	Users of banking services
Giovanni Ferri	Top-ranking academics
Hiltrud Thelen-Pischke	Users of banking services
Holger Schwannecke	SMEs
Louise Lindgren	Industry
Lubomir Christov	Consumers
Magdolna Szőke	Industry
Michelle Brennan	Users of banking services
Monica Cueva Diaz	Industry
Pamela Walkden	Industry
Rudi Vander Vennet	Top-ranking academics
Sony Kapoor (Chairperson)	Consumers
Sylvie Bourguignon	Users of banking servcies
Ute Meyenberg	Trade Unions

From the EBA

Andrea Enria
Corinne Kaufman
Christian Moor
Carlos Zarco
Delphine Reymondon
Gabriel Cardi
Lars Overby
Shamim Diouman