

Banking Stakeholder Group

4 July 2018/09:30-16:30

Location: London

Banking Stakeholder Group – DRAFT Minutes

Item 1.: Welcome and adoption of the agenda

1. The BSG Chairperson together with the EBA's Chairperson welcomed BSG Members.
2. The agenda was approved. A BSG member requested clarification regarding the absence of a risk update in the agenda. The EBA staff explained that the next risk dashboard would be published shortly after this BSG meeting and therefore a risk update at the October meeting of the BSG was considered more suitable. The EBA Chairman also suggested BSG members to contribute on this matter by preparing a risk presentation for the next meeting.
3. The EBA Chairman informed about the BSG the renewal process. The EBA will assess all applications during summer in order to finalise the process by the end of September.

Item 2: BSG update on the latest developments

A) BSG Chairperson to update on recent developments and to allocate the work on the EBA's Consultation Papers

4. The BSG Chairperson proposed an outline and next steps for the BSG End of Term report. He suggested to include BSG role and functioning, the summary of the main activities and the work carried out by the five working groups. The contribution in the Q&As, the report of sandboxes and the joint letter with the other stakeholder groups on ESAs review would be also included.
 5. The EBA Chairman noted that the End of Term report would be the BSG's legacy summarising its contribution, lessons learned and challenges. The EBA would welcome suggestions on how to improve the BSG work and interactions.
 6. Finally, the BSG Chairperson presented the open consultations; informed about the Consultation Papers (CPs) on which the BSG replied and asked for volunteers for future consultations.
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B) Update of BSG Technical Working Groups' Activities

7. The leader of the BSG Technical WG in Capital Liquidity and Risk presented an updated on their work since last BSG meeting.

Item 3: EBA update on general developments

8. The EBA Chairman provided an update to the BSG regarding general developments.
9. The EBA Chairman informed about the EBA's relocation to Paris. The building has been identified but a final approval from the European Parliament (EP) budget committee is needed together with a change in the EBA founding regulation to identify Paris as the new seat of the EBA.
10. The EBA issued an opinion on Brexit urging EU competent authorities to increase the efforts of institutions to face adverse consequences of the UK exit of the EU. This opinion is the result of a survey to 3700 institutions with cross border business across the Union and which showed that the level of preparedness is in general very disappointing. In the area of data protection and the possibility of sharing information, very few firms have identified possible solutions.
11. The EBA published its first binding mediation decision between two resolution authorities, the Single Resolution Board (SRB) and the National Bank of Romania (NBR). The decisions were issued following a request from the NBR for the EBA to assist in settling a dispute with the SRB concerning the resolution planning for two banking groups.
12. Three breach of Union law (BUL) cases were opened recently. The first one was closed after the national regime for local firms was changed in accordance with EU law by the local authority. The EBA is currently working on two other BUL cases related to Anti-Money Laundering (AML) in Malta and Latvia.
13. In particular, the EBA investigated a possible BUL regarding the apparent failure of the Maltese Financial Intelligence Analysis Unit (FIAU) and the Maltese Financial Service Authority (MFSA). The EBA assessed the quality of supervision in a Member State showing that there have been weaknesses in the necessary actions taken to comply with the AML directive and recommended to strengthen AML supervision.
14. The EBA Chairman referred to the Joint ESAs Consumer Protection day that took place in Lisbon on the 22 June. The event was a success in terms of audience and quality of the discussions. The BSG Vice-Chair pointed out that two BSG members had been panelists on virtual currencies and consumer issues. He welcomed the format and suggested to include a reference of this work in the EBA Annual Report to make their work and contribution more visible.

15. The EBA Chairman also informed about an initiative launched internally, the Staff Paper Series (SPS), to provide a platform for EBA staff to disseminate research and thematic analyses to a wider public. It includes selected studies on financial regulation, supervisory policy and legal issues of general interest with the aim of stimulating discussion and public debate. The EBA Chairman invited BSG members to contribute with the aim of getting new ideas and creating a network of researchers.
16. A BSG Member requested an update on the EBA relocation to Paris regarding the measures introduced to retain staff. The EBA Executive Director explained that the EBA would focus to ensure maximum retention of staff. For that purpose, several measures supporting smooth relocation of staff in Paris are implemented such as the introduction of teleworking facilities. Additionally, the EBA has issued vacancy notices for several positions in order to build up a reserve list of experts to be recruited quickly in case of staff resignations.
17. A BSG member pointed out that 2018 was the 10-year anniversary of the financial crisis in the EU and asked EBA's views on merger & acquisitions (M&A) which are regarded as a possible solution to EU banking sector restructuring even though they could increase the too big to fail issue. The EBA Chairman explained that regulation should not be designed to restrict the scope of M&A but it is nevertheless necessary to assess possible restrictions and consequences of M&A on the Single Market.

Item 4: Short presentation on the Joint Consultation Papers on the Clearing Obligation and Risk Mitigation Techniques

18. EBA Staff presented the Joint CPs on the Clearing Obligation and Risk Mitigation Techniques under EMIR followed by the amendments in the securitisation regulation. They introduced a special treatment for securitisation special purpose entity (SSPE) if they are classified as simple, transparent and standardised (STS) and Covered Bond for clearing and bilateral margin rules. As a Joint paper, ESMA has also provided a CP on clearing obligation aligned with the drafting of the CP on Bilateral Margin exclusions.
19. The BSG Members welcomed the comprehensive presentation without expressing any particular reservation on the content. The EBA staff informed that the CP was already finished and that the answers had been quite supportive.
20. A BSG member asked about the allocation of responsibilities for finalising a regulatory product when the mandate is not given solely to one Authority. The EBA Executive Director clarified that according to the legislation there are two different kinds of mandates: (i) one ESA leads and consults (or cooperates with) the other Authorities; (ii) Joint mandate (as in the case of this specific amendment) where one ESA leads the drafting process, but the responsibility is shared, and the three boards of the ESAs have to approve the regulatory product.

Item 5: Presentation on the Call for Advice for the EBA for the purposes of revising the own fund requirements for credit, operational, market and credit valuation adjustment risk

21. The EBA staff explained that the EBA received a Call for Advice (CfA) from the European Commission on 4 May 2018 to support the preparation of the implementation of the 2017 Basel III revisions in the EU. For this purpose the EBA prepared the templates which will be added to the Basel templates and in order to facilitate the process the data collection will be run together with the Basel monitoring exercise.
22. With regard to the selection of the sample, the EBA tried to meet the European Commission's request in terms of coverage of countries, models and size. Although the EBA targeted to include 279 banks in the sample, there was no coverage at all for some Member States. They also informed that the highest level of consolidation would be taken into consideration.
23. The EBA would try to assist the banks as much as possible by designing to the extent possible simple templates and by conditional formatting to easily identify the relevant parts of the template. In terms of timeline, the templates should be ready by mid-July and institutions should submit their data by 14 September, except for the banks that are not part of the BCBS Monitoring exercise, which would be given a later deadline. The exercise should be finalised by mid-November, allowing sufficient time for the EBA to analyse the data and supplement with relevant policy analysis.
24. A BSG Member, dissatisfied of the presentation, flagged that the proposed changes would impact the banks' business model and therefore EBA's response would be crucial. He drew the attention to how to finalise the framework and the need for a comprehensive analysis of the impact of the output floor. He noted that the infrastructure supporting factor would require a lot of work. Regarding residential mortgages, he voiced the differences of the real estate business at national level.
25. On the timeline proposed by the EBA, he expressed concerns on the tight deadline, as banks will need an extensive process to provide the data requested. In summary, he supported EBA's work with quite comprehensive templates and understood the degree of transparency requested. He also noted that UK banks might differ due to Brexit, however the UK authorities strongly support international standards and would align with Europe.
26. A majority of BSG members agreed with the previous comments and welcomed the exercise. Regarding the nature of participation, they raised their concerns on the selection process to avoid the data collection burden and the overall impact of this framework that could be particularly important for small banks. They requested clarification about the exercise run in parallel by the BCBS and asked for a possible assessment of a potential impact on FinTech or other segments of the financial market.

27. Other BSG Members requested exemptions from the parts of templates that are not material; extension of the deadline for cooperative banks; translation of the templates into EU languages and clarification of the communication process. They also asked about the possibility of having benchmarks for the RWA variability.
28. Regarding the consolidation of EU balance sheet for the G-SII, the EBA explained that it was an attempt to cover more jurisdictions. The EBA would separate the results for the G-SIIs to see the results, however the publication of country-by-country results would be decided later on.
29. The EBA staff clarified the issues on the timeline and informed that the data collected from large banks would be submitted to BCBS for the purpose of Basel monitoring exercise, therefore the timelines have to be aligned with this exercise. The templates are in English and translations would unduly lengthen the process. The templates have been sent to the Competent Authorities for a fatal flaw revision and the FAQ process will be established very soon. The assessment is not a benchmarking exercise on RWAs and it is a separate exercise from the benchmarking exercise run by EBA.

Item 6: EBA update on other regulatory deliverables (A-Point)

A) EBA's staff to present an update on Conduct, Payments and Consumers matters

30. The EBA staff presented a progress updated on costs and performance of structured deposits, the EBA's contribution in 2018/19 review of the Deposit Guarantee Scheme Directive (DGSD), an update on the implementation of the RTS on strong customer authentication (SCA) and common and secure communication (CSC) -Opinion and CP- and an update on the EBA's evolving AML strategy.
31. Regarding the structured deposits market, a BSG member asked about its size. The EBA staff explained that the purpose of gathering data would include understanding the size of the market. The EBA staff added they have general indications to suggest that the market was small. Another BSG member raised the importance of considering the pricing of these instruments in any future EBA work and highlighted that it had been asked recently by the Commission.
32. In relation to the EBA's DGS-related work, a BSG member asked about the link between the EBA report on the implementation of the EBA Guideline on methods for calculating contributions to DGSs and the upcoming work on the calculation models. The EBA staff explained that any further work will reflect conclusions of the said report which findings are only preliminary and that the method would have to be reviewed at least every five years.
33. Another BSG member asked if data on covered deposits and total deposits would be published on the EBA website. The EBA staff explained that the data on covered deposits, as well as DGS available financial means for the last 3 years is already on the EBA website but the EBA does not collect and so does not publish total deposits data.

- 34.A BSG member asked the reason for the tight deadlines of the CP on draft guidelines on the conditions to be met to benefit from an exemption from contingency measures under Article 33(6). The EBA staff clarified that there is significant time pressure and that for this reason, the consultation period had been shortened from three to two months to deliver on time for the industry to implement their interfaces at the time the RTS apply.
- 35.Regarding the AML strategy, a BSG member noted that the amount of supervisory and regulatory work had significantly increased, pointing out the material impact on banks especially in those countries more sensitive to this issue.
- 36.The EBA staff noted that there is need for more supervisory capacity as the number of resources maybe is not adequate. The objective of any risk-based approach is that all risks are not treated in the same way, however the EBA needs to respect how each jurisdiction allocates responsibilities.

B) EBA's staff on Banking Markets, Innovations and Consumers.

Regulatory Sandboxes and innovation hubs

37. The EBA staff presented an update on regulatory sandboxes and innovation hubs explaining the EBA priorities in 2018/2019, and highlighting the recent launch on the website of the EBA FinTech Knowledge Hub. They explained the approach to the definition of 'regulatory sandboxes' and 'innovation hubs' and informed about the EBA's next steps regarding the preparation, in conjunction with the other ESAs, of the report on these schemes and a key date to note: industry roundtable in September 2018 for which registration has been just opened.
- 38.The BSG Chair welcomed EBA's role to harmonise practices due to the cross-border nature of FinTech that would help Europe to catch up with other regions. The other BSG members agreed with a special reference to security and payment services applications.
- 39.BSG members requested clarification regarding the consumer protection evaluation in the work and the role of consumer protection groups in the industry roundtable. They also asked about whether there was a geographic distinction within the EU in terms of innovations being tested, whether there were any significant differences between the reported sandboxes, how firms exit the sandboxes, and raised issues relating to the playing field (e.g. taking into account the differences between incumbents and new entrants).
- 40.The EBA staff explained that at this stage, the differences in the type of innovations appeared to be a reflection of market participation and activity in the member states. Regarding the independent evaluation of any consumer protection and level playing field issues relating to the operation of the schemes, these elements were under consideration, and would be taken into account in the report. The EBA has had a wide participation in the task force and is using this expertise to carry out a 'deep-dive' of the features of the relevant schemes, including

approaches to exit, and is also interested in learning about cross-border cooperation from the authorities.

41.They encouraged BSG members to participate in the roundtable to receive input from the industry, other FinTech firms and consumer groups.

Call for advice on European Secured Notes (ESNs)

42.The EBA staff gave an update regarding the CfA received from the Commission on ESNs under the umbrella of the Capital Market Union (CMU) to be delivered by 30 June 2018 as it would be published in the coming weeks. The EBA has assessed whether a dual recourse instrument that could share the same fundamental features as covered bonds may provide a useful additional funding tool to banks engaged in lending SMEs and lending to infrastructure projects.

43.BSG members commented on the attractiveness of the notes that would depend on the risk return and prudential treatment. Some BSG members were skeptical about the interest for investors and asked whether similar products were successful in the US market. They believed that harmonisation in taxation or insolvency laws across the EU would be more beneficial for the development of the CMU.

44.A BSG member asked if the EBA had done an impact assessment within the different categories of SMEs and across the different categories. Other member asked about the MREL/TLAC treatment and its potential impact in the development of an ESN market.

45.The EBA staff clarified that the CfA did not affect the covered bonds legislation. The ESNs is a new instrument and depending on the EBA recommendation the Commission might take some actions. The EBA staff expressed positive views on a new dual-resource instrument for SME ESN but concerns on infrastructure ESNs.

46.Regarding the MREL/TLAC impact, the EBA staff mentioned that the need to comply with the new requirements could affect levels of secured funding in general but it is not expected to have a specific bearing on the discussion on ESNs. EBA staff believe that prudential treatment on liquidity and ECB collateral eligibility would have more impact on the potential for this market to develop. On the impact assessment, the EBA analyses the PDs and LGDs of SME loans as a whole but did not have the data available to do deeper analysis on PDs and LGDs of specific SME segments such as per industry or type of SME loans.

C) EBA staff to present the Commission SBBS proposal

47.EBA staff presented the Commission proposal on sovereign bond-backed securities (SBBS) published on the 24 May which is heavily based on the work carried out by the ESRB high-level task force on safe assets. The proposal has four main parts: a set of rules that define the constitutive element of SBBS, the notification and transparency requirement for the issuing entity, the rules regarding the supervision of SBBSs and possible sanctions and the set of

amendments to the existing legal framework. The presentation also touched upon market development, demand and liquidity.

48. BSG Members commented on the instrument and the corresponding proposed framework, noting it was unclear how the market for such instrument would become liquid, as well as the fact that there were still a number of elements regarding the SBBS which were unclear (treatment of riskier tranches, avoidance of debt collateralisation, etc.). They also remarked on the fact that the analysis performed did not take into account the behaviour in times of stress as well as the correlation of CDS.

49. Regarding the mechanism of the SBBS, the EBA staff clarified that the diversification was embedded in the design of the instrument as it swaps a member state bonds with a pool of member states bonds. She agreed that further discussion was needed and that the treatment of other tranches was not clear, which would not help to reach the full potential of the instrument.

Item 7: Discussion on topics presented by BSG Members

A) BSG Members to present the financial regulation reform in the USA

50. A BSG Member presented the financial regulation reforms in the USA. Firstly, he provided an overview of the US banking system and the US financial regulation structure. Secondly, he described the US administration's financial regulation reform agenda and in particular the regulatory relief and consumer protection act (Crapo Bill) signed by the US President on 24 May.

51. Various BSG Members asked clarifications on the foreign banking organization regime in the US (FBO) and on the possible impact of US regulatory policies for EU institutions.

52. The EBA Chairman noted that the US administration is consistently sending positive signals regarding their intention to fully implement all international regulatory standards in their jurisdiction.

B) BSG Members to present the "Financial system manipulation: the Vilibor case"

53. A BSG Member drew attention to the credit crunch in Lithuania caused by liquidity manipulation in 2008. He highlighted some recommendations such as banks should not be allowed to use their selective control over liquidity for their own profit or stricter regulation of re-selling of repossessed assets should be required.

54. Some BSG members commented on the difficulty to find conclusive evidence of manipulation, also in light of ECB market interventions. The presenter clarified that the concentration of powers between two players was a sign of manipulation.

55. The EBA Executive Director explained that a global group of conduct authorities and the EBA are currently assessing initiatives to further reduce the room for the manipulation of market benchmarks. In Europe, there are several initiatives to make sure manipulations are stopped and ensure that the existing benchmarks more resilient.

Participants

BSG:

Chairperson – Santiago Fernández de Lis, BBVA

Gerda	Holzinger-Burgstaller	Erste Group Bank AG	Austria
Anne	Fily	Finance Watch	Belgium
Fryni	Michael	Cyprus Consumers Association	Cyprus
Søren	Holm	Nykredit	Denmark
Michel	Bilger	Crédit Agricole	France
Christophe	Nijdam	Independent	France
Mark	Roach	Ver.di	Germany
Ernst	Eichenseher	UniCredit Group	Germany
Sabine	Masuch	Association of Private Bausparkassen	Germany
Nikos	Daskalakis	GSEVEE	Greece
Dermott	Jewell	Consumers Association of Ireland	Ireland
Sergio	Lugaresi	Italian banking association	Italy
Giovanni	Petrella	Catholic University (Milan)	Italy
Giedrius	Steponkus	Lithuanian Investors association	Lithuania
Monika	Marcinkowska	University of Lodz	Poland
Alin	Iacob	Association of Romanian Financial Services Users	Romania
Angel	Berges	AFI-UAM	Spain
Simon	Hills	UK Finance	UK
Dominic	Lindley	Independent	UK
Jesper Bo	Nielsen	FSU-dk	Denmark
Luigi	Guiso	Einaudi Institute for Economics and Finance and University of Rome Tor Vergata	Italy
Herve	Guider	European Association of Co-operative Banks	Belgium

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