



EBA BSG 2015 015

Banking Stakeholder Group

3 March 2015

Location: London

Banking Stakeholder Group –Minutes

Agenda item 1.: Welcome and Approval of the Agenda and the Minutes

1. The BSG Chairperson and the EBA Executive Director welcomed the BSG members. The draft agenda for the meeting was approved. Also the minutes of the last BSG meeting held on 9 December 2014 were approved.
2. The BSG Chairperson raised two issues. First, he queried whether some of the BSG members were interested in making a submission on shadow banking. Second, regarding the BSG letter sent to the EU Institutions further to the European Commission and European Parliament's review of the European System of Financial Supervision (ESFS) published in 2014¹, the BSG Chairperson suggested circulating some potential topics, for the BSG to assess as to whether to submit a further letter to the EU Institutions.

Agenda item 2.: Welcome to new BSG member

3. The BSG Chairperson welcomed the new BSG member, Sabine Masuch.

Agenda item 3: BSG Chairperson to update on developments

a) Allocation of BSG work

4. The BSG Chairperson took note of those EBA consultation papers that currently were not allocated. The BSG members decided to prepare a submission on the following papers:
 - DP/2014/03: Passport notifications for credit intermediaries under the Mortgage Credit Directive

¹ See http://ec.europa.eu/finance/general-policy/docs/committees/140808-esfs-review_en.pdf published on 8 August 2014.

- CP/2014/46: Resolution colleges
5. The BSG Chairperson requested the BSG members to inform later as to whether to submit responses to: CP/2015/02 on CSD and CP/2014/47 on notifications and notice of suspension.
 6. Further, the EBA staff updated on some upcoming consultation papers regarding remuneration policies, the business reorganisation plans, and the requirements to maintain detailed records of financial contracts. The BSG Chairperson suggested allocating certain of the upcoming topics to BSG members, such as the consultation paper on remuneration policies.
 7. One BSG member presented some suggestions for a possible BSG paper on the future of stress tests, including consideration of the use of static versus dynamic balance sheets, and the assumption on defaulted loans; and whether to have regard to the use of the Challenger Model of Oliver Wyman rather than CRD norms. The BSG member referred to a study comparing the US Comprehensive Capital Analysis and Review (CCAR) approach with the EBA 2014 EU wide stress test exercise, recognising the transparency benefits from such exercises.
 8. The EBA Executive Director informed that the EBA's Board of Supervisors (BoS) recently decided not to carry out an EU-wide stress test exercise in 2015 and to start preparing for the next exercise in 2016. He cited some practical reasons supporting a static balance sheet assumption, including the sample size of banks used, and timing constraints of the ECB/SSM linked to its AQR. One BSG Member suggested it would be better to publish the results in spring rather than October.
 9. The BSG Chairperson concluded that the BSG will establish an ad hoc Working Group on the conduct of the stress tests with a view to submitting to the EBA a paper on stress testing. He proposed that a first draft be prepared by the end of April, including specific recommendations, for the new Working Group to further develop.

b) Update on discussion on IFRS 9

One BSG member reported back from a meeting with the EBA's Accounting Subgroup on IFRS 9 that took place on 16 January 2015, where participating banks supported IFRS 9 proposals and hoped for its early endorsement, to which guidance from the Basel Committee was welcomed to assist in its implementation. The BSG member emphasised that the endorsement process of the IFRS 9 standard in the EU was ongoing and was envisaged for completion by the end of the year if the draft regulation is endorsed by the co-legislators, the European Parliament and the Council, without amendment. Accordingly, banks will have until mid-2016 to test the new regime and the new rules will be applicable as of the beginning of 2018.

10. Some BSG members raised several issues regarding the impact of the banks' capital base, and the costs of the migration from the current model to the future one. One BSG member outlined the link between the accounting reform and the TLAC / MREL discussion, as the

calculation of TLAC and MREL refers to the total balance sheet, taking into account the accounting balance sheet. Another BSG member viewed that the effects of the accounting changes could be reflected in the stress tests.

11. The BSG Chairperson took note of the various remarks and requested the BSG members to consider a possible submission to EBA of its views, including referring to the interlinkages with the stress tests and the IRB model validation.

Agenda item 4: Discussion on Proportionality Project

12. The leader of the ad hoc Working Group on proportionality suggested that the Group should meet again in Brussels around end March, to take forward the comments made at the December 2014 BSG Meeting.

Agenda item 5: Update on Regulatory and Oversight Developments

a) EBA Executive Director to update on general developments

13. The EBA Executive Director updated on the ongoing regulatory developments. He referred to the publication by the Basel Committee of the outcome of its Regulatory Consistency Assessment Programme (RCAP) which viewed that the EU was “not compliant with the global rules”. He informed that the EBA issued a Report and an Opinion in February 2015, regarding the credit valuation adjustment (CVA) exemptions provided for various obligor exposures², under the CRD framework, which viewed that the CVA adjustment should be re-aligned with actual CVA risk so as to better reflect banks' internal practices.
14. On consumer protection, he mentioned: i) the EBA opinion on crowd funding and also work of the ESMA, ii) the new mandate of the EBA under the new interchange fee regulation enabling the EBA to draft RTS requirements to be complied with payment cards schemes and processing entities to ensure that they shall be independent.
15. Further, he indicated the upcoming Consultation Paper on draft RTS on requirements to maintain detailed records of financial contracts so as to specify a minimum set of information on financial contracts that should be contained in the detailed records and the circumstances in which the requirements to maintain detailed financial records should be imposed on institutions and relevant entities.
16. He also mentioned: i) the Consultation Paper on the RTS on prudential requirements for CSDs, ii) the technical advice issued by the EBA on supervisory benchmarking, iii) the draft report to the European Parliament and the Council on the convergence of supervisory practices, and iv) the Discussion Paper on the Single Supervisory Handbook project.

² <http://www.eba.europa.eu/-/the-eba-advises-the-european-commission-on-credit-valuation-adjustment-cva-risk>

17. The EBA Director informed that the agreed 2015 EBA budget by the EU Institutions in late December had resulted in EBA receiving a significantly smaller budget than sought/planned and, as a result, the BoS had reprioritised some aspects of the EBA 2015 Work Programme. Another impact of the budget cut was the EBA's ability to maintain and develop the data reporting infrastructures. He also mentioned the EBA's organisational changes, highlighting the establishment of a new Resolution Unit independent from the EBA's Departments on Regulation and on Oversight.
18. The BSG Chairperson and the BSG members raised their concerns as to the EBA budget cuts. Certain members pointed out that the budget cuts will trigger a financing of the EBA by the banking industry. To this end, the EBA Executive Director noted to BSG members that this option was clearly embedded in the mission letter of the EU Commissioner for Financial Stability, Financial Services and Capital Markets Union³.
19. The BSG Chairperson suggested investigating some form of response from the BSG to the EU institutions relating to the budget cut.

b) Update on risks

20. The EBA staff presented the latest developments in terms of risks and vulnerabilities, highlighting some stabilization of asset quality (albeit with still high levels of non-performing exposures), continued subdued profitability levels, and an upward trend regarding market risk. With respect to banks' capital position, there has been a further increase of the CET 1 ratio to 12% compared to 11.8 % in Q2 2014.
21. The EBA staff emphasised increasing worries about financial stability and geo-political risks in Europe, including the latest developments in Greece and in Russia. Among emerging risks, deflation has been mentioned and there was some discussion on the impact of the removal of the Swiss Franc (CHF) peg with the Euro. On the debt markets, the EBA has observed much primary bank funding activity in the first weeks of 2015.
22. One BSG member raised the decreasing role of banks due to shadow banking and the current low return on equity (RoE) relative to the cost of capital.

c) Update on the EBA's proposals in relation to BRRD

i. Report from BSG technical Working Group relating to Recovery and Resolution

23. The BSG Working Group relating to Recovery and Resolution coordinator referred to the BSG responses to draft advice in relation to the BRRD, Consultation Paper 99 and 100,

³ http://ec.europa.eu/commission/sites/cwt/files/commissioner_mission_letters/hill_en.pdf

respectively on the critical functions and core business lines and circumstances when exclusion of bail-in is necessary. He reminded that the BSG had supported the advice provided by the EBA. The BSG agreed to prepare a response to the Consultation Paper on Regulatory Technical Standards on resolution colleges (CP/2014/46) and not to send a response to the consultation Paper on draft Regulatory Technical Standards on notifications and notice of suspension (CP/2014/47).

ii. Draft Regulatory Technical Standards and Guidelines on Business Reorganisation Plans under Directive 2014/59/EU (BRRD)

24. The EBA staff presented on the EBA's proposed consultation to run from early March to early June. The EBA staff mentioned the objectives, the institutional arrangements involving the CAs and the Resolution Authorities in the assessment and approval process, and the proportionality of the RTS since the scope of the mandate is restricted to certain credit institutions.

25. The EBA staff described the RTS on the content of the plan. The EBA staff explained the rationale behind the question in the consultation as to whether a Plan should also be required when using other resolution tools, namely the bridge bank.

26. The BSG Working Group relating to Recovery and Resolution coordinator stated that the EBA Consultation Paper was relevant and forward-looking.

27. Nevertheless, the BSG members noted the possibility of discrepancy between the Resolution Authorities and the European Commission's Directorate General of Competition on the viability assessment, which EBA staff had noted as a possibility, and had sought to address in its draft Guideline.

28. Further, one BSG member highlighted the different nature of bridge banks, where the strategy may be to sell quickly or wind down. The BSG member observed also that the causes of failure (idiosyncratic/systemic) should be taken into account, as well as the possibility of the resolved institution to have access to market funding/ State Aid, as factors that affect the restoration of viability.

iii. Draft Regulatory Technical Standards on Resolution Colleges

34. The EBA considers this draft RTS as an important piece of the Single Rulebook given that Resolution Colleges are a new structure that will bring together resolution authorities and competent authorities for them to perform various challenging tasks, from the setting up and the organisation of these colleges, to the resolution planning and resolution management of cross-border groups in a coordinated, transparent and efficient manner.

35. The draft RTS is structured in three main Titles: i) Title I (Operational organisation of resolution colleges); ii) Title II (Resolution planning joint decisions) and iii) Title III (Cross-border group resolution).
36. One BSG member outlined the role of resolution authorities of third-countries for cross border banks. The BSG Member highlighted a loophole in the proposal insofar as the Resolution Authorities could agree on a Group's Resolution Scheme without the agreement of third country resolution authorities. The EBA staff noted that the provisions of the draft RTS build on the Level 1 provisions according to which the resolution planning and the group resolution joint decisions are expected to be reached between the GLRA and the resolution authorities of subsidiaries (or resolution authorities of subsidiaries covered by the Group Resolution Scheme), while third country resolution authorities are to be consulted without a legal requirement to participate in the joint decision.
37. The BSG agreed to provide their opinion to the EBA Consultation on the draft RTS on Resolution Colleges by 18 March 2015.

iv. Draft Regulatory Technical Standards on Minimum Requirements for own funds and Eligible Liabilities (MREL)

38. One BSG member summarised the inputs provided by the BSG to the EBA consultation paper. He recalled that the EBA consultation paper defines the criteria for determining the MREL on a case-by-case basis, by specifying the minimum criteria in order to achieve a convergence in how resolution authorities ensure that MREL is set considering the risk profiles, resolvability and other characteristics as BRRD states.
39. The BSG expressed their concerns with respect to risk-weighted assets (RWA) and the leverage ratio due to banks different sensitivities. The BSG emphasised the need to respect the proportionality principle by the resolution authorities when determining the MREL. With a view to ensuring a level playing field, the MREL should be applied with maximum transparency and uniformity. Some concerns were raised regarding the inclusion in the recapitalisation amount of the pillar 2 capital requirements and the combined buffer imposed on the pre-resolution bank. One BSG member expressed concern with the definition of appropriate peer group after resolution, suggesting that the credit institutions should access to the market immediately after the resolution.

d) Report from BSG Technical Working Group on Capital and Risk Analysis

40. The BSG coordinator of the Working Group on Capital and Risk Analysis updated the BSG members on the WG's preliminary consideration on the EBA's consultation paper 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 36. The problem with the separation between validation function and credit control function was highlighted.

e) Draft Guidelines on Sound Remuneration Policies

41. The EBA staff presented the EBA draft Guidelines under its mandate under article 74 of CRD IV on sound remuneration policies which update the previous CEBS Guidelines on remuneration policies and practices, including the need to take into account the reinforcement of the remuneration requirements in CRD IV.
42. The Guidelines clarify the process for identifying those categories of staff whose professional activities have a material impact on the institutions' risk profile. Specific guidance is also provided on how the ratio between the variable and the fixed components of remuneration should be calculated. Further, Guidance is provided on the application of deferral arrangements and the pay-out instruments. .
43. The BSG members highlighted the difficulty of implementing this approach on proportionality in small and non-complex institutions. The EBA staff responded that the EBA would welcome the BSG's considerations, including their quantification of the envisaged costs and benefits, in its response to the EBA's consultation in this regard.
44. One BSG member raised concern about the treatment of non-listed stock operations. Another BSG member underlined the need for clearer guidance on how to manage and deal with the differences between the classes of employees.

f) Discussion Paper on the Future of IRB Approach

45. The EBA staff presented the EBA Discussion Paper on the planned changes of the IRB Approach in the shorter and longer term. The Discussion Paper is primarily focused on the regulatory review of the framework.
46. The EBA staff elaborated on the changes in the EU regulatory framework and how the EBA suggests implementing changes to IRB models to mitigate the risks of divergence and reduce the burden faced by the credit institutions and the national competent authorities. The EBA is also aware of the Basel Committee's review of the IRB framework underway and seeks to coordinate its work, to the extent possible.
47. The BSG Vice-Chairperson reserved caution with simple rules and these may lead to different results across regions, cited fiscal reasons, and may create new incentives for regulatory arbitrage. He observed that the two Pillars of the 2004 "Basel 2" approach are increasingly under attack. On one hand, a new standardised approach is being proposed, to replace the role of the rating agencies with simplified ratios (which would, among other things, provide the banking industry with an incentive to tweak these ratios and create new

forms of arbitrage). On the other hand, new floors are being suggested, which would undermine the investments made by banks developing their own internal ratings (met with increasing scepticism by market participants). He cautioned the need for new rules, relative to focussing efforts to enhance supervisory consistency, such as promoting standardised disclosure templates and ability to challenge outliers through peer reviews.

g) Capital Floors: the Design of a Framework based on Standardised Approach

48. Two BSG members provided an update on the two consultations issued by the Basel Committee on the revision of Risk-Weighted Assets (RWA) for the Standard Approach (SA) and on Capital Floors.

49. Regarding the standard approach, it is expected to increase risk sensitivity, reduce reliance on external ratings by substituting external ratings by risk drivers and national discretion, strengthen the link between SA and IRB and enhance comparability of capital requirements.

50. The BSG presenters highlighted some problems that the revised SA could trigger. They cited that the revised SA reportedly do not take into due consideration the differences in jurisdictions, industries and entities and increase complexity. Other concerns relayed related to the consequences on the residential real estate market and that the SA could impact the consumers more than the banks in terms of increasing debt payments.

51. The design of a new framework relating to the SA was regarded as a significant challenge to be implemented, in particular concerning the data requirements. They viewed that a large quantum of data cannot easily facilitate comparability since their calculations are different, depending on the jurisdictions, entities etcetera. Under these circumstances, the BSG presenter highlighted the need for country specific factors to be taken into account.

52. Regarding the capital floors, the BSG noted their intent to mitigate model risks and measurement errors from IRB approaches, enhance comparability, and complement the leverage ratio. The BSG viewed that the Basel Committee's proposal allegedly raised concerns as to divergent ways of calculating capital, the increasing management complexity and IT expenses, the incentive to deteriorate the quality of credit portfolios without solving certain problems such as the lack of market confidence and the RWA inconsistency.

53. Another BSG member reported on the Basel Committee's proposals under development for a new framework for RWA, based on a Basel Committee working group meeting held on 25 February 2015. The BSG Member highlighted the broad scope of the SA reform which would have a significant impact on the credit institutions, including their risk management and their IRB Models. He outlined that the calibration of the SA would be done with the level of RWA, which would represent a significant supplement of capital to be provided by the banks.

54. The BSG Member viewed that the 2-factor model being considered by the Basel Committee fails to address simplicity and risk sensitivity, compared with the external ratings approach – which takes into account more factors behind its risk drivers. Moreover, risk drivers could also lead to further procyclicality. The BSG Member observed that the proposal needs greater clarification as to what banks and portfolios the new SA addresses and its link with IFRS developments. The BSG Member supported a need for a longer transition period, a better calibration of the risk drivers to take into account the differences between the jurisdictions.

55. The BSG Chairperson sought the BSG members' views on the possible actions they envisaged, including a BSG submission. The BSG Chairperson concluded that the BSG intended to submit a paper focusing on specific and concrete points of this issue. Robert Priester agreed to draft the BSG's response to be submitted to the BCBS.

h) Consumer Protection, Financial Innovation and Payment Services

i. Report from Technical Working Group on Consumer Issues and Financial Innovation

56. The BSG Working Group coordinator updated the BSG members on the BSG input regarding creditworthiness assessment (CP/2014/42), highlighting the content of the EBA consultation paper, including details on how creditors across the EU should assess and verify consumers' creditworthiness before concluding agreements for immovable residential properties.

ii. EBA work on Consumer Protection, Financial Innovation and Payment Services

57. The EBA staff updated on EBA's work with regard to payments (PSD2 and Interchange Fee Regulation) in the coming months. The EBA staff informed that the EBA would welcome BSG input as to what information and for what issues the EBA should collect information with regard to pass-porting issues.

58. One BSG member suggested the EBA staff to request the European Commission for the EBA to become an observer to the Payment Working Group, noting some BSG members attend these meetings. The EBA staff pointed out that EBA was recently invited as an observer to the Commission Expert Group on Banking, Payments and Insurance which is composed of Member States and National Competent Authorities representatives and may be invited on a case by case basis to the Payment Systems Market Expert Group.

59. The EBA staff presented the EBA Consultation Guidelines on arrears and foreclosure and on creditworthiness assessment. EBA staff also updated the BSG on the current status of the

Guidelines on provisional lists of most representative services linked to a payment account, under article 3(2) of the Payment Account Directive (PAD). The EBA staff acknowledged the BSG contribution to the Consultation.

60. The EBA staff informed the BSG members that the Consumer Day will be held in Frankfurt on 3 June 2015. In preparation, the EBA staff will seek the BSG views so as to know what relevant issues they would like to discuss at the next Consumer Day.
61. One BSG member suggested that the consumers' representatives should be involved in the programme and suggested liaising with the other ESAs.
62. One BSG member suggested that Consumer Protection issues should not always be dealt with at the end of the agenda. The BSG Chairperson concurred that these issues should be discussed earlier in the agenda.
63. Due to the lack of time, the BSG Chairperson concluded the meeting and suggested sending to the BSG members some potential topics for the next BoS/BSG meeting that will be held on 27 April.

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

London, 3 March 2015

<u>BSG Member</u>	Representing
David T. Llewellyn (Chairperson)	Top-ranking academics
Andrea Resti (Vice-Chairperson)	Top-ranking academics
Alf Alvinussen	Users of banking services
Michel Bilger	Credit and investment institutions
Javier Contreras	Consumers
Mike Dailly	Consumers
Santiago Fernández De Lis	Credit and investment institutions
Chris De Noose	Credit and investment institutions
Ernst Eichenseher	Credit and investment institutions
Eilis Ferran	Top-ranking academics
Jose Antonio Gonzalo-Angulo	Top-ranking academics
Sandra Hafner	Credit and investment institutions
Troels Hauer Holmberg	Consumers
Zdenek Hustak	Top-ranking academics
Alin Iacob	Users of banking services
Robin Jarvis	Users of banking services
Bostjan Krisper	Consumers
Nina Dietz Legind	Top-ranking academics
Louise Lindgren	Credit and investment institutions
Dominic Lindley	Users of banking services
Sabine Masuch	Credit and investment institutions
Ute Meyenberg	Employees
Jesper Bo Nielsen	Employees
Robert Priester	Credit and investment institutions
Holger Schwannecke	Credit and investment institutions

From the EBA

Adam Farkas - Executive Director
 Mark Adams
 Nicola Antoniou
 Efstathia Bouli
 Djamel Bouzemaene
 Stefano Cappiello
 Cédric Coraillon-Parquet
 Denise Delaney
 Geoffrey Goffinet
 Corinne Kaufman
 Tomasz Nastarowicz
 Orestis Nikou
 Vinay Pranjivan
 Mario Quagliariello and Bernd Rummel