



EBA BSG 2019 014.rev 1

Banking Stakeholder Group

26 February 2019

Location: London

EBA-Regular Use

Banking Stakeholder Group meeting – Final Minutes

Agenda item 1.: Welcome and adoption of the agenda

1. The Executive Director welcomed BSG members. The agenda and the minutes were adopted.
2. One BSG member questioned about the state of play of the risk-reduction legislative package. The Executive Director explained that the text reached the end of the trilogue phase and was nearly stable.

Agenda item 2. : Election of the BSG Chairperson and vice-chairperson

3. The Executive Director explained the voting process to elect the new BSG chairperson and vice-chairperson. He gave the floor to the candidates to introduce themselves and explain their motivations.
4. A secret ballot was conducted. Mrs Rym Ayadi was elected as a chairperson of the BSG.
5. With regard to the election of the BSG vice-chairperson, a second secret ballot was performed. Mr Sergio Lugaresi was elected as vice-chair.

Agenda item 3.: EBA Update on general developments

6. The Executive Director updated on the most recent developments in relation to the BSG. He mentioned the election of the new chairperson of the EBA, José Manuel Campa, for a five-year mandate, pending the confirmation of his appointment by the European Parliament.
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7. One BSG member pointed out that the revolving doors practice should have been removed at EU level, and consumer representatives have trouble trusting a EU supervisor/regulator coming from the banking industry.
8. The Executive Director He also informed the BSG on the opening of a formal breach of Union law procedure (BUL) in respect of the Danish and Estonian authorities' supervision of Danske Bank. He explained the way forward in the BUL process and possible next steps in case the BUL is confirmed.
9. With regard to the ESAs review, he noted that the European institutions have reached the Trilogue stage. He presented the main features of the proposal with regard to the ESAs' powers, convergence tools and governance. He underlined the good progress made regarding AML, leading to an increase of the EBA role in that field.
10. The Executive Director informed of the Board of Supervisors' decision not to run an EU-wide stress test exercise in 2019, but to have one in 2020. He explained that preliminary methodological talks had already started for that exercise and that the EBA would consult the BSG in due time.
11. With regard to Brexit, he noted that the EBA published an Opinion on Deposit Guarantee Scheme (DGS), aiming at ensuring that depositors would remain fully protected in case of no-deal scenario. He updated BSG members on the three agreements the EBA was negotiating.
12. He mentioned some consumer protection topics, such as the publication of the Consumer Trends Report for 2018-2019, and the endorsement by the three ESAs of a recommendation on the changes to the PRIIPS KID. He also indicated that the BoS adopted some further Guidelines such as the Guidelines on outsourcing, the final Guidelines on downturn LGD mitigation, and the consultation paper on the Guidelines on Credit risk Mitigation (CRM).
13. In addition, he noted that the next BSG meeting would be a Joint meeting with the BoS. He explained the process and encouraged BSG members to propose some topics for discussion. In this regard, one BSG member suggested discussing sustainable finance at the Joint meeting with the BoS.
14. With regard to the situation of electronic money institutions in the context of Brexit, one BSG member put forward the lack of organised efforts by public institutions to ensure continuity of business. In particular, he mentioned that very little had been done to address the risks arising from a possible no-deal Brexit. Thus, he considered that the competent authorities were not fully prepared to grant authorisation swiftly, although many institutions applied well on time. He viewed that a transitional period was needed to make supervisors and institutions fully ready. The Director of Banking Market Infrastructure and Consumers (BMIC) explained that the EBA had spent a lot of time warning payment and credit institutions of the risks arising from requesting authorisations too late. In terms of contingency planning, he underlined that a significant work was done and a large amount of market players offering services to customer in the UE 27 was almost ready.

15. BSG members discussed the list of the working groups and agreed to set up working groups on capital, liquidity, recovery, resolution and risks, on supervision, governance, accounting, reporting and disclosure, on consumer protection, on payment and Fintechs and on sustainable finance. In addition, the new BSG Chairperson launched a call for candidate to the chairmanship of those working groups.

Agenda item 5: EBA Presentation on risks and vulnerabilities

16. The director of Economic Analysis and Statistics (EAS) presented the EBA's assessment of risks and vulnerabilities in the EU banking system from the most recent data available collected in Q3 2018.

17. Some BSG members asked questions about the methodology applied, in particular on the high seasonality of data which may impact the perception of risks. Another BSG member questioned about the latest developments of new lending and how to develop a model to show differences between EU countries.

18. On Non-Performing Loans (NPLs), the BSG chairperson asked about the impact of the Commission Prudential Backstops proposal. She also saw some merit in disclosing the breakdown between the legacy assets and the new inflow of non-performing assets. One member showed concerns on SSM provisioning requirements on NPL stocks.

19. The EAS director agreed with the impact of the seasonality on the results which should be taken into consideration. With regard to NPL, he indicated that the Prudential Backstop proposal would have manageable impact and, combined with IFRS9, was expected to make provisioning more stable over time. He also acknowledged that since the introduction of the Council Action Plan, NPLs had decreased significantly, also helped by a favourable macroeconomic environment. He also mentioned further work done together with the European Commission on an NPL platform and on the identification of the most efficient insolvency frameworks. He explained SSM provisioning requirements reflects the use of Pillar 2 supervisory measures.

20. Regarding the funding aspects, one BSG member explained that banks were reshuffling their funding plans due to the implementation of a new regulatory regime (MREL and NSFR). She questioned the suitability of covered bonds to address banks' funding needs. She viewed that there was an urgent need of a securitisation market in the EU.

21. The EAS director suggested that supervisors should monitor banks' funding plans deviations. He mentioned the importance of assessing the impact of covered bonds in asset encumbrance.

22. Another BSG member asked about the cost/benefit impact of the risks analysis developed by the EBA. He viewed that there was a risk of overlap with the ESRB work and a duplication of reporting requirements for banks. The EAS director explained that there was no duplication of reporting requirements since the EBA's dashboard was based on supervisory banking data collected by competent authorities and transmitted by CAs to the EBA (via the sequential

approach for the euro area). Furthermore, he confirmed that the EBA shared, in line with the ESFS founding regulations, the data needed for the ESRB risk dashboard.

Agenda item 4.: Q&As process -update

23. The head of the Policy Analysis and Coordination Unit explained the scope, the objectives and the process of the Questions and Answers (Q&As) tool. With a view to identifying potential impact or unintended consequences of Q&As on banks' business, he pointed out that the BSG would be involved to potentially impactful Q&As.
24. Some BSG members considered the Q&As tool very helpful. With a view to improving the tool, BSG members suggested publishing the unanswered questions as banks may have the same type of questions, and also announcing the publication of answers.
25. Some BSG members raised their concerns about the very nature of Q&As. Some viewed that Q&As might lead confusion in terms of their legal nature. As long as the market took the answers for granted, there is a risk that Q&As may be considered hard law.
26. The BSG chairperson asked whether some answers may be integrated in the European law. The Head of PAC opined as some changes to CRR/CRD/BRRD were brought by Q&As. He also informed BSG members of the current Q&As implementation review and the possible publication of the final report by July 2019.

Agenda item 5.: Payment Services and Consumer Protection

A) EBA Register under PSD2

27. EBA staff presented the latest developments of the EBA's central register of payment and electronic money institutions across the EU Member States. It was flagged that the European Commission had already adopted the draft RTS and ITS on the EBA register under Article 15 PSD2 as submitted by the EBA and that the scrutiny period for the EU Parliament and the Council expired on 28 February 2019. Therefore, the EBA register was due to go live for the public shortly after that.
28. BSG members were broadly supportive. One BSG member asked about the frequency of the update of information on the EBA Register and whether there would be a period with a mismatch between the EBA register and the national registers under PSD2. EBA staff explained that the information would be updated without delay, in almost all cases automatically just after a change in the national registers occurs. EBA staff further explained that the few competent authorities that provide information manually had small number of authorised entities and should also reflect any changes without delay, at the latest within the day a change in the national register has been made.

29. One BSG member asked whether the register would be machine-readable. EBA staff confirmed that and clarified that the content will be available for download in a machine-readable format, which could later on be processed by the interested parties.
30. One BSG member stated that there are different authorisation requirements across the EU. EBA staff responded that this should not be the case since the authorisation conditions under PSD2 are of maximum harmonisation nature and the EBA has also published Guidelines on authorisation of payment and e-money institutions that harmonise the documents that are required during an authorisation procedure.
31. The BSG chairperson asked whether the EBA set a list of rejections of authorisations. EBA staff clarified that this had not been a legal requirement stemming from PSD2 and therefore would not be incorporated in the EBA PSD2 Register.

B) EBA Working Group on APIs under PSD2

32. EBA staff informed that the RTS on strong customer authentication and common and secure communication (SCA and CSC) would apply as of 14 September 2019. One of the requirements includes the obligation for account servicing payment service providers (ASPSPs) to share payment account holder data (with customers' express consent) with account information and payment initiation service providers (AISPs and PISPs). EBA staff explained that many ASPSPs were developing APIs for that purpose and the EBA supported the development of well-functioning APIs by September.
33. EBA staff also explained the challenges faced by stakeholders to ensure the development of such APIs and that with a view to support such development, the EBA had set up an API working group (EBA API-WG) composed of an equal number of participants from ASPSPs, AISPs and PISPs as well as API initiatives. The group aims to discuss issues arising in the market with a view to propose solutions for the EBA and national competent authorities to consider.
34. Two BSG members voiced their concerns about the membership of this Working Group, as neither representatives of cooperative banks nor representatives of e-money/payment institutions were appointed. EBA staff reiterated the three criteria that were published in the call for candidates and against which candidates were assessed, the objective of the group and the rationale of the group.

C) EBA mandate under the MCD to review its RTS on Professional Indemnity Insurance

35. EBA staff made a short presentation of the note circulated on the EBA mandate to review the PII under the Mortgage Credit Directive (MCD) and introduced few suggestions how BSG members could be involved.

36. One BSG member asked whether EBA had approached EIOPA on the data collection and suggested that EIOPA could also assist in identifying the applicable risks that may be applicable to the PII under MCD. EBA staff confirmed that they had approached EIOPA for the data to be collected but unfortunately, EIOPA was not able to be of help. With regard to the risks to be addressed, EBA staff responded that they will take this forward.
37. The BSG chairperson suggested launching a written procedure to collect BSG members' views on how to overcome any obstacles that may emerge in carrying out this work and potential channels for data collection.
38. EBA staff also informed of the publication of the Consumer Trends Report 2018/19. A few BSG members supported the report. One member asked whether BSG could contribute to setting out the work that is to be carried out based on the findings of the report. EBA staff clarified that EBA was still discussing how to address and prioritise the findings of the report, but added that should BSG members have any particular suggestions, these would be taken into account.

Agenda item 6.: EBA Update on regulatory deliverables

A) Discussion on issues identified in the implementation of the LCR by EU banks

39. EBA staff presented the main issues identified in the implementation of the LCR by EU banks. He described the analysis done by the EBA on LCR items where material differences in their implementation across banks and jurisdictions have been observed, which have a resulting significant impact on the uniform application of the LCR. He noted that the EBA focused on the identification and quantification of wholesale deposits received that can benefit from the preferential outflow treatment of operational deposits, the definition of 'material penalty' in the context of beyond 30 days retail deposits excluded from outflows and other implementation issues such as recognition of inflows from maturing high quality liquid assets (HQLA), optionality and contingent inflows, interbank swaps of retained covered bonds or ABS (assets backed securities), time dimension of the LCR and items subject to a notification process. He also made clear that other aspects currently under investigation may emerge in the future.
40. EBA staff plans to publish a report by mid-2019, embedding a description of the items referred to together with specific indicative guidance for credit institutions and supervisors.
41. One BSG member commented on the legal status of the guidance offered by the EBA in the implementation of LCR, considering that this soft law was often perceived by the market as a hard law. Another BSG member asked how the EBA intended to respond to the critics voiced by the market participants with regard to the ratio. Another member urged the EBA to go for a fully-fledged consultation.

42. The BSG chairperson also reflected about the interplay between the LCR and the excess of deposits in the EU, the links with the Net Stable Funding Ratio (NSFR), and possible interactions with deposits insurance.

B) FinTech: ESAs Advices on ICT and cybersecurity

- **Advice on legislative improvements to enhance ICT and cybersecurity management**

43. The EBA staff informed the BSG members about the two draft joint ESAs Advices stemming from the request in the European Commission's (EC) FinTech Action Plan. In the request, the EC invited the ESAs to map existing supervisory practices across financial sectors around ICT security and governance and to propose legislative improvements, if needed.

44. ESAs analysed their relevant sectoral legislation and considered making three proposals (i) on the introduction of requirements on operational resilience under CRD and PSD2 to address operational disruptions, (ii) on the need for the EC to consider harmonisation of certain components of incident reporting frameworks (e.g. templates and taxonomy), and (iii) to flag supervisory concern on potential concentration risk from third party providers (e.g. cloud service providers), and to consider solution for oversight of third party providers that are critical service providers, in the interest of maintaining financial stability.

- **Advice on coherent cyber resilience testing framework**

45. In the FinTech Action Plan, the EC invited ESAs to evaluate the costs and benefits of developing a coherent cyber resilience testing framework for significant market participants and infrastructures within the whole EU financial sector.

46. Following the analysis conducted, the ESAs considered making a proposal for a staged implementation of a coherent cyber resilience testing framework. In a short term, a cyber-resilience baseline should be achieved in proportion to the needs and characteristic of individual entities. In addition, the establishment of a coherent cyber-resilience testing framework (by the ESAs and other relevant authorities) focusing on treat-led penetration testing could be facilitated by the EC. In the long term, when the necessary coherent cyber resilience testing framework would be in place and a sufficient cyber 'maturity level' would be developed across institutions, the possibility for cyber resilience testing exercises for the identified most systemic, critical and significant institutions could be considered.

Agenda item 7.: Discussion on topics presented by BSG members

A) Presentation on the accountability and reputation of financial safety net institutions.

47. One BSG member delivered a presentation on the accountability and reputation of financial safety net institutions based on the example of Poland. After a short presentation of the Polish

banking sector and the role of the national regulator and supervisor, she highlighted recent cases of corruption, flagging how detrimental the loss of confidence in the Financial Supervision Authority could be. She also put forward some suggestions to address these issues. Therefore, she mentioned the peer review as a tool to ensure that the regulatory standards are properly applied.

48.EBA staff indicated that the aim of a peer review was to ensure supervisory convergence and disseminate the best practices identified in the course of the exercise with a view to improving supervisory practices. EBA staff also noted that the EBA published Guidelines on the assessment of the suitability of members of the management body and key function holders addressed to the EU supervisors, but EBA did not have any mandate to issue guidance related to fit and proper requirements for central bankers. They also mentioned that the current ESAs review may lead to convert the current peer reviews into independent reviews giving more flexibility to the EBA in its assessment of the application of regulatory standards.

49.BSG members expressed their concerns about the issues raised by the presentation in terms of conflict of interest and poor suitability of top managers of public supervisory authorities.

Conclusion

50.The Chairperson informed BSG members that she would revert to them with a proposal regarding the next Joint meeting between the EBA's BoS and the BSG.

Participants

BSG:

Gerda	Holzinger-Burgstaller	Erste Group Bank AG	Austria
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Véronique	Ormezzano	BNP Paribas	France
Ernst	Eichenseher	UniCredit Group	Germany
Sabine	Masuch	Association of Private Bausparkassen	Germany
Sergio	Lugaresi	Italian banking association	Italy
Lara	De Mesa Garate	Banco Santander	Spain
Jean	Naslin	Caixa Bank	Spain
Thaer	Sabri	Electronic Money Association	UK
Anne	Fily	Independant consultant	Belgium
Martin	Schmalzried	COFACE-Families Europe	Belgium
Dermott	Jewell	Consumers Association of Ireland	Ireland
Tomas	Kybartas	Alliance of Lithuanian consumer organisation	Lithuania
Vinay	Pranjivan	Portuguese Consumer Association (DECO)	Portugal
		Association of Consumers and User of banks, saving banks, financial products and insurance (ADICAE)	
Victor	Cremades Erades		Spain
Mike	Dailly	Govan Law Centre	UK
Lyubomir	Karimansky	International Banking Institute	Bulgaria
Giedrius	Steponkus	Lithuanian Investors association	Lithuania
Leonhard	Regneri	INPUT Consulting	Germany
Andrea	Sitá	Fondo Pensione complementare	Italy
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