

## Banking Stakeholder Group Meeting - Minutes

14 May 2013 / 09.30 to 17.00

Location: EBA

### Agenda item 1: Welcome and approval of Agenda

1. In the absence of the BSG Chairperson (David Llewellyn), the BSG Vice-Chairperson (Christian Lajoie) welcomed BSG members. David Llewellyn sent his apologies for his unavailability due to long-standing commitments, which had been fixed before the current meeting date was proposed.
2. The EBA Executive Director communicated the unavailability of the EBA Chairperson, which was due to the convening at short notice of a high level meeting of the Chairs of European decentralised agencies' Management Boards organised by the European Commission.
3. The minutes of the last BSG meeting [EBA BSG 2013 17] were approved.

### Agenda item 2: BSG Vice-Chairperson to update on developments

4. The BSG Vice-Chairperson gave a short update on recent developments in financial regulation.

### Agenda item 3: Update on regulatory developments

#### **i. EBA Executive Director to update on EBA's work on CRD/CRR implementation and developments related to the SSM**

5. The EBA Executive Director updated on the future Single Supervisory Mechanism (SSM) which would assign several new tasks to the European Central Bank (ECB) and would also result in several changes to the EBA's Regulation. It was noted that whilst broad political agreement to the package had been reached, the European Parliament's approval was still pending, and accordingly the final legislation had yet to be published.
  6. The EBA Regulation will change with regards to the voting procedure at the Board of Supervisors (BoS), and also the EBA's mediation powers, where the EBA will need to strike an appropriate balance between Member States participating in the SSM and those that are not. The BSG will largely be unaffected.
  7. Regarding the CRDIV/CRR, political agreement had been reached at Easter and the text is currently being reviewed by jurist-linguists, where it is envisaged that these new rules shall be
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published in the Official Journal of the EU by 30 June, and that if this happens, they should apply from 1 January 2014.

8. It was noted that the EBA was working on a number of Technical Standards in relation to mandates in the proposed CRDIV/CRR. In this regard, the EBA envisages publishing several consultations subsequent to approval at its 15/16 May EBA BoS meeting. Another wave of output is envisaged in early July pending the final publication of the final CRDIV/CRR text.
9. BSG members noted potential issues regarding the voting procedures in relation to the SSM, were Member States to opt to participate in the SSM. The EBA pointed out that a review clause is contained in the EBA Regulation in case the number of non-participating Members States falls below a certain threshold.
10. The EBA Executive Director advised that the EBA envisaged to issue a 'Recommendation on asset quality reviews ("AQR")' to National Competent Authorities (NCAs) in order to achieve a higher level of consistency in the EU. This will also be important for the ECB, which intends to undertake a balance sheet assessment as part of its preparations for its role under the SSM. The EBA and ECB are cooperating very closely. He underlined the importance of ensuring alignment in methodologies and timeline with the balance sheet assessment of the SSM, being conducted by the ECB. BSG members mentioned that there is generally already a large amount of scrutiny spent by supervisors on the review of banks' assets and questioned the added value of such an exercise. BSG members understood that the ECB does not intend to assume the responsibility for possible issues that might have existed before the official implementation of the SSM.
11. BSG members also raised concerns regarding possible differences between prudential and accounting valuations and that this could also present an issue for banks themselves. Furthermore, it was noted that the ECB might also focus on liabilities (e.g. contingent liabilities) in addition to assets. The EBA Executive Director explained that the EBA had been working to harmonise reporting rules and cooperated with the accounting bodies closely in order to achieve progress in aligning with accounting rules. The EBA Executive Director cited EBA's work on harmonised definitions (such as on non performing loans and forbearance) and data collection aims at providing supervisory authorities with the tools to monitor asset quality developments in a coordinated fashion and on a comparable basis in the EU.

## **ii. European Stress Test 2013**

12. EBA Staff (Piers Haben) gave an outline of the current state of play of the envisaged European Stress Test. The BSG was provided with a draft of the proposed Methodology of the Stress Test in advance of the meeting. It was noted that the stress test needed to be aligned with the work regarding the SSM and the ECB's balance sheet assessment of banks. Therefore, it was mentioned that the BoS might delay the stress test until early 2014 instead but would agree in principle to the methodology.
13. Regarding the methodology, the stress test would likely follow a bottom-up approach, with a heavy focus on credit risk where a consistent approach in this respect was key. The EBA aimed to apply

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conservative and consistent assumptions and was minded not to allow any mitigating management actions in the stress test. The scenarios had not yet been decided but this was envisaged for later in 2013.

14. Some BSG members welcomed the possible delay of the stress test. Some BSG Members mentioned the possible issue of translating of the stress test into internal models or the missing possibility of a collapse of a Central Counterparty (CCP). Further, a short discussion emerged on the level of disclosure the EBA was seeking. It was suggested that a more regular stress test might be preferable.

15. The EBA explained that the timing of the stress test is largely related to the establishment of the SSM, and as such requires necessary coordination with the ECB. Also, CCPs will be considered by the EBA at a later stage. FX shocks should also be picked up in the scenario. Furthermore, the EBA intends a high level of disclosure but will at the same time have to make sure that the data is properly understood and useful to the public.

16. BSG members were to provide input regarding possible Q&A on the stress testing exercise to EBA Staff.

### **iii. EBA's Risk Assessment work**

17. EBA Staff (Mario Quagliariello) presented details of the data, tools and process for the EBA's risk assessment. The focus was on the EBA Risk Dashboard and Key Risk Indicators (KRIs), the Risk Assessment Report (RAR) and the Risk Assessment Questionnaires (RAQs). The aim of the presentation was to initiate an early discussion with the BSG on risks and vulnerabilities in preparation to the Risk Assessment Report.

18. EBA Staff explained that the RAR's purpose is to monitor and assess market developments and provide information to other EU institutions and the general public (European Parliament and of the Council). The data is drawn from the KRIs, the EBA Risk Dashboard, the RAQs (where data is sought from Banks/NSAs and also from Market Analysts), micro prudential expertise and from information gathered from the supervisory college setting.

19. It was envisaged to provide the Report to the European Parliament and EBA publication in July 2013.

20. The analysis from the Risk Assessment Questionnaires focused on:

- Businesses to be scaled down
- Funding/liquidity
- Profitability
- Asset deleverage will continue in the next 12 months

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- Asset quality and forbearance

21. BSG Members discussed the low profitability and its correlation with the high capitalisation of some banks. At the same time, some BSG members noted that the funding difficulties may be understated and that reputational risks often fail to be captured appropriately by bank capital.

22. It was agreed that a first draft of the RAR would be circulated to the BSG for its comments. Further, EBA Staff was asked to circulate the Risk Assessment Questionnaire to the BSG in order for BSG Members to provide input via the questionnaire. It was also agreed that Sony Kapoor (as Coordinator of the BSG's Systemic Issues WG) would collate BSG members' input and prepare the BSG's to be sent to the EBA by 24 May.

#### **iv. Draft RTS and ITS on passport notifications**

23. EBA Staff (Slavka Eley) presented the content of the Draft RTS and ITS on passport notifications. She explained that the EBA is mandated to develop and submit these Technical Standards to the Commission by 01 January 2014:

- Draft RTS to specify the information to be notified in accordance with Articles 35, 36 and 39 of the CRD; and
- Draft ITS to establish standard forms, templates and procedures for the notifications pursuant to Articles 35, 36 and 39 of the CRD.

24. The Draft RTS set out requirements in relation to branch notification and changes in branch initial notification. They specify the information to be notified (Art. 35), especially information on the programme of operations, such as types of business envisaged (e.g. information on core activities and intended start date), structural organisation of the branch and other information (e.g. financial plan). Furthermore they specify the information to be notified (Art.36): Any change in the information since the previous time that this information was provided; termination of the operation of a branch to be notified as part of Article 36 mandate.

25. The Draft ITS on passport notifications set out language and means of notifications. Also, they establish procedures covering the interaction between credit institution and the CAs of home MS, the assessment of completeness of submitted notifications, the interaction between CAs of home and host MSs, "no reason to doubt"/general good conditions and communication of changes in initial branch notification. Furthermore, they establish common templates for the communication of the information to be notified.

26. In the discussion, BSG members urged the EBA to also take into account consumer protection issues, to the amount possible. In particular mortgage intermediaries were mentioned in this context. Among EU Member States, information that is provided to retail customers seems to vary. The EBA noted that this is regarding these BTS not within the remit of the EBA's mandate but might be an issue at the level of the Directive or other Directives.

#### **v. Draft RTS on technical standards for recovery plans**

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27. EBA Staff (Stefano Capiello) presented briefly the Draft RTS, which had been published on 11 March and is open for public consultation until 11 June 2013. EBA Staff gave an overview over the main areas of a recovery plan. Namely the summary of the key elements of the recovery plan, governance, strategic analysis, communication/disclosure plan and preparatory measures.

28. EBA Staff also made reference to Art. 25 of Regulation No 1093/2010 (Regulation establishing the EBA) that the “EBA shall contribute to and participate actively in the development and coordination of effective and consistent recovery and resolution plans; identify best practices for facilitating the resolution of failing institutions and cross-border groups; as well as develop BTS as specified in the legislative acts.”

29. Furthermore, the Recovery and Resolution Directive (RRD) proposal gives the EBA mandates to develop approximately 24 regulatory products (BTS forming the Single Rulebook and guidelines harmonising recovery and resolution practices). In addition, it envisages providing the EBA with a mediation role between national authorities for cross-border groups (facilitating the process of reaching joint decisions within supervisory and resolution colleges). Also, the EBA will be a point of contact and coordinator for relationships between the EU and third countries with regard to resolution proceedings.

30. In the discussion it was clarified that the RTS would be applicable for situations where recovery plans are required at the group level, as well as at entity level. Furthermore, some BSG members raised the issue as to what extent networks of credit institutions would be taken into consideration by recovery and resolution plans. Also, the BSG raised that individual banks could develop plans that might conflict with other banks' plans in case of a systemic crisis, as they might suggest similar actions that would eventually stand in conflict with those from other banks, and, thus, not be feasible. EBA Staff explained that it recommends to NCAs to assess plans taking into account that other banks might take similar measures and to spot whether some plans might no longer be credible considering such interplay.

31. BSG members also urged that the EBA and FSB should cooperate closely on recovery and resolution matters and to draw an appropriate line between recovery and resolution. The publication of such plans was generally seen critical as such plans contain sensitive information. At the same time, investors may have a right to be informed about the potential losses they would face if plans were to materialise.

#### Agenda item 4: BSG's contribution to the review of the European System of Financial Supervision (ESFS)

##### **(a) BSG Members to discuss its possible contribution to the review of the EBA as part of the EU Institution's review of the ESAs.**

32. BSG members discussed whether to respond as a Group to the European Commission's open consultation process or the targeted questionnaire as well as the review undertaken by Mazars for the European Parliament. It was agreed by the BSG not to provide an answer as a Group. However, each BSG member was free to submit his or her own opinion.

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**(b) BSG's report on its activities during its first term of office. BSG members to discuss way forward on the drafting process.**

33. The BSG Chairperson had provided a first draft of the End of Term of Office Report (ETOR) of the BSG in preparation of the meeting and the BSG further discussed the document.
34. BSG members viewed it important to point out in the report that the different backgrounds of members has been of benefit for the Group. Furthermore, it was discussed whether the BSG should raise the issue of data availability in the ETOR. BSG members acknowledged the fine balance between respecting the confidentiality of sensitive data and making some data available for the BSG's purposes. The BSG viewed that it should be made clear upfront as to the rationale for their seeking data would be limited for research purposes/work of the BSG. It was noted that some national Central Banks already grant access to specific data to academics in order to facilitate research projects. It could be considered by the EBA to develop similar procedures.
35. BSG members were asked to provide further written comments to the BSG Chairperson by 21 May. The Chairperson will subsequently accommodate comments and provide a revised draft in preparation of the 28 June BSG meeting.

#### Agenda item 5: Selection process for the BSG's second term

36. EBA Staff (Stefan Andresen) explained the 2013 BSG renewal process. He explained that the BSG was established on 12 March 2011 and that, thus, the current BSG's term of office comes to an end on 11 September 2013. Also, current BSG members may be reappointed, as set out in Article 37 (4) of the Regulation, which allows for "two successive terms", while there will be no automatic continuation of current BSG members' mandates.
37. Regarding the timetable of the process, it was mentioned that BoS approval was to be sought at the 15/16 May 2013 EBA BoS meeting for the Call for Interest (Cfi) and the BSG Selection Procedure, with the aim to publish the Call for Interest (Cfi) for potential candidates on 17 May (for 6 weeks). The decision on the composition of the BSG is due to be taken by the EBA BoS in autumn 2013 (late September/early October) and enter into force immediately afterwards.
38. EBA Staff explained that the Cfi will largely be in line with the 2010 Cfi and that the overall timeline and any revisions have been closely coordinated with the other ESAs. The EBA planned to publish its 'Selection Procedure' along with the Cfi, to provide further clarity and ensure a transparent process. The EBA took into account the feedback the EBA has received informally from the European Ombudsman, including in relation to the definition of 'Users of banking services'.
39. BSG members expressed that the new definition of the 'Users' category may be too narrow and viewed that Credit Rating Agencies or auditing firms should remain to be included in this category.

#### Agenda item 6: Report from the BSG Working Group on Bank Liquidity

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40. In the absence of the Coordinator of the Working Group, Sylvie Bourguignon gave an update of the Working Group's work on the BSG's Opinion Consultation on the Data Point Model related to the Technical Standards on Supervisory Reporting Requirements for LCR-NSFR and Leverage Ratio [EBA/CP/2013/04 and EBA/CP/2013/03]. BSG members had no further comments on the Opinion which was, thus, submitted to the EBA.

### Agenda item 7: Report from the BSG Working Group on Consumer Protection

41. The Coordinator of the Working Group (Robin Jarvis) provided an update over the recent activities of the WG. Since December 2012 the BSG CP WG has fed into the EBA's policy development process at various junctures and on a variety of outputs. E.g. in December 2012 it gave its comments on final draft of Opinion on Good Practices for Risk Management of Exchange Traded Funds (TFs). Furthermore, the WG provided comments on the semi-final draft of annual Consumer Trends Report, on an early draft of Opinion on Good Practices for Responsible Lending and on an early draft of Opinion on Good Practices for Arrears Management.

42. It was highlighted that the EBA is keen to involve BSG members at an early stage in the process, possibly at inception stage. To that end, the EBA recently asked BSG CP WG members to nominate financial innovation products, services or processes that they would want the EBA to review. In order for the EBA to be able to assess the merits of the nominations and decide which ones to take forward, BSG CP WG members were asked to respond to a set of questions for collation by the WG Coordinator.

43. The BSG also made reference to the ESA "Joint ESAs Consumer Protection Day" on 25 June 2013 in Paris. EBA Staff advised that reimbursement will be granted for BSG members who participate in line with the EBA Reimbursement Policy, which allows doing so for representatives of consumers, employees and top-ranking academics. In addition, reimbursement may be granted to experts who act as speakers.

### Agenda item 8: Report from the BSG Working Group on Bank Capital

44. The Coordinator of the Working Group (Louise Lindgren) explained that the WG is currently working on a response to the consultation on the conditions for assessing the materiality of extensions and changes of internal approaches for credit, market and operational risk [EBA/CP/2013/02].

45. The draft response supports the efforts of harmonising and clarifying the conditions for assessing the concept of materiality. The draft response has, however, identified a number of issues where improvements can be made, e.g. that there are some places where the RTS is not sufficiently clear or put too much emphasis on the quantitative identification and documentation. Also, the process for formal applications and for the notification will draw heavily on resources – both for institutions and supervisors. In this respect, the Coordinator asked BSG members to provide particular examples of how the RTS might be burdensome in that respect in order to provide evidence in the BSG's response to the EBA.

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46. BSG members were asked to provide comments to the WG Coordinator to draft the BSG Opinion on EBA/CP/2013/02 by 28 May.

### Agenda item 9: Report from the BSG Working Group on Systemic Issues

47. The Coordinator of the Working Group (Sony Kapoor) presented the consolidated draft answer of the main issues that the WG had identified in order to provide specific input in the key legislative proposal on recovery and resolution (including bail-in).

48. BSG members discussed that the use of bail-in and its application should also depend on the size of the banks and that in the case of large banks the resolution authority should announce how particular creditors will be treated. Furthermore, it was raised that some Member States require higher capital buffers and that it should be made clear at which point recovery and resolution would set in and that such banks should be treated consistently.

49. In addition, the preferential treatment of uninsured deposits should be ensured. Also, the business models of banks should be taken into consideration, including whether they are part of a network of banks with its own deposit insurance schemes.

50. BSG members were asked for written comments subsequent to the meeting by 21 May.

### Agenda item 10: Joint BSG/BoS meeting

51. BSG members discussed the planned presentations of members at the following day's Joint BSG/BoS meeting. Louise Lindgren, Robin Jarvis and Andrew Procter gave an outline of the presentations that they intended to give.

52. Regarding Louise Lindgren's presentation on the role of the BSG, several points were raised. Members noted that the BSG had not been active regarding the economic impact assessment of EBA regulatory products and that this could be an area for improvement. Also, an earlier involvement of the BSG in the EBA's production process had been suggested.

53. The EBA Executive Director explained that the EBA publishes its regulatory products almost immediately after approval by the BoS and that there is little room for an earlier submission to the BSG. Nonetheless, the EBA will further try to improve on raising the main issues it encounters in its policy development process earlier with the BSG in order to get the BSG's views, noting that this may logistically not always be possible.

### Agenda item 11: BSG Meeting dates for 2013

54. The BSG noted the meeting dates as outlined in the Agenda.

### Agenda item 12: AOB

55. There was no other business.



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

London, 14 May 2013

<u>BSG Member</u>	Representing
Andrew Procter	Industry
Arnold Kuijpers	Industry
Bostjan Krisper	Consumers
Chris De Noose	Industry
Christian Lajoie (Vice-Chairperson)	Industry
Eric Berggren	SMEs
Giles Williams	Users of banking services
Giovanni Ferri	Top-ranking academics
Guglielmo Zadra	Industry
Hiltrud Thelen-Pischke	Users of banking services
Holger Schwannecke	SMEs
Javier De Andrés	Top-ranking academics
Louise Lindgren	Industry
Lubomir Christov	Consumers
Magdolna Szőke	Industry
Michel Barbet-Massin	Users of banking services
Michelle Brennan	Users of banking services
Monica Cueva Díaz	Industry
Robin Jarvis	SMEs
Rudi Vander Vennet	Top-ranking academics
Sony Kapoor	Consumers
Sylvie Bourguignon	Users of banking services
Ute Meyenberg	Trade Unions
Vera Cottrell	Consumers
Zita Ceponyte	Consumers

### From the EBA

Adam Farkas  
Stefan Andresen  
Stefano Cappiello  
Slavka Eley  
Piers Haben  
Corinne Kaufman  
Mario Quagliariello