

EBA BSG 2014 46

BSG

12 May 2014 / 09.30-17.00

Location: London

Banking Stakeholder Group Meeting – Minutes

Agenda item 1.: Welcome and Approval of the Agenda

1. The BSG Chairperson and the EBA Chairperson welcomed the BSG Members.

Agenda item 2.: Introduction of new BSG Members

2. The BSG Chairperson welcomed the four new BSG Members. He noted that Andrew Procter, Marco Mazzucchelli, Dorothee Fuhrmann (all representing 'credit and investment institutions') and Kay Blair (representing 'consumers') had decided to step down due to different reasons.
3. The new Members were Ernst Eichenseher (HypoVereinsbank/UniCredit), John Hollows (KBC Group), Erin Mansfield (Barclays) – all representing 'credit and investment institutions' – and Mike Dailly (Govan Law Centre), representing 'consumers'. The present new Members introduced themselves briefly.

Agenda item 3.: BSG Chairperson to update on developments

4. The BSG Chairperson reported on the BSG's activities since the last BSG meeting held on 6 March 2014. It was recalled that the BSG had since October 2013 produced 11 responses to EBA Consultation Papers. Three further responses were under preparation.
5. Further, the Chair informed the BSG of a proposed meeting with the Chairs/Vice-Chairs of the other ESA Stakeholder Groups and that a meeting between the Stakeholder Group Chairs and Vice-Chairs was envisaged at the occasion of the ESA Joint Consumer Protection Day (also see agenda item 11).
6. Noted were numerous regulatory proposals stemming from the European Commission and the Parliament, seeking a variety of input/work from the ESAs, and the EBA in particular. The BSG

Chairperson raised his concern as to whether the EBA had sufficient capacity for these due to its constrained resources.

Agenda item 4.: Update on Regulatory and Oversight Developments

7. The EBA Chairperson updated the BSG on ongoing regulatory developments. He noted briefly the EBA's recent communication on the 2014 EU-wide Stress Test, which was designed to assess banks' resilience to hypothetical external shocks, and will identify vulnerabilities in the EU banking sector and provide a high level of transparency of EU banks' exposures. The EBA will be responsible for coordinating the exercise in cooperation with the ECB and ensuring effective cooperation between home and host supervisors. The EBA will act as a data hub for the extensive transparency of the results of the common exercise.
8. Further noted were the EBA's on-going work on covered bonds, the SREP Guidelines, recovery/resolution and mediation. Also, the work in the area of consumer protection was highlighted, e.g. on self-placement, PRIPs (to be done jointly with ESMA and EIOPA) and virtual currencies. Further, the ESAs' Joint Consumer Protection Day was scheduled in London on 4 June 2014.
9. With regard to the review of the European System of Financial Supervision (ESFS), the EBA Chairperson noted that the European Commission's report was still due to be published. In respect of the EBA's resources, it was noted that whilst the EBA generally has the possibility for support from National Competent Authorities, such as Seconded National Experts and support to EBA working groups, many of the Single Supervisory Mechanism (SSM) countries' NCAs' resources are currently constrained, given the setting up of the SSM.
10. The EBA's BoS is due to hold a strategic away day on 10/11 July 2014. Topics under consideration for discussion were: (i) how to develop an international role for the EBA, and (ii) whether the post-crisis regulatory framework was deemed fit for purpose. Also announced was the EBA's move to new premises in Canary Wharf, scheduled for December 2014.
11. BSG Members noted with regard to the BoS' away day that they often viewed regulation as becoming too complex, when looking at the overall sum of regulation, less so when looking at individual pieces of regulation. Further, BoS should reflect whether the right balance has been struck between financial stability and bank efficiency. BSG supported BoS to consider the global impact of financial market reforms.
12. BSG also supported the BoS' suggested discussion of the international role of the EBA. It was noted that in the context of the setting up of the SSM, the EBA could have a role in facilitating common Memoranda of Understanding with overseas supervisory authorities in order to facilitate a common and more streamlined approach.
13. The BSG was asked to raise any further suggestions for the EBA's BoS away day to EBA staff.

i) EBA Risk Assessment Report

14. The EBA staff discussed the contents of the next EBA Risk Assessment Report (RAR). The EBA staff highlighted the following issues: capital evolution, profitability, deleveraging, market perceptions, funding conditions, asset quality, emerging markets risk as well as conduct and cyber/IT risks.
15. It was highlighted that the EU banks' capital position has maintained an upward trend in the fourth quarter of 2013. Also, capital offerings had continued in the fourth quarter of 2013 and first months of 2014.
16. BSG Members noted that they agreed with IT risk as a potential issue, including from a consumer perspective, e.g. where PIN codes are stored online or could be unintentionally transmitted to third parties. Conduct risk was also noted, and reference was made to the discussion on conduct risk indicators scheduled for the following day's Joint BSG/BoS meeting.
17. Other issues to be noted could be downsizing of staff, which could result in increased operational risks. Trends in securitisation were also suggested by BSG to be picked up as well as an analysis of bank profitability and business models. Also mentioned were issues seen in some Member States with regards to mortgage markets, including where mortgages are denominated in foreign currencies.
18. The EBA staff noted that many of the issues raised by the BSG had already been taken up in the draft report. It was further explained that the 2014 EU-wide Stress Test would cover FX-denominated mortgages. Going forward, the Risk Assessment Report could also include issues regarding operational risk related to employee lay-offs as well as further information regarding IT risk.
19. BSG Members were asked to raise any other comments/observations on the Risk Assessment Report to EBA staff. A revised draft of the RAR would be circulated to the BSG for comments shortly after the meeting.

ii) Update on the EBA's Q&A process

20. The EBA staff updated on the Single Rule Book Q&A process and the reorganisation of the tool. Staff noted that the objective of the Q&A process was to ensure consistent and effective application of the regulatory framework across the EU as well as to contribute to the Single Rule-book in banking.
21. Questions could be raised by institutions, supervisors and other stakeholders and regarding the practical application or implementation of the CRD, CRR and related technical standards as well as the EBA's guidelines. It should be noted that the Q&A have no binding force in law – but their application can be scrutinised and may be challenged.

22. The EBA staff noted several improvements regarding the tool that were underway, e.g. stricter prioritisation of questions, the grouping of questions and a clearer communication in the publication of submitted Q&As.
23. Further, it was announced that a Single (interactive) Rulebook per legislative text, providing a comprehensive overview of all the EBA's related standards, guidelines and associated questions, linked to the appropriate Articles, was expected to be launched by the EBA in May 2014.
24. Some BSG Members noted the general usefulness of the tool but also raised their concern about the quantum of information available, citing the large number of questions received already by the EBA. Thus, it was supported that the EBA liaises with industry associations in order to limit the volume of questions to some extent and make the tool more user-friendly.
25. Generally, it was also viewed of some BSG Members that the EBA should further aim to be quicker in responding to questions received. Questions should already be posted, when the answer to such questions is still being processed in order to ensure a transparent process.
26. Regarding the legal status of the Q&As, it was further explained by EBA staff that the Q&As do, indeed, not introduce new legal requirements but substitute and harmonise guidance that would otherwise have been given by Competent Authorities in each Member State. A few BSG Members wondered whether, in that case, actual formal Guidelines should be developed.
27. BSG Members were invited to raise any further comments/observations on the presentation to EBA staff.

iii) EBA Staff to Present Update on EBA's Regulatory Work Under Development

(a) Macroprudential policy

28. The EBA staff updated that the EBA had received a Call for Advice from the European Commission, on the macroprudential rules in the CRR (Article 513). Currently, the EBA is developing an Opinion in response to this request
29. The EBA noted the need for coordination regarding the use of macroprudential policy instruments. Article 458 of the CRR generally allowed National Competent Authorities the use of national measures to mitigate changes in the intensity of macroprudential or systemic risk.
30. It was noted that the EBA deems it crucial to find a way to activate such instruments without jeopardising the objectives of the single rule book, or consistency with the objective of financial stability.
31. Further issues noted were the transparency of such tools, especially when introduced in a variety of Member States. Also, whether there would be sufficient clarity with regard to in what situation particular measures would be appropriate and whether there should be an order of

the use of tools. The EBA was considering the right balance between the flexible use of such tools and limiting their use.

32. BSG Members noted the risks for investors, i.e. that macroprudential instruments could alter or impact the pricing of some investments. Further, the need for consistency and transparency in the use of such instruments was underlined. The importance of a stronger role for the ECB relative to the other national macroprudential supervisors was highlighted. BSG raised concern about emerging different practices on macroprudential policies, and the potential for an un-level playing field.
33. The BSG would also support developing an order with respect to the application of the suggested macroprudential tools. Proportionality would to some extent also need to be applied.
34. BSG Members also noted the application of macroprudential tools in some emerging markets, e.g. regarding Loan to Value (LTV) limits in some Asian countries. The greater usefulness of macroprudential tools when aligned with fiscal and other policies was noted.
35. BSG Members were invited to raise any further comments/observations on the presentation to EBA staff.

(b) Supervisory Review and Evaluation Process (SREP) Guidelines under development

36. The EBA staff presented its preliminary thinking on SREP GLs under development. Noted were the EBA's tasks and roles in relation to the consistency of supervisory practices as well as the common European SREP framework and its key elements.
37. The EBA staff viewed that the EBA's primary objective in its work on SREP would be to increase the consistency and quality of supervisory SREP practices, and hence of their outcomes. Thus, Guidance for the application of supervisory actions and measures should provide supervisors with a range of possible options based on the overall SREP assessment (including SREP score) and the defined category the institution is to be assigned.
38. Going forward, the outcomes of SREP would serve as a link between the supervisory assessment of a bank being in 'going concern' and 'gone concern' by linking the CRD and BRRD. The overall SREP assessment and assessment of individual elements (scores) would serve as triggers for the decision on the application of early intervention measures and the overall SREP assessment (score) would serve as determination of whether an institution is 'failing or likely to fail'.
39. Some BSG Members questioned the EBA's approach regarding business model analysis. From some BSG Members' practical experience it was recalled that not all home/host supervisors had probed into banks business models.

40. Also, some BSG Members were surprised that some supervisory authorities have only now started to look at bank business models. However, this should not lead to a convergence of business models in the future.
41. BSG Members were invited to raise any further comments/observations on the presentation to the EBA staff. The BSG was also asked to consider its Opinion, once the CP on this topic has been published.

(c) Covered Bonds Report

42. The EBA staff presented the work ahead. Staff explained that the ESRB – Recommendation E (12/2012) requested the EBA ‘to deliver to the ESRB an interim report setting out the principles of best practice in relation to covered bonds’. Further, CRR Article 503 and a Commission Call for Advice (December 2013) questioned whether the preferential risk-weight treatment would be appropriate for all instruments.
43. The EBA staff informed that the Covered Bonds Report contains a comparative analysis of the legal/regulatory frameworks for national covered bond markets and asset class specifics (such as on guaranteed residential loans, aircraft liens/mortgages, and RMBS/CMBS). Other issues would be the transparency towards investors when issuing covered bonds and a comparative analysis of supervisory practices related to covered bonds.
44. A vast majority of EU Member States currently have a national legal/regulatory covered bonds framework, where the EBA had noted that the spectrum of regulatory practices in the EU is very wide.
45. In terms of best practices, the EBA highlighted the use of dual recourse; the segregation of covered assets and bankruptcy remoteness of covered bonds; the valuation of the Mortgage Cover Assets and LTV criteria; coverage principles and over-collateralisation; the role of the competent authority and disclosure.
46. In terms of the prudential (preferential) treatment of Covered Bonds (CRR Article 129), the EBA highlighted that the report will include recommendations related to the appropriateness of the current regime of preferential risk-weight treatment and to the eligibility for risk-weight preferential treatment of specific cover assets.
47. Some BSG Members questioned the existence of problems in the market and viewed that the market was working relatively well. Thus, it was questioned whether further regulation would be necessary. The EBA staff explained that issues would exist in relation to unharmonised capital requirements across Member States and that harmonisation of these would be beneficial as well as disclosure standards. The BSG noted that the room for harmonisation of covered bonds legal/regulatory national frameworks is limited by the heterogeneity of national insolvency legal frameworks.

48. BSG Members were asked to raise any further comments/observations on the presentation to the EBA staff.

(d) Consumer Protection Work

49. The EBA staff summarised and thanked the BSG for the input provided in the past on the EBA's work on consumer protection and financial innovation, including the JC work on product oversight and governance; the consumer trends reports; the two EBA opinions on mortgages; and several others. The EBA staff also noted that the EBA is engaging with the BSG at an ever earlier stage in the policy development process, as exemplified by the request to the BSG in summer 2013 to nominate innovative product that the EBA should have a look at.

50. The EBA staff then presented the EBA's mandates that are likely to be given to the EBA in the next 6-12 months and asked which of those would be of most interest to the BSG in order to contribute. The mandates relate to the Payments Accounts Directive (PAD) and the Payments Services Directive (PSD2). Further, the BSG was updated on the EBA's work relating to virtual currencies and Product Oversight and Governance.

51. Regarding the PAD, the EBA is likely to be mandated to develop guidelines on the most representative services linked to a payment account and subject to a fee at national level and standardised terminology; draft RTS setting out the standardised terminology for those services that are common to at least a majority of Member States; develop draft ITS on a standardised presentation format of the fee information document; and develop ITS regarding a standardised presentation format of the statement of fees.

52. Regarding the PSD2, the EBA is likely to be mandated to develop and create a web portal serving as an electronic access point interconnecting the public registers in Member States; develop RTS setting the technical requirements regarding access to information contained in the national public registers; develop two RTS specifying the framework for cooperation and exchange of information; issue guidelines on the elements to be taken into consideration when deciding whether the activity the payment institution notified intends to provide in another MS would amount to the exercise of the right of establishment or freedom to provide services; develop guidelines with regard to the establishment, implementation and monitoring of security measures; develop guidelines to facilitate payment service providers in qualifying major incidents and the circumstances under which a payment institution is required to notify a security incident; and issue guidelines addressed to payment service providers regarding customer authentication.

53. Concerning potential BSG input into the EBA's work on innovation, the EBA staff noted that it approached the previous BSG composition with a request to nominate financial innovations that the EBA could take a look at when fulfilling its mandate to monitor financial innovation. The current BSG membership was invited to suggest additional topics for 2014.

54. BSG Members noted that they generally feel that early involvement of the BSG is particularly important and reminded of the positive experience so far. In particular, interest was raised in contributing to the EBA's work on the PAD and PSD2.
55. Also noted were issues in some Member States regarding access to basic bank accounts due to some carve-outs in the PAD. The EBA staff noted that it is not within the remit of the EBA's competences to qualify or modify European Directives.
56. Further, BSG enquired about the timing of product oversight and on complaints handling. Possible overlaps with the work of other European bodies (including other Stakeholder or User groups) were also noted. In that regard, cooperation with other Stakeholder or User groups may be sought (e.g. the Financial Services User Group's work on crowd funding).
57. The EBA staff explained that EBA and ESMA were currently also looking at issues with regard to crowd funding. The EBA noted that it would be particularly interested in receiving BSG advice on payment services and supervisory approaches within the next 3-4 weeks. Also, any views the BSG has on remuneration and sales incentives would be greatly received by the EBA. The BSG was asked to further consider to which topics on the EBA's work plan, it would be particularly interested to contribute.

Agenda item 5.: Workstream of Technical Working Groups

58. The BSG Chairperson explained that the BSG had submitted 11 responses to EBA papers since October 2013. Three further responses were under active preparation (see agenda item 6 below). In six cases the BSG decided not to make a submission.
59. Regarding one outstanding Consultation Paper [JC/CP/2014/03], the BSG decided that the Chairs of the Working Groups on 'Capital and Risk Analysis' and 'Recovery, Resolution and Systemic Issues' should consider who would be best placed for drafting the BSG's response to [JC/CP/2014/03] (deadline 14 July).
60. It was decided, for the time being, to put on hold the work of the ad hoc Working Group on Risk-Weighted Assets.
61. The Coordinator of the Ad Hoc Working Group on Proportionality reported on the work done to date by this recently established Ad Hoc Working Group, which consisted of 10 BSG Members. A break-out session of the Group was scheduled post the conclusions of the following day's Joint BSG/BoS meeting.
62. The BSG Chairperson suggested distinguishing between proportionality for individual institutions versus the cumulative impact of regulation. Reference was made to the EBA's Proportionality Workshop held on 22 October 2013. Chris de Noose was asked to take forward the work of the Working Group.

63. BSG Members were reminded that they were always invited to consider ideas for further Ad Hoc projects.

Agenda item 6.: Report from the BSG Standing Technical Working Group on Capital and Risk Analysis

64. The BSG Working Group Coordinator on Capital and Risk Analysis updated BSG Members on the Working Group's activities. She mentioned that recently BSG comments were made on [EBA/DP/2014/01]. Further three submissions of the Working Group were currently underway, namely on:

- [JC/CP/2014/02] – DL: 20 June 2014 (Magdolna Szőke)
- [EBA/CP/2014/02] – DL: 07 June 2014 (Louise Lindgren)
- [JC/CP/2014/01] – DL: 12 June 2014 (Michel Bilger)

65. She gave a further presentation of the recently announced Swedish capital regime. With regards to Common Equity Tier 1 (CET1), the minimum capital requirement would still be 4.5%. Own funds requirement in Pillar 2 (excluding risk weight floor on Swedish mortgages and systemic risks) 66.7% of the additional requirement shall be covered by CET1. A 25% risk-weight floor on Swedish mortgages would be required. Systemic risks in Pillar II would receive a 2% charge and the systemic risk buffer 3%. The countercyclical capital buffer is proposed at a level of 1.5 % for Swedish exposures. The capital conservation buffer stands at 2.5%.

66. Risk-weight floor on Swedish mortgages have been increased from the 15 to 25 percent. The capital requirement for the floor is calculated based on the difference in risk-weighted exposures when applying the floor.

67. Some BSG Members noted that Swedish banks generally have fared relatively well in the financial crisis. Further, they suggested that new "capital" requirements, even when done via the use of Pillar II, should be transparent, which should facilitate greater understanding of investors.

Agenda item 7.: Report from the BSG Standing Technical Working Group on Recovery, Resolution and Systemic Issues

68. The BSG Working Group Coordinator on Recovery, Resolution and Systemic Issues updated BSG Members on the Working Group's activities. He noted that the EBA had not issued any Consultation Papers regarding recovery and resolution since the last meeting. However, a large number of CPs would be in the pipeline, also noting that the EBA was awaiting formal approval of the BRRD. Concerns were raised with EBA staff regarding this concentration of consultations in the second half of 2014.

69. The EBA informed that whilst the political agreement to the BRRD had recently been received, the final text had yet to be published in the Official Journal. The deadlines contained in the

proposed final BRRD text include that the EBA has to deliver many of its regulatory products by the end of 2014, while the BRRD is expected to be applied from 1 January 2015.

Agenda item 8.: Report from the BSG Standing Technical Working Group on Consumer Issues and Financial Innovation

70. The BSG Working Group Coordinator on Consumer Issues and Financial Innovation updated BSG Members on the Working Group's activities. Noted was the break-out session of the Working Group on Consumer Issues and Financial Innovation following the conclusions of the BSG meeting on 12 May.

Agenda item 9.: Joint BSG/BoS meeting 13 May 2014

71. The BSG Members briefly discussed the following day's Joint meeting with the BoS.

Agenda item 10.: Next Meetings

72. The BSG was reminded of the remaining 2014 meeting dates. BSG Members were reminded to provide suggestions for the structure/content of BSG meetings and Joint meetings, having regard to the EBA's 2014 work programme.

Agenda item 11.: AOB

73. It was noted that the ESMA SMSG Chair and Vice-Chairs had suggested a meeting with other ESA SHSG Chairs and Vice-Chair on 3 June, thus, one day before the Joint Consumer Protection Day on 4 June, which takes place in London. The EBA staff indicated that it is facilitating this. The BSG Vice-Chairperson will represent BSG at this meeting as well as perhaps one more BSG member.

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

London, 12 May 2014

<u>BSG Member</u>	Representing
David T. Llewellyn (Chairperson)	Top-ranking academics
Andrea Resti (Vice-Chairperson)	Top-ranking academics
Alf Alviniussen	Users of banking services
Jean Berthon	Consumers
Michel Bilger	Credit and investment institutions
Javier Contreras	Consumers
Mike Dailly	Consumers
Nikolaos Daskalakis	SMEs
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
John Hollows	Credit and investment institutions
Zdenek Hustak	Top-ranking academics
Alin Iacob	Users of banking services
Robin Jarvis	Users of banking services
Bostjan Krisper	Consumers
Louise Lindgren	Credit and investment institutions
Ute Meyenberg	Employees
Robert Priester	Credit and investment institutions
Holger Schwannecke	SMEs
Magdolna Szóke	Credit and investment institutions

From the EBA

Andrea Enria
 Adam Farkas
 Stefan Andresen
 Adrienne Coleton
 Slavka Eley
 Piers Haben
 Dirk Haubrich
 Corinne Kaufman
 Lars Overby
 Mario Quagliariello
 Massimiliano Rimarchi
 Oleg Shmeljov