



EBA BSG 2016 048

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Banking Stakeholder Group

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24 October 2016/9:30-16:30

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Location: London

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## Banking Stakeholder Group – Minutes

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### Item 1.: Welcome and adoption of the agenda

1. The EBA Chairperson welcomed the members of the Banking Stakeholder Group (BSG). BSG members approved the agenda and the minutes of the meeting of 22 June 2016.

### Item 2.: BSG Update on the latest developments

#### A) BSG Chairperson to update on recent developments

2. The BSG Chairperson informed BSG members of the emails sent by the chair of the ESMA Stakeholder Group to the other two ESAs stakeholder groups suggesting to reply jointly to common Consultation Papers published by the three ESAs. The BSG Chairperson expressed the view that there was value added in a joint reply when there was ground for common positions, provided BSG defines procedures that avoid possible coordination difficulties.
3. BSG members expressed their support to this initiative on a case-by-case basis and taking into account cost-benefit considerations.
4. The BSG Chairperson also raised some procedural issues to improve the process of submission of a BSG Opinion. He suggested the following changes to the procedure: (i) to decide in common whether to reply or not a CP, (ii) to allow time for discussion in the BSG, (iii) to ensure an adequate balancing of positions and (iv) to allow for minority views where appropriate. BSG Chairperson is expected to propose a clarification of the procedures.

#### B) Update of BSG technical Working Groups' Activities

5. The leaders of the five Technical Working Groups presented the work done since the last BSG meetings. The BSG agreed to set up two new Ad-Hoc Working Groups on "Regulatory Sandboxes" coordinated inside the Working Group on Fintech and Payments and on "Dynamic Currency Conversion" coordinated inside the Working Group on Consumer Protection.
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## C) Discussion on Brexit

6. In the context of a Brexit, the BSG expressed its concerns, mainly regarding equivalence and consumer protection. It was nonetheless considered that further discussion on Brexit issues would not bring any added value at this time. The BSG Chairperson would look for BSG members' views at a later stage.

## Item 3.: Disclosure requirements under Part eight of Regulation (EU)

7. An EBA's Consultation Paper on the draft Guidelines on regulatory disclosure requirements was published for public consultation until 29 September. The BSG decided not to issue an Opinion. However, one BSG member presented his views on the topic considering that the EBA's proposal should be amended.
8. The EBA's Chairperson explained the rationale regarding the information provided on financial conglomerates in this draft Guidelines. The current regulatory framework in the EU provides different approaches regarding the treatment of insurance participations (article 45 CRR). In order to ensure comparability, the draft Guidelines take into account the different approaches and add disclosure obligations regarding insurance participation for financial conglomerates
9. Given that the financial conglomerates may have an impact on financial stability, most of the BSG members supported the EBA's position. Indeed they regarded the disclosure of information from the financial conglomerates as necessary and a matter of credibility for the EBA.

## Item 4.: EBA to update on general developments

### A) EBA Chairperson to update on general developments

10. The EBA's Chairperson recalled the organisation of the 5<sup>th</sup> EBA Policy Research Workshop on "Competition in banking: implications for financial regulation and supervision".
11. He also informed BSG members of the coordination role played by the EBA to coordinate a common European position at the Basel Committee for Banking Supervision. In this regard, he recalled the EBA's work in this area through a great variety of regulatory products.
12. He mentioned the EBA's work on the final MREL report which was being finalised. The process of finalising the new framework could nonetheless take some time. He listed the main focus of the report on intragroup issues with a view to treating the EU as a single jurisdiction. Some other sensitive issues were also mentioned regarding subordination, exemptions, disclosure, and reporting of MREL.

13. Regarding the Panama Papers issue, he informed that the EBA participated in the PANA hearing (Committee on money laundering, tax avoidance and tax evasion of the European Parliament) in October 2016. The purpose of this hearing was to understand how international standards in the area of information exchange for tax purposes and Anti-Money Laundering (AML) were set, and which the mechanisms to assess their effective implementation and enforcement were. At the BoS request, the EBA launched a working plan to review the cases and needs for actions/investigations. In parallel, he flagged that the EBA was currently working on internal governance which had resonance to the topic.
14. He presented the impact assessment on IFRS 9 which would be released through the publication of a global report. The objective of the exercise was to understand the estimated impact of IFRS 9 on regulatory own funds and support the EBA in assessing the interaction between IFRS 9 and other prudential requirements. The report would raise the issue of the progress made by banks in the implementation of IFRS 9 and reveal that the impact in terms of provisions should be manageable and not disruptive. He also informed that a second impact assessment would be launched to better understand the potential future effect of the accounting standards and how they were being implemented.
15. He mentioned the onset of a post-mortem exercise regarding the past stress tests that could be discussed at the next BSG meeting.
16. He recalled that the EBA published a report on investment firms in December 2015 and received thereafter a Call for Advice from the European Commission to provide technical advice on certain recommendations included in the report. Basically, the EBA viewed that the investment firms should be split into three groups, one applying the provisions of CRR and CRD in full for G-SIIs, one with simplified requirements for the majority of the firms, and one with minimal requirements for the smallest investment firms. A discussion paper would be published to complement the report.
17. He also highlighted the EBA's Proportionality Paper that should be published by the end of the year and asked the BSG to contribute to this topic.
18. Some BSG members asked questions about the EBAs' plans regarding IFRS 9 and the rationale to apply a distinction between the G-SIIs and O-SIIs.

## B) Update on Risks and Vulnerabilities

19. EBA staff presented the main risks identified in the latest EBA's Risk Dashboard published in September. EBA staff flagged that the banks' capital ratio increased and, while there is dispersion in Europe, improvements are widespread. EBA staff stressed that the Non-Performing Loans (NPLs) level was the main concern as it was still high in spite of further improvement in asset quality. The second concern was on profitability of banks. The cost to income ratio was reportedly historically high, in particular for the smallest banks. For the first time, the EBA also used the banks' funding plans amongst its indicators to observe the risks in

the EU. It was noted that some caution is needed in interpreting funding plans, which should be backtested.

20. While debt spreads have recently recovered, expected default frequencies (EDFs) had rather remained on elevated levels.

21. EBA staff also commented on the EBA's Transparency Exercise. The process was kicked off in September and the results should be published in December. It was indicated that some minor adjustments were made to adapt to available information.

22. BSG members raised questions about the risks identified. In particular, they stressed:

- The causes of the low profitability that may be prompted either by the economic downturn or institutional factors,
- The correlation between the size of the banks and the NPL ratio. Some BSG members viewed that the NPL ratio was more driven by the country of location rather than the size of the bank, which was acknowledged by the EBA staff.
- The drivers of certain outcomes, including the higher cost to income ratio for the smallest banks.

23. A few BSG members also proposed a list of suggestions to complete the EBA's Risk Dashboard and better assess financial and trading risks and distinguish business models. They suggested adding a new category of macroeconomic indicators, renaming certain categories of risks, enriching the set of indicators, and aggregating all the indicators by category of business models.

24. With a view to enhancing the EBA's Risk Dashboard, EBA staff welcomed the BSG comments and would consider them as part of the regular review of the RD. EBA staff explained that the EBA's Risk Dashboard should be kept short and observed that there were other EBA's reports taking into consideration thematic issues such as NPLs, FinTech. BSG members were informed that some new data would be added, including Leverage ratio for example. It was noted that the other ESAs and the ESRB also published a report on risks and the three tools should avoid overlaps. Regarding the sample of banks, it was observed that there were ongoing discussions to expand the sample.

## Item 5.: EBA update on consumer protection, financial innovation and payments work

25. EBA staff presented the Consultation Paper on three draft Technical Standards under Payments Account Directive (PAD) published in September. In the Consultation Paper, the EBA proposed standardised terms and definitions for the most representative services linked to a

payment account and subject to a fee, and pre- and post-contractual disclosure documents – Fee Information Document (FID) and Statements of Fees (SoF) and their common symbols.

26. Some BSG members raised some questions on the methodology applied to the consumer testing carried out by the EBA as part of the development of the draft Technical Standards, in particular the selection of the two countries for the “face to face” test, namely Poland and the United Kingdom (UK). EBA staff explained that the selection of countries was based on their location both in Western and Eastern countries, the size of their markets and the penetration of payment accounts.
27. With regard to the standardised terms and definitions, one BSG member viewed that the draft Technical Standard might expand the scope of the services covered by the terms and includes more terms and definitions.
28. Regarding the FID, one BSG member considered the approach as completely relevant in the sense that it enabled to compile all information on the most representative services linked to a payment account in one document. He asked as to whether the Competent Authorities (CAs) would have some leeway to adjust the document. EBA staff stressed that the Implementing Technical Standards (ITS) on the standardised presentation format of the FID and its common symbol and on the SoF and its common symbol would be, when adopted by the Commission, EU delegated regulations and would be directly applicable at national level.
29. EBA staff continued by summarising the Consultation Paper on the draft Guidelines on the criteria how to stipulate the minimum monetary amount of the professional indemnity insurance (PII) or comparable guarantee under Payment Service Directive (PSD2). EBA staff justified the criteria, indicators for each criterion, and calculation methods and formula proposed in the Consultation Paper.
30. Some BSG members expressed some concerns regarding the business issues. EBA staff asked BSG members to raise their comments and suggestions when responding to the Consultation Paper.
31. BSG members were also concerned by the dropping of the EBA’s Consumer Trends Report for next year due to a reprioritisation of the EBA’s work in the field of consumer protection.
32. The EBA’s Chairperson explained that several areas were being downsized due to a lack of resources. The team involved in consumer protection was absorbed by other mandates and, in general, the EBA’s agenda was mainly driven by the regulatory mandates. He suggested that BSG members could identify consumer trends they have observed and present them at one of the next meetings. BSG members welcomed this proposal and committed to provide a list of topics within their relevant technical working groups.
33. One BSG member summarised the key findings of the Consumer Day held in Paris on 16 September. She referred to the introductory speeches delivered by Gabriel Bernardino (EIOPA Chair) and Olivier Guersent (FISMA Director General) in favor of supervisory convergence.

According to these speeches, priorities of the ESAs should include the need to achieve a single market for financial services/products and enforce the numerous new regulations. It was also reported the discussion in the three panels set up on this occasion: i) to deal with whether the EU managed to implement a single market for financial services, ii) to discuss the issues related to the use of Big Data in the financial sector and iii) to give thoughts of the role of ESAs in protecting consumers specifically regarding product oversight and governance and remuneration. The BSG member mentioned that the organisation of the next Consumer Day could take place in a country where consumers are the most affected by the misuse of financial services. The EBA's Chairperson informed that the Consumer Day would be organised in another country, probably in Czech Republic and the format would further involve consumer representatives as speakers as well as participants.

## Item 6.: EBA update on other regulatory deliverables

### A) Presentation of the EBA's Report on Liquidity Coverage Ratio (LCR)

34. EBA staff presented the mandate of the EBA to assess the impact of the LCR on an annual basis and the objectives of the report. It was noted that this report was done under the Delegated Act (DA) for the first time. The analyses presented in this report were based on the data as of 31 December 2015 collected through the quantitative impact study (QIS) monitoring exercise and the EBA Implementing Technical Standards (ITS) on Supervisory Reporting.
35. EBA staff highlighted the differences between the EU LCR under the DA and the LCR under Basel III framework in terms of high quality liquid assets (HQLA), outflows and inflows. It was also presented the outcomes of the analysis of currency mismatch in the LCR. The objective of this analysis was to investigate whether currency-related liquidity risk existed in EU institutions. The impact of activities with the central bank under the LCR regulation was also covered by the report. Based on the analysis of the phase-in period of the LCR, EBA staff concluded that there was no evidence to suggest a deferred introduction of the 100% minimum binding standard, until 1 January 2019.
36. BSG members queried about the methodology applied to this exercise which the objective amongst others was to assess the possible impact of the regulation on the risk-profile of the banks. Some BSG viewed that the scope of the analysis should have been broadened, e.g. to the impact of the LCR regulation on the supply of bank lending and on the real economy as well as the sample of the banks.
37. Some BSG members commented on the treatment of foreign currency derivatives and foreign currency ratios, highlighting the problems faced by the banks with subsidiaries.
38. EBA staff clarified the methodology applied for this exercise, the scope of the exercise at the current reporting date and the caveats of the report. The EBA staff will assess in light of the BSG's comments whether it is possible to expand the scope of the next report.

## B) Draft Consultation Paper on internal governance

39. EBA staff presented the objectives of the draft Consultation paper on the Guidelines on internal governance which seeks to address the weaknesses identified during the crisis in this area. The content of the draft Consultation Paper was further explained. In particular the CP puts more emphasis on the overall duties and responsibilities of the management body and gives further guidance on the setting up of board committees such as the risk and the nomination committees. In addition the section on “know your structure and complex structures” has been strengthened reflecting the light shed by the Panama event to ensure that the management body was aware of the risks that could be triggered by complex and opaque structures and to improve transparency. The Guidelines on internal governance have been amended to fully reflect the three lines of defense model, specifying the responsibilities of the internal control function. Framework for business conduct has been further developed in particular by providing guidance on risk culture. Guidelines on whistleblowing were also further developed, including alert procedures and due protection of whistleblowers.
40. Some BSG members asked questions about the involvement of CAs in the preparation of this Consultation Paper as some different process could exist in some jurisdictions. BSG sought also clarifications about the role of the management boards, the structure of management bodies (one tier and two tiers), and treatment of subsidiaries in particular in third countries. They asked more clarity on the relations between these Guidelines on internal governance and the Guidelines on suitability of members of the Management Board. Some other questions were raised on the identification of the key function holders, the concept of diversity and transparency of the process for whistleblowers.
41. They also stressed their attachment to the principle of proportionality included in the Consultation Paper.
42. EBA staff observed that CA were involved in the draft of these Guidelines of which objective is to ensure harmonisation and supervisory convergence also through the “comply or explain” process. Regarding the structure of the management body, EBA staff explained that CRD IV had introduced some flexibility acknowledging differences in national company law and that the Consultation Paper does not go beyond. Finally the diversity criterion was included in the draft Guidelines on suitability as diversity should be taken into account for the selection of members of the management body. Diversity is not limited to gender but take into account educational background and geographical provenance.
43. On whistleblowing, EBA staff clarified that the CAs would be also responsible for following up on the framework.

## C) Draft Consultation Paper on the draft Guidelines on PD and LGD modelling and defaulted assets

44. EBA staff presented the scope of the draft Guidelines based on the results of the reports on comparability and pro-cyclicality of Risk Weighted Assets (RWAs) and recalled that the draft Guidelines on the PD and LGD estimation and the treatment of defaulted assets was part of the broader EBA work related to the review of the IRB Approach.
45. It was noted that the potential impact of the draft Guidelines would be further assessed through a qualitative survey carried out across the banks. EBA staff informed that the Consultation Paper would be shortly published for 3-months consultation period.
46. One member expressed appreciation to the approach taken in developing the Guidelines that it targets only non-risk based variability and intends to preserve risk sensitivity of internal models.
47. One member enquired about the links to IFRS 9. It was clarified by the EBA staff that it is expected that banks will be basing on their experience with IRB models in developing models for accounting purposes. Although some adjustments will most probably be necessary it seems that it should be possible to avoid double work to a large extent.

## Item 7.: AoB

48. BSG members briefly discussed the topics to be presented at the Joint BoS/BSG meeting the day after.



Participants:

**Chair** – Santiago Fernández de Lis, BSG Chairperson

Nikolaos	Daskalakis	GSEVVEE
Sergio	Lugaresi	Italian Banking Association
Luigi	Guiso	EIEF
Mike	Dailly	Govan Law Centre
Angel	Berges	AFI / UAM
Anne	Fily	BEUC
Michel	Bilger	Credit Agricole
Sabri	Thaer	Electronic Money Association
Giedrius	Steponkus	Lithuanian Investors
Soren	Holm	Nykredit
Ernst	Eichenseher	UniCredit Group
Phryne	Michael	Cypriot Consumers Association
Gerda	Holzinger-Burstaller	Erste Group Bank AG
Alin	Iacob	Association of Romanian Financial Services Users
Martin	Schmalzried	COFACE
Sabine	Masuch	Association of Private Bausparkassen
Santiago	Fernández de Lis	BBVA
Dermott	Jewell	Consumers' Association of Ireland
Christophe	Nijdam	Finance Watch
Giovanni	Petrella	Università Cattolica del Sacro Cuore, Milano
Monika	Marcinkowska	University of Lodz
Sara Paulina	De Oliveira Monteiro	Portugal's Biotechnology Industry Organization
Simon	Hills	British Bankers Association
Mark	Roach	Verdivereinte Dienstleistungsgewerkschaft
Aimilios	Avgouleas	University of Edinburgh
Arnold	Kuijpers	Rabobank

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