

EBA BSG 2018 002

---

Banking Stakeholder Group

---

14 December 2017/9:30-16:45

---

Location: London

---

EBA-Unrestricted

---

## Banking Stakeholder Group –Minutes

---

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

1. The BSG Chairperson together with the EBA’s Chairperson welcomed BSG Members
2. The agenda was approved. The EBA Staff will circulate to BSG Minutes from the last meeting held on 23rd October 2017 for BSG Members approval by written procedure

### Item 2.: Role of the BSG

3. The EBA Chairperson introduced the paper, which sought to provide a common understanding and guidance on the role and remit of the BSG, pursuant to the EBA’s founding Regulation.
  4. The BSG Members welcomed the paper and took note of the BSG’s mandate and the ability in exceptional circumstances, to respond to consultations of others, subject to the conditions cited in the EBA’s paper. Further, the BSG Members agreed that the BSG should continue to seek consensus in providing its advice.
  5. Some BSG Members suggested to assess whether the BSG’s Rules of Procedure might need to be updated in the light of this note, such as the decision making on when to develop such advice and the governance of its Technical Working Groups, and their experience.
  6. The BSG Vice Chair suggested that the EBA could follow Sven Giegold MEP’s suggestion made at the ESAs’ Consumer Day, June 2017, in enhancing the profile of the Consumer “corner” on the EBA’s website, and perhaps also enhancing the BSG section on the EBA’s website.
  7. It was agreed that the BSG Chair and Vice Chair would review whether to update the BSG’s Rules of Procedure in the light of this paper, and also the BSG section on the EBA’s website.
-

### Item 3.: BSG update on the latest developments

#### A) BSG Chairperson to update on recent developments and to allocate the work on the EBA's Consultation Papers

8. BSG Chairperson recalled the BSG responses to the EBA's consultation papers issued since the last BSG meeting and allocated the preparation of responses to EBA's papers under consultation amongst the various BSG Technical Working Groups.

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

9. The respective leaders of the BSG Technical Working Groups presented their work.

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

10. The EBA Chairperson informed that on 20 November 2017 the General Affairs Council voted for Paris as the proposed new location for the EBA, in accordance with the procedure endorsed by the Council. At this juncture, the EBA envisages moving to Paris around March 2019, the envisaged timeline of the UK leaving the EU.

11. He welcomed the agreement to the BCBS package of Basel III post-crisis reforms, 7 December 2017. He informed that the EBA had performed an ad-hoc monitoring exercise report, which had used reference data as of December 2015, similar to the BCBS, which estimated the impact of the Basel reforms on the EU banks, which the EBA will publish shortly. In response to BSG Members asking how the EU will incorporate the BCBS agreement, he noted that with a new Commission and the elections for the European Parliament in 2019, the BCBS implementation timeline would be challenging.

12. He updated BSG Members on the EU wide 2018 Stress Testing exercise, highlighting that the EBA had published its final methodology, which covers all relevant risk areas and, for the first time, incorporates IFRS 9 accounting standards. The EBA aims to launch the stress test exercise in January 2018 and to publish the results by 2 November 2018.

13. He informed that the EBA held its sixth Policy Research workshop on 28-29 November 2017 on the topic "The future role of quantitative models in financial regulation", which brought together researchers at National Competent Authorities (NCAs), National Central Banks and Academics.

14. The Chairperson referred to the recent publication of the EBA's Report on the peer review carried out to evaluate the implementation of its Guidelines on the criteria for the assessment and identification of other systemically important institutions (O-SIIs) across the EU. He noted that the peer review concluded that the majority of the authorities are compliant with the EBA Guidelines, although some of its requirements have not been fully applied in all jurisdictions.

15. He informed of the the recently finalised EBA Guidelines on the supervision of significant branches, which should facilitate cooperation and coordination of supervision of the largest and systemically important branches, the so-called 'significant-plus' branches. He viewed that these concepts would be useful for those supervisors and banks restructuring due to Brexit.
16. He informed that the EBA has been busy finalising many of its deliverables under PSD2. He referred that either due to the delay in adoption or because PSD2 intended it to be so, not all provisions of the PSD2 or EBA technical standards and Guidelines will be applicable at the time of PSD2 implementation in January 2019. This misalignment has led to a number of additional transitional issues that both market participants and competent authorities (CAs) have raised to the EBA. Accordingly, the EBA was preparing an Opinion on the transition from PSD1 to PSD2, which it intended to publish before the 2017-year end, with a view to providing some clarification in order to ensure a transition from PSD1 to PSD2 that is orderly and consistent across the 28 Member States of the EU.

## Item 5.: EBA update on key risks in the EU banking sector

17. EBA Staff gave a presentation on risks and vulnerabilities in the EU banking sector, highlighting that European banks' capital positions keep on improving; banks' profitability are showing positive signs however the cost of equity remains higher than return on equity. It was also noted that asset quality has improved in general but NPLs remain a key challenge for EU banks.
18. EBA staff also informed of the main features of the EU-wide 2017 Transparency Exercise, and the report EBA published at the end of November 2017, which provided key data in a comparable and accessible format for 132 banks across the EU. The data shows further resilience in the EU banking sector amid a benign macroeconomic and financial environment, with an additional strengthening of the capital position, an improvement of asset quality and a slight increase of profitability. It was highlighted that further progress on NPLs is needed whilst the long-term sustainability of prevailing business models remains a challenge. Further, the importance of robust data management and IT and operational resilience is also a priority.
19. Several BSG Members raised some concerns, such as the need to assess the impact on bank's profitability due to PSD2 and also due to Fintech; one BSG Member suggested to look at the CDS market to get a different perspective; another BSG Member suggested that banks should consider downsizing their branch structure to restore profitability.
20. Several BSG Members asked about the EBA's assessment of cyber risks, and the EBA informed that its analysis was based on the information the EBA receives from banks' response to its risk assessment questionnaire. The EBA Staff took note of the BSG Members' suggestions to enhance the qualitative assessment of the risk report, which it will consider in the design of its future risk assessment questionnaires.

21. It was also noted that banks continue to issue CT1 and Additional T1 instruments, and that their spreads are decreasing; and the EBA took note that the banks are not issuing many such instruments.

## Item 6.: EBA update on its Work Programme (A-Point)

### A) EBA's work on strengthening the Pillar 2 framework

22. The EBA staff updated on its work strengthening the Pillar 2 framework, highlighting the EBA's three guidelines currently out for consultation updating its Guidelines on common procedures and methodologies for the Supervisory Review and Evaluation Process (SREP), Guidelines on the IRRBB and the Guidelines on Stress Testing.

23. He elaborated on the Pillar 2 Guidance, now proposed to be incorporated in the EBA SREP Guidelines, which he informed is an additional layer of capital to be held in response to the quantitative outcomes of supervisory stress tests. He elaborated as to how it relates to the Capital Conservation Buffer and Countercyclical Capital Buffer requirements, amongst others. In response to BSG Members' questions, he clarified that Pillar 2 Guidance relates to a minimum amount that a bank should hold above its Overall Capital Requirements and this can be seen as a minimum level management buffer, and that all banks need to comply with Pillar 2 Guidance, if their CA so sets. Further, he clarified that the EBA's proposals on Pillar 2 Guidance take into account that some MS have a public disclosure culture; and the disclosure requirements under the Market Abuse Directive.

### B) EBA's work on Non-Performing Loans

24. The EBA staff updated on the EBA's work on Non-Performing Loans (NPLs). She referred to the EU Council Conclusions, July 2017, where the EBA has the following mandates:

- (i) Issue Guidelines on NPL Management, to apply to all EU banks – which should be consistent with existing SSM guidance, and that EBA should extend this scope to all EU MS. The EBA aims to publish these in Q1 2018, and finalise them in 2018Q3;
- (ii) Issue Guidelines on banks' loan origination, monitoring and internal governance. With regard to these Guidelines, she informed that the EBA is assessing the consumer dimensions too. The EBA aims to publish these by summer 2018, and finalise them by end 2018;
- (iii) Implement, together with ESMA and CAs, enhanced disclosure requirements on asset quality and NPLs; and
- (iv) Issue Guidelines on loan tapes monitoring, specifying information required on banks' credit exposures / data templates. She informed that the EBA was due to publish later that day, Templates on portfolio screening and transactions, which have been developed with investors' perspective (i.e. for their due diligence). The templates are

designed in a way that they can act as a market standard, used by banks on a voluntary basis for NPL transactions, and to form the foundation for NPL secondary markets initiatives.

25. Further that the EBA is working with the ECB and the Commission, to propose initiatives to strengthen the data infrastructure with uniform and standardised data for NPLs and consider setting-up platforms
26. She informed that there are other mandates where the EBA is not in the lead, such as the blueprint of Asset Management Companies (AMCs) to which EC is tasked to develop; and that the EBA is working together with ECB, SSM, SRB and Eurostate; looking at assets; looking at thresholds, governance and oversight
27. The BSG Members took note of the various aspects of the EBA's work on NPLs, and the EBA staff clarified the idea of the NPL templates to facilitate comparable data for the potential buyer of such NPLs portfolios.

**C) EBA's update on its Single Rulebook Q&A Implementation review**

28. The EBA Staff updated on its proposed Single Rulebook Q&A Implementation review which aims to assess the application and efficiency of Q&As<sup>1</sup> as an important part of the EU Single Rulebook in banking. He elaborated that the EBA aims to gather information on the practical use and application of the Q&As at CA and at institution level, and their related processes, in order to assess their contribution to supervisory convergence. The EBA will contact the BSG in coming weeks and seek BSG Industry Members suggestions for possible banks to contact.
29. In response to BSG Members' questions, EBA staff informed that the EBA continued to seek the BSG's view to those proposed Answers to its Q&As which it viewed may have a potentially large impact. However, it is the EBA's view that the answers to Q&As should generally not lead to major impacts. This is notably because the issues should not normally lead to significant changes in the regulatory treatment or management practice. Further, the EBA staff informed that whilst Q&As are not legally binding, the EBA encourages NCAs and banks to use them, to facilitate consistency in the implementation of the Single Rulebook.
30. One BSG Member viewed the need to harmonise Q&A process with the other ESAs and also the EU Commission and raised his concern that the continuum of updates to the Q&As made it difficult for small banks to keep abreast of latest developments. In addition, some BSG Members suggested to enhance the transparency of the process concerning questions that are under review, or that have been rejected. EBA Staff responded that the EBA had changed its policy to address concerns from market stakeholders anticipating EBA's answers and about the volume of questions in the tool.

---

<sup>1</sup> <http://www.eba.europa.eu/single-rule-book-ga>

## **D) EBA's work on Consumer Protection, Financial Innovation and Payments**

31. The EBA staff provided an update on the EBA's work under its mandates under the PSD2, and informed that the EBA had delivered almost all its due mandates, and highlighted the ongoing consultation on RTS on home-host coordination. They also informed of the follow-up payments related work which will be carried out around the application date of PSD2, which is 13 January 2018, and throughout the next year, and which, among other things, covers the transition from PSD1 to PSD2 and the possible extension of the EBA's Q&A Tool to PSD2 related queries.
32. The EBA staff informed of its proposed first Financial Education Report (FER), which it envisages to be published in February 2018, and the publication of its recurring Consumer Trends Report (CTR), which is envisaged to take place in the beginning of 2019, and would revert to being a 'full' report with an enhanced profile. They explained that both these publications were resource intensive relying heavily on both the EBA and NCAs.
33. The EBA Staff also provided a preliminary readout of the responses received to the EBA's Discussion Paper on Fintech. They informed that the EBA intends to provide its feedback in March 2018, aiming to align with the EC's envisaged proposals on Fintech.
34. Several BSG Members welcomed the publication of the FER; one BSG Member reminded the EBA of the need to discharge its mandate to promote simplicity in the market for consumer financial products or services.
35. Individual BSG members made a few suggestions for the next CTR, such as to include the negative return on savings accounts as one of the topical issues and to cover SMEs (entrepreneurs) in the report because they could be considered as part of the broader definition of consumers. One BSG member expressed concern regarding the slight delay proposed for the CTR publication.
36. Several BSG Members commented on the access of third party providers to accounts held within account information service providers, under PSD2, with one BSG Member requesting clarification on the interpretation of the explicit consent that these providers should seek from consumers before accessing their accounts. The EBA Staff clarified that the EBA does not have a mandate in this area, but may consider whether it could coordinate what NCAs have done to address this concern at the national level.
37. BSG Members welcomed the EBA's proposed opinion on the transition from PSD1 to PSD2, with some BSG Members requesting that it be published before the application date of PSD2.

## **Item 7.: Discussion on topics presented by BSG members**

### **(i) Tracker Mortgages in Ireland**

38. One BSG Member informed of an issue in IE where consumers with Tracker Mortgages were encouraged to opt for a fixed rate for a short term, typically 3 years, during the then financial

crisis. He viewed that many of these customers appear to have been misled, such that at the end of this short term, they were unable to return to their original tracker rate and instead moved to a higher fixed rate or on a variable rate. This led to investigations by the IE CA. The concerned banks were asked to assess their consumer communications and potential consumer detriment and address due consumer complaints. Many customers lost their homes. An envisaged report to the Irish Ministry of Finance due by end of 2017.

39. One BSG Member suggested that a fiduciary duty of care, should be applied to mortgages/ some financial products, noting similar provision exists in MiFID. Several BSG Members questioned the consumers understanding of the risks associated with fixed rate and tracker rate mortgages.

40. BSG Members proposed to discuss the advantages and disadvantages of the various different mortgage products at one of its next meetings.

#### **(ii) Proposed CRD V / CRR II / BRRD II / SRM II legislative packages**

41. BSG Members had an exchange of views on key items for the EBA to consider in the proposed CRD V / CRR II legislative package.

42. One BSG Member shared some concerns of the German Banking Federation's (GBIC) highlighting that for (i) *market risk* - the finalised requirements in the Basel FRTB should be dropped until the BCBS package has been adopted in its entirety and the US has undertaken to implement the rules; (ii) *Proportionality* - support to the definition of small institutions proposed (total assets of €5bn with the option to raise the threshold to €10bn), but concerned that the enhanced NSFR reporting requirements for small banks was a step in the wrong direction; (iii) *Remuneration* - should be better focused on the key people who influence the banks, and not applicable to a broad group of staff and the cap on bonuses should be the same for all banks; and (iv) *Scope* - that the proposed changes should not cover Holding Companies that do not make any management decisions or decisions with financial or operational implications for its subsidiaries.

43. Another BSG Member welcome the proposals on proportionality. Further, he expressed concern that given small banks are not able to use the IRB; this created an unlevel playing field, and suggested that the IRB approach should be removed for all.

#### **Item 8.: AOB**

44. BSG members took note of the future meeting dates of the BSG.

**Participants:**

**BSG**

**Chairperson** – Santiago Fernández de Lis, BBVA

Anne	Fily	BEUC	Belgium
Herve	Guider	EACB	Belgium
Guillaume	Prache	BETTER FINANCE	Belgium
Martin	Schmalzried	COFACE	Belgium
Michael	Fryni	Cyprus Consumers Association	Cyprus
Søren	Holm	Nykredit	Denmark
Jesper Bo	Nielsen	FSU-DK	Denmark
Michel	Bilger	Crédit Agricole	France
Christophe	Nijdam	Independent	France
Ernst	Eichenseher	UniCredit Group	Germany
Peter	Muelbert	University of Mainz	Germany
Dermott	Jewell	Consumers Association of Ireland	Ireland
Luigi	Guiso	Bank of Italy	Italy
Sergio	Lugaresi	Italian banking association	Italy
Giovanni	Petrella	Catholic University (Milan)	Italy
Giedrius	Steponkus	Lithuanian Investors association	Lithuania
Monika	Marcinkowska	University of Lodz	Poland
Alin	Iacob	Association of Romanian Financial Services Users	Romania
Emilios	Avgouleas	University of Edinburgh	UK
Mike	Dailly	Govan Law Centre	UK
Nikolaos	Daskalakis	GSEVEE	UK
Simon	Hills	UK Finance	UK
Dominic	Lindley	Independent	UK

**EBA staff:**

**Andrea Enria, EBA Chairperson**

**Adam Farkas, EBA Executive Director**

Philippe Allard

Corinne Kaufman

Jonathan Overett Somnier

Nassira Abbas

Oleg Shmeljov

Meri Rimmanen

Guy Haas

Antonio Barzacki

Laura Diez Perez

Cesar Perez Del Valle

Santiago Escudero