CEGBPI/BANK/D1-D2
09-06-2017

Minutes of the meeting of the Commission Expert Group on Banking, Payments and Insurance
Bank Regulation and Supervision
Brussels, 09 June 2017

MORNING SESSION

OPENING REMARKS

Mr Didier Millerot, Chairman of the morning session of the meeting, welcomed participants to the meeting of the Expert Group on Banking, Payments and Insurance.

REVIEW OF PRUDENTIAL FRAMEWORK FOR INVESTMENT FIRMS

13 Member States and the ECB took the floor. General support was expressed for the broad objectives and current orientation of the review, including the main elements of the EBA's proposed three-way classification and bespoke prudential framework for investment firms. However, most said they await the conclusion of the EBA's work and calibration before taking a final position. Some reserve was expressed by a few Member States. Two Member States notably said their position on the review depends on clarity on how Class 1 systemic investment firms, set to remain in the CRR/CRDIV, are defined. They also want more upfront clarity on what constitutes 'bank-like' activity, and a level playing-field between banks and investment firms conducting similar trading activities by applying the CRR-rules for market and counterparty credit risk. One Member State expressed a more general need for more time to fully consider the impacts of the proposed new regime. Another Member State questioned that non-bank trading houses with no depositors could pose risks as they trade with their own money. This feature distinguishing investment firms from banks was echoed by some Member States (explicitly or implicitly) as an argument in favour of more bespoke rules (focused on orderly wind down). This was also echoed by some others who said that there was indeed a need for simplicity for non-systemic investment firms as they are not deposit takers.

Most Member States broadly agreed on the EBA's proposals on a distinction between Class 2 firms subject to the new K-factors and Class 3 firms subject to existing wind-down requirements based on fixed overheads. Several Member States said own-account trading, underwriting or holding client money should exclude a firm from falling into Class 3 and under the lowest requirements. For a few Member States, the distinction between Class 1 and 2 appears more important for now.

Many Member States said that the O-SII criteria for defining systemic investment firms should be amended. One Member State suggested some alternative criteria: number of retail clients, volume and use of assets safeguarded and administered, use of leverage in trades with clients, contributions to investor compensation schemes etc.
In terms of some of the specific new risk-factors being discussed in the EBA, one Member State was sceptical of capturing market risk from trading based on margins posted by firms with clearing members and of income generated by firms as a proxy for risks from investment advice. Another Member State wanted a risk-to-firm element to remain, suggesting sanctions imposed on the firm as a possible proxy. One Member State welcomed the fact that the risk-to-firm factor based on leverage had been dropped and welcomed the proposal to capture counterparty credit risk in this context instead.

Most Member States welcomed the proposal to apply the new requirements on a solo basis and the CRR on a consolidated basis to investment firms part of banking groups. One Member State was against the possibility to waive solo requirements for the investment firm in this case and said there should be a possibility to opt-in to the CRR for the firm.
Member States were generally not in favour of revising supervisory arrangements at this stage. Only the ECB said that the prudential supervision of systemic firms could be reassessed in the present context.

On remuneration, in broad terms, Member States favoured the application of the CRD remuneration rules as far as Class 1 firms are concerned, however several stressed the need for further proportionality. Several Member States considered MiFID II as an appropriate basis. Others considered that a degree of alignment with remuneration rules for asset management companies should be ensured.

COVERED BONDS

COM presented the work done so far and introduced the decision announced on the CMU MTR. It was underlined that as the decision was only announced yesterday it has not been possible to send out the questions in the presentation beforehand for preparation, so MS would of course be welcome to send written remarks after the meeting.
The Commission explained about the intention to have a three step approach in accordance with the EBA report from 2016 and the suggested three tier approach, still having two classes of covered bonds and instituting a new instrument called European Secured Notes for less traditional assets.

The majority of the Member States expressed support of the Commissions approach concerning both the three steps of legislation and voluntary convergence, and to continue to have two classes of covered bonds combined with the ESNs as a separate instrument.
In general the discussion focused upon the harmonisation to be in line with the well-functioning national systems, and therefore most Member States specifically demanded for a harmonisation based on high level principles, some referring to the EBA report to be too detailed.

Several Member States refrained from more specific comments except for the general support of the overall approach by the Commission, and some member States told they would supplement their statements at the meeting with written comments.
A few Member States also expressed a wish for more meetings during the process, which the Commission acknowledged.

MBS-WAIVER

COM introduced the subject underlining the urgency for a solution as the waiver will expire by the end of 2017 and presented the solution that was also addressed in the non-paper circulated before the meeting.

The Member States expressed in general understanding of the suggested solution requiring adopting, as a first step, a delegated act to handle the expiration of the waiver, but underlined firmly the necessity of the waiver to be changed not to include RMBS/CMBS in the upcoming framework .

The majority of Member States were open to a permanent solution allowing pooled covered bonds structures in the cover pool, also to cater for existing business models depending on the system, but some stated that this construction could add an unnecessary layer of complexity to the system.

COM noted that there were still some concerns expressed by the Member States, but explained that the time limit makes it necessary to continue the adoption of the delegated act for extending the waiver, assuring the participants that they could oppose the delegated act if they consider doing so.

AFTERNOON SESSION

OPENING REMARKS

Mr Klaus Wiedner, Chairman of the afternoon session of the meeting, welcomed participants to the meeting of the Expert Group on Banking, Payments and Insurance.

PROPORTIONALITY

Overall, the Member States had diverging opinions on the extent of the proportionality rules. One group of Member States was in favour of further strengthening of the proportionality approach with slightly differing positions within the group; in particular concerning the definition of small banks (threshold, banks active in one MS only). Another group of Member States expressed concerns as for further slivering of the rules when deepening the application of the proportionality. Some MS opposed the view that small banks are less complex and less risky and some MS were also for the opinion that the current set of rules is sufficient.

COM noticed the divergent positions and asked all Member States for written contribution on the issue for further discussion. No timeline was set.

RTS ON ADJUSTING RWS AND LGDS FOR EXPOSURES BACKED BY IMMOVABLE PROPERTY

Acknowledging the difficulties the EBA had been facing when it was preparing the draft RTS, the Commission asked for Members' input before taking next steps.
The EBA explained that the main reason why the RTS was not adopted was diverging views about the (micro- versus macro-)prudential nature of the relevant Articles of the CRR. The EBA would therefore welcome a clarification of the Level 1 text as part of the macro-prudential review.
In the same vein, Member States participating in the discussion supported further work on clarifying the micro- or macro-prudential nature of the instrument in the Level 1 text whereby some Member States argued that the relevant CRR Articles should solely be in the hands of micro-prudential authorities whereas other Member States and the EBA asked for clearly allocating the instruments and responsibilities without being more specific.

DELEGATED ACT AMENDING THE LCR DELEGATED REGULATION

The Commission opened the discussion on the possibility to replace the current criteria of Article 13 of the LCR Delegated Regulation, which allows certain securitisations to be included as Level 2B assets, by a reference to the criteria defining simple, transparent and standardised securitisations (STS) set in the STS Regulation. It was mentioned that additional criteria which cannot be deemed as replaced by the STS criteria as they are specific to ensure the liquidity of the securitisations would be kept as they are in the current text. Member States welcomed the alignment between the LCR Delegated Regulation and the STS Regulation.

Some Member States asked for the introduction of transitional provisions to ensure that securitisations currently included as Level 2B assets would not be disqualified immediately if they do not fulfil all STS criteria. Besides, the EBA and some Member States expressed a preference for a date of application of the Delegated Act aligned with the date of application of the new reporting (which will be produced by the EBA to adapt to the modified LCR Delegated Regulation).

CLOSE OF MEETING AND FINAL REMARKS

The Chairman of the afternoon session thanked the participants for an interesting discussion and he called the meeting to a close.

Next meeting is scheduled for 28/09/2017.

LIST OF PARTICIPANTS

AT: Ms M. Schuetz – Ministry of Finance Mr G. Lederer – Financial Market Authority
BE: Mr N. Staner and Mr. J. Keller – Bational Bank of Belgium
CY: Mr V. Zaharia – Central Bank of Cyprus, Ms C. Vovidou and Mr C. Ktoris – Perm. Rep.
CZ: Ms M. Mastina and Mr A. Kralik – Ministry of Finance
DE: Ms R. Geist, Mr O. Rachstein and Ms S. Merzbach – MOF, Ms E-M. Lüdemann and Mr T. Thomasius – Perm. Rep.
DK: Mr U-H Morgensen – Danish Financial Suprevisory Authority, T, Jensen – Perm.Rep.
EE: Ms H. Korju-Kuul – Ministry of Finance
EL: Ms K. Korbi – Bank of Greece
ES: Mr V. Gomis – Ministry of Economy, Industry and Competitiveness. Treasury and Financial Policy General Secretariat, Mr M. Nieto – Banco de España
FI: Mr Tuukka Taipale – Ministry of Finance
FR: Philippe Billard – Banque de France, Mr P. Darbre – RP France, Mr A. Guyon – DG Trésor
HU: Ms. V. Hernádi – Ministry of National Economy, Ms. Zs. Haraszti – Perm. Rep.
HR: Mr M. Marakovic – Ministry of Finance, Ms I. Martinjak – Croatian National Bank, Ms A. Budin – Perm. Rep. Mr G. Mađarić – Perm. Rep.
IE: Mr J. Biggins – Central Bank of Ireland, Mr. T. Hennessy, Mr. Liam Morris, M. Cian O'Laoide – Department of Finance
IT: Mr M. Lanotte Banca d'Italia
LU: Mr A-G Kuzuhara – CSSF, Mr P. Rasqué – Ministry of Finance
LT: Ms Z., Babiciute – Ministry of Finance, Ms V. Stankevičienė – Bank of Lithuania
LV: Ms V. Vilne – Financial and Capital Market Commission
MT: Ms G. Montefort – Malta Financial Services Authority
NL: Mr V. Rietvink, Ms H. Van Gorcum – Ministry of Finance Netherlands
PL: Mr R. Kołakowski – Ministry of Finance
PT: Mr J. Coelho – Banco de Portugal
RO: Ms A. C. Dinescu – Natioan Bank of Romania
SK: Mr R. Chandoga – Ministry of Finance
UK: Mr R. Sponer – Bank of England, Mr R. Brown, Mr L. Taylor – HM Treasury

IS: Mr H. S. Brynjólfsson – Financial Supervisory Authority, Iceland
NO: Ms I. E. Sanden – Finanstilsynet - Financial Supervisory Authority of Norway

EBA: Ms D. Reymondon
ECB: Mr M. Behn, Ms K. BRAUN-MUNZINGER,

EP: Ms D. Kolassa, Mr R. Maier
EC: Mr V. Savi

COMMISSION:

FISMA D1

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