



## BANKING STAKEHOLDER GROUP

03<sup>rd</sup>, December 2019

### BANKING STAKEHOLDER GROUP LETTER ON THE ESAs REVIEW

In this letter, the Banking Stakeholder Group (BSG) wants to share its opinion on the upcoming change of the composition of the Group.

The BSG regrets the reduction of the number of academics, from at least 5 to exactly 4 and the fact that such important changes have been decided upon without prior consultation of the BSG.

The BSG would like to denounce the proposal to implement the new Regulation, which enters into force on Jan 1<sup>st</sup> 2020, by terminating the existing stakeholder group, to issue a new call and hence change their composition to be compliant by the date of the entry into force on January 01<sup>st</sup> 2020 (Art. 11 of the ESA Review) is not only **highly disruptive** as it does not allow the smooth continuity of the activities of the group but also legally contentious.

Current art. 37 EBA Regulation:

*'The Banking Stakeholder Group shall be composed of 30 members, representing in balanced proportions credit and investment institutions operating in the Union, their employees' representatives as well as consumers, users of banking services and representatives of SMEs. At least five of its members shall be independent top-ranking academics. Ten of its members shall represent financial institutions, three of whom shall represent cooperative and savings banks.'*

Amended art. 37 EBA Regulation:

*"The Banking Stakeholder Group shall be composed of 30 members, **13** members representing in balanced proportions credit and investment institutions operating in the Union, three of whom shall represent cooperative and savings banks, **13** members representing their employees' representatives, consumers, users of banking services and representatives of SMEs and **four** of its members shall be independent top-ranking academics".*

The result of this amendment is that the number of academics has decreased from 'at least 5' to exactly '4'.

It should be noted that currently the BSG operates with a higher number of academics than the minimum required by the Regulations. The current BSG currently operates with 9 top ranking academics among its members.

1- The change made to reduce the number of independent top-ranking academics from at least 5 to not more than 4 is for the worse.

*The role of academics in the BSG is very important for different reasons.*



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First, academics are able to provide expertise and background, to undertake informed assessment based on research, to perform critical independent thinking on the exact scope and content of the rapidly changing regulatory framework, in a neutral a forward-looking way. This is essential to achieve evidence-based policy and regulation.

Second, and probably even more important, the independent academics typically take up the role of mediators. Their neutrality, expertise and skills in drafting nuanced texts indeed facilitate the redaction of common positions.

Third, academics can contribute to the EBA's workshops<sup>1</sup> and seminars as discussants and chairs and provide independent academic insights and policy informed discussions.

2- The composition of the BSG has been changed without consultation. This violates the principle of good governance, and expressly requires the Legislative Authorities to consult the Stakeholder Groups before changing their operations.

Moreover, the change of composition of the Group before their usual term is highly disruptive. The entry into force of the revised EBA regulation does not as such annul or render void the decisions by which the current Stakeholders Group's members have been appointed. Nor does the compliance with the revised Regulation entail that EBA proactively decide to terminate by anticipation the mandates of the current Stakeholders Group's members. Besides the disruptive effect of such a decision on the functioning of the Group, it encroaches on the legitimate expectations of the appointed members that they could accomplish their mandate until their respective terms in the interest of EBA. In addition, an early termination of all mandates, imposed by the Authority on all BSG members would be a disproportionate measure compared to « benefit » which can be expected, if any, from the change in the new balance of representatives of the various stakeholder groups foreseen by the revised Regulation. Absent any explicit provision in the revised Regulation forcing such a drastic and immediate change, a unilateral decision by the Authority to this end would most probably lack solid legal ground. In a sensible interpretation of the revised Regulation, full compliance should and can perfectly be achieved through a phasing in period where the new composition of the BSG will be reached through the gradual replacement of the current members as their mandates come to term.

**This letter is co-signed by all members of the BSG on 03 December 2019, EBA, Paris.**

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<sup>1</sup> For example, at the EBA policy research workshops, academics participate, act as program committees, discuss papers and chair sessions.



## BANKING STAKEHOLDER GROUP

<b>Title</b>	<b>First Name</b>	<b>Last Name</b>	<b>Selected to represent</b>
Mr	Emilios	Avgouleas	Top-ranking academics
Ms	Rym	Ayadi	Top-ranking academics
Mr	Angelo	Baglioni	Top-ranking academics
Mr	Angel	Berges-Lobera	Top-ranking academics
Mr	Victor	Cremades Erades	Consumers
Ms	Lara	De Mesa Garate	Credit institutions
Ms	Anne	Fily	Consumers
Mr	Luigi	Guiso	Top-ranking academics
Mr	Guider	Herve	Credit institutions
Mr	Søren	Holm	Credit institutions



## BANKING STAKEHOLDER GROUP

Ms	Gerda	Holzinger-Burgstaller	Credit institutions
Mr	Dermott	Jewell	Consumers
Mr	Lyubomir	Karimansky	Users of banking services
Mr	Marko	Košak	Top-ranking academics
Mr	Tomas	Kybartas	Consumers
Mr	Edgar	Loew	Top-ranking academics
Mr	Sergio	Lugaresi	Credit institutions
Ms	Monika	Marcinkowska	Top-ranking academics
Mr	Jean	Naslin	Credit institutions
Ms	Veronique	Ormezzano	Credit institutions
Mr	Vinay	Pranjivan	Consumers



## BANKING STAKEHOLDER GROUP

Mr	André	Prüm	Top-ranking academics
Mr	Leonhard	Regneri	Employees
Ms	Masuch	Sabine	Credit institutions
Mr	Thaer	Sabri	Credit institutions
Mr	Martin	Schmalzried	Consumers
Mr	Andrea	Sità	Employees
Mr	Giedrius	Steponkus	Users of banking services
Mrs	Monica	Calu	Consumers
Mr	Sebastien	deBrouwer	Credit institutions