

## THE CHAIRPERSON

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2 May 2016



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**EBA/2016/D/676**

### **EBA Opinion on the Commission's intention not to endorse the draft regulatory technical standards on additional collateral outflows according to Article 423(3) CRR**

Dear Mr Guersent

On 3 December 2015 you informed me about the European Commission's intention not to endorse the draft regulatory technical standards ('RTS') referred to above.

Following the discussion that took place at the meeting of the EBA's Board of Supervisors (BoS), I would first like to note that this official communication occurred more than twenty months after the submission of the draft RTS by the EBA. This does not seem compatible with Article 10(1), fifth sub-paragraph of Regulation (EU) No 1093/2010 establishing the EBA, which requires the Commission to decide whether to endorse a draft RTS, including in part only or with amendments, 'within three months of [its] receipt'. Such a timeframe is justified in recital (23) of the same regulation by the need to 'ensure a smooth and expeditious adoption process'.

Due to the delayed assessment of the draft RTS by the Commission, the EBA has not been able to examine their practical application and impact on institutions, as was foreseen to be done within two years following their planned entry into force, together with any international regulatory developments, with a view to revising the RTS if necessary. I nevertheless trust that this delay has been exceptional.

The BoS however accepted the argument raised by the Commission and agreed to resubmit an amended draft RTS incorporating the approach suggested by the Commission.

Please find attached the EBA Opinion and the revised draft RTS, which will also be published on the EBA's public website.

Yours sincerely

*Signed*

Andrea Enria

CC: Mario Nava, DG FISMA, Directorate D, Director  
Dominique Thienpont, DG FISMA, Legal Counsellor to the Director D

Encls: EBA-Op-2016-08 - EBA Opinion on Additional collateral outflows according to Article 423(3) CRR  
Amended draft RTS on additional collateral outflows according to Article 423(3) CRR in *Legiswrite*