

## EBA Public Statement on Consultation Practices

The European Banking Authority (henceforth 'the EBA') has approved the following statement establishing its consultation practices:

### 1. The Purpose and General Approach of consultation

1.1. The aim of consultation is to build consensus where possible between all interested and affected parties on what legislative or regulatory approach or supervisory practice is appropriate and to improve the decision making process of the EBA by:

- a. Benefiting from the expertise of market participants, consumers and end users, notably in identifying, assessing and analysing regulatory or supervisory issues and possible solutions;
- b. Assisting in the determination of whether a problem exists which requires a regulatory or a supervisory action, and the form of appropriate action;
- c. Providing opportunities for alternative approaches to a given issue to be considered;
- d. Obtaining information and views on the potential impact of proposals, in particular responses may provide critical data for the development of an Impact Assessment;
- e. Obtaining feedback on the EBA's work; and
- f. Promoting understanding of the work of the EBA and its role.

1.2. To deliver this aim, the EBA emphasises:

- a. The need for a flexible and proportionate approach to consultation that can be adapted according to the nature, significance and urgency of an issue; and
  - b. The need for all involved, both the EBA and those consulted, to work in a manner that promotes the success of the process. In this context, timely and concrete responses are
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critical (especially where the scope and timetable of the EBA's work is determined by external factors, such as legislative deadlines and mandates from the European Commission). Equally critical is the provision of contributions that are based on concrete argumentation.

- 1.3. Notwithstanding the need for flexibility, the EBA will be guided by the principles specified here below.

## 2. On whom it consults, the EBA will:

- 2.1. Target the full range of interested parties, including market participants (e.g. credit institutions, investment firms, etc), consumers and other end-users, as well as their representative associations;
- 2.2. Make consultation proposals, related documents and key dates for the consultation widely known and available through appropriate means, in particular the Internet;
- 2.3. Consult the Banking Stakeholder Group in accordance with Article 37 of the Regulation; and
- 2.4. Where appropriate, take steps in advance of the public consultation and during the consultation to discuss elements of its proposals or work plans. with more targeted groups of interested parties. This can take place either within the Banking Stakeholder Group or, where appropriate, in the context of technical informal discussions/workshops with representatives from the industry or other experts. Technical informal discussions/ workshops are not meant to replace the official consultation. They do not constitute industry working groups, but rather ad hoc discussions of particular technical topics. No documents are distributed either before or after these meetings to participants, other than potentially a list of topics for discussion at the meeting. Participation in these discussions is by invitation only, based on the on the concrete issues to be discussed. Therefore, where further technical discussions on the same or different matters are organised in the future, the composition of the participants to these discussions may differ. Participants in these discussions are attending in their personal capacity to provide expertise only, and not advocacy for specific national or institutional positions. Nevertheless, not more than one person affiliated with the same institution will be able to participate to these discussions at any one time.

## 3. On when it consults, the EBA:

- 3.1. May organise informal discussions at an early stage with those most likely to be directly affected, such as organising roundtables with key stakeholders;

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- 3.2. Will consult at a sufficiently early stage to enable the EBA to take the responses into account;
  - 3.3. Will allow those consulted adequate time to respond, according to the complexity of the issue and the time available. The EBA will generally aim at allowing a three-month consultation period for public consultation, unless reasons exist to the contrary, for example an external timetable is imposed or the measure requires urgent action.

#### 4. On how it consults, the EBA will:

- 4.1. Publish an annual work program, which will allow all interested parties to know when to expect output from the EBA;
- 4.2. Where appropriate, provide an opportunity for interested parties to make submissions relating to any mandates from the European institutions or on work launched by the EBA on its own initiative, which will be done through a 'Call for Evidence';
- 4.3. When necessary, release its thinking at various stages, including via the release of draft papers with initial questions or requests for comments prior to a formal consultation period; this will be done through 'Discussion Papers' or 'Calls for Evidence';
- 4.4. Produce reasoned consultation papers containing proposals, reflecting all relevant aspects of the issues at stake, based on thorough analysis of the issues and objectives of the proposal and, where possible, on quantitative information, expressed in concise and clear language, including preliminary information on their impact, including on cost-benefit analysis, unless this is disproportionate or inappropriate;
- 4.5. Consult using appropriate processes and a variety of means and media, including the Internet, written consultations, public hearings and roundtables, technical discussions/workshops and, if necessary to deepen the EBA's understanding in relation to particular affected parties, bilateral meetings, conference calls etc; and
- 4.6. Announce the consultations in a clear and visible way on its website, and enable interested parties to register for e-mail alerts for EBA activities, consultations and publications.

#### 5. On how it responds to consultation, the EBA will:

- 5.1. Give due consideration to responses received;
- 5.2. Make public all responses to formal consultations, unless the respondent requests otherwise, or make public a summary of the responses received;

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5.3. Publish a reasoned explanation addressing all major points raised, as feedback to the consultation process;

5.4. Consult, where deemed necessary and if possible, for a second time if the response to the first consultation reveals significant problems, or where revised proposals are radically different from the original proposals on which the consultation was based; and

5.5. Publish all formal proposals and advice, including advice given to the European Commission and/or opinions submitted to the European institutions, as well as draft technical standards, guidelines and recommendations.

If it is not possible for the EBA to follow the principles described above, the EBA will publicly explain its reasons.

When necessary, the EBA will review this statement of consultation practices.