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**EBA/2016/D/877**

Olivier Guersent  
Director General  
DG Financial Stability, Services and Capital Markets Union  
European Commission (DG FISMA)  
Rue de Spa 2  
1000 Brussels  
Belgium

5 September 2016

**Draft Regulatory Technical standards on conditions for capital requirements for mortgage exposures under Article 124 (4) (b) and 164 (6) Capital Requirements Regulation (CRR)**

Dear Mr ~~Guersent~~ *Dear Olivier,*

In accordance with Articles 124(4)(b) and 164(6) of Regulation (EU) No 575/2013 (CRR) on prudential requirements for credit institutions and investment firms, the EBA is required to develop two draft regulatory technical standards (RTS) that set out the conditions that competent authorities shall take into account when determining higher risk-weights and higher minimum Loss Given Default (LGD) values for exposures secured by immovable property, in particular the term of "financial stability considerations".

I regret to inform you that the EBA, despite significant efforts over a long period of time, has been unable to obtain approval at the Board of Supervisors on the RTS on conditions for capital requirements for mortgage exposures under Articles 124 (4) (b) and 164 (6) CRR.

The EBA has, partly due to resource constraints and partly due to the complexity of the product, twice requested a delay for the mandates; the latest request was in our letter dated 18 December 2015. It is however now clear that the EBA will not be in a position to deliver on these mandates. The Commission should therefore consider adopting these RTS by means of a delegated act without a draft from the EBA, as envisaged in Article 10 (3) of Regulation (EU) No 1093/2010.

The EBA has been working on the development of these RTS since 2013 and published a Consultation Paper (CP) for these RTS in July 2015<sup>1</sup>. The main difficulty relates to the different viewpoints regarding the scope of the mandate, i.e. whether these RTS should allow increasing capital requirements on the basis of micro prudential concerns, of macro prudential concerns, or of both.

<sup>1</sup> <http://www.eba.europa.eu/regulation-and-policy/credit-risk/rts-on-conditions-for-capital-requirements-for-mortgage-exposures>

The lack of approval therefore mainly stems from division on the interpretation on the mandate among EBA Board of Supervisors which in the end could not meet the double simple majority requirement as stipulated in Article 44 (1) of Regulation (EU) No 1093/2010. In line with the findings of our report on practices regarding macro-prudential policy measures published in July 2015, the differentiation between macro- and micro-prudential measures may lack clarity. We would therefore urge the Commission to also consider this aspect in its further work beyond the technical standards.

I look forward to hearing from you regarding these RTS.

Yours sincerely

A handwritten signature in black ink, which appears to read 'Andrea Enria', is positioned below the text 'Yours sincerely'.

Andrea Enria

CC: Martin Merlin, DG FISMA, Directorate D: Regulation and prudential supervision of financial Institution, Director  
Jeppe Tranholm-Mikkelsen, General Secretariat of the Council of the European Union, Secretary-General  
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