



Brussels, 25 May 2018

EACB Position Paper

On the EBA consultation paper on the application of the existing Joint Committee Guidelines in complaints-handling to authorities competent for supervising the new institutions under MCD and/or PSD2

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The **European Association of Co-operative Banks** ([EACB](http://www.eacb.coop)) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 4,050 locally operating banks and 58,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 210 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 79 million members and 749,000 employees and have a total average market share of about 20%.

For further details, please visit www.eacb.coop

The voice of 3.135 local and retail banks, 80.5 million members, 209 million customers in EU

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The European Association of Co-operative Banks (EACB) welcomes the opportunity to participate in the EBA consultation on extending the Joint Committee (JC) Guidelines for complaints-handling for the security and banking sectors to new type of actors established by the Mortgage Credit Directive (MCD) and the revised Payment Services Directive (PSD2).

Co-operative banks appreciate the EBA's activities to assess the relevance of existing JC Guidelines on complaint-handling and the need to adapt and update them considering the changes in the EU banking sector brought up by the two above-mentioned laws. Without an accurate scrutiny of the existing legislation in light of new market conditions, differences in treatment for providers of services/products that are perceived as substitutes by consumers can lead to unfair competition and endanger a level playing field.

The Digital Single Market is an opportunity for all operators willing to embrace the digital transformation if a level playing field is in place. Regulation, whether it be existing law or new legislative proposals, should ensure an equal treatment of market players that doesn't hinder new actors nor penalise incumbent financial institutions – especially smaller ones like co-operatives.

A level playing field has the role of ensuring consumers are not put at risk and that financial stability is maintained, irrespective of the service provider. Co-operative banks believe that the same regulatory conditions and supervision should apply to all actors who seek to innovate and compete in today's FinTech market. The JC Guidelines are a good starting point to cover new actors (credit intermediaries, non-credit institution creditors, payment initiation service providers (PISPs) and (registered) account information service providers ((R)AISPs)).

The EACB fully supports the EBA's proposal to include in the JC Guidelines references to new market players, notably credit intermediaries and non-credit institution creditors under the MCD. With regard to the application of the JC Guidelines to payment initiation service providers (PISPs) and account information service providers (AISPs) under PSD2, the EACB agrees with the EBA's reasoning and conclusion that PISPs and AISPs are covered by default by the JC Guidelines. Regarding RAISPs, we also completely agree with the EBA's explanation and suggestion to apply the JC Guidelines to RAISPs, albeit limited to security-related complaints.

We also agree with the EBA's view that the definition of 'firms' in the JC Guidelines is not limited to legal persons and that the JC Guidelines should be applicable to all RAISPs, non-credit institution creditors and credit intermediaries, including those that are natural persons. Similarly, the EBA's suggestion that proportionality should be applied in a general way to the activities of non-credit institution creditors, credit intermediaries and RAISPs, and that they should not be exempted from any of the requirements of the Guidelines is to be welcomed.



The data provided by the EBA, at least for what concerns the MCD, on the number of credit intermediaries and non-credit institution in the EU that do not fall under the scope of the JC Guidelines is quite alarming as it represents approximately 85%. For what concerns PSD2 and considering its recent entry into application, a proxy percentage of the number of PISPs and AISPs potentially not falling under the JC Guidelines is not yet available. However, with the entry into application of PSD2 and also taking into consideration the mapping exercise made by the EBA in 2017, where 33% of FinTech firms reported as not subject to a regulatory regime under EU or national law were in cluster B 'Payments, clearing and settlement services', it can be expected that the number of PISPs and AISPs will not be lower. We therefore appreciate the clarity provided in the consultation document that these actors would be covered.

Contact:

The EACB trusts that its comments will be taken into account.

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