



To the European Banking Authority

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EBF Response to the EBA Consultation Paper on the application of the existing Joint Committee Guidelines on complaints-handling to authorities competent for supervising the new institutions under MCD and/or PSD2

Key points:

- ◆ The EBF is of the opinion that the extension of the Joint Committee Guidelines on complaints-handling to the new institutions under the Mortgage Credit Directive (MCD) and the Payment Services Directive 2 (PSD2) will ensure a harmonized approach to complaints-handling in the financial industry and ease the communication and understanding of financial consumers in relation to the procedure to be followed in case of a complaint. As such, the EBF supports the extension of the scope of the Guidelines. This will ensure that consumers are provided with the same level of protection, irrespective of the provider they choose and generally increase the level of such protection.
- ◆ Moreover, it will ensure a level playing field among all actors, thus achieving the necessary regulatory convergence at supervisory level.

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EBF position:

Questionnaire

Q1. Do you agree on the application of the JC Guidelines to credit intermediaries and non-credit institution creditors under MCD? If not, please provide your reasoning.

Yes, we agree.

Q2. Do you agree on the application of the JC Guidelines to PISPs that provide only payment initiation services, but no other payment services, under PSD2? If not, please provide your reasoning.

Yes, we agree that any payment institution offering payment services, even those only offering payment initiation services, are subject to these Guidelines.

Q3. Do you agree on the application of the JC Guidelines to RAISP under PSD2, albeit limited to security-related complaints only? If not, please provide your reasoning.

We do not agree with this interpretation, as we believe there are more than just security-related articles in Title III (transparency of conditions and information requirements for payment services) and IV (rights and obligations in relation to the provision and use of payment services) of the PSD 2 that are applicable to Registered Account Information Service Provider (RAISP). RAISP have indeed to meet transparency and information requirements as well as obligations related to the Account Information services.

In addition, article 52.7 requires that any payment institution inform its customers on the redress procedures to be followed. **As such, complaints received by RAISP will not be limited to security-related complaints and there is no reason for limiting the application of this guidelines to just security-related complaints.**

Furthermore, chapter 6 of Title IV on ADR procedures for the settlement of disputes states that "Member States shall ensure that payment service providers put in place and apply adequate and effective complaint resolution procedures for the settlement of complaints of payment service users concerning the rights and obligations arising under Titles III and IV of this Directive and shall monitor their performance in that regard". We understand that chapter 6 of Title IV is not directly applicable to PSPs but is addressed to Member States, who must ensure that ADR mechanisms exist and are available to payment users **without setting any exceptions.**

In conclusion, for the sake of consumer protection and safety, no payment institution licensed or registered under PSD2 should be exempted from the application of the JC Guidelines in full. This will ensure that consistency, harmonization, consumer protection, consumer confidence and the level playing field are safeguarded, as stated in section 6 of the consultation paper.

Q4. Do you agree with the view of the EBA that the JC Guidelines should apply to RAISPs, non-credit institution creditors and credit intermediaries that are natural persons? If not, please provide your reasoning.

Yes, we agree that the guidelines should apply to both legal and natural persons.

Q5. Do you agree with the view proposed by the EBA that proportionality should be applied in a general way to the activities of RAISPs, non-credit institution creditors and credit intermediaries and that they should not be exempted from any of the requirements of the Guidelines? If not, please provide your reasoning.

Yes, we agree that proportionality should be applied in a general way and there is no need for exemptions from the requirements of the Guidelines.

We believe that complying with the JC guidelines does not hinder the ability of any firm or individual to compete. On the contrary, not offering clear and harmonized complaint procedures could undermine the ultimate objectives of these guidelines (consumer protection and confidence) and diminish users' confidence in a given activity.

This is particularly relevant for residential mortgages, where users engage in one of the most important and long-lasting financial transaction of their lives and need to be sure that they have the ability to complain if something goes wrong, irrespective of the type and the size of the institution they have contracted with.

The JC Guidelines are general enough as to not impose any specific organizational or technical solutions. As such, authorities should ensure that the complaint procedures implemented by institutions affected by these guidelines are perceived as equivalent by users.

About EBF

The European Banking Federation is the voice of the European banking sector, uniting 32 national banking associations in Europe that together represent some 4,500 banks - large and small, wholesale and retail, local and international - employing about 2.1 million people. EBF members represent banks that make available loans to the European economy in excess of €20 trillion and that securely handle more than 300 million payment transactions per day. Launched in 1960, the EBF is committed to creating a single market for financial services in the European Union and to supporting policies that foster economic growth.

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