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

23 December 2016

Subject: Request for revised deadlines in the Capital Requirements Regulation (CRR)/ Capital Requirements Directive (CRD) for the delivery of draft technical standards

Dear Mr Guersent,

The EBA responded with high commitment to the significant role that the CRD 2013/36/EU (CRDIV) and the CRR (EU) No 575/2013 (CRR) attribute to the Authority. The EBA submitted to the European Commission a number of regulatory mandated deliverables all along 2016 with the view of completing the single rule book, as envisaged by the legislators. However, the significant workload and the considerable resources constraints impede us to deliver all the mandates within the requested deadline.

Under its founding Regulation No 1083/2010, as amended by Regulation 1022/2013, Article 10(2) regarding Regulatory Technical Standards (RTS), and Article 15(2) regarding Implementing Technical Standards (ITS), where draft Technical Standards have not been submitted within deadlines provided in the legislation, the European Commission may request their submission within a new time limit. This letter therefore constitutes a formal request for new time limits.

The EBA requests submission within new time limits for the following mandates, due to be delivered by end of December 2016:

- **RTS and ITS on Authorisation of credit institutions.** The EBA is currently consulting on the mandates given in Article 8 (2) and 8 (3) CRD, but the due to the complexity of the task where in particular the question of new entrants and Fintech companies have been attracting due considerations, this has taken substantially longer than expected. Ensuring a balance between the requirement for Member States to establish their own authorisation processes with limited guidance in the CRD and the request at the same

time to harmonise the information used for these processes has proved especially difficult, in light of the different approaches adopted across Member States. This is an area where harmonisation on the full licensing package across the EU would have a high value and be deemed warranted to cover for in the CRR revisions under way. The EBA currently expects to be able to accomplish these mandates during 2017, most likely around mid-2017.

- **RTS on consolidation methods (Article 382 (5) CRR)** have proved a most difficult area, interacting at times with the BCBS developments on the treatment of scope of consolidation or provisioning and, since November, with the Commission's proposal for revisions to the CRR. The Commission's proposal includes changes in some parts of the existing Article 18 where in particular the possibility for proportionate consolidation of subsidiaries in the current text of Article 18 (2) has been removed. We agree with this change, which indeed stems from the on-going preparations for the RTS and was initially covered in the draft. However, we now need to reconsider the actual scope of the RTS in light of the present legal basis to address the issue. The EBA is currently expecting to deliver on this mandate by the end of 2017, contingently to the CRR revisions developments.
- **RTS on the exclusion of transactions with non-financial counterparties established in third countries (Article 382 (5) CRR).** Due to a re-prioritisation of tasks in light of the Call for Advice received on the CRR revisions for market risk and counterparty credit risk, which was delivered in October 2016, the EBA gave the mandate lower priority. EBA now expects to submit the RTS during Q1 2017.
- **RTS on disclosure of encumbered and unencumbered assets (Article 443 CRR).** For the same reason as above this mandate is subject to a minor delay and will be delivered during Q1 2017.

In addition, I would like address some of the few remaining mandates given to the EBA in the current CRD/CRR, which in light of EU and international developments were assessed as less meaningful by the supervisory community and continuously re-prioritised due to the scarce EBA resources. In particular I would like to highlight the following mandates:

- **in the Credit Risk Mitigation (CRM) framework**, in particular the **RTS on immaterial portfolios for IRB approach**, **RTS on conditional guarantees** and **RTS on eligible collateral within CRM framework**.

As highlighted in my letter of 18 December 2015 in light of issues related to RWA variability, the EBA sees the need for considering the overall CRM framework and has initiated a broad review of the CRM framework as part of its General Regulatory Review of Internal Models. The review deliveries will provide a sound regulatory basis and significant support for the Targeted Review of Internal Models planned by the SSM. The EBA aims at delivering a final Report on the CRM topic by end of 2017. Until then, the few remaining mandates on CRM have been put on hold, but the EBA will continue to monitor the need to deliver on these mandates. I stand ready to discuss the optimal way forward, which naturally will be considered in the above-mentioned CRM report.

- in the operational risk area, in particular the **RTS on the combined use of different approaches (Article 314 (5) CRR**, the **RTS on relevant indicator under accounting standards different from Dir 86/636 (Article 316 (3))** and **ITS on principles for business line mapping (318 (3))**.

These mandates are due by either end-2016 (**Article 314 (5) CRR**) or end-2017. In light of international developments considering the removal of the Advanced Model Approach (AMA), the EBA is of the view that resources would not be optimally used if work was initiated on these mandates, even though the mandates remain meaningful within the current framework. In any case the EBA stresses that the submitted RTS on the validation methodologies do operate as a major prudential safeguard on these matters and would have high merit in being speedily adopted to cover for the immediate period. The work on the remaining three mandates is put on hold until more clarity on the future framework exists. As for the CRM framework, it would be most satisfactory to agree on the optimal path once the revisions of the Basel Accord are agreed and give us a fair understanding on resources allocation and implementation costs for banks.

The EBA is fully committed to accomplish its tasks within the deadlines, while the utmost attention has to be given to the quality of the single rule book. The transparency and quality of exchanges with DG-FISMA staff is most appreciated and represents an essential ingredient in our achievements.

Yours sincerely

Andrea Enria

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