

Additional background and guidance for asking questions

1. What is the rationale for the Q&A process in the EU?

The rationale stems from Article 1. 5 (a) of Regulation 1093/2010 that requires the EBA to ensure consistent and effective application of the European legislation within its scope. The Single Rule Book in banking regulation also comprises delegated and implementing acts (Regulatory and Implementing Technical Standards) adopted by the European Commission (based on EBA drafts), as well as EBA guidelines.

The EBA should also address the evolution of supervisory practices and developments in banking practice and financial innovation.

The process as such is consistent with Article 29(2) of Regulation 1093/2010, asking the EBA to “develop new practical instruments and convergence tools to promote common supervisory approaches and practices”. It will contribute to and supplement the Single Rule Book and moreover ensure that the latter embodies a ‘living’ and evolving regulatory framework.

The Q&A have no binding force in law nor are they subject to “comply or explain”. However their application will be rigorously scrutinised and challenged by the EBA and national supervisory authorities given their undoubted practical significance to achieve a level-playing field. Peer pressure and market discipline are also expected to play a driving force in ensuring adherence to and compliance with the answers provided in the Q&A process.

Depending on the observation of regulatory implementation across the EU, evolution of banking operations or supervisory practices, the Q&A could inform the review of the Level 1 text, of related technical standards or of EBA guidelines, and if necessary lead to the extension or issuance of own initiative guidelines.

For questions that go beyond matters of consistent and effective application of the regulatory framework a Directorate-General of the Commission (Directorate General for Internal Market and Services) will prepare answers, albeit that only the Court of Justice of the European Union can provide definitive interpretations of EU legislation. These answers will be unofficial opinions of that Directorate General, which the European Banking Authority publishes on its behalf. These answers are not binding on the European Commission as an institution. You should be aware that the European Commission could adopt a position different from the one expressed in such Q&A, for instance in infringement proceedings or after a detailed examination of a specific case or on the basis of any new legal or factual elements that may have been brought to its attention.

2. Who can ask questions?

Anybody including institutions, individuals, entities, federations, national authorities.

3. Do I have to use a certain language?

In principle you can ask your question in any official EU language. English is only preferred to avoid the likely delay involved in translating the question.

4. What questions can I ask?

Any question relating to the practical application or implementation of provisions of Directive 2013/36/EU (the Capital Requirements Directive or CRD), and Regulation (EU) No 575/2013 (the Capital Requirements Regulation or CRR) and associated technical standards and EBA guidelines adopted under that legislation.

5. How should I ask questions?

Questions should be as specific as possible and practical examples are always helpful. Hypothetical questions (like: "What would happen if yyy happens?" or "What would have been the consequence

under provision xxx if yyy had happened?") cannot be answered. You are kindly requested to check before submitting your question that it has not already been asked.

6. What should I enter in the box "Topic"?

Please select one topic from the drop-down list. If the topic of your question is not listed, select one which is the most closely related, or else select 'other'. In case the question relates to more than one topic, please choose the one that is at the heart of the question – also bearing in mind the article that you are referencing below.

7. What should I enter in the box "Legal act"?

You should insert the legal act the question is referring to. You should indicate the legal act, and complete the related legal references, even if your question is directly related to a delegated or implementing act (RTS / ITS) or guidelines.

You should note that if a question you submit is not related to any of the legal texts listed, it is possible that the question is not admissible in the context of this process and, thus, likely to be rejected.

7. What should I enter in the box "Legal reference"?

You should indicate the article number of the legal act you are referring to together with relevant paragraph number (if applicable) and further subdivisions used in the legal act such as sub-paragraphs, letters, sub-letters and bullets, etc.

Questions on recitals – if any - should only be asked if they can be linked to a specific article of the legal act in question.

9. What should I enter in the box "Name of institution"?

Please enter the name of the institution or entity that you represent. If you submit your question in your personal capacity, please insert your surname and first name.

Please note that the data in this box will not be published if you request to remain anonymous. However, it is necessary for the EBA to have a contact address in cases where the question is not entirely clear or further information would be necessary or helpful.

10. What should I enter in the box "Subject matter"?

Please provide in this field a short description of the question you are submitting to allow a user of this tool to understand what the issue is about. The description should not be longer than the box provided.

11. What should I enter in the box "Question"?

Please provide in this field the question you are submitting. The questions should be as short and concise as possible. Including the legal text can help as long as it is not overly long, otherwise the use of precise references is recommended.

Please note that questions should be limited to issues relating to the practical application or implementation of provisions of the CRR/CRD and/or to associated technical standards or EBA guidelines under that legislation.

As already mentioned under point 5 above, hypothetical questions (like: "What would happen if yyy happens?" or "What would have been the consequence under provision xxx if yyy had happened?") cannot be answered.

12. What should I enter in the box “Background on the question”?

Please provide in this field any relevant background information that is necessary for the understanding of the question you are submitting. Background information should also be as short and concise as possible, although practical examples can be helpful.

13. What should I enter in the box “Proposed answer”?

Please provide in this field your view on what the answer to your question should look like and add arguments supporting this view. This constitutes an essential part of the Q&A process and aims to ensure that submitters duly consider relevant elements of the legal or regulatory requirements or guidelines before posting a question. Submitters should note that questions without a proposed answer cannot be accepted.

14. When will I get an answer?

The objective is to answer the majority of the questions within 2 months. However, depending on the complexity of the question, a longer period might be required. Please also keep in mind that translations are likely to cause delay to the development and publication of the response.

15. Where will I get an answer?

Answers can be found in the “Search for Q&A” tab. Searches can be narrowed down using a set of criteria (or a combination thereof), including topic, legal act and related articles.

Answers will be published in English and also in the language of the question if other than English. Please keep in mind that translations are likely to cause delay.