

Response of the *Fédération des Banques Françaises*¹ (FBF) to the EBA public consultation on the revision of the Guidelines on product oversight and governance arrangements for retail banking products

Preliminary remarks

From a client protection perspective, the addition of an explicit reference to directive (EU) 2023/2225 (CCD2) seems positive, as it clearly expands the scope of application of these guidelines.

Furthermore, we would like to point out that several texts relating to the marketing of financial products with ESG characteristics (notably SFDR) are about to be revised and that the European authorities are seeking to simplify regulations. Therefore, we believe that the implementation and monitoring of these guidelines should be postponed until the amendments to the texts resulting from the Omnibus Directive, the directive RIS and delegated regulations (EU) 2021/1253 and 2021/1257, have been finalised and the implementation deadline has expired.

We emphasise the principle of applying retail product governance rules proportionately, based on the risk to which the retail customer is exposed and the complexity of the product. The extensive due diligence requirements set out in these draft guidelines should therefore primarily apply to the most complex products.

Question 1. Do you have any comments on the targeted amendments and consequential changes made to Chapter 2 of the POG Guidelines on “subject matter, scope and definitions”?

- Page 17 paragraph 1 replacing paragraph 5 *“Those product oversight and governance arrangements should also be established by manufacturers and distributors for products with Environmental, Social and Governance (ESG) features, should they offer and sell those products to consumers”*

This addition of this sentence does not seem entirely relevant. If the EBA intention is to include ESG products within the scope of product governance, we note that they are already subject to review as part of these procedures.

It appears that the EBA only intends to clarify that product governance must also cover the ESG characteristics of products that have them (as indicated in paragraph 14 modifying guideline 3.2). In this case, the wording is not entirely appropriate.

¹ The French Banking Federation (FBF) is a professional organisation that represents all banks operating in France. It comprises 320-member banking companies, including 115 foreign banks.

- Page 18 paragraph 15: Product a) c) d) e) f) and g)

Could the EBA provide examples or explanations of payments with ESG features?

As there is no definition of a “green mortgage” or “green consumer credit”, it is difficult to establish their ESG features (It is not the credit that is green, it is the financed object that is green).

Question 2. Do you have any comments on the targeted amendments made to Guidelines 2, 3, 7, 8 and 12?

- Page 19 paragraph 10 inserting guideline 2.1 *“The manufacturer’s management body should put on place processes to identify, monitor, prevent and manage risks resulting from greenwashing or perceived greenwashing”*

This wording is not very clear because the focus of identification, prevention, monitoring etc., must be on greenwashing itself, not the resulting risks. Conversely, it is difficult to prevent the perception of greenwashing, so the resulting risk must be addressed.

We therefore suggest replacing this part of the sentence with “to identify, monitor, prevent and manage greenwashing practices and manage the risks resulting from perceived greenwashing practices”.

- **Page 19 paragraph 14 replacing guideline 3.2**

ESG products are explicitly included in the scope here, even though nothing excluded them. The wording should instead aim to ensure that any ESG characteristics of the products are taken into account when defining the target market

- **Page 19 paragraph 15 replacing guideline 3.3**

Same remark: the wording should clearly aim to ensure that the target market takes into account any ESG characteristics of the products.

- **Page 20 paragraph 17 adding sub-paragraph c to guideline 8.3 “sustainability claims are accurate, substantiated, up to date (...)”**

The term “up to date” is not appropriate, as it implies constant adjustments, which are difficult to implement. Could the EBA replace this part of the sentence with 'sustainability-related communication should be accurate, substantiated, and updated annually if necessary'?

Question 3. Do you have any comments on the consequential changes made to chapter 6 of the POG Guidelines on ‘third-party arrangement’

- **Page 21 paragraph 20 replacing Chapter 6 “Outsourcing”**

In this paragraph, the terms ‘third-party service providers’ and ‘third-party arrangement’ are used. Could the EBA briefly define these terms and their scope of application in these guidelines, as it does in its draft guidelines on sound management of third-party risks?

The FBF thanks the EBA for the attention it will give to its response to the consultation.