

EBF_046833

8 October 2025

**EBF RESPONSE TO THE CONSULTATION BY THE EUROPEAN BANKING
AUTHORITY TO AMEND ITS REGULATORY TECHNICAL STANDARDS ON OWN
FUNDS AND ELIGIBLE LIABILITIES INSTRUMENTS**

The European Banking Federation (EBF) welcomes the opportunity to contribute to the consultation to amend the European Banking Authority's (EBA) technical standards on own funds and eligible liabilities.

The EBF response to the consultation represents the consolidated view from all EBF members i.e., 34 national banking associations from across Europe representing in total about 3,500 banks.

The EBF members welcome the EBA's proposed shortening of the timeframe to process the applications to reduce own fund and eligible instruments from four to three months. In fact, our members consider that even a shorter timeframe would be more appropriate in order to provide banks with greater flexibility in their capital planning.

Considering this EBA proposal as a step in the right direction, we would like to refer the approach taken by other authorities such as the Bank of England¹ which is amending the UK Capital Requirements Regulations (CRR) articles 77.2 and 78a and limiting the need for prior permission to "*cases where a firm would either breach its MREL, or start to deplete its applicable capital buffers*", including for Global Systemically Important Banks (G-SIBs). We consider such approach would greatly simplify the task of authorities, eliminate administrative burden for both authorities and banks and allow more efficient and reactive asset and liability management for EU banks. Accordingly, we suggest for a similar approach to be considered by EU authorities. The EBA could also go a step further in introducing proportionality where the proposed transaction has a very limited impact on own funds or eligible liabilities e.g., a few basis points.

In addition to the above, we would like to draw your attention about the need to clarify the expectation between a *General Prior Permission* request and an *Ad Hoc Request* especially for liability management operations.

Liability management operations enable banks to optimize their capital structure either through buy backs, tender offer or call exercises (including but not limited to proactive debt refinancing, funding and liquidity management, regulatory efficiency/own funds optimisation, reduction of future interest expenses, etc.). Agility is required for effective liability management, as banks need to swiftly adapt and respond to constantly evolving market conditions without repeatedly seeking new authorizations, which, given the 4 or 3-month timeline to process the application, would occur in a potentially different market context, significantly reducing flexibility needed for effective management of such operations.

We welcomed the EBA's Q&A 2024_7036 on "*Permission to reduce AT1, Tier 2 or eligible liabilities instruments and deduction rules in the context of a liability management exercise without replacement*" published in April 2024. This answer paved the way for liability management enabling the impact on ratios to be applied at the time of the announcement

¹ <https://www.bankofengland.co.uk/paper/2024/cp/amendments-to-the-boe-approach-to-setting-a-mrel>

of the transactions. In such context, we understand that only ad hoc request seems relevant for liability management operations.

We would like to take the opportunity of this consultation for this point to be clarified as this point does not seem to be shared by the Single Resolution Board (SRB). The rationale for this position is described hereunder.

First, we understand that the general prior permission regime is intended for ongoing, small-scale buybacks of bonds via market-making (to support market liquidity and ensure sufficient demand and stability in the price/yield curve) and/or secondary market activities (to conduct liability management transaction and/or deal with occasional investors inquiries in order to improve long-term investors relationships).

For liability management banks would need a permission to launch a tender offer on a number of bonds, with a cap to the tender nominal amount. We advocate thus ad hoc permissions through a predetermined amount applicable to a list of bonds rather than specifying an amount for each bond series, as:

- the requests would only concern predetermined lists of bonds, which are conclusive and not subject to additions;
- article 78(1) CRR does not prohibit the inclusion of a predetermined amount nor state that the requested amount must be equal to the aggregate nominal amount of the targeted bonds; and
- the requested permission would represent a cap on the scope of the contemplated operations ensuring abidance by solvency and resolution ratios.

We appreciate your consideration about our comments and remain at your disposal for further clarifications in the matter.
