

(October 2023 UPDATE)

Additional background and guidance for asking questions¹

1. What is the legal framework for asking questions?

Article 16(b) of Regulation 1093/2010² (the EBA's founding regulation) provides for stakeholders to submit to the EBA questions relating to the practical application or implementation of:

- the provisions of legislative acts referred to in Article 1(2) of the EBA's founding regulation,
- associated delegated and implementing acts,
- guidelines and recommendations, adopted under these legislative acts.

Answers to Q&As are non-binding.

Questions regarding the interpretation of Union law are answered by the European Commission.

The EBA publishes questions received and answers to admissible questions unless the EBA considers that such publication is in conflict with the legitimate interest of those persons or would involve risks to the stability of the financial system. The Authority will reject questions that are inadmissible (see under 5 below).

2. Who can ask questions?

Any natural or legal person, including competent authorities and Union institutions and bodies. Before submitting a question to the EBA, you should consider whether to address the question in the first place to your competent authority (for example if you are a financial institution and the question relates to your particular situation). Where possible, stakeholders such as financial institutions and industry associations are encouraged to submit questions via a central function to avoid duplication and to ensure that several aspects of an issue are considered prior to submission.

¹ This guidance was updated over time to reflect changes and adjustments to the process:

- June 2014 to reflect the changes to the Q&A tool and the adoption of stricter criteria;
- January 2015 to include the BRRD in the scope of the tool;
- July 2016 to include the DGSD in the scope of the tool;
- April 2018 to address improvements at the level of the web tool, and to improve the structure of the document;
- May 2018 to include the PSD2 in the scope of the tool;
- April 2019 to include the MCD in the scope of the tool;
- August 2019 to include the CRD5/CRR2/BRRD2 into the scope of the tool;
- September 2019 to include the SecReg in the scope of the tool; and
- June 2020 to reflect the changes to the EBA's founding Regulation (1093/2010) – including related scope extensions.
- September 2023 to include a reference to the admissibility criteria and clarify what part of the submissions is for publication.

² Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC.

3. Do I have to use a certain language?

Questions can be submitted in any official EU language. English is preferred to avoid delay involved in translating the Q&A.

4. What questions can I ask?

Any question relating to the practical application or implementation of provisions of legislative acts referred to in Article 1(2) of the EBA's founding Regulation, as well as the associated delegated and implementing acts (including EBA Regulatory Technical Standards, EBA Implementing Technical Standards (adopted by the European Commission), and guidelines and recommendations, adopted under these legislative acts or within the scope of EBA's powers.

REMINDER: The EBA only starts accepting questions on the application and implementation of technical standards once these are published in the Official Journal of the European Union.

A different approach is followed with respect to certain draft Implementing Technical Standards on Supervisory Reporting in order to allow institutions and competent authorities to make the necessary preparations or changes to their reporting systems³.

5. How should I ask questions?

Questions should be as specific as possible, and examples are always helpful. Purely hypothetical questions should be avoided⁴.

Questions should be sufficiently clear and should clearly identify a provision of the acts within scope of the Q&A process.

Questions that seek to reinterpret or call into question the level 1 text cannot be accepted.

Please note that the purpose of the tool is not to direct submitters to where they can find information on a given topic within the legal framework, or to explain the provisions that are already clearly set out therein.

Questions are assessed against a number of admissibility criteria, including materiality, relevance for stakeholders and normative values, which are designed to focus re-sources on issues which further the consistent, efficient and effective application of regulation and supervision.

Questions that are not deemed admissible will be rejected and a rationale provided. Rejected questions are published by the Authority on its website.

In addition, questions should be clearly phrased, identify an issue of practical application or implementation, and respect the formal requirements for submitting questions set out below.

Potential submitters are strongly encouraged to check in the 'search' function that the question they have has not yet been covered before submitting it to the tool.

Questions, which do not fulfil these requirements, will be rejected.

³ The EBA may publish the provisional answers to questions in this instance; however, it is important to note that these should not be considered final until the Implementing Technical Standards on Supervisory Reporting to which they refer are endorsed by the European Commission and published in the Official Journal of the European Union.

⁴ In order to ensure the effectiveness of the Q&A tool - the process focuses on answering questions that are likely to be relevant to a broad set of stakeholders rather than questions which address circumstances which appear likely to be relevant only to the particular circumstances of certain stakeholders or transaction. Purely academical questions could also be considered not admissible on the ground that they do not raise a prudential, payments, consumer protection, resolution or other regulatory issue.

6. What should I enter in the field "Legal act"?

You should select the legal act to which the question is referring and complete the related legal references.

If your question is not related to any of the listed legal texts but related to a legislative act under the EBA's competence, please select 'other' and include a reference to this legislative in the 'Background' section. However, please note that if the question is not related to any of the legislative acts under the EBA's competence 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 field "Topic"?

Please select one topic from the drop-down list. If the topic of your question is not listed, select the 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.

For certain technical standards, the topic box will automatically be populated.

8. What should I enter in the "Contact" fields?

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, by selecting the relevant box. It is anyway necessary for the EBA to have a valid contact address for the cases where the question is not entirely clear or further information would be necessary or helpful, but this information will not be published. In addition to the name and country of incorporation / residence, you are requested to select from the drop-down list, a "type of submitter" that best describes your situation or that of the entity that you represent. If the type is not represented, please select one which is the most closely related, or else select "other". Please note that this information will always be published.

9. What should I enter in the "Legal reference" fields?

You should indicate only the Article number of the legal act to which you are referring, together with the relevant paragraph number (if applicable) and further subdivisions used in the legal act such as sub- paragraphs, letters, sub-letters and bullets, etc. **Please do not add any text such as "art" or "article"** as they will impede the search function.

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

10. How should I complete the field "COM Delegated or Implementing Acts /EBA RTS /EBA GLs/EBA Recommendations?"

If your question relates to a delegated or implementing acts, EBA guideline and / or EBA recommendation, you should select the relevant act from the drop-down list and also complete the related 'Article' field. In case your question does not relate to any of these acts, please select "Not applicable" and indicate "n.a." in the 'Article' field insert "Not applicable" or "n.a." in the Article field.

11. What should I enter in the field "Subject matter"?

This field corresponds to the title of the Q&A, and as such it should be concise but also unique, therefore please provide in this field a short description of the question you are submitting to allow other users of this tool to understand what the issue is about and avoid repeating the topic or the legal reference. The description should not be longer than the box provided.

12. What should I enter in the field "Question"?

Please provide in this field the question you are submitting. The questions should be as short and concise as possible, as they can be further explained in the background section rather than in the question field.

Questions should be to the point and clearly identify what type of clarification of the legislative instrument is sought. Additional information should be provided in the 'Background'.

13. What should I enter in the field "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 and the context in which this arises. Background information should also be short and concise, although practical examples can be helpful. As long as it is not overly long, you may include a quote of the legal text you find unclear, otherwise the use of precise references is recommended.

The background section allows submitters to include pictures. This feature could be useful to provide e.g., graphs and charts.

The background information should in particular **explain why the question is relevant and how it raises either an issue of practical application or implementation**, such as elaborating on the specificities of the legislative provision that requires enhanced clarification.

Submitters should note that **questions without appropriate background information cannot be accepted**.

The information provided in the background section will be published so only include information that is suitable for public disclosure. Please do not include personal data or refer to the views or positions of third parties unless that information is in the public domain. If you need to include some elements that cannot be disclosed publicly, please include this in the box "answer proposed by the submitter".

14. What should I enter in the field "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, including providing references to specific aspects of relevant legislative instruments. 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.

Where necessary, you can include in the answer section additional background information which is useful to describe the issue but not suitable to be published.

If you are not sure about the answer, you can provide different options, provided that you include some supportive reasoning for each alternative provided. The suggested answer does not need to be correct in order for the question to be accepted.

A draft answer(s) should not put into doubt, question or go against the underlying legislative instrument or the Q&A will be considered inadmissible.

15. Where can I view my question?

Questions will be published shortly after an assessment of their admissibility (unless such publication is in conflict with the legitimate interest of those persons or would involve risks to the stability of the financial system) and updated once the answer has been finalised.

The name of the submitter will be visible too, unless the option not to disclose is selected in the submission form.

Upon submission of a question to the tool, the submitter will receive a notification confirming receipt. Submitters will also receive a notification once the question has been finalised and the answer published (or rejected).

Rejected questions will be available to view on the EBA's website for a period of at least 2 months.

16. How will my question be treated?

Once you have submitted your question, it will be subject to close analysis and review by EBA staff. It may be necessary for the EBA to request further information from submitters in order to obtain further clarity. In some cases, in the interests of expedience, and efficiency and quality, the EBA may need to merge your question with one or several other more Q&As on a similar topic. Submitters will be informed if this is the case.

It should also be noted that the EBA only accepts questions which meet the guidance set out in points 2 to 14.

Q&As are processed at various stages from admissibility to the final answer. To ensure the answer reflects a common approach within the supervisory community questions are assessed and answers developed with the involvement of the EBA staff, relevant national and European authorities responsible for supervision in the area concerned, and the European Commission. Input may also be sought from the EBA's Banking Stakeholder Group.

17. When will I get an answer?

The EBA aims to provide answer, or reject, questions within 9 months.

Users should note that questions perceived as having a high impact on the single market and a level playing field will be prioritised over others. Although the EBA will do its utmost to process questions as quickly as possible, given the numbers and the complexity of the questions that are being submitted, this different prioritisation will necessarily impact upon the time taken for the EBA to provide a response.

18. Where will I find an answer?

Final answers will be published on Friday mornings, except if this coincides with an EBA public holiday. In this instance, answers can be published on the preceding working day.

Answers will be published in English and also in the language of the question if other than English.

Answers can be found via the ‘Search for Q&A’ tab ([here](#)), in the ‘Final Q&As’ tab, or via the Interactive Single Rulebook ([here](#)) where Q&As are linked to the relevant Articles of the respective level 1 texts.

19. How can I search for questions?

Q&As are presented in 4 status tabs:

- ‘Final Q&As’ tab – Q&As whose answer has been published.
- ‘Q&As under review’ – Q&As which have been deemed admissible and their question is published while the answer is developed.
- ‘Rejected Q&As’ – Q&As which have been rejected.
- ‘Archive’ tab – Q&As that were published on legislative instruments that have been repealed or are no longer valid.

Searches can be narrowed down using any of the fields – in isolation or in combination - on the “Search for Q&A” tab. Some of the fields have pre-defined options (including legal act, topic, COM Delegated or Implementing Acts/ RTS/ ITS/ GLs /Recommendations, other fields (such as article, periods, keywords) are free text.

Specific search terms or keywords (including legal references) can be used in order to narrow down your search. For phrases, please use quotation marks (e.g., "capital requirements"). The use of multiple terms will show all the Q&As in which any of the terms were found.

In the ‘Search for Q&A’ section you have the possibility to export search results by selecting multiple Q&As. It is however not possible to extract all Final Q&As together.

To obtain all Q&As (final and rejected ones) on a particular Article, write the article in question in the ‘Article’ field and hit search. Ensure the ‘All’ tab is active to get results for both final and rejected Q&As, then choose ‘Export all results’ at the bottom of the table. The resulting pdf file will contain all final Q&As on the chosen article grouped first by status (final / rejected) and within status by date of publication. Similar searches and exports can be undertaken by using particular keywords.

If your search covers more than one legal act, topic, technical standard or guidelines, you can make multiple selections.

20. Where can I find joint ESAs Q&As?

If you have submitted via the EBA Q&A tool a Q&A on a topic for which two or three ESAs are responsible, you can find your question in the EBA Q&A tool. You can also find it on the dedicated [Joint Committee Q&As webpage](#)⁵, where all the joint Q&As are published, regardless of whether they have been submitted via the EBA, EIOPA or ESMA respective Q&A tools.

⁵ Available also in the [EIOPA](#) and [ESMA](#) websites.