

## THE CHAIRPERSON

John Berrigan  
Director General  
Directorate-General for Financial Stability,  
Financial Services and Capital Markets Union (FISMA)  
European Commission  
Rue de Spa 2  
1049 Brussels  
Belgium

7 April 2022

**Subject: Opinion on EC intended changes on the RTS on own funds and eligible liabilities under Regulation (EU) No 575/2013**

Dear Mr Berrigan,

On 24 February 2022, the European Commission sent a letter to the EBA informing of its intention to endorse with amendments the RTS on own funds and eligible liabilities and submitted on the same date to the EBA a modified version of the RTS. This notification opens a period of six weeks during which the EBA may amend the draft RTS on the basis of the Commission's proposed amendments and resubmit in the form of a formal opinion. It is my pleasure to submit to you today the EBA opinion on the intended changes on the RTS on own funds and eligible liabilities.

In substance, the Opinion enclosed disagrees with two envisaged changes from the Commission, which are considered as substantive, and relate to the provisions on direct/indirect funding of instruments and the permission regime for certain types of liquidation entities.

With regard to direct/indirect funding, the Opinion expresses the view that the draft technical standards submitted by the EBA in May 2021 already contain, from a supervisory perspective, the necessary principles or tools needed for capturing all cases of direct or indirect funding and that regulatory technical standards are not suited for clarifying explicitly all different possible cases or scenarios that could exist in the market or emerge through time, as long as the spirit of the rules is clear.



Floor 24-27, Europlaza,  
20 avenue André Prothin, La Défense 4,  
92400 Courbevoie, FRANCE

---

T: +33 186 526 832

E: [JoseManuel.Campa@eba.europa.eu](mailto:JoseManuel.Campa@eba.europa.eu)

---

<https://eba.europa.eu>

**EBA-2022-D-3904**

With regard to the permission regime for certain liquidation entities, the draft technical standard from the EBA explicitly acknowledges the principle of an application, considering that the information available to the resolution authority for drawing up the resolution plan and which gives rise to a dialogue with the entities shall be considered as a complete application / set of information for a general prior permission, with an objective to move away from requirements that would not be proportionate to the goals of the regulation.

Other non-substantive changes suggested by the Commission do not give rise to concerns and are indeed agreeable.

Yours sincerely,

[signed]

José Manuel Campa

CC:

Irene Tinagli, Chair of the Committee on Economic and Monetary Affairs European Parliament  
Claudia Lindemann, Head of ECON Secretariat

Bruno Le Maire, French Minister of Finance, President of the Rotating Council of the EU

Tuomas Saarenheimo, Chair of Economic and Finance Committee, Council of the European Union

Jeppe Tranholm-Mikkelsen, Secretary-General, Council

Martin Merlin, Director Dir D, Regulation and prudential supervision of financial Institutions, DG FISMA

Almoro Rubin de Cervin, Head of Unit D1, Bank regulation and supervision, DG FISMA

Dominique Thienpont, Legal Counsellor to Dir D, DG FISMA

Encl: EBA Opinion on RTS on own funds and eligible liabilities