

THE CHAIRPERSON



Floor 24-27, Tour Europlaza
20 Avenue André Prothin
92400 Courbevoie, France

T: +33 186 526 831
E: JoseManuel.Campa@eba.europa.eu

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

EBA-2023-D-4211

27 February 2023

Subject: Opinion of the European Banking Authority on the application of the new banking book-trading book boundary framework

Dear Mr Berrigan,

In your letter to the EBA dated 13 December 2022 on the application of the new boundary framework, you highlighted the operationally complex and fragmented implementation to which EU banks would be subject without any remedy measure being taken. Accordingly, you invited the EBA to consider communicating to competent authorities to apply supervisory forbearance in relation to new boundary requirements.

With this letter, the EBA would like to inform the Commission that, following an assessment of the concerns expressed in your letter, as well as considering the positions recently expressed by the legislators in the on-going legislative process to amend the Capital Requirements Regulation, the EBA is set to publish an Opinion in the form of a no-action letter stating that, competent authorities should not prioritise any supervisory or enforcement action in relation to new boundary requirements until the adoption of the legislative proposal achieving the full implementation of the Basel III standards.

The EBA's competence to deliver this Opinion in the form of a non-action letter is based on Article 9c of Regulation (EU) No 1093/2010¹, which provides that the EBA may issue no-action letters, if it considers that the application of one of the relevant legislative acts is liable to raise significant issues, as provisions contained in such act may directly conflict with another relevant act, and if it has received relevant information and considers on the basis of that information that the application of the relevant provisions raises significant exceptional issues pertaining to market confidence, consumer, customer or investor protection, the orderly functioning and integrity of financial markets or commodity markets, or the stability of the whole or part of the financial system in the Union.

Yours sincerely,

José Manuel Campa

¹ 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 (OJ L 331, 15.12.2010, p. 12).

CC: Irene Tinagli, Chair of the Committee on Economic and Monetary Affairs European Parliament
Claudia Lindemann, Head of ECON Secretariat
Elisabeth Svantesson, ECOFIN Chair, Minister of Finance, Presidency of the Council of the EU
Tuomas Saarenheimo, Chair of Economic and Finance Committee, Council of the European Union
Thérèse Blanchet, Secretary-General, Council of the European Union
Martin Merlin, Director Dir D, Banking, Insurance and Financial Crime, DG FISMA
Almoro Rubin de Cervin, Head of Unit D1, Bank regulation and supervision, DG FISMA

Encl: Opinion of the European Banking Authority on the application of the provisions relating to the boundary between trading book and banking book, and on the internal risk transfer between books as referred to in Article 3(6) of Regulation (EU) No 2019/876