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EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR FINANCIAL STABILITY, FINANCIAL SERVICES AND CAPITAL MARKETS UNION

The Director-General

Brussels
FISMA.D.1(2026)7593851/CLG

François-Louis Michaud
Chair
European Banking Authority
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Subject: Your submission for endorsement of Draft Regulatory Technical Standards amending Commission Delegated Regulation (EU) No 241/2014 on the timing for the application for prior permission to reduce own funds and eligible liabilities instruments under Articles 78 and 78a of Regulation (EU) No 575/2013

Dear Francois-Louis,

I am writing to you in response to your letter dated 19 March 2026 related to the European Banking Authority's submission of the draft Regulatory Technical Standards (RTS) amending the Commission Delegated Regulation (EU) No 241/2014 on the timing for the application for prior permission to reduce own fund and eligible liabilities instruments under Articles 77, 78 and 78a of Regulation (EU) No 575/2013 (hereinafter the "draft RTS"). Having carefully considered the proposed amendment, I regret to inform you that we are unable to endorse the draft RTS in its current form.

The amendment under consideration proposes to shorten the timing for institutions to submit their application to reduce own funds and eligible liabilities instruments from four months to three months. While we acknowledge the EBA's intent to contribute to the broader simplification agenda, we are of the view that it is not proportionate to revise the existing RTS at this stage only for this issue, in particular as a number of competent and resolution authorities have already publicly stated their intention to provide, in certain circumstances and under certain conditions, such approvals under significantly shorter deadlines than the three months as currently proposed.

The EBA has already launched a broader, more far-reaching review of the prior permission regime, engaging both supervisory and resolution authorities, with a view to delivering substantive and comprehensive improvements to the framework. We strongly welcome that initiative and consider it more appropriate towards genuine simplification.

Against this backdrop, an incremental amendment of such limited scope would in all likelihood necessitate reopening the same Level 2 act within a short period of time, once the more comprehensive reform has matured. We therefore urge the EBA to consolidate the proposed adjustment and any further simplification measures into the ongoing comprehensive review, so that the framework may be revised once, coherently, and with lasting effects. More generally, we are of the view binding Level 2 acts should only be reopened for amendments that are substantive and deliver tangible, durable benefits to regulated entities and authorities alike. In this way, the administrative and procedural burden of a formal amendment process will be commensurate with the significance of the changes being introduced.

For the reasons set out above, we do not support the adoption of the draft RTS on own funds and eligible liabilities as currently proposed. This letter serves as the Commission's formal explanation for returning the draft RTS to the EBA, as required by Article 10(1) paragraph 5 of Regulation (EU) 1093/2010. The EBA is invited to consider the Commission's formal position and, should it see fit, to resubmit a revised draft in the form of a formal opinion within six weeks.

We look forward to the EBA's comprehensive review of the prior permission regime as a meaningful and durable reform of the framework. We stand ready to engage constructively in that process and look forward to continuing close cooperation with the EBA on this and related matters.

Yours sincerely,

John BERRIGAN
(e-signed)

Copy:

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