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FG/MVB

Draft EACB comments on the European Banking Authority's consultation on Guidelines on product oversight and governance arrangements for retail banking products (POG Guidelines)

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The **European Association of Co-operative Banks** (EACB) is the voice of the cooperative banks in Europe. It represents, promotes and defends the common interests of its 26 member institutions and of cooperative banks in general. Cooperative banks form decentralised networks which are subject to banking as well as cooperative legislation. Democracy, transparency and proximity are the three key characteristics of the cooperative banks' business model. With 2,700 locally operating banks and 40,000 outlets co-operative banks are widely represented throughout the enlarged European Union, playing a major role in the financial and economic system. They have a long tradition in serving 227 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 89 million members and 720,000 employees and have a total average market share of about 20%.

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Introduction

The European Association of Co-operative Banks (EACB) welcomes the European Banking Authority (EBA)'s public consultation on the draft Guidelines on product oversight and governance arrangements for retail banking products (POG Guidelines).

The POG guidelines have a broad scope, as they apply to a wide range of retail banking products – including mortgages, personal loans, deposits, payment accounts, payment services, and electronic money – and involve many departments within a bank. We therefore believe it is crucial that the industry's feedback to this consultation is thoroughly considered.

EACB general observations on the EBA's Consultation paper

We welcome the proposed changes to the POG guidelines to reflect the latest regulatory developments.

In particular, we strongly support the inclusion of non-bank creditors within the scope of the guidelines, in line with the 2023 Directive (EU) 2023/2225 on credit agreements for consumers (Consumer Credit Directive). In our view, it is essential to establish a level playing field among all providers of retail products. Ensuring that non-bank creditors are equally subject to sound guidelines and requirements in terms of product governance is also key to preventing over-indebtedness and bad lending practices as well as fostering greater consumer trust in the market.

Nevertheless, we strongly believe that **the introduction of further amendments to the POG guidelines** risks creating unnecessary complexity and **should be reconsidered**. As the EBA was not explicitly mandated by the European Commission or EU co-legislators to issue or revise guidelines on product oversight for retail products, but instead derives its legal basis from Article 74 of the Capital Requirements Directive, it retains discretion in updating the guidelines. In a simplification context - and to support the competitiveness of European banks by avoiding the burden of frequent legislative changes - we encourage the EBA to promote legal stability by keeping revisions strictly necessary and focused on ensuring alignment across different legislations.

Concerning the revised POG guidelines' date of application, it should be noted that for small and non-complex institutions (SNCI), the EBA guidelines on the management of ESG risks should not apply before January 11, 2027. In this respect, we recommend that also the POG guidelines should apply no earlier than this date, and this for the entire banking sector.

EACB specific observations on the EBA's Consultation paper

Question 1. Do you have any comments on the targeted amendments and consequential changes made to Chapter 2 of the POG Guidelines on 'subject matter, scope and definitions'?

We would welcome an extension of the scope of these Guidelines to cover all "credit agreements" as defined in Article 4(3) of the Mortgage Credit Directive (MCD). In this context, we also consider it appropriate that credit intermediaries falling under the scope of the MCD continue to be covered by these Guidelines, given the similarities in activities and risk profiles with credit institutions.

We believe that it is necessary, particularly for products within the scope of these EBA guidelines, to outline at least by way of example what is meant by a product's 'ESG characteristics'. While this may be evident in some cases in others (e.g., payment transactions or deposit business), it is not necessarily so.

The general reference to the new EBA Guidelines on the management of environmental, social and governance (ESG) risks (EBA/GL/2025/01) (ESG risk guidelines) supplementing the existing EBA POG guidelines should be supplemented by a reference to the specific relevant section. The ESG risk guidelines mentioned in the POG's guidelines consultation paper are very comprehensive and only partially relate to the consumer protection issue of greenwashing. Due to the scope and complexity of the ESG risk guidelines, some national supervisory authorities have decided not to transpose them in full into national law. The requirements relating to greenwashing are mentioned in the ESG risks guidelines exclusively in paragraph 76 of section 5.6.4 on operational and reputational risks.

In principle, the revised POG guidelines do not differentiate between SNCI and other non-large institutions in terms of intensity or scope (unlike the ESG risk guidelines). However, we suggest doing so to take appropriate account of the principle of proportionality in this area.

Question 2. Do you have any comments on the targeted amendments made to Guidelines 2, 3, 7, 8 and 12?

Numerous principles clearly state that products with 'ESG characteristics' must also be considered. We would suggest clarifying this term for all retail banking products, as mentioned in our response to the first question.

Regarding Principle 2.1a, we consider it unnecessary to introduce a separate obligation for management to implement appropriate processes for managing greenwashing risks in relation to the products covered by the POG guidelines. The obligation to implement appropriate risk management processes for operational and reputational risks, including greenwashing, is already derived from other EBA guidelines.

Principle 12.1a (distributor obligations) should not include an additional reference to the EBA guidelines on the management of ESG risks, as this is not included in Principle 8.3 c) (manufacturer obligations). The distributor will regularly rely on the information provided to it by the manufacturer about the product in accordance with the requirements of Principle 8.3.

Additionally, some of the terminology used in the draft Principles may benefit from further clarification to avoid diverging interpretations. Terms such as *"fair, clear and not misleading"* or *"understandable manner"* are inherently subjective and may lead to inconsistent application. Similarly, the requirement for sustainability-related communications to be *"up to date"* could imply a need for continuous updates, which may not always be proportionate or operationally feasible. A clearer and more balanced formulation would help ensure consistent expectations and avoid unnecessary legal uncertainty.

Question 3. Do you have any comments on the consequential changes made to chapter 6 of the POG Guidelines on 'third-party arrangement'?

First, it is clarified that manufacturers and distributors of products only have to comply with the requirements of the (new) EBA guidelines on third-party risk management (third-party risk management guidelines) if they fall within their scope. Nevertheless, it should be noted that the reference to the third-party risk management guidelines has expanded the circle of external service providers. Whereas previously the requirements only had to be observed in relation to service providers to whom formal outsourcing had taken place, the term "third party" is now much broader and also includes a so-called "other external procurement." This means that the requirements of the third-party risk management guidelines also apply, for example, to one-off or occasional purchases of services from the perspective of the manufacturer or distributor.

Such broadening raises concerns about practical implications. In particular, banks may be discouraged from engaging with new service providers or from entering into one-off or urgent arrangements, to avoid the administrative burden of having to verify the ESG characteristics of providers even for short-term contracts. **We think we should oppose this expansion, which does not simplify matters for banks, whereas the European Commission is expected to streamline ESG requirements.**