



*European Association of Co-operative Banks  
Groupement Européen des Banques Coopératives  
Europäische Vereinigung der Genossenschaftsbanken*

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## EACB comments on the Joint Committee Consultation Paper on draft guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors

7 February 2014

The **European Association of Co-operative Banks** (EACB) is the voice of the co-operative banks in Europe. It represents, promotes and defends the common interests of its 28 member institutions and of co-operative banks in general. Co-operative banks form decentralised networks which are subject to banking as well as co-operative legislation. Democracy, transparency and proximity are the three key characteristics of the co-operative banks' business model. With 3.700 locally operating banks and 71.000 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 215 million customers, mainly consumers, retailers and communities. The co-operative banks in Europe represent 56 million members and 850.000 employees and have a total average market share of about 20%.

For further details, please visit [www.eacb.coop](http://www.eacb.coop)

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*The voice of 3.700 local and retail banks, 56 million members, 215 million customers*

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## Introduction

***The EACB welcomes the opportunity to respond to the "Joint Committee Consultation Paper on draft guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors" and invites the respective supervisory authorities to consider the below comments.***

## EACB's comments to ESA's consultation paper on Complaints handling

### General comments

**Q1:** To start with, the EACB would like to point out that co-operative banks take their complaints-handling process very seriously; both as a way to continuously improve their level of services, as well as a manner to best serve their clients, who are often also members and thus take a direct stake in the bank.

Indeed, as a showcase of their commitment on the subject, it should be noted that co-operative banks in many cases developed alternative dispute resolution mechanisms (and processes for complaints-handling that precede the ADR-stage) before it became a topic of regulatory debate. This being the case, the members of the EACB look upon the proposed guidelines from a positive perspective. Having said that, the EACB does want to underline that it is not convinced that there is a strong documented need for supervisory convergence on this point. In addition, there are few elements of the proposed guidelines on which the EACB wishes to put forward its considerations.

**Q2:** Firstly, it deems the definition of "complaint" i.e. "a statement of dissatisfaction addressed to a firm by a natural or legal person relating to the provision of service provided under [the applicable Directives]" as being too vague in nature.

Indeed, it is unclear where "a statement of dissatisfaction" starts being a complaint. For example; would a consumer calling his local bank, while expressing his dissatisfaction with the fact that he is at that very moment unable to make payments through his online banking facilities be classified as "a complaint" ?

A broad definition like the proposed may lead to unnecessary processing of (solved) complaints and will weigh heavy on local banks' administrative processes.

Therefore, we would propose to amend the definition of complaint as follows: "a formal statement of dissatisfaction [...] for which compensation can be claimed".

When it comes to ordinary follow-up of oral dissatisfaction expressed with a service provided, there would be other, more informal and direct ways of dealing with this dissatisfaction.

Secondly, the EACB is not quite convinced by the approach taken by ESMA and EBA to transform the guidelines developed by EIOPA for the insurance sector almost directly into guidelines on the securities- and banking sector. Indeed, the underlying legislative requirements for the way in which different sectors offer their services is still fundamentally different on certain key points (e.g. MIFID versus IMD, PRIIPs). The customer's perception of its relation with the provider of the service will therefore remain different.



**Comments to Q2 “Please comment on each of the guidelines, clearly indicating the number of the guideline (there are 7 guidelines) to which your comments relate”**

With regards to Guideline 7 on “Procedure for responding to complaints”, and in particular the part on timelines for responding to the complaints, the EACB is of the opinion that the principle of proportionality should be carefully considered.

Similar requirements cannot be applicable to all activities and each complaint is to be investigated fairly, carefully and individually; strict time limits to deal with complaints might weaken the quality of complaints handling. Guideline 7 states that firms should indicate when the firm’s investigation is likely to be completed. It shall be noted that, where the complaints handling is dependent on the action of a third party, for instance in the case of misuse of a payment card where receipts should be ordered from the merchant, it is not always possible to foresee when the investigation is likely to be completed. In these cases, and following best practice, the consumer can be given an indication of the complexity of the complaints handling process, as well as the information that the appropriate follow-up to the complaint is dependent on the actions of a third party.

**Contact:**

The EACB trusts that its comments will be taken into account.

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