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NOTE

From:	John Berrigan, Director General, Directorate-General for Financial Stability, Financial Services and Capital Markets Union, European Commission
On:	20 July 2026
To:	Francois-Louis Michaud, Chair, European Banking Authority
Subject:	Banking Prudential: 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. No endorsement by the European Commission

Ref. Ares(2026)7177042 - 20/07/2026

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
Tour Europlaza
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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

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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)

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Brussels, 14.7.2026
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COMMUNICATION TO THE COMMISSION

on the intention to reject the 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

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COMMUNICATION TO THE COMMISSON

on the intention to reject the 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

Commission Delegated Regulation (EU) No 241/2014 lays down harmonised rules governing credit institutions' own funds and eligible liabilities. For instance, it sets out requirements for deducting foreseeable dividends from interim and year-end profits, introduces specific provisions for mutual, cooperative and savings institutions, clarifies the notions of direct and indirect funding of capital instruments, and establishes a uniform approach to deducting certain items from own funds. In addition, the Delegated Regulation describes circumstances that may give rise to an expectation of redemption of own funds and eligible liabilities instruments, ensure the timely activation of loss-absorbency mechanisms for AT1 instruments, and define a detailed process for competent and resolution authorities to grant supervisory permission for the reduction of own funds and eligible liabilities instruments.

On 19 March 2026, the EBA published a final draft RTS amending the Commission Delegated Regulation shortening the timeframe for competent and resolution authorities to process credit institution's applications to reduce own funds and eligible liabilities instruments. The proposed amendment is a spontaneous initiative from the EBA and does not fulfil any existing legal mandate.

On 26 March 2026, the EBA sent to the Commission the draft RTS for endorsement, which concerns exclusively the "prior permission regime", under which credit institutions must obtain supervisory approval before reducing, redeeming, or repurchasing own funds or eligible liabilities instruments. The RTS currently provide for a standard assessment period of up to four months for supervisors and resolution authorities. The EBA proposal would reduce this period by one month, from four to three months.

Article 10(1) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing the European Banking Authority (EBA), as amended, sets out that where the European Parliament and the Council delegate power to the Commission to adopt regulatory technical standards ("RTS") EBA may develop draft RTSs and shall submit its draft RTSs to the Commission for adoption.

In accordance with Article 10(1), sub-paragraph 5 of Regulation (EU) No 1093/2010, as amended,where the Commission intends not to adopt a draft regulatory technical standard or to adopt it in part or with amendments, it shall send the draft regulatory technical standard back to the Authority, explaining why it does not adopt it. The Commission shall send a copy of its letter to the European Parliament and to the Council. Within a period of six weeks, the Authority may amend the draft regulatory technical standard and resubmit it in the form of a formal opinion to the Commission. The Authority shall send a copy of its formal opinion to the European Parliament and to the Council.

In accordance with Article 10(1), sub-paragraph 6 of Regulation (EU) No 1093/2010, as amended, if, on the expiry of that 6 week period, the Authority has not submitted an amended draft RTS, the Commission may reject it.

This Communication proposes that the EBA is informed of the Commission's intention to reject the draft RTS. The main reasons for the rejection are summarised in the enclosed draft letter to the Chair of the EBA.

This Communication also proposes that, if the EBA will not issue a formal opinion within six weeks from the communicaiton of the Commission's intention to reject the draft RTS, that position is to become definitive and the draft RTS is to be considered rejected by the Commission.

The Commission is therefore invited to:

- approve the enclosed letter, which informs EBA of the Commission's intention to to reject the endorsement of the Draft Regulatory Technical Standard 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;

- establish that in the absence of a formal opinion by the EBA within six weeks from the communicaiton of the Commission's intention to reject the draft RTS, the draft RTS is to be considered as rejected by the Commission;

- authorise the Director General of the Directorate General for Financial Stability, Financial Services and Capital Markets Union to sign and send the letter to EBA on behalf of the Commission.