



03 October 2011

The European Ombudsman  
Mr P Nikiforos Diamandouros  
1 avenue du President Robert Schuman  
CS 30403  
F-67001 Strasbourg  
France

Tower 42  
25 Old Broad Street  
London EC2N 1HQ  
United Kingdom  
t + 44 (0) 20 7382 1770  
f + 44 (0) 20 7382 1771  
www.eba.europa.eu

+44 (0)20 7382 1765  
Andrea.enria@eba.europa.eu

**Your Ref: 022018**

OI/8/2011/IJH  
E2011-143522

Dear Mr Diamandouros

Thank you for your communication of 31 May 2011 regarding your visit to the European Banking Authority ('EBA'), a visit which I can assure you my staff had found extremely interesting and valuable, especially since the EBA had only been functioning as an EU agency for a mere 4 months when you had visited. In this communication you request feedback to your suggestions by 30<sup>th</sup> September 2011, which we provide below to the best of our ability. Please bear in mind that the Authority is doing its utmost to fulfil its obligations, within the limited resources currently available.

#### **Feedback regarding Suggestions**

With regards to point 4 of your communication, entitled "*The Ombudsman's Findings and Suggestions*", we provide the following comments:

- A. *Making information and documents available to the public proactively, as well as responding correctly to requests.*
- a. *The EBA should publish on its website the practical measures to be adopted by its Management Board for applying Regulation 1049/2001.*

Indeed, the EBA has adhered to the Ombudsman's suggestion, and in line with Article 72 of Regulation EU 1093/2010, has indeed adopted practical measures by its Management Board for applying Regulation 1049/2001. These have been published on the EBA website at the following link:

[http://eba.europa.eu/cabs/media/aboutus/Legal%20Texts/EBA-DC-036--\(Decision-on-Access-to-Documents\) FINAL 1.pdf](http://eba.europa.eu/cabs/media/aboutus/Legal%20Texts/EBA-DC-036--(Decision-on-Access-to-Documents) FINAL 1.pdf)

- b. *The EBA should continue to develop its proactive information policy.*

EBA staff are adapting to the new requisites of bearing in mind whilst drafting documents that such documents may be made public under Regulation 1049/2001. A DPO has been appointed at the EBA to ensure adherence to the European Data Protection Supervisor's requisites. A practical example is that the EBA has included in its meeting registration forms, the following statement: "*Please note that names of participants at this meeting may be made public.*" This would prepare the EBA for potential requests under Regulation EU 1049/2001 for divulging lists

of participants at EBA meetings, as was the case with the complaint lodged against *CEBS Secretariat Ltd* in December 2010.

- c. *The EBA should aim to make the homepage of its website, as well as information on the EBA's functions and language policy, available in all 23 Treaty languages.*

The EBA is currently establishing a policy regarding the translation of documents into the 23 Treaty languages. A framework agreement has been entered into with the *Centre de traduction des organes de l'Union européenne* ('CdT') for the provision of translation services.

Representatives of the CdT have in fact visited the EBA premises earlier this week, on Monday 26<sup>th</sup> September 2011, and discussions have taken place regarding the notion of the translation of documents. Further work is being done in this regard to establish a proper translation policy at the Authority.

#### **B. Responding to complaints**

- a. *The Ombudsman encourages the EBA to regard the complaints as an opportunity to demonstrate its commitment to openness.*

The EBA is adapting to the requisites of an EU body vis-à-vis complaints. The EBA's predecessor, *CEBS Secretariat Ltd* had received one complaint lodged before your office; and the EBA has now received Ombudsmen complaints vis-à-vis the Banking Stakeholder Group ('BSG') composition. As done vis-à-vis the *CEBS Secretariat Ltd* complaint from your office, the EBA is treating the Ombudsmen BSG related complaints from your office, with priority.

Furthermore, the EBA has hired an additional staff member to assist with dealing with complaints or contentions received from the public, which are currently being handled by one person. This decision was taken to ensure that complaints are addressed more swiftly.

The CV's of BSG members have not been published on the EBA website. This proposal is being looked into.

- b. *The EBA could also consider what arrangements to make as regards transparency of meetings of the Group and of the advice that the group and its members provide.*

The EBA will be publishing on its website the conclusions of the BSG meetings.

#### **C. Policies and procedures for dealing with ethical issues**

- a. *In preparing its code of ethics, the EBA should have regard to the view of the OECD on the importance of avoiding "apparent" conflicts of interest as well as "real" conflicts. This will help ensure confidence and trust in its work.*

The EBA is currently finalising its code of ethics, together with the other new European Supervisory Authorities. Indeed, the OECD principles regarding "apparent" conflicts of interest as well as "real" conflicts have been taken into consideration. The EBA will send a copy to you of its code of ethics once this is adopted.

- b. *The EBA should address the issue of potential conflicts of interest in relation to the Banking Stakeholder Group, as well as in relation to its own staff.*

The EBA is addressing the conflicts of interest issue vis-à-vis its staff, by means of the code of ethics currently being finalised. The EBA is currently looking into what could be applied to members of the BSG.

- c. In drafting provisions for whistle blowing, the EBA should bear in mind the need to ensure consistency with the provisions of Articles 22a and 22b of the Staff Regulations, which apply to EBA staff.*

The provisions of whistle blowing are being incorporated within the code of ethics being finalised in conjunction with the other two European Supervisory Authorities. Indeed, the provisions of 22a and 22b of the Staff Regulations will be incorporated.

I sincerely hope the above addresses your suggestions to as far an extent as possible, within our limited resources currently available. Please note that the EBA is striving to meet all its new obligations as an EU agency, and will continue to do so with perseverance and dedication.

Yours sincerely



Andrea Enria  
Chairperson