

## Template for comments

### Public consultation on a guide to assessments of fintech credit institution license applications

#### Institution/Company

European Savings and Retail Banking Group (ESBG)

#### Contact person

##### Mr/Ms

Mr

##### First name

Diederik

##### Surname

Bruggink

##### Email address

diederik.bruggink@wsbi-esbg.org

##### Telephone number

322211121

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#### General comments

ESBG would like to thank the European Central Bank for the opportunity to review and comment on this consultation document. Whilst ESBG agrees with many orientations of the draft guide, it would like to raise the observations as on the Comments sheet of this file.

**Deadline:** 2 November 2017

ID	Chapter	Paragraph	Page	Type of comment	Detailed comment	Concise statement as to why your comment should be taken on board
11 - Intro		1.2	3	Clarification	With respect to section 1.2, ESBG supports combining the FSB definition with the legal definition of a bank. It needs to point out, however, that as many credit institutions (and in particular the members of the savings and retail banking community) have engaged in transforming themselves into digital banks (including via strategic partnerships and diverse forms of cooperation), going forward the proposed definition will become applicable to a very significant pro-portion of credit institutions.	
21 - Intro		1.2	3	Clarification	It follows from this observation 1. that this definition would only be genuinely required for "de novo" institutions, or "neo-banks", indeed "new market participants". One may wonder what the implications of setting specific licence application requirements for a comparatively small segment will be, e.g. with respect to maintaining a level playing field and preventing the inception of a "lex specialis" approach. Such an outcome would assuredly be difficult to support for ESBG.	
34 - Structure		4.4	13	Clarification	With respect to section 4.4 Data governance, ESBG would like to recommend that the Guide makes a specific reference to the requirements of the General Data Protection Regulation. The latter indeed sets stringent requirements notably for data controllers and processors, and start-ups have on several occasions (including at meetings organized by the European Parliament, in presence of the European Data Protection Supervisor) expressed the concern that compliance with the GDPR would be an undue burden for smaller institutions. ESBG would like to stress that, in particular against the coming background of an open banking landscape, a genuine level playing field with respect to data protection is a must. The above mentioned section hence should reference the GDPR.	