

**G.E.B.**

***Groupement Européen de Banques***

**an European Economic Interest Grouping (EEIG)**

according to the Council Regulations of European Economic Communities No. 2137/85



**EU Position Paper**

**June 2015**

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## Introduction to the GEB

The Groupement Européen de Banques (hereinafter “GEB”) is a group of privately owned small and medium sized banks cooperating on several fields of banking activity with the ultimate aim of exchanging experiences on how to best serve customers.

Formally it is a European Economic Interest Grouping (EEIG) according to the Council Regulations of European Economic Communities No. 2137/85.

Founded in 1981, twenty eight different banks from several European countries have been part of the GEB over its 30+ year history. It currently encompasses 8 member banks from 8 different EU countries:

Ålandsbanken (Finland); Banca March (Spain); Banca Sella Holding (Italy); Banco Finantia (Portugal); Banque Martin Maurel (France); Bank J. Van Breda & Co. (Belgium); Bankhaus Lampe KG. (Germany); C. Hoare & Co. (United Kingdom). For short profiles of single member banks of GEB, please refer to Appendix 1.

GEB members have assets ranging from 2,2 to 15,5 bln euros, thus qualifying, according to this measure, as medium and small banks in the EU scenario, even if some of them have an international presence and relevance at domestic level.

GEB members run heterogeneous business models, ranging from commercial banking to specialized wealth management, representing a truly international and unbiased voice from the industry.

## Abstract

Proportionality is a central principle in EU legal system and yet the last recent massive regulation wave in the banking system seems to lack that proportionality. This could impose unsustainable competitive disadvantages on smaller players. Proportionality, supported by evidence based research, does deserve a high place in the agenda of both Authorities and banking associations all around EU.

## 1. A gap between EU principles and reality

Proportionality is a core principle within the EU legal system: it is stated in the Article 5 of Treaty on European Union<sup>1</sup> and is recognised in the judicial system at the highest EU levels<sup>2</sup>. Furthermore, the expression "proportionate to the nature, size and complexity" is used 10 times in CRR/CRD, with explicit coverage in the following areas<sup>3</sup>:

- General Provision (recital 46 CRR)
- Reporting (eg: CRR 99)
- Supervision (CRD 79)
- ICAAP (CRD 73)
- Recovery and resolution plans (CRD 74)

In the words of Andrea Enria, Chairperson of the EBA, "proportionality for us...//.. is about giving space to smaller institutions, to institutions with certain business models, to institutions with specific risk profiles, to apply given European standards in a way that gives them some relief from those requirements that would present a heavy drag on their resources and that may stifle their ability to continue or grow their business"<sup>4</sup>.

EBA position is well expressed in the Chairperson's opening remarks in the 2013 Workshop on proportionality: "we (EBA) need good and solid evidence to differentiate the regulatory treatment of institutions. The active involvement of stakeholders in providing the EBA with such evidence is essential at all stages of the decision making process. In the absence of quantitative evidence, we would appreciate the provision of qualitative assessments or appropriate arguments to justify concrete proposals. The statement that the legislative text would impose unnecessary burden on small banks is not enough."

EU institutions thus recognize the threats that lie in a lack of proportionality in banking regulation and are aware of the danger posed by a gap between principles and reality. But the necessary research of a "sound evidence" on this gap cannot risk to become a further burden on the smaller players of the banking system.

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<sup>1</sup> "Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties."

<sup>2</sup> It was first recognized by the European Court of Justice in its case C8/55 "Federation Charbonniere de Belgique v High Authority" and has since become a general principle of EU law.

<sup>3</sup> M.Nava, Acting Director of Directorate H EU Commission - Financial institutions, speech in EBA Proportionality workshop – Own Funds session - 22 October 2013.

<sup>4</sup> See A.Enria, Chairperson of the EBA, in the Opening remarks - EBA proportionality workshop October 2013.

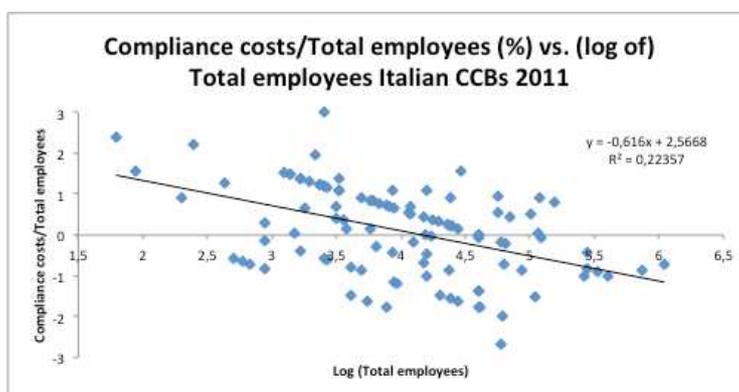
## 2. An unsustainable burden for small and medium banks

The GEB 2011 Position Paper had already warned the EU Commission that small and medium banks in Europe were suffering from disproportionally higher compliance costs associated with the exceptional wave of regulation following the 2008 financial crisis and mainly related to the **lack of proportionality in regulation**. The subsequent Sovereign debt crisis in the Continent has further exacerbated this further.

High and rigid costs add entry barriers to the sector and create scale economies which introduce an incentive to gain size which is not always in the interest of local communities or the general economy.

As we pointed out in the past, these conditions create a serious competitive disadvantage on smaller banking institutions, potentially fatal to many of them in a period of stressed profitability like the current one. The potential crisis of smaller banks may eventually reduce the heterogeneity of the European banking sector: diversity in banking models enhances the prevention of systemic risks by creating economic segments which may be more resilient to crises, eventually increasing the stability of the whole financial sector.

Empirical evidence is still scarce but some initial studies “suggest proportionality is a big issue”<sup>5</sup>: surveys on Italian Credit Cooperative Banks highlight that smaller banks can have up to 3,9% of their headcount costs devoted to regulatory compliance and the weight diminishes with size (see graph below).



Credit Union's surveys from U.S. and Canada similarly show that the proportion of employees working on compliance duties is significantly larger for smaller sized institutions compared with larger ones.

<sup>5</sup> G.Ferri, Academic Professor, “The proportionality concept and objectives” speech at EBA proportionality workshop October 2013

### 3. Proposal

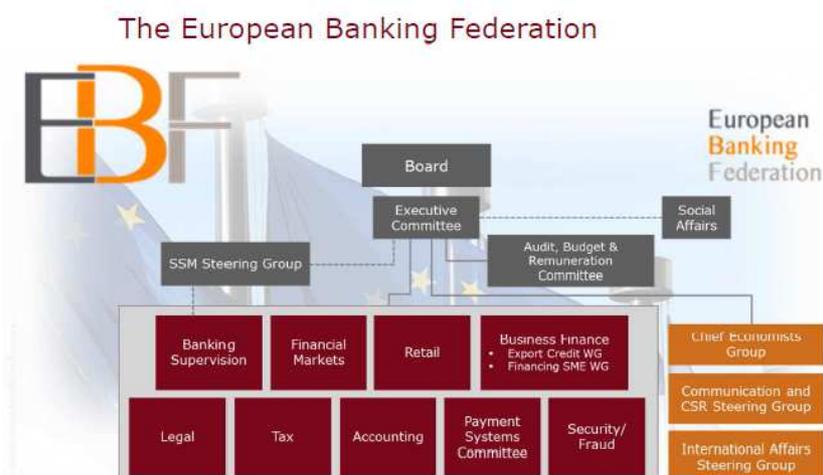
Given this preliminary evidence of the disproportionate burden on smaller firms, competent Authorities should address the problem. Since the EU is now moving from the “emergency regulation” phase caused by the past crisis, there is now an opportunity to enhance the proportionality of the system.

In order to reach this goal, the European Authorities should undertake evidence based research, with appropriate studies, surveys and data collection on the sector. Nevertheless, we believe the EBA could be the most appropriate authority to undertake studies on total compliance costs of the industry and how they vary by size of participant.

Nevertheless, the banking industry should also take some responsibility for assessing proportionality and the potential biases created in the recent regulation wave. But this responsibility should not fall on individual banks, especially those smaller ones most interested in the issue, because of the economic effort needed to undertake this kind of study.

At GEB we are thus convinced that proportionality issue deserves a high priority in the agenda of regulators, think tanks and banking associations. We believe the solution lies in the creation of permanent structures devoted to the study and improvement of proportionality in regulation.

The following picture shows the current organization of the European Banking Federation: adding a box denominated “Smaller Institutions and Proportionality”, ideally a cross-sectional one, would be a formal recognition of the needs of smaller institutions and to the potential disadvantages overwhelming regulation can create for them.



### **3 Conclusions**

Proportionality in EU regulation is a major issue for small and middle size banks. The risk to create a crisis for these subjects through disproportionately higher compliance costs cannot be accepted as a matter of fact to be investigated on an historic - ex-post basis.

We, at GEB, are asking our respective national banking associations to have a higher consideration for proportionality and ask the EBF to have permanent structures in place to monitor and represent the smaller participants on the issue.