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EBA FINAL draft regulatory technical standards

on passport notifications under Articles 35, 36 and 39 of Directive 2013/36/EU

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1. Executive Summary

Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms ('the CDR') sets out requirements concerning the exercise by credit institutions of the right of establishment and the freedom to provide services and mandates the EBA to develop draft regulatory technical standards (RTS) specifying the information to be notified pursuant to Articles 35, 36 and 39 of the CRD.

The draft RTS recognise both the information needs of the competent authorities of the home Member State in order to take a decision on the adequacy of the administrative structure or the financial situation of the credit institution and the need for an exchange of complete and clear information between the competent authorities of the home and the host Member States to allow host competent authorities to prepare for the supervision of the credit institution and to indicate, if necessary, any general good conditions.

Provisions in these draft RTS require credit institutions to submit a programme of operations, indicating the types of business envisaged, providing appropriate links between the branch activities and explaining how these fit into and contribute to the overall strategy of the credit institution. In addition, and as a new provision introduced by these draft RTS, credit institutions are expected to indicate their core business activities in the jurisdiction of the host Member State and the intended start dates for such activities. The structural organisation of the branch, including its governance arrangements, is also specified by these RTS as part of the information to be notified, as is information on the financial plan of the branch for a period of three years.

Information on the planned termination of the operation of a branch is considered to fall under the category of changes to the initial branch notification and therefore the provision of a specific set of information on a planned termination, mainly concerning the management of the relationships of the branch with its existing customers, is also included as a requirement to be met by credit institutions.

Following the conclusion of the consultation process, the EBA finalised the draft RTS taking into account the responses to the relevant consultation paper, to the extent that comments could be addressed.

2. Background and rationale

In accordance with the principle of single authorisation, the decision to issue an authorisation valid for the whole of the EU is the sole responsibility of the competent authorities of the home Member State. A credit institution may then provide the services or perform the activities for which it has been authorised throughout the Union, through either the establishment of a branch or the free provision of services.

Building on Directive 2013/36/EU, these RTS further specify the information that a credit institution wishing to establish a branch within the territory of another Member State should provide and the information that will need to be communicated in case of changes in the initial branch notification. The information to be communicated in the case of service notifications is also specified.

Detailed information concerning the planned programme of operations and the structural organisation of the branch is required, and there are also provisions requiring the credit institution to indicate the main activities that it intends to exercise in the territory of the host Member State and the intended start dates for these activities. Such provisions are expected to:

- improve the information available to the competent authorities of both home and host Member States;
- improve the supervision and monitoring of a credit institution's cross-border activities; and
- minimise additional requests for clarification on the activities and the services that a branch performs cross border.

Information on the termination of a branch operating in the territory of a host Member State was also considered to be important for the performance of the tasks and responsibilities of the competent authorities of home and host Member States.

These RTS build to a large extent on the 'Guidelines for passport notifications' developed by the Committee of European Banking Supervisors (CEBS), the predecessor of the EBA, and should be read along with the draft implementing technical standards (ITS) that establish standard forms, templates and procedures for the purposes of passport notifications

3. EBA FINAL draft regulatory technical standards on passport notifications on Article 35, 36 and 39 of Directive 2013/36/EU

COMMISSION DELEGATED REGULATION (EU) No …/..

of XXX

supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards on the information to be notified when exercising the right of establishment and the freedom to provide services

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC[1], and in particular to Article 35(5), Article 36(5) and Article 39(4) thereof,

Whereas:

(1) The provisions in this Regulation are closely linked, since they deal with notifications related to the exercise of the right of establishment and the freedom to provide services. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, it is desirable to include certain regulatory technical standards required by Directive 2013/36/EU in a single Regulation.

(2) Competent authorities of home and host Member States need to receive updated information in case of change in the particulars of a branch passport notification in order to be in a position to make an informed decision within their powers and respective responsibilities.

(3) This Regulation is based on the draft regulatory technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.

(4) The EBA has conducted an open public consultation on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and

[1] OJ L 176, 27.6.2013, p. 338

benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of (EU) No 1093/2010[2],

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation specifies the information to be notified when exercising the right of establishment and the freedom to provide services in accordance with Article 35(5), Article 36(5) and Article 39(4) of Directive 2013/36/EU.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(1) "branch passport notification" means a notification made in accordance with Article 35(1) of Directive 2013/36/EU by a credit institution wishing to establish a branch within the territory of another Member State to the competent authorities of its home Member State;

(2) "change of branch particulars notification" means a notification made in accordance with Article 36(3) of Directive 2013/36/EU by a credit institution to the competent authorities of the home and host Member States of a change in the particulars communicated pursuant to points (b), (c) or (d) of Article 35(2) of that Directive;

(3) "services passport notification" means a notification made in accordance with Article 39(1) of Directive 2013/36/EU by a credit institution wishing to exercise the freedom to provide services by carrying on its activities within the territory of another Member State for the first time to the competent authorities of its home Member State;

(4) "passport notification" means a branch passport notification, a change of branch particulars notification or a services passport notification.

Article 3

Branch passport notification

1. The information to be notified in a branch passport notification shall include the following:

[2] Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

(a) name and address of the credit institution and name and intended principal place of business of the branch;

(b) programme of operations as specified in paragraph 2;

(c) other information, comprising the following items:

(i) a financial plan containing forecasts for balance sheet and profit and loss account covering a period of three years;

(ii) the name and contact details of the Union deposit guarantee and investor protection schemes of which the institution is a member and which cover the activities and services of the branch, together with the maximum coverage of the investor protection scheme;

(iii) details of the branch's IT arrangements.

2. The programme of operations referred to in point (b) of paragraph 1 shall comprise the following items:

(a) types of business envisaged, comprising the following items;

(i) the main objectives and business strategy of the branch and an explanation of how the branch will contribute to the strategy of the institution and, where applicable, of its group;

(ii) a list of the activities in Annex I of Directive 2013/36/EU that it is envisaged that the branch will conduct;

(iii) an indication of the activities that will constitute the core business in the host Member State, including the intended start date for each core activity;

(iv) a description of the target customers and counterparties.

(b) structural organisation of the branch, comprising the following items;

(i) a description of the organisational structure of the branch, including functional and legal reporting lines and the position and role of the branch within the corporate structure of the institution and, where applicable, of its group;

(ii) a description of governance arrangements and internal control mechanisms of the branch, including the following items:

– risk management procedures of the branch and details of liquidity risk management of the institution, and where applicable, of its group;

– any limits that apply to the activities of the branch, in particular to its lending activities;

– details of the internal audit arrangements of the branch, including details of the person responsible for these arrangements and, where applicable, details of the external auditor;

– anti-money laundering arrangements of the branch including details of the person appointed to ensure compliance with these arrangements;

– controls over outsourcing and other arrangements with third parties in connection with the activities carried on in the branch that are covered by the institution's authorisation;

(c) in relation to investment services and activities, as defined in Article 4(2) of Directive 2004/39/EC[3], the following items, where applicable:

(i) the arrangements for safeguarding client money and assets;

(ii) the arrangements for compliance with the obligations laid down in Articles 19, 21, 22, 25, 27 and 28 of Directive 2004/39/EC and measures adopted pursuant thereto by the relevant competent authorities of the host Member State;

(iii) the internal code of conduct including controls over personal account dealing;

(iv) details of the person responsible for dealing with complaints in relation to the investment services and activities of the branch;

(v) the details of the person appointed to ensure compliance with the arrangements of the branch relating to investment services and activities;

(d) details of professional experience of the persons responsible for the management of the branch.

Article 4

Change in branch particulars notification and notification of termination of operation of a branch

1. Other than in relation to a change concerning the planned termination of operation of a branch, the information to be notified in a change in branch particulars notification is the information specified in points (a) and (b) of Article 3(1) to the extent that there has been a change in that information since the previous time that it was provided, or, if it has not previously been provided, since the date of the entry into force of this Regulation.
2. The information to be notified in a change in branch particulars notification which concerns the planned termination of the operation of a branch shall include the following:

(e) the name and contact details of the persons who will be responsible for the process of terminating the operation of the branch;

(f) the estimated schedule for the planned termination and any relevant updates as the process evolves;

(g) information on the process of terminating the business relations with branch customers.

[3] Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p.1)

Article 5
Services passport notification

The information to be notified in a services passport notification shall include the following:

(a) the activities that will be carried on for the first time in the host Member State;

(b) the activities that will constitute the core business in the host Member State;

(c) the intended start date for each core service activity in so far as possible.

Article 6

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President
[…]

4. Accompanying documents

4.1 Cost–benefit analysis

4.1.1 Introduction

The EBA's 'Guidelines for passport notifications' (August 2009) were developed and agreed by the competent authorities of the EU Member States, recognising the need to cooperate and exchange information to ensure clarity and consistency in the content of the information to be notified by credit institutions that want to operate cross border in the European Economic Area (EEA) through the exercise of their right of establishment of branches or their freedom to provide services. Although non-binding, these guidelines represent a set of common standards already agreed on. In addition, the competent authorities have gained sufficient experience in the implementation of a common framework to identify positive aspects as well as drawbacks and elements that could be taken into account to develop a better regulatory framework.

Thus, the draft RTS build to a large extent on the existing guidelines. In order to assess the impact expected from the add-on elements that are proposed by the draft RTS, the cost–benefit analysis was performed based on a questionnaire that was developed internally by EBA substructures, in which competent authorities of all the Member States are represented. This cost–benefit analysis aimed to assess, inter alia, the level of implementation of the existing guidelines by the competent authorities and the level of compliance of credit institutions with the implemented elements of the guidelines.

4.1.2 Procedural issues and stakeholder consultation

While developing the draft regulatory technical standards and before the publication of the consultation paper, it was felt important to consult competent authorities on the policy options and the approaches favoured by the draft RTS, with special focus on the information to be provided from the credit institution to the competent authorities of the home Member States and from the competent authorities of the home Member States to the competent authorities of the host Member States.

In this context, an impact assessment questionnaire was developed, addressing the following issues:

- the level of implementation of the existing guidelines and compliance, with particular focus on the information to be notified;
- the current supervisory framework, with a focus on the number of notifications received from authorities in their capacities both as home and as host;
- a comparison between the current and the future framework, with a focus on expected changes as a result of the proposed regulatory technical standards only (meaning that any changes resulting from the ITS were kept aside for the purposes of this comparison);
- the costs and benefits of the draft RTS, with a focus on the specific policy options that have been noted as those from which the main incremental costs and benefits are expected.

The sections below describe in detail the results of the analysis of the responses submitted for all these four areas.

4.1.3 Level of implementation and current supervisory framework

From the responses received during the cost–benefit analysis, 79% of competent authorities reported a 100% level of implementation, while 21% reported a 75% level of implementation.

4.1.4 Comparison between the current and future supervisory framework

In general, the scope of the proposed draft RTS is wider than that of the current regulatory framework with regard to the information to be notified on (i) the establishment of a branch, (ii) changes in the initial branch notification and (iii) branch termination. The draft RTS are assessed as having similar scope for the information to be provided in case of notification for the exercise of freedom to provide services.

4.1.5 Problem definition

The main problem addressed by the EBA is the specification of the information to be notified from (i) the credit institution to the competent authorities of the home Member State, and from the competent authorities of the home Member State to the competent authorities of the host Member State (in the case of an initial branch notification), and (ii) from the credit institution to the competent authorities of the home and the host Member States (in the case of a change in the initial branch notification).

To accomplish this, the EBA took into account the fact that the goal of binding technical standards is to achieve the maximum possible harmonisation as a means of reaching the objectives of achieving a level playing field, preventing regulatory arbitrage opportunities, and enhancing supervisory convergence and legal clarity. In addition, provisions included in the draft RTS should clearly specify the information that needs to be notified and, by doing so, reduce the burden of compliance for credit institutions and contribute to efficient and effective cooperation between the competent authorities in the home and the host Member States.

4.1.6 Objectives

The impact assessment has been carried out with the aim of ensuring that the four general objectives of Directive 2013/36/EU are met and that negative externalities have been contained ([4]). However, for the purposes of the forthcoming analysis, three general objectives are particularly relevant to the specific RTS:

- Enhance financial stability (G-1). This objective is satisfied, given that the RTS specify in detail the information required for the exercise of the right of establishment and of the freedom to provide services, thus providing the home and the host authorities with a common and comparable set of information across the EEA, a tool that will contribute to efficient supervision of banking groups' cross-border activities and enhance financial stability.

- Enhance safeguarding of depositor interests (G-2). The RTS satisfy this objective in two directions, by building a more coherent requirement on information concerning the core activities of the intended business abroad, thus enabling both the home and the host authorities to have a better understanding and overview of the activities of the credit institution

[4] For more information, refer to the Commission staff working paper–impact assessment' accompanying the document 'Regulation of the European Parliament and the Council on prudential requirements for the credit institutions and investment firms' (http://ec.europa.eu/internal_market/bank/docs/regcapital/DIRECTIVE 2013/36/EU4_reform/IA_regulation_en.pdf)

in the host Member State. In fact, the new set of rules on the information to be notified minimises the possibility of 'unclassified notifications' by creating a material link between the intended activities abroad and the programme of operations in the case of the establishment of a branch in the territory of a Member State (indication of the core business activities).

- Ensure the international competitiveness of the EU banking sector (G-3). The common and standardised set of information required by the RTS will foster a level playing field among credit institutions operating in different jurisdictions, reducing compliance costs and fostering opportunities for institutions to expand in an integrated European banking sector.

The (specific) operational objectives that are the most relevant and addressed, implicitly or explicitly, by these draft RTS are the following:

- Prevent regulatory arbitrage opportunities (S-3). In line with the task of building up a single rulebook on supervision at European level, the RTS reduce the risk of national approaches that could result in inconsistencies in the set of information required by credit institutions that intend to operate cross border in the EEA.

- Enhance legal clarity (S-4). It is of paramount value both for the competent authorities of home and host Member States and for credit institutions that they can rely on provisions covering the content of the passport notifications, reducing to a minimum the risk of providing incomplete information.

- Reduce the burden of compliance (S-5). A harmonised framework of technical standards among competent authorities in the EU will have a beneficial impact on the compliance costs sustained by credit institutions, by reducing the risk of having to comply with 'gold-plating' rules or practices at national level.

- Ensure a level playing field (S-6). A harmonised framework of technical standards among competent authorities in the EU will foster opportunities for credit institutions to offer services cross border, ensuring that notification procedures operate according to a single common mechanism, implemented and binding in all jurisdictions.

- Enhance supervisory cooperation and convergence (S-7). Cooperation among authorities will benefit from the introduction of the RTS, providing more clarity on the information that is expected to be communicated from the competent authorities of the home Member State to the competent authorities of the host Member State, avoiding unnecessary and burdensome requests as well as delays caused by the provision of incomplete information.

4.1.7 Policy options: analysis and comparisons/preferred options

The cost–benefit analysis considered the following policy options to be the most relevant for the draft technical standards:

I. developing the draft regulatory technical standards based on the 'Guidelines for passport notifications';

II. developing the draft regulatory technical standards from scratch, ignoring the already implemented guidelines.

During the development of the draft impact assessment, the following policy options were identified as the most important ones in terms of resulting incremental costs and benefits. The questionnaire that was used for the purposes of the impact assessment analysis invited competent authorities to note the three most important incremental costs and benefits and to identify the policy options from which these costs and benefits resulted.

i. Information on core services/activities and intended start dates

The experience of competent authorities revealed that credit institutions tend to submit passport notifications – both for the exercise of their right of establishment and their freedom to provide services – that encompass a wide range of financial services, regardless of the activities that the institution in fact intends to perform in the territory of the host Member State (unclassified notifications).

Very often, notifications include all the activities for which the credit institution is authorised in the home Member State, while only a few of these activities are actually performed in the territory of the host Member State within a reasonable time after the approval of the notification.

This practice makes it particularly burdensome for competent authorities of home and host Member States to handle notifications and have an up-to-date overview of the services provided abroad because of the lack of clarity on the actual activities performed by the credit institution.

An unclassified notification also makes it difficult for the home supervisor to perform its obligatory assessment keeping in mind the activities envisaged by the institution. It is noted that the main purpose of the home supervisor's assessment is to evaluate the institution's capacity to operate a cross-border branch carrying out certain activities.

To address this issue, the draft RTS on branch notifications include the requirement for credit institutions to submit – together with the selection of the activities provided for in Annex I to Directive 2013/36/EU – *"an indication of the activities that will constitute the core business in the host Member State, including the intended start date for each core activity"*.

The merits of this solution are (a) to ensure compliance with the CRD, both in terms of guarantees to the credit institution and the scope of the information required by the Level 1 text, and (b) to provide the competent authorities of the home and the host Member States with more focused information on the intended activity of the credit institution in the territory of the host Member State.

ii. Forecasts of balance-sheets and profit and loss accounts for a period of three years (versus a period of one year, which is the current requirement specified in the guidelines)

Competent authorities felt that in the case of the establishment of a branch the requirement for forecasts of balance-sheets and profit and loss accounts for a period of three years would help to build a more robust set of information, for the benefit of both the home and the host authorities, on the

business and activities of the group in the host Member State compared with data covering a period of only 12 months, which is currently the requirement in the passport guidelines.

iii. Information on the termination of the operation of a branch

The termination of the operation of a branch can be considered to fall under the category of changes to the initial notification; it was also felt that this business decision is of particular relevance for the competent authorities of the host Member State. To this end, Article 4 of the draft RTS, which states that the termination of a branch should be notified in accordance with Article 36(3) of the CRD, also specifies that the notification should include the following information: an indication of the persons responsible for dealing with the termination of the branch operations; the schedule of the planned termination; and an overview of the process for terminating business relations with branch customers.

4.1.8 Cost–benefit analysis

(1) General assessment

In the opinion of the national competent authorities, the policy options mentioned above are on the whole likely to generate incremental benefits rather than incremental costs. The envisaged incremental benefits are expected largely to affect the competent authorities rather than credit institutions or any other possible stakeholders. On the other hand, the incremental costs are expected to affect the competent authorities and credit institutions equally, while no incremental costs were mentioned in the assessment of the impact on other stakeholders. The most frequent source of benefits to the competent authorities are the provisions enabling them to have access to harmonised and complete sets of information for the purposes of passport notifications. Such benefits are partially offset by costs arising from the need to consider and analyse this information. With regard to credit institutions, incremental costs are linked to provisions specifying the information to be notified, while benefits are mainly expected to arise from the level playing field and common regulatory standards in the EU.

(2) Benefits

– Competent authorities: as mentioned above, the cost–benefit analysis shows that on the whole the competent authorities would be the main stakeholders affected by the incremental benefits arising from the new regulation, while the incremental costs would impinge on them to a lesser extent. The provision covering the information on core services/activities and intended start dates is the one referred to the most as a possible source of incremental benefits for the competent authorities, given that it is believed that it will enable competent authorities of home and host Member States to have access to information of a higher quality, and therefore to have a better understanding of credit institutions' cross-border activities. The provision requiring forecasts of balance-sheets and profit and loss accounts for a period of three years (versus a period of one year, which is the current requirement) and the provision requiring information on the termination of the operations of a branch were also indicated as potential sources of benefits for the competent authorities, given that they are perceived to provide more accurate and complete information.

- Credit institutions: the cost–benefit analysis shows that, in the opinion of the national competent authorities, credit institutions may be burdened by the costs arising from the policy options to be introduced by the new regulation to a greater level than competent authorities and other stakeholders. No specific benefits for credit institutions were discussed during the cost–benefit analysis, other than clarity on the information requirements that they need to meet when submitting passport notifications.

- Other stakeholders (depositors, investors, etc.): the great majority of the responses do not consider that the new regulation will produce significant benefits or costs for other possible stakeholders. However, benefits that have been referred to the most in the responses are associated with (i) better information for the clients/depositors of EEA credit institutions in the host country, (ii) enhanced market transparency and (iii) higher economic safety.

(3) Costs

- Competent authorities: policy option (i) (information on core services/activities and intended start dates) is the option most frequently indicated as source of incremental costs for the competent authorities, as the competent authorities are expected to need more time or resources to consider and analyse the information provided while handling passport notifications. The same costs were mentioned with regard to policy option (ii) (forecasts of balance-sheets and profit and loss accounts for a period of three years (versus a period of one year, which is the current legal requirement)) and policy option (iii) (information on the termination of the operations of a branch).

- Credit institutions: the policy option mentioned the most as one from which incremental costs for credit institutions are expected to occur is the one covering provision on information on core services/activities and intended start dates, mainly because credit institutions will need to provide more information. The same reason for increased costs was listed for policy options (ii) and (iii), although they were referred to as possible sources of cost to a lesser extent.

4.2 Feedback on the public consultation

The EBA publicly consulted on the draft proposal contained in this paper.

The consultation period lasted for three months and ended on 21 August 2013. Five (5) responses were received, all of which were published on the EBA website.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

In many cases, several industry bodies made similar comments or the same body repeated its comments under different sections of the draft RTS.

Changes have been incorporated into the draft RTS as a result of the responses received during the public consultation.

The draft RTS were also presented to the EBA Banking Stakeholder Group (BSG); however, no formal opinion was submitted by the BSG.

Summary of key issues and the EBA's responses

The comments submitted on the draft RTS on passport notifications were in general positive, welcoming the development of the proposed legislation building on the existing passport notifications framework and the EBA 'Guidelines for passport notifications'. The main concerns expressed were focused on the range of information that is required to be provided in the initial branch notification and on the scope of the notification of changes in branch particulars notifications.

The EBA considers that the information to be notified in the initial branch passport notification under Article 3 of the draft RTS builds to a large extent on the EBA 'Guidelines for passport notifications', which have largely been applied by competent authorities in EEA Member States. All items under Article 3 are considered to be important information for the original passport notification and therefore changes in these items are also assessed as essential information to be provided both to the competent authorities of the home Member State and to the competent authorities of the host Member State. The only exemptions to this rule are the items under Article 3(1)(c) of the draft RTS, and this exemption is reflected in Article 4(1) of the draft RTS.

The information to be notified in Article 3 of the draft RTS specifies the information to be provided pursuant to Article 35(2)(b)-(d) of the CRD, fulfilling the mandate from the Level 1 text. All items under Article 3 were assessed by the competent authorities as important information for performing the assessment of the passport notification (competent authorities of the home Member State) and for ensuring clarity and transparency on the activities performed in the territory of host Member States (competent authorities of host Member States).

Summary of responses to the consultation and the EBA's analysis

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
General	The current passport notification framework is considered to be efficient and effective, and there is no need to include provisions that require notification of information that goes beyond the existing EBA 'Guidelines for passport notifications'. Clarifications on whether the existing passports would be exempt from the proposed framework (grandfather provisions) are needed. The proposed legislation is expected to contribute to notifications being assessed more quickly and credit institutions being in a position to start providing their activities cross border in a more timely basis. Materiality should be considered.	The draft RTS build on the existing guidelines, also taking into account the provisions of Articles 35, 36 and 39 of the CRD. The provisions of the RTS are not identical to the provisions of the guidelines, as a result either of specific policy options added to take into account supervisory experiences gained from the implementation of the guidelines or of the need to adhere to the mandate from the Level 1 text. The proposed legislation will apply to passport notifications performed following the issuance of these binding technical standards. However, credit institutions will be expected to provide the information specified in points Article 3(1)(a) and (b) of the draft RTS, if this information has not previously been provided, from the date of the entry into force of the regulation.	See change applied in Article 4(1) of the draft RTS.
Notification on the termination of branch operations	Information on the termination of branch operations will be useful and will contribute to the transparency of the process and consumer protection.	No comment.	No change was applied.
Notification on the termination of branch operations	These provisions should be applied with flexibility. It might be the case that banks would be unable to adhere to a predetermined schedule.	The provisions already allow for some flexibility, given that what is expected from the credit institution is to provide information on the schedule for the planned termination. It is expected that updates on the progress of the planned termination will be provided to the	Refer to change in Article 4(2)(b).

		competent authorities of the home and the host Member States as the process of termination evolves.	
Core activities	Information on core activities will contribute to greater transparency of the activities of banking groups in the territory of host Member States and will be useful both for competent authorities and for credit institutions.	No comment.	No change was applied.
Changes in the initial branch passport notifications	The more details the initial notification is required to provide, the more often the banks will need to provide updated information to reflect changes in the initial branch notifications. There are concerns that it would be difficult for banks to comply with the requirements and to keep track of changes, especially for those banks with many branches in host Member States. Some respondents suggest limiting the information to be notified under Article 3 of the RTS.	The information specified in Article 3 of the draft RTS builds to a large extent on the EBA 'Guidelines for passport notifications', which have largely been applied by competent authorities in EEA Member States. All items under Article 3 are considered to be important information for the original passport notification and therefore changes in these items are also assessed as essential information to be provided both to the competent authorities of the home Member State and to the competent authorities of the host Member State. The only exemptions to this rule are the items under Article 3(1)(c), and this exemption is reflected in Article 4 of the draft RTS.	No change was applied.
Changes in the initial branch passport notifications	Notifications of changes should apply only for significant changes and not for all the information specified under Article 3. In particular, the wording should change and refer to the items listed in Article 35(2)(b)–(d) of the CRD. There are concerns about the potential need for disproportionate supervisory resources to deal with the amount and frequency of such notifications. It will be difficult for banks to comply with these provisions. Information may already be communicated from the	The information to be notified in Article 3 of the draft RTS specifies the information to be notified pursuant to Article 35(2)(b)–(d) of the CRD,, fulfilling the mandate from the Level 1 text. All items under Article 3 were assessed by the competent authorities as important information for performing the assessment of the passport notification (competent authorities of the home Member State), and for ensuring clarity in the activities performed in the territory of host Member States	No change was applied.

	branch to the competent authorities of the host Member States in compliance with local requirements (e.g. compliance or anti-money-laundering personnel).	(competent authorities of host Member States).	
Changes in the initial branch passport notifications	Notifications of changes in branch particulars should focus on material changes to core activities.	As above. It should also be borne in mind that Article 36(3) of the CRD requires a change in the particulars listed under Article 35(2)(b)-(d) of the CRD to be notified and does not limit notifications of changes to core activities only.	No change was applied.