Draft ANNEX V

Instructions on Supervisory Disclosure

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1. Overview
2. The objective of these instructions is to provide guidance to Competent Authorities (CAs) on how to fill in the supervisory disclosure templates of the Commission Implementing Regulation (EU) No 650/2014 (the ITS on Supervisory Disclosure) in order to ensure high quality and consistency of the information to be published in accordance with Articles 143(1) and 144 of Directive 2013/36/EU (CRD IV).
3. These instructions consist of general instructions and template related instructions. The general instructions set basic principles to be applied across the templates, whereas template related instructions specify how to fill in certain templates, especially where there is no reference to Regulation (EU) No 575/2013 (CRR) Articles or where additional explanation is necessary.
4. Template related instructions cover the detailed templates listed in Annexes I to IV of the ITS on Supervisory Disclosure: rules and guidance, options and discretions, supervisory review and evaluation process criteria and methodologies, aggregate statistical data on banking sectors, credit risk, market risk, operational risk and supervisory measures / administrative penalties and waivers.
5. General instructions
6. According to Article 143 of the CRD IV and the ITS on Supervisory Disclosure, CAs should each year update the information by 31 July based on the position as at 31 December of the preceding year. They may update the information published in relation to points (a) to (c) of Article 143(1) of the CRD IV, namely Annex 1 to 3, at other times in order to reflect changes to that information that have taken place since 31 December of the preceding year.
7. All the information displayed on the EBA website – including short texts such as executive summaries required under Article 143(1)(c) of the CRD IV – are in English. The texts and documents disclosed on national websites under the framework will be made available in English on a best-effort basis by the non-English speaking countries.
8. The need for disclosure does not override the confidentiality principle dealing with the exchange of information and professional secrecy. Consequently, no supervisory actions or decisions directed at specific institutions are to be disclosed. In particular, disclosures relating to the supervisory process under Article 143(1)(c) of the CRD IV should exclude any supervisory measures directed at specific institutions, whether taken with respect to a single institution or to a group of institutions. Likewise, the aggregate statistical data referred to under Article 143(1)(d) of the CRD IV should be disclosed only insofar as institution-specific data cannot be derived from the aggregate data. However, any data that an institution would itself be required to disclose, e.g. under Pillar 3, can be considered by the CAs not to raise a confidentiality issue. CAs retain sole responsibility for determining when information may not be disclosed because of a potential breach of confidentiality.
9. The information required in some templates shall be filled in using an index. The following list provide the definition of each index: “A” (Applied); “PA” (Partially applied); “N/A” (Not Available); “NA” (Not Applicable); “C” (Confidential); “TBC” (To Be Confirmed). Cells should not be left empty (i.e. one of the aforementioned indices should be used instead).
10. The information is displayed according to a two-tiered architecture, in which the EBA website serves as a centralised electronic repository. It allows for quick and easy comparison of relevant information in respect to Annexes I to III, and provides links to the websites of the national supervisory authorities. The websites of CAs provide the exhaustive and detailed information required by the CRD IV. For instance, regarding the disclosures under Article 143(1)(b) of the CRD IV, EBA posts on its website only the information provided by the national authorities which is needed to permit meaningful comparisons of the ways in which options and discretions are exercised in the different Member States. This basic information then serves as a quick reference to the more detailed information (e.g. texts of national laws and regulations) available on national websites.
11. As regards Annex IV on aggregate statistical data, the EBA publishes the link to the supervisory disclosure section of CAs’ website in order to fulfil the requirements of Article 143 (2) of the CRD IV stating that this information should be “accessible in a single electronic location”.
12. To avoid unnecessary duplication of work and to ease the burden of updating information at both national and EBA levels, EBA recommends that links to the actual texts of documents from the EBA website be used only on an exceptional basis. If links to national websites change, EBA should be informed without delay.
13. To ensure the comparability of information provided by different countries represented in EBA, a certain degree of standardisation is considered necessary. EBA therefore recommends that it and CAs incorporate similarly-structured web pages devoted to supervisory disclosure into their own websites, and that they use a common format for their information tables.
14. The CAs remain solely responsible for the information made available on their websites.
15. Title VIII of the CRD IV requires that supervisory information be disclosed by CAs in order to facilitate the assessment of the degree of standardisation of supervisory practices across the Union. Accordingly, the EBA may conduct annual thematic peer analysis on the basis of the information disclosed under Articles 143 and 144 of the CRD IV.
16. The list of CAs' webpages dedicated to supervisory disclosure is provided by the EBA. If links to national websites change, EBA should be informed without delay.
17. Template related instructions
    1. Annex I – Rules and Guidance
18. Article 143(1) of the CRD IV requires CAs to disclose administrative rules and guidance. In addition to text of laws and regulation, CAs may adopt other types of documents regarded as appropriate under the term ‘administrative rules’. For the purpose of supervisory disclosure, the term ‘administrative rules’ is understood to refer to documents that instruct supervised institutions on how to fulfil legislative and regulatory requirements. The character and legal enforceability of administrative rules is likely to vary from one jurisdiction to another. CAs retain sole responsibility for deciding what types of documents (e.g. instructions, methodological notes, and administrative notices) are appropriate to disclose under the generic heading of ‘administrative rules.’ The same holds true for ‘general guidance’. In general, however, CAs should strive for the widest possible disclosure, regardless of what legal instruments they use.
19. General guidance covers other relevant explanatory information to which CAs may wish to draw the attention of end-users in order to provide a basic understanding of the new capital requirements framework. This information might, for example, take the form of frequently asked questions (FAQs) at the national level, relating to the national texts of laws, regulations or administrative rules.
20. Annex I Part 1 of the ITS on Supervisory Disclosure covers the texts of the laws, regulations, and administrative rules used by each Member State to transpose the provisions of the CRD IV. Depending on the national implementation approach, these may take the form either of new legislative and regulatory texts adapting the Directive into national law, or existing legislative texts or regulations amended accordingly. Links to the national text should be inserted in the “national text” column and details on relevant Title, Chapter and paragraph should be inserted in the “references” column.
21. The information disclosed under Annex I Part 2 of the ITS on Supervisory Disclosure should also comprise general information on the supervisory approval process itself as this may provide end-users with useful practical information. A hyperlink to relevant national documents (e.g. detailed technical guidance, supervisory rules) may be included.
22. In Part 3, Article 153(5) of the CRR requires institutions to assign risk weights to specialised lending exposures taking into account different factors. EBA developed the regulatory technical standards to specify how institutions shall take into account the factors referred to in Article 153(5) of the CRR. In this regard, it published guidance on how institutions should assign risk weights to specialised lending exposures under the Internal Ratings Based approaches and disclose information on these national slotting criteria.
23. In Annex I Part 8 of the ITS on Supervisory Disclosure information on the usage of the FINREP and COREP framework for the reporting of entities that are not covered by CRD IV like financial institutions according to Article 4(26) of the CRR should also be disclosed. Also the type of entity (e.g. entities that provide financial leasing services) should be indicated.
    1. Annex II – Options and discretions
24. ECB shall publish information of the options and discretions (O&D) as exercised for significant supervised credit institutions. Information on the application of O&D for less significant institutions shall be published by NCAs within the SSM.
25. Article 143(1)(b) of the CRD IV requires CAs to disclose the manner in which they exercise the O&D available in EU legislation.
26. Since many of the policy decisions regarding O&D are implemented via regulation, sub-paragraphs (a) and (b) of Article 143(1) of the CRD IV do overlap to a certain degree. This duplication is considered acceptable and even desirable, since it highlights the different focus of the two subparagraphs. Subparagraph (a) is intended to present a given Member State’s national texts as a cohesive whole. Subparagraph (b) focuses on the differences between the national banking legislations of different Member States. Such differences should be presented together in order to facilitate comparative analysis.
27. The supervisory disclosure framework specifically excludes supervisory actions or decisions directed at specific institutions. Consequently, O&D which are exercised with respect to individual institutions or to a given set of institutions, and which are not generally applicable, are not disclosed under Article 143(1)(b) of the CRD IV. In particular, when the Regulation refers to the need for an institution to obtain a CA’s approval or authorisation for various purposes, such authorisation or approval might be discretionary, but it does not constitute a national discretion in the sense described above.
28. Finally, not all O&D that might fall within the scope of the framework and meet the above definition are necessarily of interest for supervisory disclosure purposes. In particular, some O&D are exercised not by CAs or Member States, but by the institutions themselves. CAs are not required to make disclosures concerning options which they do not have the power to exercise.
29. In this regard, changes were introduced in order to take into account options stemming from the LCR delegated act (LCR DA) or that were missing in the initial version of the templates.
30. The templates have been adjusted in order to make a distinction between CAs or Member States, addresses to credit institutions/investment firms and permanent or transitional.
31. Legal references are to be disclosed on the CA’s websites. Links to the national text should be inserted in the “national text” column and details on relevant Title, Chapter and paragraph should be inserted in the “references” column.
32. The templates of Annex II of the ITS on Supervisory Disclosure are broken down into three parts: Part 1 provides an overview of O&D set out in CRD IV, CRR and LCR DA. Part 2 provides details on the transitional O&D set out in CRD IV and CRR. Part 3 provides details on the variable elements of remuneration set pursuant to Article 94(1) of the CRD IV.
33. The template of Annex II, Part 1 and 2 should be filled as follows:

CAs / Member States should disclose whether they exercise an O&D or not (“Y” (Yes),“N” (No), and “NA” (Not Applicable) The national legal basis should be disclosed as well, ideally including a link to the legal text in the country’s official language and in English.

“Yes” indicates that the competent authority[/member state] has exercised the option, in the sense that it has either taken an individual decision on the treatment described, or a policy decision on which approach it will take, for the moment when it is called to take a decision.

“No” would be the opposite of the above.

“NA” shall be used, for example, when a jurisdiction has different Competent Authorities for credit institutions and investment firms. We would expect “NA” for those options and discretions out of their respective scope.

* 1. Annex III – Supervisory review and evaluation process

1. Article 143(1)(c) of the CRD requires CAs to disclose the general criteria and methodologies they use in the review and evaluation referred to in Article 97 of the CRD IV on Supervisory Review and Evaluation Process (SREP).
2. The disclosure of information on the SREP is split into four categories:
3. Scope of application of SREP (Articles 108-110 of the CRD IV);
4. Assessment of SREP elements (Articles 74-96 of the CRD IV);
5. Review and Evaluation of ICAAP and ILAAP (Articles 73, 86, 97, 98 and 103 of the CRD IV); and
6. Overall assessment and supervisory measures (Articles 102 and 104 of the CRD IV).

CAs are required to disclose the criteria and methodologies used in categories (a) to (c) and for the overall assessments in category (d). The type of information that should be disclosed in form of an explanatory note is described in the second column of Annex III of the ITS on Supervisory Disclosure. Further guidance is provided in the following paragraphs of these instructions.

*(a) Information to be disclosed under the category ‘Scope of application of SREP’*

1. CAs should explicitly state which type of entities are covered by/excluded from the SREP, especially where the level of application of SREP is wider than CRR/CRD institutions.
2. Each CA should provide a high-level overview of how it addresses proportionality when considering the scope of its SREP both at the institutional level and in respect of its own resources.
3. In particular, CA should explain the approach used to classify institutions into different categories for SREP purposes explaining the use of quantitative and qualitative criteria, and how overall impact on financial stability or other overall supervisory objectives is considered in such categorisation.
4. CA should also explain how categorisation is put in practice for the purposes of minimum engagement in SREP assessments, including what are the frequencies for the assessment of all SREP elements for different categories of institutions.

*(b) Information to be disclosed under the category ‘Assessment of SREP elements’*

1. CA should describe the approach to the assessment of SREP elements (business model analysis, assessment of internal governance and institution-wide controls, assessment of risks to capital and capital adequacy, and assessment of risks to funding and liquidity adequacy).
2. The explanatory note should also show how CA applies the principle of proportionality in the depth and granularity of these assessments and what working tools e.g. on-site inspections and off-site examinations, qualitative and quantitative criteria, statistical data etc. are used in the assessments. Hyperlinks to any guidance on the website of the CAs are also recommended.

*(c) Information to be disclosed under the category ‘Review and Evaluation of ICAAP and ILAAP’*

1. The explanatory note should provide an overview of the CA approach to collecting and assessing ICAAP and ILAAP information, and in particular what is the submission process and format for ICAAP and ILAAP information. CAs should clarify whether an independent review of the ICAAP and ILAAP is required.
2. CAs should also explain how the assessment of ICAAP and ILAAP is covered by the minimum engagement models applied for proportionality purposes based on SREP categories (see above) as well as how proportionality is applied for the purposes of specifying supervisory expectations to ICAAP and ILAAP, and in particular, any guidelines or minimum requirements for the ICAAP and ILAAP the CAs have issued.

*(d) Information to be disclosed under the category ‘Overall Assessment and supervisory measures’*

1. The explanatory note should explain the approach CAs apply to arrive to the Overall SREP assessment and its communication to the institutions. The overall assessment by the CA is based on a review of all the elements referred to under categories (a) through (c), along with any other relevant information about the institution that the CA may obtain.
2. The CAs may also disclose the policies that guide their decisions for taking supervisory measures (within the meaning of Articles 102 and 104 of the CRD IV) and early intervention measures (within the meaning of Article 27 of the BRRD) whenever their assessment of an institution identifies weaknesses or inadequacies that call for supervisory intervention. Such disclosures might include the publication of internal guidelines or other documents describing general supervisory practices. However, no disclosure is required regarding decisions on individual institutions, to respect the confidentiality principle.
3. Furthermore, CAs provide information regarding the implications if an institution violates a relevant legal provisions or does not comply with the supervisory or early intervention measures imposed based on the SREP outcomes, e.g. it should advise what enforcement procedures are in place (where applicable).
   1. Annex IV – Aggregate statistical data
      1. General remarks
4. CAs shall each year update the information by 31 July based on the position as at 31 December of the preceding year.
5. Aggregate statistical data shall cover institutions as defined in Article 4(1) and (3) of the CRR supervised under CRD IV.
6. In order to allow meaningful comparisons between the tables for all Member States and to provide a systematic appearance, it is important that the format of the tables (i.e. the number of rows and columns) are not changed. Members are only free to add more rows or columns to tables in their disclosure frameworks on the national websites if they deem that more information is required or appropriate.
7. Numerical cells should include only numbers. There should be no references to national currencies. The currency used is EUR and non-Eurozone countries should convert their national currencies into EUR using the ECB exchange rates (at the common reference date, i.e. the last day of the year under review), with one decimal point when disclosing amounts in millions.
8. Unit of disclosure should be in ‘millions of euro’ for the reported monetary amounts.
9. Percentages should be disclosed with two decimals.
10. If data is not being disclosed, the reason for non-disclosure should be provided using the EBA nomenclature, i.e. N/A (for not available) or C (for confidential).
11. The data shall be disclosed on an aggregated basis.
12. Calculation formulae with references to rows and columns of COREP templates are provided where relevant in the templates related to the financial per CA sector, credit risk, market risk and operational risk. Likewise, this will allow reporting CAs to exploit sources of data already available to ensure consistency of data. These references to COREP templates should be updated at EBA level whenever a revised version of COREP results in a change in the references.
    * 1. Scope of the institutions and consolidation subject to the data collection
13. While the general structure of the templates has been retained from the previous exercises, the definition of the reporting scope of the information to be collected requires to be updated. This will also allow for more meaningful analysis and comparison of the data. Likewise, this approach exploit existing data sources without requiring collect additional data from institutions.
14. For this purpose, as a general rule COREP data collected on consolidated basis[[1]](#footnote-2) will be used so that the scope mirrors the current landscape of supervision of the reporting CA. In this regard the double-counting, if any, shall be interpreted as shared responsibilities between CAs.
15. CAs shall collect data relating to XXXX year onwards on consolidated basis. This will ensure the consistency of the information collected.
16. The six parts of the templates of the Statistical Data should be read in conjunction with the reporting scope of consolidation hereby defined. To ensure efficient collection, it has been differentiated between Credit Institutions and Investment Firms, the same level of consolidation shall be applied in both cases.

#### Credit Institutions

1. As a result of the new supervisory landscape, the reporting CAs can be differentiated in three different types as regards the level of consolidation when aggregating the data for this exercise.
   * 1. ECB: it shall disclose for significant supervised entities and significant supervised groups[[2]](#footnote-3) (SIs) within the SSM.
     2. NCAs of SSM participating Member States: they shall disclose for less significant supervised entities and less significant groups[[3]](#footnote-4) (LSIs) in their respective jurisdictions;
     3. NCAs of non SSM participating Member States: the data disclosed shall cover their respective jurisdictions.

#### Investment Firms

1. With regard to the reporting for Credit Institutions, CA should aggregate the data collected within their Member State.
2. Data should be compiled only for Investment firms (IFs) under CRD IV. IFs which are not covered by the CRR/CRD IV regime are excluded from the data collection exercise.
   * 1. Part 1 – Consolidated Data per Competent Authority
3. Part 1 requires the disclosure of the following aggregate information per CA:
4. Number and size of credit institutions and investment firms: the data is calculated according to the scope specified. The data shall cover institutions as defined in Article 4(1)(3) of the CRR supervised under CRD IV.
5. Number: As referred to in point 3.4.2.
6. Total assets (in MEUR): The total assets figure shall be the total assets value of the country for NCAs and for the ECB the total assets value of the SIs for the whole SSM.
7. Total assets per GDP: at market price (suggested source Eurostat/ECB).
8. Number and size of foreign credit institutions: from third countries
9. Number of branches: branches as defined in Article 4(17) of the CRR. Any number of places of business set up in the same country by a credit institution with headquarters in a third country should be counted as a single branch.
10. Total assets of branches (in MEUR): sum of the total assets of branches as defined in (a).
11. Number of subsidiaries: subsidiaries as defined in Article 4(16) of the CRR. Any subsidiary of a subsidiary undertaking shall be regarded as a subsidiary of the parent undertaking which is at the head of those undertakings.
12. Total assets of subsidiaries (in MEUR): sum of the total consolidated assets of the subsidiaries as defined in (c).
13. Total capital and capital requirements:
    * Total Common Equity Tier 1 capital as % of total capital: ratio of Common Equity Tier 1 capital as defined in Article 50 of the CRR to the own funds as defined in Article 4(1) and (118) and Article 72 of the CRR expressed in %.
    * Total Additional Tier 1 capital as % of total capital: ratio of Additional Tier 1 Capital as defined in Article 61 of the CRR to the own funds as defined in Article 4(1) and (118) and 72 of the CRR expressed in %.
    * Total Tier 2 capital as % of total capital: ratio of Tier 2 Capital as defined in Article 71 of the CRR to the own funds as defined in Article 4(1) and (118) and Article 72 of the CRR expressed in %.
    * Total capital requirements (in MEUR): 8% of total risk exposure amount as defined in Articles 92(3), 95, 96 and 98 of the CRR.
    * Total capital ratio: ratio of the own funds to the total risk exposure amount as defined in Article 92(2) point (c) of the CRR expressed in %.
      1. Part 2 – Data on credit risk
14. This template provides information on own funds requirements for credit risk, securitisation and exposures and losses from lending collateralised by immovable property:
15. Credit institutions: breakdown by approach. Breakdown (in %) of the number of credit institutions that apply the Standardised Approach (SA), the Foundation Internal Ratings Based Approach (FIRB)[[4]](#footnote-5), the Advanced Internal Ratings Based Approach (AIRB)[[5]](#footnote-6). If an institution uses more than one approach, it should be counted in each of these approaches. Hence, the sum of the percentages reported may be higher than 100%.
16. % based on the total SA/FIRB/AIRB risk weighted exposure amount: ratio between the given assets class and the total SA/FIRB/AIRB risk weighted exposure amount accordingly.
17. Credit institutions: breakdown by credit risk mitigation method. Breakdown (in %) of the number of credit institutions that apply the Financial Collateral Simple Method and/or the Financial Collateral Comprehensive Method. In the exceptional cases where an institution uses more than one approach, it should be counted in each of these approaches. Hence, the sum of the percentages reported may be higher than 100%.
18. Investment firms: breakdown by approach. Breakdown (in %) of the number of investment firms that apply the Standardised Approach (SA) and/or the Internal Ratings Based approach (IRB). If an investment firm uses more than one approach, it should be counted in each of these approaches. Hence, the sum of the percentages reported may be higher than 100%.
19. Additional information on securitisation (in MEUR):
    * Total amount of securitisation exposures originated on balance sheet and off-balance sheet. This includes securitisations treated under SA and IRB.
    * Total amount of securitisations positions retained (securitisations positions – original exposure pre conversion factors) on balance and off- balance sheet.
20. Lending collateralised by immovable property (in MEUR): exposures and losses. The ‘total’ template of the CR IP Losses template (Annex VI of the ITS on Supervisory Reporting) shall be reported so as to cover all national markets institutions are exposed to according to Article 101(1) of the CRR. Since this information may be reported by institutions on an individual or a consolidated basis, double-counting should be avoided when these data is aggregated.
    * 1. Part 3 – Data on market risk
21. This template provides information on market risk positions. It shall include all institutions and not only those with market risk positions.
22. Credit institutions, investment firm:
    * % of total own funds requirements: Ratio of the total risk exposure amount for position, foreign exchange and commodities risks as defined in Articles 92(3) points (b) (i) and (c) (i) and (iii) and 92(4) point (b) of the CRR to the total risk exposure amount as defined in Articles 92(3), 95, 96 and 98 of the CRR (in %).
    * Breakdown by approach. Breakdown (in %) of the number of credit institutions / investment firms that apply the Standardised Approach (SA) and/or the Internal Models approach (IMM). If an institution uses more than one approach, it should be counted in each of these approaches. Hence, the sum of the percentages reported may be higher than 100%, but also lower than 100% as entities with small trading portfolio are not obliged to determine market risk
    * % of total own funds requirements SA/IMM: Percentage of total own funds requirements for market risk under standardised approaches/internal models respectively (in %).
      1. Part 4 – Data on operational risk
23. This Part shall provide information concerning own funds requirements and losses relating to operational risk:
24. Credit institutions, investment firms:
    * % of total own funds requirements: ratio of total risk exposure amount for operational risk as defined Article 92(3) of the CRR point to the total risk exposure amount as defined in Articles 92(3), 95, 96 and 98 of the CRR (in %).
    * Breakdown by approach. Breakdown (in %) of the number of credit institutions / investment firms that apply the Basic Indicator Approach (BIA), the Standardised Approach (TSA) or Alternative Standardised Approach (ASA), or the Advanced Measurement Approaches (AMA). If an institution uses more than one approach, it should be counted in each of these approaches. Hence, the sum of the percentages reported may be higher than 100%, but also lower than 100% as some investment firms are not obliged to count operational risk capital charges
    * % based on the total own funds requirements for operational risk: Percentage of total own funds requirements for operational risk under BIA, TSA/ASA and AMA.
    * Total gross loss as % of total gross income: Ratio of total loss amount for all business lines to the sum of the relevant indicator for banking activities subject to, TSA/ASA and AMA for the last year (in %).
      1. Part 5 – Data on supervisory measures and administrative penalties
25. Following the update of the template, the information with regard to the number of on-site inspections and number of overall assessments performed is no longer required to collect.
26. Information on Part 5 shall be reported based on the date of decision.
27. When reporting supervisory measures and penalties in the SSM, it shall be aggregated as follows:

* NCAs of SSM participating Member States shall report only the supervisory measures and penalties imposed by the NCAs.
* While ECB shall report all measures and penalties imposed to the banks operating in the SSM from the NCAs and SSM.

1. Administrative penalties: It shall be reported when the action was issued i.e. informal letters or similar notifications shall not be taken into account.
2. If Risk Mitigation Programmes (RMP) are included under supervisory measures shall be reported consolidated. Likewise it shall be based on the date of the decision.
   * 1. Part 6 – Data on waivers
3. This template presents aggregate information on waiver granted by CAs included in their scope of consolidation.
4. Information on waiver practices shall be reported based on the total number of waivers by the CA and still effective or in force. The perimeter of the four subsections in Part 6 is limited to those entities being granted with a waiver.
5. Where the information is not available i.e. not part of the regular reporting, it shall be reported as “N/A”.

1. Part 1, Title 2 Chapter 2 of the CRR. [↑](#footnote-ref-2)
2. As defined in Article 2.17 and Article 2.22 of Regulation (EU) No 468/2014 of the European Central Bank [↑](#footnote-ref-3)
3. As defined in Article 2.7, Article 2.8 and Article 2.23 of Regulation (EU) No 468/2014 of the European Central Bank [↑](#footnote-ref-4)
4. IRB approach when neither own estimates of Loss Given Default nor conversion factors are used [↑](#footnote-ref-5)
5. IRB approach when own estimates of Loss Given Default and/or conversion factors are used [↑](#footnote-ref-6)