

EBA/CP/2014/12

3 July 2014

Consultation Paper

Draft regulatory technical standards on general conditions of the functioning of colleges of supervisors in accordance with Article 51(4) and Article 116(4) of Directive 2013/36/EU (Capital Requirements Directive – CRD IV)

and

Draft implementing technical standards on the operational functioning of colleges of supervisors in accordance with Article 51(5) and Article 116(5) of Directive 2013/36/EU (Capital Requirements Directive – CRD IV)

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1. Responding to this consultation

The European Banking Authority (EBA) invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question posed;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed or rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 3 October 2014. Please note that comments submitted after this deadline or by other means, may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 as implemented by the EBA in its implementing rules adopted by its Management Board. Further information on data protection can be found in the Legal notice section of the EBA website.

2. Executive summary

Both the draft regulatory technical standards (RTS) and the draft implementing technical standards (ITS) on colleges of supervisors are incorporated into this one document. The draft RTS specify general conditions for the establishment and functioning of colleges of supervisors, while the draft ITS establish important procedures to structure and facilitate the interaction and cooperation between the consolidating supervisor and the relevant competent authorities.

The draft RTS and ITS, both for colleges under Article 51 and colleges under Article 116 of Directive 2013/36/EU (Capital Requirements Directive - CRD), are structured in three main chapters: (i) general conditions of functioning of colleges; (ii) planning and coordination of supervisory activities in going-concern situations; and (iii) planning and coordination of supervisory activities in preparation for and during emergency situations.

- With regard to the general conditions of the functioning of colleges, the provisions begin with the mapping exercise that is led and coordinated by the consolidating supervisor to identify the group's subsidiaries or branches and in which countries they are based. The establishment and the functioning of supervisory colleges are based on written cooperation and coordination arrangements. RTS and ITS cover these arrangements and the process that supervisors should follow for developing them, including a common template. The general functioning also covers the operational aspects of college meetings and other college activities, as well as communication with the group entities and the voluntary delegation of tasks and entrustment of responsibilities.
- The second chapter of the draft binding technical standards (BTS) covers the planning and coordination of supervisory activities – including information exchange for performing these activities – on a going-concern basis. The draft RTS specify the information to be exchanged between college members, while the draft ITS establish the process that members of the college should follow for this information exchange. This includes, inter alia, information on the outcome of the Supervisory Review and Evaluation Process (SREP), information on the performance of approved internal models, information aiming to identify early warning signs, potential risks and vulnerabilities faced by the group, and information on compliance issues relevant for the group or for any of its entities. This chapter also covers the college supervisory examination programme, its main elements and the process that college members should follow to develop, consult each other and finalise this programme. In addition, obligations to exchange information mainly to enable the competent authorities to participate in colleges for assessing group recovery plans and to be informed about financial support agreements, arising from the provisions of the Banking Recovery and Resolution Directive (Directive 2014/59/EU), were also taken into account when drafting these BTS.
- The final chapter of the draft BTS covers the planning and coordination of supervisory activities in preparation for and during emergency situations and includes provisions requiring college members to agree on a framework to deal with emergency situations and specify the minimum set of information to be exchanged once an emergency situation has been identified.

A separate section covers the functioning of colleges of significant branches that have been established in accordance with Article 51(3) of the CRD. It follows the same approach as that taken for colleges of subsidiaries or colleges of subsidiaries and significant branches with the necessary adjustments made to reflect the different nature of supervisory tasks and responsibilities.

When finalising these draft RTS and ITS, the EBA will consider the responses to this consultation paper as well as any opinion of the Banking Stakeholder Group. The EBA envisages submitting the draft RTS and ITS to the European Commission by the end of 2014.

The EBA envisages that the guidelines of the Committee of European Banking Supervisors (CEBS) on the operational functioning of colleges ([GL34](#)) and the CEBS guidance on the [Template](#) for a Multilateral Cooperation and Coordination Agreement on the Supervision of XY Group will be repealed with the implementation of this proposed Regulation.

3. Background and rationale

Enhanced cooperation between authorities at both the EU and global level is key to strengthening the supervision of cross-border banking groups. Colleges of supervisors allow supervisory authorities to join forces, share knowledge and use skills and resources more effectively and efficiently, regardless of their individual jurisdiction. This requires determination and significant efforts to prompt coordinated approaches among competent authorities. Supervisory colleges should ensure a common and aligned work programme and coordinated supervisory decisions. Cooperation between the competent authorities of the home and host Member States should be strengthened through a higher degree of transparency and information sharing during going-concern and emergency situations.

Articles 51 and 116 of the CRD mandate the EBA with the development of draft RTS to specify general conditions for the functioning of colleges of supervisors and with the development of draft ITS to determine the operational functioning of colleges of supervisors.

Article 51 of the CRD covers the colleges of supervisors that are established for banking groups that have a presence through branches which are designated as significant in Member States other than that in which they have been authorised. Article 116 of the CRD covers those colleges that have been established for groups with a parent and/or subsidiaries and/or significant branches in multiple Member States. The draft regulatory and implementing technical standards therefore encompass both types of colleges of supervisors, although the provisions dedicated to colleges of significant branches under Article 51 of the CRD are less extensive, reflecting the more limited tasks performed by these colleges.

These BTS follow the mandate outlined above and build on the CEBS Guidelines published in 2010 on the operational functioning of colleges (GL34). They also benefit from experience gained during the practical implementation of these guidelines and EBA engagement with colleges as part of the annual monitoring of college activities.

The standards are structured around three main chapters, named 'Titles': (i) general conditions of functioning of colleges; (ii) planning and coordination of supervisory activities in going-concern situations; and (iii) planning and coordination of supervisory activities in preparation for and during emergency situations.

In the chapter on general conditions of functioning of colleges, the BTS introduce two new templates; for the performance of the mapping exercise and for the written cooperation and coordination agreements, both with the aim of facilitating uniformity in approaches across colleges. For the mapping, the use of a harmonised template will have a notably positive impact on the host competent authorities, as those supervisors will provide information in one consistent format. Similarly, although the proposed template for the written coordination and cooperation agreements differs from the CEBS template, [template](#) for a multilateral cooperation and coordination agreement on the supervision of XY group, that has been extensively used by EU colleges since its publication, and which provides more standard and less college-specific text, this new template has the same objective of facilitating a consistent approach to these agreements.

The second chapter specifies the information to be exchanged for certain joint cross-border activities where previously there was no consistency of the information being exchanged. This chapter now specifies the information to be exchanged in undertaking the SREP (building on the SREP elements as noted in the EBA Guidelines on common SREP which are under public consultation), information in relation to the SREP outcome, the review of the performance of approved internal models, key risk indicators, and compliance issues. In addition, with regard to the supervisory examination programme, which is a new CRD requirement, the RTS specify the main elements of the joint work to establish practical college approach for this new task building on the Level 1 provisions (Article 99 of the CRD), including specifying the communication of this programme to the group's entities to ensure that there is a high degree of coordination in this communication.

The BTS also introduce new requirements in the chapter on the planning and coordination of supervisory activities in preparation for and during emergency situations, with the provisions of the draft BTS introducing further details relating to the framework of cooperation among the members of a college when dealing with emergency situations, building on the experience gained through the implementation of relevant provisions of GL34, Chapter 8. Up until recently, most colleges did not have a framework of cooperation for preparation and for dealing with emergency situations, other than setting up and maintaining emergency contact lists. The new provisions aim to ensure that colleges establish an appropriate framework for information sharing and put their efforts in developing coordinated supervisory assessment of emergency situations, agreeing on coordinated supervisory actions to address these situations, and monitor the implementation of these actions in a coordinated way as detailed in the BTS.

The BTS implement a more structured and comprehensive approach to college functioning, which is needed to ensure that new tasks, such as the assessment of group recovery plans and undertaking the college supervisory action plan, and established college tasks, such as identifying the group entities in the mapping and identifying college members, will be or will continue to be fully coordinated and performed consistently across colleges.

4. Draft regulatory and implementing technical standards for colleges of supervisors under Article 51 and Article 116 of Directive 2013/36/EU

(a) Draft regulatory technical standards on general conditions of the functioning of colleges of supervisors under Article 51(4) and Article 116(4) of Directive 2013/36/EU (Capital Requirements Directive – CRD IV)



EUROPEAN COMMISSION

Brussels, **XXX**
[...](2012) **XXX** draft

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 for specifying the general conditions for the functioning of colleges of supervisors

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of 26 June 2013 of the European Parliament and of the Council 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/EC¹, and in particular to Article 51(4) and Article 116(4) thereof,

Whereas:

¹ Text with EEA relevance.

- (1) The performance of the mapping of the group entities in EEA and non-EEA countries is considered as an important element for the identification of possible college members. In this context, information on the relevance of any group entity or branch to the group and on the significance of that group entity or branch for the Member State to which the entity is authorised or the group is established is important in order to determine college membership and to identify authorities to participate in college activities.
- (2) In order to facilitate effective and efficient cooperation between college members, the written cooperation and coordination arrangements shall cover all essential aspects of college work, including cooperation arrangements in preparation and during emergency situations.
- (3) Members of the college of supervisors should work together, coordinating their supervisory actions to the maximum extent possible and cooperating closely in order to better perform their supervisory duties, to avoid duplication of tasks, including duplication of information requests addressed to the supervised groups. In this context, agreements on entrustment of tasks and delegation of responsibilities shall be considered on a regular basis by the members of the college and at least then they are developing their college supervisory examination programme.
- (4) The consolidating supervisors should have access to all information necessary for the performance of their tasks and responsibilities and should act as the coordinator for the collection and dissemination of information received from any college member, if that information is assessed as essential to any other member of the college. While deciding on the dissemination of information to another member of the college, apart from any restrictions in terms of confidentiality, the consolidating supervisor should take into account the nature of the information and its relevance for the entity or branch under the supervisory remit of the competent authority to which this information is communicated as well as the significance of that entity or branch for the Member State in which it is authorised or established.
- (5) College members shall exchange the information necessary to enable members to assess and take measures to protect the interests of depositors and investors in their Member States and to protect the financial stability within the Union.
- (6) Members of the college participating in the performance of the tasks referred to in Article 113 of Directive 2013/36/EU shall exchange information on the assessment of the main elements of the supervisory review and evaluation process as referred to in Article 97 of that Directive, recognising that outcomes of the supervisory review and evaluation process may be performed and documented differently across the Member States depending on the implementation of the said Article in the national legislation taking also into account guidelines issued by the EBA under Article 107(2) of Directive 2013/36/EU,
- (7) The development of the colleges supervisory examination programme should start once the joint risk assessment and joint decision process have been concluded, while for its finalisation the competent authorities should take into account the time frames

followed at national level by each college member for the finalisation of their respective supervisory examination programmes.

- (8) Members of the college shall coordinate their activities in preparation for and during emergency situations such as adverse development which may seriously jeopardise the orderly function and integrity of financial markets or the stability of the whole or part of the financial system of the Union or other situations that affect or might affect explicitly the financial and economic situation of a banking group or any of its subsidiaries. Therefore, the planning and coordination of supervisory activities in preparation and during emergency situations shall include, but it is not limited, to the requirements for the consolidating supervisor and the competent authorities supervising EU entities of the group, as set out in Directive establishing a framework for the recovery and resolution of credit institutions and investment firms 2014/xx/EU (BRDD).
- (9) When developing a college framework for cooperation in preparation for and during emergency situations competent authorities should take into account any form of cooperation or arrangement that has been established for the group at either European level or global level, such as resolution colleges, Crisis Management Groups (CMG) or Cross-Border Stability Groups. Such framework should recognise the possibility of involvement of these structures during an emergency situation, depending on the nature of the situation.
- (10) The provisions in this Regulation are closely linked, since they deal with the general conditions of the functioning of the colleges of supervisors. 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, including investors that are non-Union residents, it is desirable to include all the regulatory technical standards required by Article 51 (4) and 116 (4) of Directive 2013/36/EU in a single Regulation.
- (11) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.
- (12) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010.

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL CONDITIONS OF FUNCTIONING

Article 1

Mapping

-
- (1) The mapping of a group shall result in the identification of the following:

- (a) institutions and branches, established inside the EU (“EU institutions and branches”);
 - (b) financial institutions established inside the EU (“EU financial institutions”). EU institutions and branches and EU financial institutions are referred to collectively as “EU group entities”;
 - (c) institutions and branches established outside the EU (“Non-EU group entities”). EU group entities and Non-EU group entities are referred to collectively as “group entities”.
- (2) The following information shall be reflected in the mapping for each EU institution and branch:
- (a) the Member State where the institution is authorised or the branch is established;
 - (b) the competent authority of the institution and the competent authority of the host Member State where the branch is established;
 - (c) for an institution, including for a subsidiary of a parent established in the same Member State, information as to whether that institution is subject to prudential supervision on a solo basis or whether it has been granted a waiver from the application of requirements set out in Parts Two to Six of Regulation (EU) No 575/2013 pursuant to Articles 7, 8 or 10 of that Regulation;
 - (d) information relating to the significance of the institution for the Member State where it is authorized and to the relevance of that institution for the group as a whole;
 - (e) information relating to the significance of the branch, in particular whether this branch has been designated or is proposed to be designated as significant, in accordance with Article 51 of Directive 2013/36/EU, as well as information relating to the relevance of that branch for the group as a whole;
 - (f) for the purposes of (d), the business volume expressed as the total size of the institution’s balance sheet if more than 1% of the group’s consolidated balance sheet and any other measure and criterion applied by the consolidating supervisor in order to determine the relevance of an entity or branch to the group and the significance of this entity or branch for the Member State where the entity is authorised or the branch is established.
- (3) The following information shall be reflected in the mapping for each EU financial institution and non-EU group entity:
- (a) the Member State or the third country where the entity is authorised or established;

- (b) the third country supervisory authority responsible for the prudential supervision of the non-EU group entity or any other relevant authority involved on the supervision of EU financial institutions;
- (c) for non-EU group entities, information relating to the relevance of that entity for the group as a whole;
- (d) for EU financial institutions, an indication of its main activities and of its relevance for the group as a whole;
- (e) For the purposes of (c) and (d), the business volume expressed as the total size of the entity's balance sheet, if more than 1% of the group's consolidated balance sheet and with any other measure and criterion applied by the consolidating supervisor in order to determine the relevance of an entity or branch to the group and the significance of this entity or branch for the Member State where the entity is authorised or the branch is established.

Article 2

Membership of the college of supervisors

- (1) The consolidating supervisor shall ensure that the following authorities are invited to become members of the college:
 - (a) the competent authorities of the EU institutions and the competent authorities of host Member States where significant branches are established;
 - (b) ESCB central banks responsible for supervisory tasks pursuant to arrangements under Member States' national laws; and
 - (c) the European Banking Authority (EBA).
- (2) The consolidating supervisor and the authorities referred to in paragraph (1) shall decide whether to invite third country supervisory authorities referred to in Article 1 (3) (b) to participate in the college, provided that the confidentiality requirements, to which these authorities are subject to, are equivalent as referred to in Article 116 (6) of Directive 2013/36/EU.
- (3) The consolidating supervisor and the authorities referred to in paragraph (1), and the third country supervisory authorities invited pursuant to paragraph (2) accepting the invitation shall be regarded as the members of the college.

Article 3

Participation in the college of supervisors

Members of the college may decide to invite the following authorities to participate in college activities:

- (a) ESCB central banks, as appropriate, in accordance with Article 116 (6) of Directive 2013/36/EU;
- (b) the host competent authorities of the non-significant EU branches;
- (c) other authorities involved in the supervision of EU financial institutions as referred to in Article 1 (3) (b).

Article 4

Written coordination and cooperation arrangements

- (1) The written coordination and cooperation arrangements referred to in Article 115 of Directive 2013/36/EU shall include, at least, the following:
- (a) information on the overall structure of the group comprising all group entities;
 - (b) identification of the members of the college and other authorities participating in college activities as referred to in Article 2 and 3;
 - (c) description of the arrangements for exchanging information including the relevant scope, frequency and channels;
 - (d) description of the arrangements for the treatment of confidential information;
 - (e) description of the arrangements on entrustment of tasks and on delegation of responsibilities, where relevant;
 - (f) description of any substructures of that college;
 - (g) description of the framework for the planning and coordination of supervisory activities in going concern situations;
 - (h) description of the framework for the planning and coordination of supervisory activities in preparation for and during emergency situations, including contingency planning, communication tools and procedures;
 - (i) description of the communication policy of the members of the college with the parent entity of the group and with the group entities;
 - (j) agreed procedures and time frames to be followed for the circulation of the meeting documents;

- (k) any other agreement between the college members, concerning the functioning of the college; and
 - (l) provisions covering arrangements for discontinuation of any membership in the college.
- (2) The conclusion of the written coordination and cooperation arrangements shall be notified by the consolidating supervisor to EU institutions of the group.

Article 5

College meetings and college activities

- (1) When deciding which competent authorities shall participate in a college meeting or activity in accordance with Article 116 (7) of Directive 2013/36/EU, the consolidating supervisor shall take into account the following:
- (a) the topics to be discussed and the objective of the meeting or activity, in particular with regard to their relevance for each group entity or branch; and
 - (b) the relevance of the entities or branches referred to in (a), both for the Member States, where the entity is authorised or the branch established, and for the group as whole.
- (2) The consolidating supervisor and the other members of the college shall endeavour that the most appropriate delegates participate in the college meetings on the basis of the topics discussed and objectives pursued. These delegates shall be empowered to commit their authorities, to the maximum extent possible, for all decisions to be taken during these meetings or activities.
- (3) The consolidating supervisor shall consider whether to invite group entities to participate in college meetings or activities, on the basis of the topics and objectives of the meeting or of the activity.

Article 6

Entrustment of tasks and delegation of responsibilities

- (1) While developing the college supervisory examination programme pursuant to Article 16, and more frequently if need be, the consolidating supervisor and the members of the college shall consider agreements on voluntary entrustment of tasks and delegation of responsibilities, if such entrustment or delegation is expected to lead to more efficient and effective supervision, in particular by removing unnecessary duplication of supervisory requirements, including in relation to information requests.

- (2) The conclusion of an agreement on entrustment of tasks or delegation of responsibilities shall be notified by the consolidating supervisor to all EU institutions of the group concerned.

Article 7

Communication of the members of the college with the group entities

- (1) The consolidating supervisor shall be responsible for communicating, including information requests, with the parent entity. The other members of the college shall be responsible for communicating, including requesting information, with the group institutions under their supervisory remit.
- (2) When, exceptionally, a member of the college intends to communicate or request information from the parent entity, it shall notify in advance the consolidating supervisor.
- (3) When, exceptionally, the consolidating supervisor intends to communicate or request information from a group entity outside its supervisory remit, it shall notify in advance the member of the college in whose supervisory remit the particular entity belongs.

TITLE II

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS

Article 8

General framework for information exchange

- (1) Members of the college shall exchange all information necessary to facilitate the exercise of the tasks referred to in Articles 112 and 113 of Directive 2013/36/EU, subject to the confidentiality requirements laid down in Chapter 1, Section II, and Articles 54 and 58 of that Directive.
- (2) Members of the college shall also exchange all information necessary to facilitate the exercise of the tasks referred to in Article 8 of Directive 2014/59/EU.

Article 9

Information exchange for performing joint risk assessment and reaching joint decisions on capital and liquidity

- (1) The consolidating supervisor and the members of the college participating in the joint risk assessment and joint decision process referred to in Article 113 of Directive 2013/36/EU, shall exchange all quantitative and qualitative information, on a solo and

consolidated basis, necessary for developing the joint risk assessment and for reaching joint decisions, pursuant to Article 97 and Article 113 of that Directive.

- (2) Such quantitative and qualitative information shall cover the following elements, taking into account the size, structure, internal organisation, nature, scope and complexity of the group and each entity, as well as their activities:
- i. Business model analysis, including the assessment of the viability of current business model; and sustainability of institution's forward-looking business strategy;
 - ii. Internal governance arrangements and institution-wide controls, including, ICAAP and ILAAP frameworks;
 - iii. Individual risks to institution's capital, covering the following elements;
 - (a) Assessment of inherent individual risks;
 - (b) Assessment of risks management and controls;
 - iv. SREP capital assessment;
 - iv. Risks to institution's liquidity and funding, covering the following elements:
 - (a) Assessment of liquidity risk and funding risk;
 - (b) Assessment of liquidity and funding risk management;
 - v. SREP liquidity assessment;
 - vi. Results of the supervisory stress tests performed pursuant to Article 100 of Directive 2013/36/EU.
 - vii. Findings from on-site inspections and off-site monitoring that are relevant for the assessment of the risk profile of the group or any of its entities.

Article 10

Information on the outcome of the supervisory review and evaluation process

- (1) The consolidating supervisor and the members of the college participating in the joint risk assessment and joint decision process referred to in Article 113 of Directive 2013/36/EU shall exchange information on the overall outcome of the supervisory review and evaluation process performed, pursuant to Articles 97 of this Directive, for all group entities, including the parent, on a solo basis and on a consolidated level.
- (2) Such information shall cover the following items and shall include evidence supporting the overall outcome and providing adequate reasoning on the proposed supervisory measures pursuant to Article 104 and Article 105 of Directive 2013/36/EU:

- (a) Outcome of the SREP capital assessment and proposed required own funds pursuant to Article 104 (1) (a), where relevant;
 - (b) Outcome of the SREP liquidity assessment and proposed quantitative and qualitative liquidity measures pursuant to Article 105, where relevant;
 - (c) Other supervisory measures taken or planned to be taken in order to address the inefficiencies identified as a result of the supervisory review and evaluation process.
- (3) Information on the planned supervisory measures referred to in point (2) (c) shall also indicate a preliminary timeline for the implementation of these measures.

Article 11

Information on the ongoing review of the permission to use internal approaches and on non-material extensions or changes in internal models

- (1) The consolidating supervisor and the members of the college, which supervise EU group institutions that have been granted permission to use internal approaches pursuant to Article 143 (1), Article 151 (4) and (9), Article 283, Article 312 (2), and Article 363 of Regulation (EU) No 575/2013, shall exchange information on the results of the ongoing review and assessment of these institutions' compliance with the requirements for the use of the internal models, including at least information in accordance with Article 101 of Directive 2013/36/EU.
- (2) In case the requirements for applying an internal approach are no longer met by any EU group institution or in case weaknesses have been identified in accordance with Article 101 of Directive 2013/36/EU and for the purposes of application of Article 6 (1) of the Regulation (EU) 20xx/xx, the consolidating supervisor and the relevant member of the college shall exchange all information necessary for the assessment of that non-compliance or weakness and of the measures taken or planned to be taken, including for jointly agreeing on the revocation of permission, the imposition of capital add-ons or the restriction of the use of the model as referred to in Article 101 (1), (3) and (4). In particular, the following information shall be exchanged in these cases:
 - (a) assessment of the effect of the weaknesses identified and issues of non-compliance and their materiality;
 - (b) assessment of the plan to restore compliance and to address the weaknesses identified as presented by the parent of the group or any EU group institution, including information on the timeline for their implementation;
 - (c) information on the intention of the consolidating supervisor or of any of the members of the college to revoke the permission or restrict the use of the model to compliant areas or those where compliance can be achieved within an appropriate timeline or to those areas that are not affected by the weaknesses identified; and

- (d) information on any proposed additional own funds requirements as a supervisory measure taken to address the issue of non-compliance or the weaknesses identified.
- (3) The consolidating supervisor and the members of the college, which supervise EU group institutions that have been granted permission to use internal approaches pursuant to Article 143(1), Article 151(4) and (9), Article 283, Article 312(2), and Article 363 of Regulation (EU) No 575/2013, shall also exchange information regarding non-material extensions or changes in these internal models.
- (4) Information referred to in paragraphs 1 and 2, to the extent it is available, shall be exchanged while in the process of developing the joint risk assessment and reaching a joint decision process as referred to in Article 113(1)(a) of Directive 2013/36/EU.

Article 12

Exchange of other quantitative and qualitative information

- (1) The consolidating supervisor and the members of the college participating in the development of the joint risk assessment report for the purposes of reaching joint decisions on institution-specific prudential requirements referred to in Article 113 of Directive 2013/36/EU shall exchange quantitative information aiming to identify early warning signs, potential risks and vulnerabilities and to support the outcome of the joint risk assessment.
- (2) This information shall take the format of a subset of indicators based on the ITS on supervisory reporting² and shall cover at least the following areas:
 - (a) capital;
 - (b) liquidity;
 - (c) asset quality;
 - (d) funding;
 - (e) profitability; and
 - (f) concentration risk.
- (3) The consolidating supervisor and members of the college referred to in paragraph 1 shall also consider exchanging information on the macroeconomic environment in which the group and its entities operate.

²Implementing Technical Standards (ITS) on supervisory reporting.

Article 13

Information on non-compliance and sanctions

- (1) The members of the college shall communicate to the consolidating supervisor information on non-compliance with regulatory requirements and on sanctions imposed in accordance with Articles 65 and 66 of Directive 2013/36/EU when this information is likely to affect the risk profile of the group or any of its institutions and shall discuss with the consolidating supervisor the possible impact of these sanctions for the group entities or for the group as a whole.
- (2) The consolidating supervisor shall decide to communicate information under paragraph 1 to all members of the college for whom this information is deemed relevant.

Article 14

Information on the assessment of the group recovery plan

- (1) The consolidating supervisor and the members of the college participating in the joint decision on the review and assessment of the group recovery plan referred to in Article 8(1) of Directive 2014/59/EU, shall exchange all quantitative or qualitative information necessary for:
 - (a) the assessment of the group recovery plan and for the identification of material deficiencies in the plan or material impediments to its implementation. This information shall also include the framework of indicators established by the relevant recovery plan and the arrangements for the supervisory monitoring of the indicators in accordance with Article 8(a) of Directive 2014/59/EU;
 - (b) determining the necessity of an individual recovery plan for any group institution in accordance with Article 8(2) of Directive 2014/59/EU.
- (2) The consolidating supervisor shall ensure that all members of the college are appropriately informed of the information referred to in paragraph 1.

Article 15

Information on group financial support agreements

The consolidating supervisor shall ensure that all members of the college are appropriately informed of the main terms of authorisations of group financial support agreements that have been granted according to the joint decision process referred to in Article 17 of Directive 2014/59/EU.

Article 16

College supervisory examination programme

- (1) For the purposes of determining the supervisory examination programme in accordance with Article 116(1)(c) of Directive 2013/36/EU (“college supervisory examination programme”), the consolidating supervisor and the other members of the college shall set out the supervisory activities to be undertaken by the members of the college.
- (2) The college supervisory examination programme shall contain at least the following:
 - (a) the areas of joint work as they have been identified as a result of the joint risk assessment and joint decision process pursuant to Article 113 of Directive 2013/36/EU or as a result of any other college activities undertaken, including in an effort to contribute to efficiency supervision and to remove unnecessary duplication of tasks in accordance with Article 116(1)(d) of that Directive;
 - (b) the respective supervisory examination programmes of the consolidating supervisor and the other members of the college for the parent and for all other EU group entities;
 - (c) the areas of focus for the supervisory college and the associated planned activities, including planned onsite inspections pursuant to Article 99(1)(c) of Directive 2013/36/EU;
 - (d) the members of the college responsible for undertaking the planned supervisory activities;
 - (e) the expected timelines, in terms of both timing and duration, for each of the planned supervisory activities.

Article 17

Communication of the elements of the college supervisory examination programme to the group entities

- (1) The consolidating supervisor and the members of the college shall discuss with a view to coordinate to the maximum extent possible the possibility to communicate specific elements of the college supervisory examination programme to the parent and the other EU group entities.
- (2) While discussing this possibility, the members of the college shall take into account any legal constraints and provisions of the national frameworks applicable.

TITLE III

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN PREPARATION FOR AND DURING EMERGENCY SITUATIONS

Article 18

General framework for information requirements in preparation for emergency situations

- (1) Members of the college shall exchange all the information necessary to facilitate the exercise of the tasks referred to in Article 114 (1) of Directive 2013/36/EU. In particular, the consolidating supervisor and the other members of the college shall, taking into account the characteristics of the group, determine in advance a minimum set of information that shall be exchanged in an emergency situation as referred to in Article 114(1) of that Directive.
- (2) The minimum set of information referred to in paragraph (1) shall include the following:
 - (a) an outline of the situation that has occurred, including the underlying cause of the emergency situation, and the expected impact of the emergency situation on the group entities and the group as a whole, on the market liquidity and on the stability of the financial system;
 - (b) an explanation of the measures and actions that have been taken or are intended, by any of the members of the college or the group entities themselves; and
 - (c) the latest available quantitative information regarding liquidity and capital position of the group entities affected or likely to be affected by the emergency situation.

Article 19

Sharing and updating information during an emergency situation

- (1) Upon being alerted of an emergency situation or having identified an emergency situation, the consolidating supervisor shall distribute the minimum set of information to the affected members of the college, including the EBA.
- (2) Depending on the nature, the severity, the potential systemic or other impact and contagion probability of the emergency situation, the affected member of the college and the consolidating supervisor may decide on additional information to be exchanged, and where applicable, communicate this information to relevant resolution authorities, central banks, competent ministries and deposit guarantee schemes, as appropriate.
- (3) The minimum set of information and additional information where applicable, shall be updated immediately when new information is available regarding the emergency situation and the measures and actions that have been taken or are planned to be taken, either by the members of the college or by any group entity.

- (4) When the communication referred to in this paragraph is made orally, written communication shall be submitted at the earliest convenience of the involved competent authorities.

Article 20

Coordinated supervisory assessment of an emergency situation

- (1) The coordinated supervisory assessment of an emergency situation shall include at least the following elements:
- (a) the nature and severity of the emergency situation;
 - (b) potential impact of the emergency situation on the group and on its affected entities;
 - (c) potential cross-border contagion.
- (2) While assessing point (c) of paragraph 1, the consolidating supervisor shall consider the potential systemic consequences in any of the Members States where entities of the group have been authorised or where significant branches are established.

Article 21

Coordinated supervisory response to an emergency situation

- (1) The coordinated supervisory assessment shall form the basis of a coordinated supervisory response, which shall define the supervisory actions needed, their scope, and the timetable for their implementation.
- (2) The coordinated supervisory response shall be driven by the consolidating supervisor and the members of the college responsible for the supervision of entities affected by the emergency situation.

Article 22

Monitoring of coordinated supervisory response

- (1) The consolidating supervisor and the members of the college supervising group entities affected by the emergency situation shall monitor and exchange information on the implementation of the coordinated supervisory response.
- (2) The information to be exchanged shall include at least an update on the implementation of the agreed actions within the foreseen timeline and the need to update or adjust these actions.

Article 23

External communication

- (1) The consolidating supervisor and the members of the college supervising group entities affected by an emergency situation shall coordinate to the extent possible their external communications, taking into account legal obligations or constraints stemming from the law applicable.
- (2) For the purpose of co-ordination of the external communication, the consolidating supervisor and the members of the college shall agree on the following elements:
 - (a) allocation of responsibility for coordinating external communication at the different stages of the emergency situation;
 - (b) determination of the level of information to be disclosed taking into account the need to maintain market confidence and any other additional disclosure obligation when financial instruments issued by entities of the group affected by the emergency situation are publicly traded in one or more regulated market in the EU;
 - (c) co-ordination of public statements, including those made by only one member of the college, in particular if these are likely to have consequences for group entities supervised by other members of the college;
 - (d) allocation of responsibility and determination of appropriate timing for contacting group entities;
 - (e) allocation of responsibility and actions to be taken for externally communicating coordinated actions to address the emergency situation;
 - (f) description of the coordination with regards to external communication with another network that may be involved in dealing with an emergency situation affecting the group, if applicable, such as a crisis management group and relevant resolution authorities, central banks, competent ministries and deposit guarantee schemes, where appropriate.

TITLE IV

GENERAL CONDITIONS OF FUNCTIONING OF COLLEGES FOR SIGNIFICANT BRANCHES FORMED IN ACCORDANCE WITH ARTICLE 51 (3) OF DIRECTIVE 2013/36/EU

Article 24

Membership of the college of supervisors

- (1) Following the performance of the mapping of a group pursuant to Article 1 of Regulation (EU) 20xx/xx, the competent authorities of the home Member State shall ensure that the following authorities are invited to become members of the college of supervisors:
 - (a) the competent authorities of the host Member States where significant branches are established,
 - (b) ESCB central banks responsible for supervisory tasks for these significant branches pursuant to arrangements under Member States' national laws; and
 - (c) the European Banking Authority (EBA).
- (2) The competent authorities of the home Member State and the authorities in paragraph 1 shall decide whether to invite third country supervisory authorities, if any, to participate in the college, provided that the confidentiality requirements, to which these authorities are subject to, are equivalent as referred to in Article 116(6) of Directive 2013/36/EU.
- (3) The competent authorities of the home Member State, the authorities in paragraph 1, and the third country supervisory authorities invited pursuant to paragraph 2 accepting the invitation shall be regarded as the members of the college.
- (4) The establishment and functioning of colleges for significant branches formed in accordance with Article 51 (3) of Directive 2013/36/EU shall be based on written cooperation and coordination arrangements as referred to in Article 4.

Article 25

Participation in the college of supervisors

Members of the college may decide to invite the following authorities to participate in activities of the college:

- (a) the competent authorities of host Member States where branches that have not been designated as significant are established;

- (b) other authorities involved in the supervision of EU financial institutions of the group.

Article 26

College meetings and activities

- (1) When deciding which competent authorities shall participate in a college meeting or activity in accordance with Article 51 (3) of Directive 2013/36/EU, the competent authorities of the home Member State shall take account the following:
 - (a) the topics to be discussed and the objective of the meeting or activity, in particular with regards to their relevance for each branch; and
 - (b) the relevance of the branches referred to in (a), both for the Member States of their establishment and for the group as a whole.
- (2) The competent authorities of the home Member State and the other members of the college shall ensure participation of most appropriate delegates, corresponding to the topic discussed and to the objective pursued. These delegates shall be empowered to commit their authorities, to the maximum extent possible, for all decisions to be taken during these meetings or activities.
- (3) The competent authorities of the home Member State shall consider whether to invite the group to participate in college meetings or activities, based on the topics and the objectives of the college meeting or activity.
- (4) The communication with the parent of the group and its branches shall be organised according to the supervisory responsibilities of the competent authorities of the home Member State and the other members of the college.
- (5) The college meetings and activities shall be organized in accordance with Article 17 of the Regulation (EU) 20xx/xx.

TITLE V

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS OF COLLEGES FOR SIGNIFICANT BRANCHES FORMED IN ACCORDANCE WITH ARTICLE 51 (3) OF DIRECTIVE 2013/36/EU

Article 27

General framework for information exchange

- (1) Members of the college shall exchange all information necessary to facilitate the cooperation under Article 50 and Article 51 (2) of Directive 2013/36/EU.

- (2) Members of the college shall also exchange all information necessary to facilitate the cooperation referred to in Articles 6, 7 and 8 of Directive 2014/59/EU.

Article 28

Information on the outcome of the supervisory review and evaluation process

The information to be communicated by the competent authorities of the home Member State to the other members of the college shall cover the following items:

- (a) outcome of the capital adequacy assessment and measures taken or planned to be taken in accordance to Article 104(1)(a) of Directive 2013/36/EU, where relevant;
- (b) outcome of the liquidity adequacy assessment and measures taken or planned to be taken in accordance to Article 105 of Directive 2013/36/EU, where relevant;
- (c) other supervisory measures taken or planned to be taken in accordance to Article 104 of Directive 2013/36/EU in order to address the inefficiencies identified as a result of the supervisory review and evaluation process, including any issues identified through the ongoing review of the permission to use internal approaches as referred to in Article 101 of that Directive.

Article 29

Information on the assessment of the recovery plan

- (1) The competent authorities of the home Member State shall share the group recovery plan with the competent authorities of the host Member States where significant branches are established insofar as is relevant to that branch in accordance to Article 7(2) of the Directive 2014/59/EU.
- (2) The competent authorities of the home Member State shall consult the competent authorities of the host Member States where significant branches are established on the recovery plan insofar as is relevant to that branch, in accordance to Article 6 (2) and Article 8(1) of Directive 2014/59/EU.

Article 30

College supervisory examination programme

- (1) The college supervisory examination programme determined by the competent authorities of the home Member State and the other members of the college shall set out the following:

- (a) the areas of joint work and the focus of the respective planned activities, including on-the-spot checks and inspections of the significant branches in accordance to Article 52(3) of Directive 2013/36/EU;
 - (b) the competent authorities responsible for undertaking the planned activities; and
 - (c) the expected timelines, in terms of both timing and duration, for each of the planned activities.
- (2) While developing the college supervisory examination programme, and more frequently if need be, the competent authorities of the home Member State and the other members of the college shall consider agreements on voluntary entrustment of tasks and delegation of responsibilities, if such entrustment or delegation is expected to lead to more efficient and effective supervision, in particular by removing unnecessary duplication of supervisory requirements, including in relation to information requests.
- (3) The competent authorities of the home Member State and the other members of the college shall discuss, with a view to coordinate to the maximum extent possible, the possibility to communicate specific elements of the college supervisory examination programme to the group, taking into account legal constraints and provisions of national frameworks applicable.
- (4) The establishment and update of the college supervisory examination programme shall be performed pursuant to Article 19 of the Regulation (EU) 20xx/xx.

TITLE VI

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN PREPARATION FOR AND DURING EMERGENCY SITUATIONS OF COLLEGES FOR SIGNIFICANT BRANCHES FORMED IN ACCORDANCE WITH ARTICLE 51(3) OF DIRECTIVE 2013/36/EU

Article 31

General framework in preparation for emergency situations

- (1) The competent authorities of the home Member State and the other members of the college shall exchange all the information necessary to facilitate the exercise of the tasks referred to in Article 114(1) of Directive 2013/36/EU and they shall determine in advance a framework in preparation for emergency situations.
- (2) In particular, the members of the college shall agree on the following framework that shall include at least the following:
- (a) the communication procedures that shall apply in these situations;

- (b) the minimum predefined set of information to be exchanged during the emergency situation.

Article 32

Sharing and updating information during an emergency situation

- (1) Upon being alerted of an emergency situation or having identified an emergency situation, the competent authorities of the home Member State shall distribute the minimum set of information to the affected members of the college, including the EBA in accordance with the arrangements made in preparation for an emergency situation.
- (2) Depending on the nature, the severity, the potential systemic and other impact and contagion probability of the emergency situation, the affected members of the college and the competent authorities of the home Member State may decide on additional information to be exchanged, and where applicable, communicate this information to relevant resolution authorities, central banks, competent ministries and deposit guarantee schemes, as appropriate.

Article 33

Supervisory assessment of an emergency situation

- (1) The assessment of an emergency situation prepared by the competent authorities of the home Member State shall include at least the following elements:
 - (a) the nature and severity of the emergency situation;
 - (b) potential impact of the emergency situation on the group and on its affected branches;
 - (c) contagion probability of the emergency situation.
- (2) While assessing point (c) of paragraph 1, the competent authorities of the home Member State shall consider the potential systemic consequences in any of the Members States where significant branches are established.

Article 34

Supervisory response to an emergency situation

- (1) The supervisory assessment shall form the basis for a supervisory response, which shall define the supervisory actions needed, their scope, and the timetable for their implementation.

- (2) The competent authorities of the home Member State and the members of the college which are affected by the emergency situation shall monitor and exchange information on the implementation of the supervisory response.
- (3) The information to be exchanged shall include at least an update on the implementation of any agreed actions within the foreseen timeline and the need to update or adjust these actions.

Article 35

External communication

The competent authorities of the home Member State and the other members of the college which are affected by an emergency situation shall coordinate to the extent possible their external communications, taking into account those elements considered under Article 23, as well as legal obligations or constraints in different jurisdictions.

Article 36

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

[For the Commission
On behalf of the President

[Position]

(b) Draft implementing technical standards on operational functioning of colleges of supervisors under Article 51(5) and Article 116(5) of Directive 2013/36/EU (Capital Requirements Directive – CRD IV)



EUROPEAN COMMISSION

Brussels, **XXX**
[...](2012) **XXX** draft

COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of **XXX**

[...]

laying down implementing technical standards with regard to determining the operational functioning of the colleges of supervisors according to Directive 2013/36/EU of the European Parliament and of the Council

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/EC³, and in particular Article 51(5) and Article 116(5) thereof,

Whereas:

³ Text with EEA relevance.

- (1) The process for establishing and updating the mapping of the group should be coordinated by the consolidating supervisor who should ensure that all possible college members have the opportunity to provide their views on the draft proposal, especially with regards to the relevance of the group entities or branches for the group and their significance for the Member States in which they have been authorised or established, without prejudice to the application of Article 51 of Directive 2013/36/EU.
- (2) The revocation of internal models that have been jointly approved by the consolidating supervisor and relevant members of the college and that no longer meet the requirements or for which significant inefficiencies have been identified should be jointly agreed by the consolidating supervisor and these college members.
- (3) The provisions in this Regulation are closely linked, since they deal with the operational functioning of the colleges of supervisors. 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, including investors that are non-Union residents, it is desirable to include all the regulatory technical standards required by Article 51 (5) and 116 (5) of Directive 2013/36/EU in a single Regulation.
- (4) This Regulation is based on the draft implementing technical standards submitted by the European Banking Authority to the Commission.
- (5) The European Banking Authority has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010.

HAS ADOPTED THIS REGULATION:

TITLE I

OPERATIONAL FUNCTIONING OF COLLEGES

Article 1

Establishment and update of the mapping of a group

- (1) The consolidating supervisor shall prepare the draft mapping for the group in accordance with Article 1 of Regulation (EU) No 20xx/xx. In particular with regard to significant branches, the proposal shall be compliant with Article 51 of Directive 2013/36/EU.
- (2) The consolidating supervisor shall submit the draft mapping to the potential members of the college, inviting them to provide their views and indicating the relevant deadline for the submission of these views.
- (3) For the purposes of finalising the mapping and without prejudice to the application of Article 51 of Directive 2013/36/EU, the consolidating supervisor shall endeavour to take into account any views and reservations expressed by the potential members of the college.
- (4) Upon finalisation, the consolidating supervisor shall communicate the mapping of the group to all potential members of the college.
- (5) The consolidating supervisor shall update the mapping, applying the process defined in this Article, at least on an annual basis or more frequently in case there are significant changes in the structure of the group.
- (6) The consolidating supervisor shall use the template in Annex I for the purposes of the establishment and update of the mapping of a group.

Article 2

Establishment and update of contact lists

- (1) The consolidating supervisor shall maintain and share full contact details, including out-of-hours contact details to be used for emergency situations with the members of the college. These contact lists and emergency contact lists shall be annexed to the written coordination and cooperation arrangements referred to in Article 4 of Regulation (EU) 20xx/xx.
- (2) The members of the college shall provide their contact details to the consolidating supervisor and shall inform the consolidating supervisor of any changes in those details without undue delay.
- (3) Any updated version of the contact list and emergency contact list shall be communicated by the consolidating supervisor to the members of the college.

Article 3

Establishment and update of the written coordination and cooperation arrangements

- (1) The consolidating supervisor shall prepare its proposal for the conclusion of written coordination and cooperation arrangements in accordance with Article 115 of Directive 2013/36/EU and Article 4 of Regulation (EU) 20xx/xx.
- (2) The consolidating supervisor shall communicate its proposal to the other members of the college inviting them to provide their views and indicating the relevant deadline for the submission of these views.
- (3) For the purposes of finalising the written coordination and cooperation arrangements, the consolidating supervisor shall take into account any views and reservations expressed by the members of the college and explain, if necessary, the reason for not taking them on board.
- (4) Upon finalisation, the consolidating supervisor shall communicate the written coordination and cooperation arrangements to the other members of the college.
- (5) The consolidating supervisor and the other members of the college shall consider the need to update the written coordination and cooperation arrangements in order to address changes in any of its elements pursuant to Article 4 of Regulation (EU) 20xx/xx. The written coordination and cooperation arrangements shall be also updated to reflect changes in the membership of the college.
- (6) While updating the written coordination and cooperation arrangements, the consolidating supervisor and the other members of the college shall follow the process defined in this Article.
- (7) The section of written coordination and cooperation arrangements referring to the framework for the cooperation in preparation for and during emergency situations shall be reviewed by the consolidating supervisor and the other members of the college on a periodical basis to be determined in these arrangements. If deemed necessary by the consolidating supervisor and the other members of the college, the implementation of these arrangements shall be tested by means of simulation exercises or in any other way, as appropriate.
- (8) The consolidating supervisor shall use the template in Annex II for the purposes of the establishment and update of the written coordination and cooperation arrangements.

Article 4

Operational aspects of college meetings and college activities

- (1) Colleges of supervisors shall convene at least one physical meeting per year. The consolidating supervisor with the consent of all other members of the college, and

taking into account the characteristics of the group, may determine a different frequency of physical meetings.

- (2) The consolidating supervisor shall clearly establish the objectives of the college meetings. The consolidating supervisor shall ensure that these objectives are adequately reflected on the agenda of these meetings and shall invite all members of the college to propose additional agenda items. The consolidating supervisor shall take into account proposals on agenda items made by the other members of the college and shall explain, if necessary, the reason for not taking them on board.
- (3) The consolidating supervisor and the other members of the college, when they are involved in a particular activity or meeting of the college, shall circulate documents and contributions in working documents well in advance to enable all members of the college to actively participate and contribute to the discussions.
- (4) The exact time frames regarding document circulation shall be set in the written coordination and cooperation arrangements.

TITLE II

PLANNING AND COORDINATION SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS

Article 5

General framework

- (1) All information to be exchanged within the college as referred to in Article 8 of Regulation (EU) 20xx/xx shall be communicated from the member of the college originating the information to the consolidating supervisor. The consolidating supervisor shall communicate the information to the other members of the college, when this is deemed appropriate, also in accordance with the provisions of this Regulation.
- (2) When the college is organised in different substructures, the consolidated supervisor shall keep all college members fully informed, in a timely manner, on the actions taken or the measures carried out in different college substructures

Article 6

Ongoing review of the permission to use internal models

- (1) In case the requirements for applying an internal approach in accordance with Article 143 (1), Article 151 (4) and (9), Article 283, Article 312 (2), and Article 363 of Regulation (EU) No 575/2013 are no longer met by any of the EU group institutions or in case inefficiencies have been identified in accordance with Article

101 of Directive 2013/36/EU by any member of the college the consolidating supervisor and that members of the college which supervising entities that are affected by these inefficiencies, shall work together, in full consultation, to jointly agree on the revocation of the permission, the imposition of capital add-ons or on the restriction of the use of the internal model as referred to in Article 101 (1), (3) and (4) of Directive 2013/36/EU.

- (2) The agreement on the revocation of an approved model shall be jointly taken by the consolidating supervisor and the members of the college supervising entities that are affected by the inefficiencies identified under paragraph 1. The cooperation between the consolidating supervisor and those members of the college shall follow the process set by the provisions of Regulation 20xx/xxx in a way that appropriate to the scope of involvement of each competent authority.
- (3) The consolidating supervisor shall inform all other members of the college on the outcome of activities referred to in paragraph 1, where it considers that such information is likely to affect other activities of the college or is essential for the exercise of the tasks of other members of the college.

Article 7

Notification of non-material extensions or changes (ex-ante and ex-post)

- (1) For non-material model extensions or changes that affect the parent of the group or any of the EU group institutions, the consolidating supervisor shall inform all relevant members of the college without delay of these extensions or changes.
- (2) For non-material model extensions and changes that affect any of the EU group institutions, the member of the college under the supervisory remit of which is that institution shall inform the consolidating supervisor of these extensions or changes.
- (3) Where a competent authority has concerns regarding the classification of an extension or change as non-material, it shall communicate those concerns to the other relevant members of the college and discuss the details of these concerns with a view to reaching a common view on the materiality of the extension or change.
- (4) Where the competent authorities consider that extensions or changes to a model have incorrectly been classified by the institution concerned as non-material, the competent authorities shall inform the institution without delay.

Article 8

Exchange of other quantitative and qualitative information

- (1) The consolidating supervisor and the members of the college participating in the development of a joint risk assessment report for the purposes of reaching joint decision on institution specific prudential requirements referred to in Article 113 of

Directive 2013/36/EU shall discuss and agree on the subset of indicators based on the ITS on supervisory reporting to be exchanged.

- (2) Each member of the college referred to in paragraph 1 shall communicate to the consolidating supervisor data on the subset of indicators agreed in accordance to paragraph 1 for the institution under its supervisory remit.
- (3) The consolidating supervisor shall disseminate this information, including quantitative information at the parent and consolidated level, to each member of the college referred to in paragraph 1.
- (4) The consolidating supervisor and the other members of the college referred to in paragraph 1 shall exchange this information at least on an annual basis, or more frequently if agreed by these college members.

Article 9

Means for the exchange of information

- (1) The consolidating supervisor and the other members of the college shall determine the means of exchange of information in the written coordination and cooperation arrangements.
- (2) When a secure website is established, the use of this platform shall be the main means of communication.

Article 10

Establishment and update the college supervisory examination programme

- (1) For the purposes of establishing a college supervisory examination programme, the members of the college shall provide their input in accordance with Article 16 of Regulation (EU) 20xx/xx to the consolidating supervisor.
- (2) Having received contributions from other members of the college and once the joint risk assessment and joint decision process have been finalised, the consolidating supervisor shall prepare a draft college supervisory examination programme.
- (3) The consolidating supervisor shall circulate the draft college supervisory examination programme to the other members of the college inviting them to provide their views on the areas of common work and indicating the relevant deadline for the submission of these views.
- (4) For the purposes of finalising the college supervisory examination programme, the consolidating supervisor shall take into account any views and reservations

expressed by the members of the college and explain, if necessary, the reason for not taking them on board.

- (5) Upon finalisation, the consolidating supervisor shall communicate the college supervisory examination programme to the other members of the college.
- (6) The college supervisory examination programme shall be updated, at least annually, and even more frequently in case this is deemed necessary as a result of the supervisory review and evaluation process pursuant to Article 96 of Directive 2013/36/EU, and the reach or update, including extraordinary update, of joint decisions on institution-specific prudential requirements pursuant to Article 113 of that Directive
- (7) While updating the college supervisory examination programme, the consolidating supervisor shall follow the process defined in this Article.

TITLE III

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN PREPARATION FOR AND DURING EMERGENCY SITUATIONS

Article 11

Establishment and update of the college framework for emergency planning and defining the scope of information requirements in preparation for emergency situations

- (1) The consolidating supervisor shall prepare its proposal for establishing the college framework for emergency planning and defining the scope of information requirements in preparation for emergency situations in accordance with Articles 18 of Regulation (EU) 20xx/xx.
- (2) The consolidating supervisor shall communicate its proposal to the members of the college, inviting them to provide their views and indicating the relevant deadline for the submission of these views.
- (3) For the purposes of finalising the college framework for emergency planning and defining the scope of information requirements in preparation for emergency situations, the consolidating supervisor shall take into account any views and reservations expressed by the members of the college, and explain, if necessary, the reasons for not taking them on board.
- (4) Upon finalisation, the consolidating supervisor shall communicate the college framework for information requirements in preparation for emergency situations to the members of the college.

- (5) The consolidating supervisor and the other members of the college shall consider, at least on an annual basis, the need to update the college framework for emergency planning and the scope of information requirements in preparation for emergency situations.
- (6) While updating the college framework for emergency planning and the scope of information requirements in preparation for emergency situations, the consolidating supervisor and the other members of the college shall follow the process defined in this Article.

Article 12

Cooperation during emergency situations

- (1) When the consolidating supervisor becomes aware of an emergency situation affecting any group entity, the consolidating supervisor shall alert the other members of the college affected by the emergency situation or likely to be affected by the emergency situation and the EBA without undue delay.
- (2) When any member of the college becomes aware of an emergency situation affecting any group institution under its supervisory remit, that relevant member of the college shall alert the consolidating supervisor without undue delay.
- (3) In the above cases, the consolidating supervisor shall ensure that all other members of the college are adequately informed about the main elements of the coordinated supervisory assessment of the emergency situation, the coordinated supervisory response, including measures taken or planned to be taken, and its monitoring, including, if appropriate, early intervention measures adopted pursuant to Articles 23, 23a and 24 of Directive 2014/59/EU or the determination of the conditions for resolution as per Article 27 of that Directive.
- (4) Where it is likely that the supervisory response to an emergency situation will be more efficient if it involves other relevant authorities as referred to in Directive 2014/59/EU, the consolidating supervisor shall consider the involvement of the relevant resolution authorities, central banks, competent ministries and deposit guarantee schemes, where appropriate.
- (5) Where an emergency situation is restricted to a specific entity of the group, the situation shall be managed by the competent authority responsible for the supervision of the entity concerned in liaison with the consolidating supervisor.

Article 13

Coordinated supervisory assessment of an emergency situation

- (1) For the purposes of Article 21 of the Regulation (EU) 20xx/xx, the consolidating supervisor shall coordinate the development of a draft coordinated supervisory assessment of the emergency situation, based on its own assessment and the

assessment of the members of the college involved in dealing with the emergency situation.

- (2) The draft common assessment of the emergency situation shall cover the group and the individual affected or likely to be affected entities of the group. The views and assessments of the members of the college responsible for the supervision of these entities shall be adequately taken into account by the consolidating supervisor.
- (3) In case that the emergency situation is restricted to a specific entity of the group, the competent authority responsible for the supervision of that entity shall, in liaison with the consolidating supervisor, conduct the supervisory assessment of the emergency situation.

Article 14

Coordinated supervisory response to an emergency situation

- (1) The consolidating supervisor shall coordinate the development of a coordinated supervisory response to the emergency situation with regard to the group and the individual affected or likely to be affected entities of the group. The views and assessments of the members of the college responsible for the supervision of these entities shall be adequately taken into account by the consolidating supervisor.
- (2) In case the emergency situation is restricted to a specific entity of the group, the competent authority responsible for the supervision of that entity shall, in liaison with the consolidating supervisor, conduct the development of the supervisory response to the emergency situation.
- (3) Actions noted in paragraphs 1 and 2 shall be conducted without undue delay.
- (4) Given the nature of an emergency situation, the development of the coordinated supervisory assessment of an emergency situation and the development of the coordinated supervisory response to this emergency situation may run in parallel.

Article 15

Monitoring and update of a coordinated supervisory response to an emergency situation

- (1) The consolidating supervisor shall coordinate the monitoring of the implementation of the agreed actions set in the coordinated supervisory response.
- (2) The members of the college responsible for the supervision of the entities affected or likely to be affected by the emergency situation shall inform the consolidating supervisor of the evolution of the emergency situation and the implementation of the agreed actions related to their respective entities.

- (3) Any updates on the monitoring of the coordinated supervisory response shall be provided by the consolidating supervisor to the other members of the college, including the EBA, and shall cover the group and all affected entities of the group.
- (4) The consolidating supervisor and the members of the college responsible for the supervision of the entities affected or likely to be affected by the emergency situation shall consider the need of updating the coordinated supervisory response taking into account the information provided to each other while monitoring its implementation.
- (5) Actions noted in paragraphs 1 to 4 shall be conducted without undue delay.

TITLE IV

OPERATIONAL FUNCTIONING OF COLLEGES FOR SIGNIFICANT BRANCHES FORMED IN ACCORDANCE WITH ARTICLE 51 (3) OF DIRECTIVE 2013/36/EU

Article 16

The establishment and update of the mapping, contact lists and written coordination and cooperation arrangements

For colleges formed in accordance with Article 51 (3) of Directive 2013/36/EU where Article 116 of this Directive does not apply, the home competent authority is responsible to apply to the extent appropriate Articles 1 to 3 on the development and update of mapping, contact lists and written coordination and cooperation arrangements.

Article 17

Operational aspects of college meetings and activities

- (1) The competent authorities of the home Member State shall establish regular cooperation with college members that can take the form of meetings or other activities.
- (2) The organisation of college meeting and activities, and their objectives shall be communicated by the competent authorities of the home Member State to the other members of the college, including the EBA.
- (3) The competent authorities of the home Member State shall clearly establish the objectives of the college meetings. The competent authorities of the home Member State shall ensure that these objectives are adequately reflected on the agenda items and shall invite the other members of the college to propose additional agenda items. The competent authorities of the home Member State shall take into account

proposals on agenda items made by the other members of the college and shall explain, if necessary, the reason for not taking them on board.

- (4) The competent authorities of the home Member State and the other members of the college, when involved in a particular activity or meeting, they shall circulate documents and contributions in working documents well in advance to enable all members of the college to actively participate and contribute to the discussions.
- (5) The exact time frames regarding document circulation shall be set in the written coordination and cooperation arrangements.

TITLE V

PLANNING AND COORDINATION SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS OF COLLEGES FOR SIGNIFICANT BRANCHES FORMED IN ACCORDANCE WITH ARTICLE 51 (3) OF DIRECTIVE 2013/36/EU

Article 18

General framework

- (1) All information necessary between the competent authorities of the home Member State and other members of the college shall be exchanged by the rules and procedures noted thereafter unless otherwise specified.
- (2) Any college member shall provide the relevant information for the performance of respective tasks to the competent authorities of the home Member State. The competent authorities of the home Member State shall have the responsibility of disseminate this information to the other members of the college, including the EBA, when this is assessed to be relevant for the exercise of their tasks, and in accordance with the provisions of this Regulation.
- (3) The competent authorities of the home Member State shall consult the relevant member of the college providing the information in accordance with paragraph 2 before a decision on disseminate this information to other members of the college is taken.
- (4) When the college is organised in different settings, the competent authorities of the home Member State shall keep all college members fully informed, in a timely manner, on the actions taken or the measures carried out in different college settings.

Article 19

Establishment and update of college supervisory examination programme

- (1) For the purposes of establishing a college supervisory examination programme, the members of the college shall provide their input in accordance with Article 30 of Regulation (EU) 20xx/xx to the competent authorities of the home Member State.
- (2) Having received contributions from other members of the college, the competent authorities of the home Member State shall prepare a draft college supervisory examination programme.
- (3) The competent authorities of the home Member State shall circulate the draft college supervisory examination programme to the other members of the college inviting them to provide their views on the areas of common work indicating the relevant deadline for the submission of these views.
- (4) For the purposes of finalising the college supervisory examination programme, the competent authorities of the home Member State shall take into account any views and reservations expressed by the other members of the college and explain, if necessary, the reasons for not taking them on board.
- (5) Upon finalisation, the competent authorities of the home Member State shall communicate the college supervisory examination programme to the other members of the college.
- (6) The college supervisory examination programme shall be updated, at least annually, and even more frequently in case this is deemed necessary as a result of the supervisory review and evaluation process pursuant to Article 96 of Directive 2013/36/EU.
- (7) While updating the college supervisory examination programme, the competent authorities of the home Member State shall follow the process defined in this Article.

TITLE VI

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN PREPARATION FOR AND DURING EMERGENCY SITUATIONS OF COLLEGES FOR SIGNIFICANT BRANCHES FORMED IN ACCORDANCE WITH ARTICLE 51(3) OF DIRECTIVE 2013/36/EU

Article 20

Establishment and update of framework in preparation for emergency situations

- (1) For the purposes of defining the framework in preparation for emergency situations, including the communication procedures and the minimum predefined set of information to be exchanged during emergency situations, the competent

authorities of the home Member State shall prepare a proposal pursuant to Article 31 of Regulation (EU) 20xx/xx.

- (2) The competent authorities of the home Member State shall circulate this proposal to the other members of the college, inviting them to provide their views indicating the relevant deadline for the submission of these views.
- (3) For the purposes of finalising the framework in preparation for emergency situations, the competent authorities of the home Member State shall take into account any views and reservations expressed by the other members of the college, and explain, if necessary, the reasons for not taking them on board.
- (4) Upon finalisation, the competent authorities of the home Member State shall communicate the framework in preparation for emergency situations to the other members of the college.
- (5) The framework in preparation for emergency situations shall be updated, at least annually, and even more frequently, if material changes affecting the group, including its significant branches, have occurred.
- (6) While updating the framework, the competent authorities of the home Member State shall follow the process defined in this Article.

Article 21

Cooperation during emergency situations

- (1) When the competent authorities of the home Member State becomes aware of an emergency situation affecting the group, they shall alert the EBA and other members of the college which are affected or likely to be affected by the emergency situation without undue delay.
- (2) When any member of the college becomes aware of an emergency situation affecting a significant branch in its jurisdiction, they shall alert the competent authorities of the home Member State without undue delay.

Article 22

Supervisory assessment of an emergency situation

Pursuant to Article 33 of the RTS, the competent authorities of the home Member State shall circulate to the other members of the college affected by the emergency situation an assessment of this situation.

Article 23

Development and monitoring of a supervisory response

- (1) The competent authorities of the home Member State shall develop a supervisory response to the emergency situation. The views of the members of the college which are affected by this emergency situation shall be adequately taken into account by the competent authorities of the home Member State.
- (2) The competent authorities of the home Member State shall coordinate the monitoring of the implementation of any actions set out in the supervisory response, if relevant.
- (3) The other members of the college shall inform the competent authorities of the home Member State on the evolution of the emergency situation and the implementation of any agreed actions related to the branch in their jurisdiction.
- (4) Any updates on the monitoring of the supervisory response shall be provided by the competent authorities of the home Member State to the other members of the college, including the EBA.
- (5) Given the nature of an emergency situation, the development of the supervisory assessment of an emergency situation and the development of the supervisory response to this situation may run in parallel.

Article 24

This Regulation shall enter into force on the 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

On behalf of the President

[Position]

5. Accompanying documents

5.1 Draft impact assessment

1. Problem definition

The main problem to be addressed by the EBA is the specification of the general conditions of the functioning of colleges and the determination of the operational functioning of colleges pursuant to Articles 51 and 113 of Directive 2013/36/EU.

To accomplish this, the EBA aims to achieve the maximum possible level of harmonisation by implementing the binding technical standards (BTS) as a means of establishing a level playing field, preventing of regulatory arbitrage opportunities and enhancing supervisory convergence and legal clarity. The resolution of the problem identified should also help colleges to operate efficiently and effectively by reducing the compliance burden on the supervisory authorities, in their capacity as home and host competent authorities and on other involved/affected stakeholders (e.g. credit institutions).

2. Objectives

The operational objectives that would enable the regulatory objective of the draft RTS and ITS of achieving maximum harmonisation to be met involve streamlining the tasks relating to:

- the content and the focus of the mapping exercise,
- the frequency and process for performing, agreeing and updating the mapping of cross-border banking groups,
- the main elements of the written coordination and cooperation arrangements (for both going concern and emergency situations), including setting up and maintaining contact lists – and emergency contact lists – of college members,
- the process of developing, agreeing and updating the written cooperation and coordination arrangements,
- the content of the information to be exchanged while performing different supervisory tasks within the college framework,
- the process, frequency and recipients of the sharing of the relevant information taking into account the different roles and responsibilities of college members,
- the focus of the joint work, in particular that included under the joint supervisory examination programme,
- the frequency and process of performing, agreeing and updating, as needed, the college supervisory examination programme,
- the establishment of a framework for preparing and executing the envisaged cooperation during emergency situations, defining the information to be exchanged and the frequency with which this is done, as well as the process for exchanging this information,

- the establishment of the process for performing coordinated supervisory assessment of emergency situations, as well as developing and implementing coordinated supervisory responses and supervisory communication.

3. Options considered

After conducting an initial screening of the problem to identify whether there is a need for an in-depth impact assessment, it has been concluded that the specific set of technical standards do not require an analytic IA to analyse specific technical options. Instead, the options examined will be restricted to a high-level set of policy options to determine whether the draft RTS and ITS framework will be:

- Option 1: keeping the existing practices unchanged when creating the RTS/ITS framework, i.e. current practices $\equiv$ RTS/ITS
- Option 2: adding new elements or excluding elements from the existing practices, i.e. current practices $\neq$ RTS/ITS

3.1. Mapping exercise

The draft BTS on colleges of supervisors address the issue of the mapping of cross border banking groups given that (a) the draft RTS specify the content and focus of the mapping exercise and (b) the draft ITS introduce the requirements for the performance of the mapping exercise and specify the process for performing, agreeing and updating the mapping at least on an annual basis.

The performance of the mapping exercise, as addressed by the draft technical standards, consists in:

- identifying the entities and branches of a cross-border banking group with a presence in EEA and non-EEA countries;
- determining and noting the significance and relevance of these entities and branches for the local markets and for the group; and,
- identifying the competent authorities responsible for the supervision of these entities to collect the necessary information for determining college membership.

The mapping of cross-border banking groups is an exercise led by the consolidating supervisor upon setting up a college and is updated at least on an annual basis (as per the draft ITS provisions). Contributions and the involvement of the host competent authorities are expected, in particular with regard to determining and noting the significance of entities in their jurisdiction.

The content of the template to be used when performing this exercise (Annex 1 of the draft ITS) should be in agreement with and reflect the content of information specified in the draft RTS.

3.1.1. Differences with regards to current practices

It is expected that the draft BTS, through the inclusion of a template for the mapping exercise (the “mapping template”) which has been developed on the basis of the mapping template used by the EBA staff for collecting information when monitoring colleges, will require competent authorities to implement specific changes to their current practices. This is the case in particular for the competent authorities acting as consolidating supervisors. It is also expected that the mapping template will aid the convergence of practices among supervisors and facilitate the process of discussing, agreeing and updating the mapping of cross-border banking groups. It is envisaged that the harmonisation of the templates will have a notable positive impact on the host

competent authorities, as they would not need to provide information using different templates which vary depending on the consolidating supervisor's requirements.

3.2. Essential elements of written coordination and cooperation arrangements

The draft BTS on colleges of supervisors address the issue of written coordination and cooperation arrangements given that (a) the draft RTS specify the main elements of the written coordination and cooperation arrangements, covering both going-concern and emergency situations as well as contact lists (annexes to these arrangements) and (b) the draft ITS cover the process for developing, agreeing and updating these written coordination and cooperation arrangements.

As for the performance of the mapping exercise, the process for the development of the written coordination and cooperation arrangements is led by the consolidating supervisor, who consults the host competent authorities, members of the college. The draft ITS provide a template that is to be used as the basis by the consolidating supervisor when developing the written coordination and cooperation arrangements.

3.2.1. Differences with regard to current practices

Colleges are currently using a template that was developed by CEBS and which has the form of a legal contract with quite general provisions covering information exchange, a collaboration framework, etc. Clear references to college-specific information were included, mainly with regard to the structure and description of the group (usually included as a chart in the annex) and the identification of the competent authorities responsible for the supervision of the group entities. Given the provisions of the Level 1 text and the requirements to be introduced by the draft RTS and ITS, the written cooperation and coordination arrangements could be more college-specific – within, of course, the framework provided by the Level 1 text and the draft technical standards on colleges. This means that the current template will be replaced by a more general, free-text template that will specify the areas that need to be covered by the written arrangements and that will provide guidance on their further development and specification to the needs and requirements of a college (college-specific written cooperation and coordination arrangements).

3.3. Planning and coordination of activities in going-concern situations

a. Information exchange

- SREP elements and SREP outcome
- Risk indicators
- Information on non-compliance and sanctions

b. Internal models

- Ongoing review of approved models
- Notifications of non-material changes

c. Joint activities – colleges supervisory examination programme

With regard to the information exchange within the college framework and on a going-concern basis, the draft RTS specify the information to be exchanged building on the elements of the SREP as specified in the Guidelines on common SREP (ongoing work), on the outcome of the SREP for a cross-border banking group and its entities (making links to the ITS on capital and liquidity joint decisions), on the information to be exchanged while reviewing the performance of the approved internal models, information on key risk indicators, and information on compliance issues relevant for the group or for any of its entities. The draft RTS provide specific links to Article 101

of Directive 2013/36/EU (ongoing review of the permission to use internal models) requiring competent authorities to exchange information on Article 101(3) and Article 101(4) of the CRD for cross-border entities.

With regard to the supervisory examination programme, the draft RTS specify its main elements building on the Level 1 provisions (Article 99 of the CRD IV).

The draft ITS establish the process for exchanging this information, as well as the rules for the leading authority – being the consolidating supervisor – and determines the level of involvement of other host competent authorities (e.g. the information concerning a specific entity is communicated to other members of the college, where relevant, by the consolidating supervisor; information on non-compliance issues are shared with host competent authorities only when this information is relevant to them). The draft ITS also include provisions investigating the possibility of intensifying the cooperation between home and host competent authorities should an authority plan to revoke the permission to use an internal model that has been jointly agreed by the consolidating supervisor and relevant host competent authorities.

The draft ITS also include information covering the process for developing, agreeing and updating the college/joint supervisory examination programme.

3.3.1. Differences with regard to current practices

The content of the information being exchanged amongst the members of the college is not usually consistent, particularly while in the process of reaching capital and liquidity joint decisions (however, this is captured by the draft ITS on capital and liquidity joint decisions cost-benefit analysis). The main new element that has been introduced is the information regarding the key risk indicators. However, since the information will be available at group level, the cost could be attributed to the efforts made by host supervisors in preparing the information for subsidiaries and from the subsequent efforts made by all other competent authorities to collect and analyse this information. Another new element relating to home-host cooperation is also required to cover the revocation of models and notification of non-material extensions and changes.

3.4. Planning and coordination of activities in emergency situations

a) Development of a framework and determining the scope of information to be exchanged in emergency situations

b) Coordinated supervisory actions

- Coordinated assessment
- Coordinated supervisory response and monitoring of this response
- Coordinated supervisory communication

The draft RTS include provisions requiring the members of the college to agree on a framework for dealing with emergency situations. The provisions stipulate that college members must identify the tools and procedures to be used and followed for the exchange of information – in a secure and timely way. At the same time, college members are expected to test and, if necessary, revise on a periodical basis the framework in place. In addition, the draft RTS specify the minimum set of information to be exchanged once an emergency situation has been identified. Furthermore, the draft RTS set operational aspects of cooperation and interaction between members of the college and with other authorities and/or other forms of cooperation or arrangements that may have been established for the group, either at European or global level. The provisions also intend to cover elements of information to be exchanged, or other issues to be considered by members of the college either (a) when performing their coordinated

supervisory assessment or (b) when determining the coordinated supervisory response and deciding on the coordinated supervisory communication.

The draft ITS set the process, frequency and the level of involvement of the members of the college in conjunction with the framework for cooperation set by the draft RTS.

3.4.1. Differences with regard to current practices

From the implementation study performed at the end of 2011 / beginning of 2012, it seems that, at that time, most of the colleges did not have in place a framework for cooperation for preparation and while in the process of dealing with emergency situations, other than setting up and maintaining emergency contact lists. Since then, colleges have intensified their efforts in developing emergency plans and maintain up-to-date emergency contact lists. The provisions of the draft RTS and ITS introduce further details covering the framework of cooperation among the members of a college while dealing with emergency situations, building on the experience gained through the implementation of relevant provisions of GL34, Chapter 8.

4. Impact assessment analysis

4.1. Mapping exercise

The cost⁴ of mapping would mainly arise from (a) potential difficulties in identifying the general structure of cross-border banking group, especially for those groups with a large number of subsidiaries and branches (significant/non-significant), with costs resulting also from efforts to obtain information on non-significant branches and their immediate parent, (b) the resources to be devoted to updating the mapping on yearly basis, especially for banking groups with many entities and branches in EEA and non-EEA countries; (c) the requirement to provide information on the criteria used for determining the significance and relevance of an entity or a branch for the local market and/or the group, as this may be more time-consuming compared to current practices across the EU, and (d) the requirement to provide information on the use of waivers to identify the scope of institution-specific prudential requirements (liquidity and capital joint decisions).

College members would benefit from having an up-to-date mapping of the group that includes (a) information on the group's entities along with (b) criteria used for determining the relevance and significance, (c) information on use of waivers that are relevant for understanding the entities that are fall within the scope of capital and liquidity joint decisions, and (d) information on the competent authorities responsible for the supervision of these entities, both from EEA and non-EEA countries (NB: for the latter remains to the EEA members of the college to decide on their participation in the college, subject to the confidentiality provisions of these non-EEA countries).

4.2. Essential elements of written coordination and cooperation arrangements

Additional costs are expected to arise from (a) the interaction between competent authorities during the process of agreeing on/updating the written coordination and cooperation arrangements, (b) the more flexible nature of these written coordination and cooperation arrangements, and efforts made by the competent authorities to keep them up-to-date and (c) drawing up and adapting the written cooperation and coordination arrangements according to the characteristics of the group and its college, with different steps for the consultation with and involvement of various divisions/sections of the competent authorities (e.g. supervision, legal)

⁴ A member indicated that the costs not in (a) to (c) seem to be primarily located to the very first years of performance of the mapping exercise and use of the mapping template for the identification of the entities of a banking group, and the identification of the competent authorities supervising these entities.

The benefits relating to the written coordination and cooperation arrangements are expected to arise from (a) the inclusion of practical and detailed information on arrangements and agreements made among the college members in view to facilitate the functioning of colleges, both in going-concern and emergency situations, and (b) the inclusion of college-specific information that could be used as the basis for ensuring the compliance of college members with the agreements in place and the audit trail for the same purposes. It is also expected that the written coordination and cooperation arrangements will facilitate joint risk assessments – including on-site and off-site inspections.

4.3. Planning and coordination of activities in going-concern situations

(a) Information exchange; content and process-related provisions

With regard to provisions specifying the information to be exchanged (draft RTS provisions) and the process for exchanging this information (draft ITS provisions, and provisions arising from the draft ITS on joint decisions on institution-specific prudential requirements⁵), the costs are expected to arise from the (a) preparation, (b) communication and (c) analysis of this information (e.g. costs foreseen in terms of additional resources needed by the competent authorities, members of the college, to support the preparation, exchange, reading, assessment, analysis and understanding of the provided information), and (d) translation of this information from the national language into the working/common language used by the college.

The benefits linked to provisions on the information to be exchanged are expected to be (a) the facilitation of the performance of supervisory tasks arising from the Level 1 text given that a complete and up-to-date set of information will be exchanged and be available to the members of the college, based on their role and responsibilities (the draft technical standards take into account differences in the level of interaction and granularity of information to be exchanged, depending on the role of a competent authority e.g. host of subsidiary or host of a branch), (b) the facilitation of the college function and interaction of competent authorities within the college framework, and (c) the reduction in the number of information requests addressed to supervised institutions to the maximum extent possible through efforts to coordinate these requests among the competent authorities, and (d) the enabling of supervisors to develop a common understanding of the risk profile of the relevant group as the starting point for risk-based supervision.

(b) Home host cooperation with regard to the ongoing review of internal models and notifications of non-material changes; content and process-related provisions

The foreseen costs arising from the draft RTS and ITS in this respect are expected to be (a) the constraints in man-hour resources to be devoted to home-host cooperation with regard to the ongoing review of approved models and notifications of non-material changes, and (b) the possible impact of home-host interaction during the ongoing review of internal models on interaction with credit institutions, recognising that the need for discussions, consultation or even joint decisions (e.g. revocation of an approved internal model) between the consolidating supervisor and relevant competent authorities could be time-consuming and costly.

The foreseen benefits from the implementation of the draft RTS and ITS could arise from (a) the intensification of the interaction and cooperation between home and host supervisors and it being consistent across the EU in cases where decisions concerning the revocation of permission

⁵ The impact from the provisions included in the ITS on joint decisions on institution-specific prudential requirements (Article 113(8) of the CRD) has already been covered by the cost-benefit analysis of the respective technical standards, so it was excluded while members considered sources of costs and benefits.

for an internal model, jointly granted by the consolidating supervisor and relevant competent authorities, are being considered, (b) having a better overview of decisions concerning the revocation of approved models and those underlying the deficiencies identified during the ongoing review of approved models, and (c) the need for transparency and clarity in relation to non-material changes and extensions of approved models applied at different entity levels of a cross-border banking group.

(c) College supervisory examination programme; content and process-related provisions

The foreseen costs from the implementation of RTS and ITS could include (a) resource constraints or constraints arising from the national regulatory or reporting framework, (b) intensification of coordination, (c) revision of national approaches to fit into the calendar of the joint work – an element that was noted as the most important source of costs in terms of costs linked to the supervisory examination programme, (d) possible delays in drawing up the programmes given that a larger number of competent authorities will be involved, and (e) less flexibility in the process for including new activities that may be needed to cover/address unforeseen needs.

With regard to the supervisory examination programme, as an overall benefit it was noted that the college will have a better understanding of the entire group, which will enable all college members to better identify significant risks relevant for the group as a whole. In terms of more specific details relating to the draft RTS and ITS, the RTS build on the provisions of the Level 1 text (Article 99 of Directive 2013/36/EU). It is expected that, by defining the minimum elements of the joint supervisory examination programme, (a) the structure and main elements of the college examination programmes will converge across colleges – even though one member expressed doubts as to whether this is necessarily a benefit, (b) there would be sufficient links and consistency between individual programmes and the college supervisory examination programme, increasing both the efficiency in the use and allocation of resources, and in the prioritisation of activities and the transparency and rationalisation of the decisions taken. In addition, with regard to the joint supervisory examination programme it is expected that the process and timeline for developing it as specified in the draft ITS (e.g. once the joint decisions on capital/liquidity have been completed for year 1, the process of developing the joint supervisory examination programme for year 2 should start) (c) will help to improve the current supervisory practices, e.g. the joint supervisory examination programme will be transformed from just an aggregation of individual supervisory examination programmes, as is currently the case, into an integrated framework for identifying areas of joint work for college members, and will avoid any overlapping of work.

4.4. Planning and coordination of activities in emergency situations

It is foreseen that the costs would arise from: (a) developing a framework for cooperation and keeping this framework up to date, in particular start-up costs, (b) setting up internal procedures or modifying risk monitoring and assessment systems in place to take into account emergency situations, (c) cooperation requirements, especially during emergency situations, which are expected to require further resources and investments in IT systems and tools enabling supervisory cooperation to be conducted in a timely and secure manner, (d) less flexibility in terms of the actions that supervisory authorities may wish to take in an uncoordinated way, given provisions requiring the dissemination of information and efforts to ensure that assessments and actions are coordinated before they are implemented, (e) translation of information from the national language into the common/working language of the college, which can be time-consuming and costly, particularly during emergency situations.

The foreseen benefits would arise from (a) developing and agreeing on a framework for cooperation between competent authorities ex ante, which will aid the identification of

emergency situations and enable the supervisory assessment and response to be conducted in a more efficient and timely manner, (b) enhancing the cooperation with other authorities e.g. resolution authorities, (c) ensuring the consistency of messages in external communication, (d) reducing the risk of problems that may arise due to contradictory actions being taken by competent authorities, (e) enabling host competent authorities to efficiently deal with emergency situations, and (f) developing internal procedures or modifying the existing risk monitoring and assessment systems to anticipate and deal with emergency situations.

4.5. Overall impact assessment

The EBA staff asked the members of the SG on Home host and Colleges (substructure of EBA working, among other issues, on the development of draft binding technical standards in the area of home-host cooperation and colleges) to provide their feedback on the anticipated sources of costs and benefits from the implementation of the draft ITS and RTS and assess the magnitude of the costs and benefits linked to the aforementioned sources by differentiating between three categories of stakeholders (consolidating supervisor, host supervisor, other stakeholders) and various types of provisions (mapping exercise, written coordination and cooperation arrangements, etc).

22 responses were received from the following Member States: BG, CZ, DE, DK, EL, ES, HR, HU, IE, IT, LT, LU, MT, NL, NO, PT, PL, RO, SE, SI, SK and UK. The sources of additional costs and benefits identified by these Member States are included in the list of costs and benefits provided in sections 4.1 to 4.4.

Regarding the level of costs and benefits, the individual responses received by the Member States were converted and weighted appropriately to estimate the impact at EU level, according to the aggregation method described below.

- The qualitative answers on the magnitude of cost and benefit from implementing the ITS and RTS were converted into numerical values to facilitate the aggregation. Specifically, the fields 'not completed by the NSA who submitted answers' were assigned a value of zero (0) (i.e. the cost/benefit would be zero for the specific stakeholder/provision), the 'negligible' impact was assigned 1, the 'low' impact was assigned 2, the 'medium' impact was assigned 3 and the 'high' impact was assigned 4.
- Consequently, the aggregation was conducted by calculating the weighted average of the numerical values, using as weights the size of the country that submitted answers to the quantitative part of the questionnaire. For the sake of simplicity, the seats that each Member State has in the European Parliament were used as weights.
- To calculate the overall EU level of impact, the answers to the questionnaire were categorised as either cost-related or benefit-related.
- The EU-level numerical values for cost and benefits were converted as follows: negligible to zero < 0.75, 0.75 <= negligible < 1.25, 1.25 <= low to negligible < 1.75, 1.75 <= low < 2.25, 2.25 <= medium to low < 2.75, 2.75 <= medium < 3.25, 3.25 <= high to medium < 3.75 and high >= 3.75

Following the method of aggregation and classification of the EU-wide impact specified above, the implementation of the draft ITS and RTS is expected to result in the following impact:

Table 1 - Impact per category of stakeholder and area of provisions – costs

Stakeholders	Mapping exercise	Written cooperation and coordination arrangements	Information exchange aspects for going concern	Ongoing review of models	Supervisory examination programme	Planning and coordination of activities in emergency situations
Consolidating/home supervisor	Low	Low	Low	Low	Low	Medium
Host supervisor	Low	Low	Medium	Medium	Medium	Medium
Other stakeholders (e.g. credit institutions)	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible

Table 2 - Impact per category of stakeholder and area of provisions – benefits

Stakeholders	Mapping exercise	Written cooperation and coordination arrangements	Information exchange aspects for going concern	Ongoing review of models	Supervisory examination programme	Planning and coordination of activities in emergency situations
Consolidating/home supervisor	Low	Low	Low	Low	Medium	Medium
Host supervisor	Medium	Medium	Medium	Medium	Medium	Medium
Other stakeholders (e.g. credit institutions)	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible

Table 3 - Overall impact per category of stakeholder

Category	Costs	Benefits	Net Impact
Consolidating / home supervisor	Medium to low	Medium to low	Zero
Host supervisor	Medium to low	Medium	Negligible to zero (positive)
Other stakeholders (e.g. credit institutions)	Negligible	Negligible	Negligible to zero (positive)
Overall	Low	Low	Negligible to zero (positive)

5.2 Overview of questions for consultation

Q1: Do you have any suggestions regarding the process to be followed by the members of the college for communicating with the parent entity of the group and with its subsidiaries?

Q2: Do you have any suggestions regarding elements of the college supervisory examination programme that need to be considered and agreed by the members of the college?

Q3: Do you have suggestions regarding any other aspects of home-host cooperation that should be covered by these draft binding technical standards, bearing in mind the mandate of the Level 1 text, to ensure that colleges operate efficiently, effectively and consistently?