

EBA/RTS/2017/08

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EBA/ITS/2017/05

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14/07/2017

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## Final Report

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Draft Regulatory Technical Standards under Article 8(2) of Directive 2013/36/EU on the information to be provided for the authorisation of credit institutions, the requirements applicable to shareholders and members with qualifying holdings and obstacles which may prevent the effective exercise of supervisory powers

Draft Implementing Technical Standards under Article 8(3) of Directive 2013/36/EU on standard forms, templates and procedures for the provision of the information required for the authorisation of credit institutions

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# 1. Executive summary

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Pursuant to Article 8 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, the EBA is required to develop regulatory technical standards (RTS) and implementing technical standards (ITS) dealing with matters pertaining to the authorisation of credit institutions. This final report sets out the final draft technical standards prepared by the EBA to fulfil these mandates.

The draft RTS prepared by EBA pursuant to Article 8(2) of Directive 2013/36/EU include a comprehensive list of information to be provided in an application by undertakings seeking to obtain the authorisation referred to in Article 8(1) of Directive 2013/36/EU. The list of information concerns matters such as identification details and historical information regarding the applicant credit institution, including its existing licences; the activities proposed to be carried out by the applicant credit institution; and information on the financial situation of the applicant credit institution, the programme of operations, initial capital, management body and other relevant persons, shareholders and members. Furthermore, flexibility is provided, in accordance with clear criteria, allowing competent authorities to vary the scope of required information. The draft RTS do not prejudice a competent authority's right to request clarifications or additional information that may be required following a review of the information provided in accordance with the draft RTS.

The draft RTS also set out requirements applicable to the proposed shareholders and members with qualifying holdings of the applicant credit institution. In keeping with the provisions of Article 14(2) of Directive 2013/36/EU, the requirements closely follow the criteria set out in Article 23(1) of the Directive. Finally, the draft RTS also specify obstacles that could prevent the effective exercise of the supervisory functions, including examples thereof.

The draft ITS prepared by the EBA pursuant to Article 8(3) of Directive 2013/36/EU set out a form to be used by undertakings seeking to obtain the authorisation referred to in Article 8(1) of Directive 2013/36/EU, as well as relevant procedures and requirements relating to the submission of such applications and to the approach to be taken in respect of incomplete applications.

## Next steps

These draft RTS and ITS are simultaneously submitted to the European Commission for it to decide whether to endorse the EBA's draft technical standards.

## 2. Background and rationale

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1. To further the achievement of the internal market from the point of view of the freedom of establishment in the field of credit institutions and to ensure a level playing field, Directive 2013/36/EU foresees the harmonisation of certain conditions relevant to the authorisation of credit institutions.
2. Therefore, pursuant to Article 8(2) of Directive 2013/36/EU, the EBA shall draft regulatory technical standards (RTS) to specify:
  - a. the information to be provided to the competent authorities in the application for the authorisation of credit institutions, including the programme of operations provided for in Article 10 of Directive 2013/36/EU;
  - b. the requirements applicable to shareholders and members with qualifying holdings pursuant to Article 14 of Directive 2013/36/EU; and
  - c. obstacles which may prevent effective exercise of the supervisory functions of the competent authority, as referred to in Article 14 of Directive 2013/36/EU.
3. Furthermore, pursuant to Article 8(3) of Directive 2013/36/EU, the EBA shall develop draft implementing technical standards (ITS) on standard forms, templates and procedures for the provision of the information referred to in point (a) of paragraph 2 above.
4. Power is delegated to the Commission to adopt the draft RTS and ITS.
5. This paper sets out the draft RTS and ITS prepared by the EBA pursuant to the mandates set out in Article 8(2) and in Article 8(3) of Directive 2013/36/EU.
6. The RTS set out the information to be provided in applications for the authorisation of credit institutions. The aim of the RTS is to harmonise the information requirements applicable to applications for the authorisation of credit institutions, and the RTS are therefore intended to simplify the application process, given that the information to be provided will be harmonised across all EU Member States.
7. Considering the sensitive nature of the activity of a credit institution and the applicable regulatory regime, an application for authorisation as a credit institution needs to be supported by a substantial amount of information. The RTS seek to structure such information, which touches upon matters such as the presentation and history of the applicant credit institution, the activities contemplated to be carried out by the applicant credit institution, financial information, the programme of operations, initial capital, the management body and

other relevant persons, and shareholders with qualifying holdings or otherwise the 20 largest shareholders.

8. During the development of the RTS, the EBA took account of a number of related regulatory instruments. Thus, the list of information to be provided in respect of shareholders and members with qualifying holdings took into account as a starting point the EBA, ESMA and EIOPA Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the financial sector.<sup>1</sup> Furthermore, the draft ESMA and EBA Joint Guidelines on the assessment of the suitability of members of the management body and key function holders under Directive 2013/36/EU and Directive 2014/65/EU were also taken into account.<sup>2</sup>
9. The RTS recognise that a measure of flexibility is warranted to ensure that the information requirements can be calibrated to the nature of the application and thereby avoid a situation in which a competent authority is not permitted to require additional information needed to assess the application. This is particularly relevant considering the provisions of Article 8(1) of Directive 2013/36/EU, pursuant to which Member States may lay down in national law additional requirements for authorisation beyond those specified in EU law (such additional requirements must be notified to the EBA). Consequently competent authorities are empowered to obtain information necessary to assess applicants against any such requirements. The RTS seek to strike a balance between these considerations and the need to ensure that the objective of defining a unified set of information requirements should not be jeopardised.
10. Given this, the RTS seek to provide the required measure of flexibility as follows:
  - a. Article 2(2) sets out conditions for requiring information which is additional to that set out in the RTS; and
  - b. Article 2(3) specifies the information which, although set out in the RTS, need not be provided under certain well-defined circumstances.
11. Furthermore, Article 2(4) of the RTS makes it clear that, in duly justified cases, competent authorities may ask an applicant to present supplemental information or additional explanations for the purposes of verifying if all the requirements for authorisation have been satisfied.
12. Regarding the mandate set out in Article 8(2)(b) of Directive 2013/36/EU, the RTS reflect in Article 11 the position that the requirements applicable to shareholders and members with qualifying holdings upon the initial granting of an authorisation of credit institution should be

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<sup>1</sup> The Joint Guidelines are available here: [https://esas-joint-committee.europa.eu/Publications/Guidelines/JC%20GL%202016%2001%20\(Joint%20Guidelines%20on%20prudential%20assessment%20of%20acquisitions%20and%20increases%20of%20qualifying%20holdings%20-%20Final\).pdf](https://esas-joint-committee.europa.eu/Publications/Guidelines/JC%20GL%202016%2001%20(Joint%20Guidelines%20on%20prudential%20assessment%20of%20acquisitions%20and%20increases%20of%20qualifying%20holdings%20-%20Final).pdf).

<sup>2</sup> The draft ESMA and EBA Joint Guidelines are available here: <http://www.eba.europa.eu/regulation-and-policy/internal-governance/joint-esma-and-eba-guidelines-on-the-assessment-of-the-suitability-of-members-of-the-management-body>.

aligned to the requirements applicable to an acquisition of a qualifying holding after such authorisation is obtained, as expressed in Article 23 of Directive 2013/36/EU and in keeping with the provisions of Article 14 of Directive 2013/36/EU. Furthermore, the RTS seek to provide further clarity in Article 12 on the obstacles that could prevent the effective exercise of the supervisory functions further to the mandate set out in Article 8(2)(c) of Directive 2013/36/EU.

13. The ITS seek to set out a clear framework for submitting the application for authorisation, including its completeness and its accuracy.
14. Furthermore, the annex to the ITS sets out a form to be used for the provision of the information contemplated in the RTS. The form recognises the fact that various items might not be adequately covered in the space provided in the body of the application and, therefore, encourages the use of annexes where needed. The items listed in the form follow the requirements set out in the RTS.
15. It is acknowledged that it might take some time for applicants and for competent authorities to become familiar with the requirements of the RTS and of the ITS. Considering this, both sets of technical standards are stated to apply from the date which is six months after their entry into force and only to applications submitted after that date.

## 3. Draft Regulatory Technical Standards

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## **DRAFT COMMISSION DELEGATED REGULATION (EU) No .../..**

**supplementing Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 with regard to regulatory technical standards in respect of the information to be provided in the application for the authorisation of credit institutions, the requirements applicable to shareholders and members with qualifying holdings and obstacles which may prevent the effective exercise of supervisory powers**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, and in particular Article 8(2) thereof,

Whereas:

1. The information submitted to the competent authorities in the applications for authorisation referred to in Article 8(1) of Directive 2013/36/EU should enable the competent authorities to carry out a comprehensive assessment of applicant credit institutions in order to be satisfied that they meet the requirements for the granting of authorisation as specified in Articles 10 to 14 of Directive 2013/36/EU and, in accordance with Article 8(1) of that Directive, national law with a view to ensuring the sound and prudent management of credit institutions. For this purpose the information to be submitted in applications should cover a wide range of elements relevant to the assessment.
2. In this Regulation a reference to ‘applicant credit institution’ needs to be read as a reference to the credit institution to be established based on the authorisation to be provided by the competent authority, to the entity which applies for such authorisation or, as the case may be, to the credit institution which applies for the authorisation. References to shareholders or members of the applicant credit institution need to be read as references to those persons that have a holding in the applicant or that, as a result of authorisation, will have such a holding.
3. The information required to be submitted pursuant to this Regulation should enable the assessment of the suitability of the applicant credit institution taking account of

requirements specified in EU law. Competent authorities should be allowed to require additional information, subject to specific conditions ensuring that the request is related to any additional requirements for authorisation provided by Member States and notified to the EBA pursuant to Article 8(1) of Directive 2013/36/EU and is proportionate and relevant for the purposes of the assessment against those requirements.

4. Competent authorities should be permitted, in addition, to request such specific clarifications or additional information regarding the individual application as may be required following a review of the information provided in accordance with this Regulation, for the purposes of taking the decision to grant or refuse authorisation.
5. Competent authorities should be able to waive the requirement to submit information that they already possess or where the information is relevant only to activities that the applicant credit institution will not be carrying out. In any case, it is important that the information presented for the purposes of taking the decision to grant or refuse authorisation be true, accurate, complete and up to date from the moment of the application until the commencement of activities. For this purpose, the competent authorities should be informed of any changes to the information provided in the initial application, and the competent authorities should be able to enquire whether any changes or updates have occurred before commencement of the activities.
6. Competent authorities should be in a position to assess the business model and associated risk profile of the applicant credit institution with a view to protecting all stakeholders involved, including in particular depositors, and to ensuring the stability of the financial markets in which the applicant credit institution will operate.
7. The application should include a description of the applicant credit institution, including information about any previous commercial activities and licences, authorisations, registrations or other permissions held, pending for approval, refused or revoked.
8. The application should include a programme of activities setting out a description of the activities that will be performed by the applicant credit institution, including details of the activities subject to mutual recognition in Annex I to Directive 2013/36/EU. Furthermore, without prejudice to the eligibility of deposits in accordance with Directive 2014/49/EU of the European Parliament and the

Council on deposit guarantee schemes,<sup>3</sup> information should be provided in relation to the membership of a recognised deposit guarantee scheme.

9. Financial information about the applicant credit institution should be set out in the application, including where appropriate at individual, consolidated group and sub-consolidated levels, to enable the competent authority to assess the financial soundness of the applicant.
10. A programme of operations setting out the envisaged type of business and structural organisation of the applicant credit institution should be submitted to enable the competent authorities to assess the institution's operational and governance arrangements.
11. Competent authorities should be in a position to establish the quality, origin and composition of the applicant credit institution's initial capital, as well as the prospective compliance of the applicant with prudential requirements. To this end, the application should provide the competent authorities with information regarding the amount of capital issued or to be issued and the composition of own funds and evidence, where relevant, that the initial capital will be paid in full before the granting of the authorisation to commence the activity of credit institutions. The application should also provide information on the origin of funds, as specified in this Regulation, to ensure that the competent authority is satisfied that the activity that generated the funds is legitimate, and present an assessment of the types and distribution of internal capital as a matter of going concern and in a stressed scenario.
12. The information provided with the application should be adequate to allow competent authorities to assess the reputation, honesty, integrity, independence of mind and time commitment of each member of the management body, as well as the knowledge, skills and experience of the members of the management body, both individually and collectively. It should also allow competent authorities to assess, in specified cases where not already being assessed as members of the management body, the reputation, honesty, integrity, knowledge, skills and experience of the heads of internal control functions and of the chief financial officer, in order to ensure the sound and prudent management and robust governance of the applicant credit institution from the outset in accordance with the requirements that a credit institution has to meet as a matter of on-going supervision. The suitability assessments of the heads of internal control functions and the chief financial officer, where they are not part of the management body, for significant CRD institutions,

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<sup>3</sup> Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (OJ L 173 of 12.6.2014, p. 149–178).

should be performed by competent authorities in the following cases: (i) where the institution is not part of a group; (ii) where the institution is part of a group and is the consolidating CRD institution; (iii) where the institution is part of a group and the consolidating CRD institution is not a significant CRD institution.

13. With a view to ensuring transparency of the shareholding structure and the sound and prudent management of the applicant credit institution and to prevent criminals and their associates from holding, or being the beneficial owners of, qualifying holdings in credit institutions, the application should provide information relating to the persons or entities that have or will, in case of authorisation, have qualifying holdings in the credit institution, to enable competent authorities to assess such persons, including their integrity. Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council empowers the European Banking Authority to issue guidelines to ensure the common, uniform and consistent application of Union law and requires that competent authorities and financial institutions to which such guidelines are addressed make every effort to comply with such guidelines. To the extent not covered by this Regulation and to the extent relevant, competent authorities should take into account, in accordance with that Article, the guidelines on the prudential assessment of qualifying holdings jointly issued by the European Banking Authority, the European Securities and Markets Authority and the European Insurance and Occupational Pensions Authority by making every effort to comply with those guidelines, in line with Article 16(3) of Regulation (EU) No 1093/2010, including the treatment of direct and indirect holdings.
14. In the absence of one or more qualifying holdings, information relating to the persons who are or will, in case of authorisation, become the 20 largest shareholders or members of the applicant credit institution should be provided, as specified in this Regulation, to enable competent authorities to assess the suitability of those shareholders and members, taking into account the need to ensure the sound and prudent management of the credit institution. In relation to qualifying holdings and information relating to the 20 largest shareholders it is proportionate to require reduced information from the proposed acquirer.
15. The existence of close links between natural or legal persons and the credit institution may prevent the effective exercise of supervision. Competent authorities should be provided with information relating to each person who has or will, in case of authorisation, have close links with the credit institution.
16. For the purposes of assessing the past events relating to the applicant credit institution and the suitability of shareholders and members, and of the members of the management body, the applicant should provide to the competent authorities the

information specified in this Regulation, including information about past convictions and pending criminal investigations, civil and administrative cases and other adjudicative actions. The applicant credit institution should also provide, on the same basis and in specified cases where not already assessed as a member of the management body, such information relevant to the assessment of the other heads of internal control functions, being the persons in charge of effectively conducting the sound operation of the risk management, compliance and audit function, and the chief financial officer, being the person that is primarily responsible for managing the financial resources and risks, financial planning, reporting and record-keeping, subject to professional secrecy and data protection requirements.

17. The information regarding the assessment of relevant criminal, civil, administrative and other disciplinary penalties shall indicate, subject to any periods of limitation in force in national law, any relevant records or investigations, considering the type of conviction or indictment, the role of the person(s) involved, the penalty received, the phase of the judicial, civil, administrative or other adjudicative process reached and any rehabilitation measures that have taken effect. At least the following types of charge should be considered relevant: offences under the laws governing banking, financial, securities or insurance activity, or concerning securities markets or securities or payment instruments, money laundering, market manipulation, insider dealing, usury, offences of dishonesty, fraud, financial crime, tax offences and other offences relating to companies, bankruptcy, insolvency and consumer protection. Surrounding circumstances, including mitigating factors, the seriousness of any relevant offence, civil, administrative or other adjudicative action, the time period since the offence, the person's conduct since the offence or action, and the relevance of the offence or action to the person's role in relation to the applicant credit institution, should be considered.
18. Without prejudice to the presumption of innocence, the applicant credit institution, the shareholders and members, the members of the management body and other relevant persons should be fully transparent about the pending proceedings against themselves. Any evidence that a person has not been transparent, open and cooperative in his or her or their dealings with supervisory or regulatory authorities is in itself relevant to the assessment of good repute, honesty and integrity. In addition, situations relating to the past and present business performance and financial soundness, as well as current or past investigations, imposing of administrative sanctions (by regulators, professional bodies, etc.), dismissal from employment or any position of trust, negative records (e.g. included in lists of unreliable debtors or bankruptcy declaration) are matters to be considered as part of the assessment.
19. Competent authorities should be in a position to assess whether there are any

obstacles that could prevent the effective exercise of the supervisory functions, taking into account all relevant information, circumstances or situations.

20. The requirements laid down in this Regulation should be read consistently with the provisions on the establishment and operation of a bridge institution. Subject to the provisions specified in Directive 2014/59/EU, where necessary to meet the resolution objectives, the bridge institution may be established and authorised without complying with Directive 2013/36/EU and with the provisions of this Regulation for a short period of time at the beginning of its operation. If the competent authority decides to grant such an authorisation it shall indicate the period for which the bridge institution is waived from complying with the requirements. An application for the authorisation of a bridge institution is not required to contain information held already by the competent authority provided that such information remains true, accurate, complete and up to date at the time of authorisation.
21. All processing of personal data by competent authorities pursuant to this Regulation is subject to the rules resulting from Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data.
22. The provisions in this Regulation should be read along with the provisions in Commission Implementing Regulation (EU) No XX/2017 adopted pursuant to Article 8(3) of Directive 2013/36/EU.
23. To allow competent authorities and applicant credit institutions to prepare to comply with new requirements, it is important that this Regulation apply from the date which is six months after the entry into force of this Regulation and to the applications submitted after such date.
24. This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.
25. 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:

## Article 1

### **Subject matter**

This Regulation lays down requirements for access to the activity of credit institutions in relation to:

- (a) the information to be provided to the competent authorities in the application for the authorisation of credit institutions;
- (b) the requirements applicable to shareholders and members with qualifying holdings in the credit institution; and
- (c) obstacles which may prevent effective exercise of the supervisory functions of the competent authority.

### **INFORMATION TO BE PROVIDED IN THE APPLICATION FOR AUTHORISATION**

## Article 2

### **Scope of required information**

1. An application for the authorisation of a credit institution is required to comply with the requirements of Articles 3 to 10.
2. Competent authorities may require an application to comply with requirements to provide information which is additional to that which is set out in Articles 3 to 10, provided that such information meets each of the following conditions:
  - (a) the additional information is necessary to verify whether all requirements for authorisation laid down by the Member State and notified to the EBA pursuant to Article 8(1) of Directive 2013/36/EU have been satisfied; and
  - (b) the information is proportionate and relevant for the purposes of the authorisation assessment in relation to the requirements described in subparagraph (a).
3. Unless the competent authority requires otherwise, an application is not required to comply with the requirement to provide such information set out in Articles 3 to 10 where either of the following conditions is met:
  - (a) it is already held by the competent authority, including where it has been requested and obtained from another competent authority, provided that such information remains true, accurate, complete and up to date to the point of authorisation and is certified as being so by the applicant;
  - (b) it reflects a requirement waived in respect of the applicant credit institution by the competent authority pursuant to Article 21 of Directive 2013/36/EU.

An applicant credit institution may omit from the application information which is



solely relevant to activities not indicated in the information set out in the programme of activities pursuant to Article 4(1), provided that the applicant identifies in the application the information omitted and cites this provision as the basis for the omission.

4. In duly justified cases, following the assessment of the information submitted in the application, the competent authority may require the applicant to provide supplemental information, or additional explanations, where the authority considers it necessary for the purposes of verifying whether all requirements for authorisation have been satisfied.

5. The information in an application shall remain true, accurate and complete up to the point of authorisation or shall be updated accordingly.

### Article 3

#### **Presentation of the applicant credit institution, place of head office and history**

The application shall set out all of the following:

- (1) the name and contact details of the person to contact regarding the application and of the principal professional adviser, if any, used to prepare the application;
- (2) information on the identity of the applicant credit institution comprising:
  - (a) the applicant credit institution's current name and information on any plan to change it, its logo and any trading name that the institution uses or plans to use;
  - (b) the applicant credit institution's legal form;
  - (c) the date and jurisdiction of the applicant credit institution's incorporation or formation;
  - (d) the addresses of the applicant credit institution's registered office and, where different, of its head office, where available, and principal place of business;
  - (e) the contact details for the applicant credit institution if different from the contact details provided under point (1);
  - (f) where the applicant credit institution is registered in a central register, commercial register, companies register or similar public register, the name of the register and the registration number or an equivalent means of identification in that register;



- (g) where available, the Legal Entity Identifier (LEI) of the applicant credit institution;
  - (h) the date of the accounting year end for the applicant credit institution; and
  - (i) where available, the website address of the applicant credit institution;
- (3) the articles of association of the applicant credit institution or equivalent constitutional documents and, where applicable, evidence of registration with the register designated by the law of the relevant Member State in accordance with Article 3 of Directive 68/151/EEC;<sup>4</sup>
- (4) where the applicant credit institution has previously carried out commercial or other activities, a summary of the history of the applicant credit institution and of its subsidiaries, including all of the following information, where applicable:
- (a) details of any licence, authorisation, registration or other permission of the applicant credit institution or of any of its subsidiaries to carry out activities in the financial services sector by a competent authority or other public sector entity in any Member State or third country and which falls within one or more of the following categories:
    - (i) it is currently held;
    - (ii) an application is pending for approval or was refused;
    - (iii) it was revoked; or
    - (iv) after being applied for or granted, the applicant credit institution, or a subsidiary of the applicant credit institution, decided not to proceed with it;
  - (b) a declaration of any significant event relating to the applicant credit institution or to any of its subsidiaries which has taken place or is taking place and which may be reasonably considered to be relevant to the authorisation, including each of the following matters:

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<sup>4</sup> Council Directive 68/151/EEC of 9 March 1968 on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community (OJ L 65, 14.3.1968, p. 8–12).

- (i) whether the applicant credit institution or any of its subsidiaries has ever been subject to a declaration of a moratorium of any indebtedness, to a restructuring or reorganisation process affecting its creditors, including measures involving the possibility of a suspension of payments, suspension of enforcement measures or reduction of claims, to a dissolution, to winding-up proceedings within the meaning specified in Article 2 of Directive 2001/24/EC,<sup>5</sup> or to administration or other insolvency or similar proceedings;
- (ii) whether the applicant credit institution or any of its subsidiaries has ever been the subject of any administrative penalty or civil or administrative judgment or arbitration or other adjudicative dispute resolution award or decision or of any judgment on the commission of a criminal offence, in each case resulting in a finding against the applicant credit institution or any of its subsidiaries, which was not set aside and against which no appeal is pending or may be filed (except in the case of administrative penalties imposed under Article 65, 66 or 67 of Directive 2013/36/EU and of criminal convictions, in respect of which information shall also be provided for rulings still subject to appeal), including, in particular:
- any unsatisfied judgments or awards outstanding;
  - any settlements reached with any legal or natural person, having regard to the monetary terms of the settlements or to the circumstances in which they have been reached, in a subject matter which relates to the financial services sector;
  - any criminal conviction or civil or administrative penalty or other civil or administrative measure taken by any authority in respect of fraud, dishonesty, corruption, money laundering, terrorist financing or other financial crime or of failure to put in place adequate policies and procedures to prevent such events;
  - any criminal conviction or civil or administrative penalty or other civil or administrative measure taken by any authority in the financial services sector;
  - any criminal conviction or civil or administrative penalty or other

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<sup>5</sup> Directive 2001/24/EU of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions (OJ L 125, 5.5.2001, p. 15-23).

- civil or administrative measure in respect of a breach of legislation or regulatory requirements relating to the financial services sector or to consumer protection;
- any other formal complaints made against it by its clients or former clients which have been resolved in favour of the complainant by a non-judicial third party; and
  - any criminal conviction or civil or administrative penalties or other civil or administrative measures in respect of the carrying out of any unauthorised regulated activity;
- (iii) whether the applicant credit institution or any of its subsidiaries is, as of the date of the application, involved in any proceedings, criminal, civil or administrative investigations or other events referred to in any of the items listed in points (i) and (ii).
- (5) information on the events listed in paragraph (4)(b), including the name and address of the relevant criminal court, civil or administrative authority, the date of the event, the amount involved, the outcome and an explanation of the circumstances;
- (6) the elements necessary to calculate the applicable fees where, under Union or national law, any application fee or supervisory fee to be paid by the applicant credit institution is calculated on the basis of the activities or of the characteristics of the institution;
- (7) evidence of payment of any application fee, where applicable under Union or national law.

#### Article 4

#### **Programme of activities**

1. The application shall set out a programme of activities which shall include:
  - (a) a list of the activities that the applicant credit institution intends to carry out, including the activities listed in Annex I to Directive 2013/36/EU;
  - (b) a description of how the scope of the application aligns with the proposed activities.
2. Without prejudice to the eligibility of deposits pursuant to Article 6(1) of

Directive 2014/49/EU,<sup>6</sup> the application shall confirm that, before or upon authorisation, the credit institution shall become a member of a deposit guarantee scheme officially recognised in the Member State where the application is submitted, in accordance with Article 4(3) of Directive 2014/49/EU, and shall specify the identity of the deposit guarantee scheme.

3. The application shall specify the identity of any institutional protection scheme, as defined in Article 113(7) of Regulation (EU) No 575/2013, that the applicant credit institution has entered into or proposes to enter into.

#### Article 5

#### **Financial information**

The application shall set out all of the following on the financial situation of the applicant credit institution:

- (1) forecast information on the applicant credit institution at an individual level and, where applicable, at consolidated group and sub-consolidated levels (indicating the share represented by the credit institution), at least on a base case and stress scenario basis, including:
  - (a) forecast accounting plans for at least the first three complete business years, detailing the business lines for each of the different activities carried out (and where relevant for each country or relevant geographic area):
    - (i) forecast balance sheets;
    - (ii) forecast profit and loss accounts or income statements, detailing fixed and variable costs and providing an indication of the sensitivity of the business to major indicators (volume, price, geography, exposure, etc.) and an explanation of the measures reducing the exposure to such risks; and
    - (iii) forecast cash flow statements, if applicable;
  - (b) planning assumptions for the above forecasts as well as explanations of the figures, in particular the assumptions underlying the stress scenario basis;
  - (c) forecast calculations of the applicant credit institution's own funds requirements set out in Chapter 4 of Title VII of Directive 2013/36/EU and in Part Two of Regulation (EU) No 575/2013, liquidity requirements set

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<sup>6</sup> Directive 2014/49/EU of the European Parliament and of the Council of 16 April 2014 on deposit guarantee schemes (recast) (OJ L 173, 12.6.2014, p. 149–178).

out in Part Six of that Regulation and leverage requirements set out in Part Seven of that Regulation for the next three years;

- (d) funding profile and diversification, including any source of financing and its conditions; and
  - (e) a summary of the internal liquidity adequacy assessment, at consolidated, sub-consolidated and individual levels as applicable, demonstrating that the credit institution's liquidity resources will be adequate to meet its individual liquidity requirements;
- (2) statutory financial statements of the applicant credit institution, at the individual level and, where applicable, at consolidated group and sub-consolidated levels, for at least the last three financial years where the applicant credit institution has been in operation, before the application, for that period of time (or such shorter period of time during which the applicant credit institution has been in operation before the application and in respect of which financial statements were prepared), indicating, in the case of statements prepared on a consolidated or sub-consolidated basis, the share represented by the applicant credit institution, such statements being approved by the statutory auditor or audit firm and to include:
- (a) the balance sheet;
  - (b) the profit and loss accounts or income statement;
  - (c) cash flow statements, if applicable; and
  - (d) the annual reports and financial annexes and any other documents filed with the competent registry or authority and, where applicable, a report by the company's auditor of the last three years or since the beginning of the activity if shorter;
- (3) an outline of any indebtedness incurred or expected to be incurred by the applicant credit institution prior to the commencement of its activities as a credit institution, including where applicable the name of the lenders, the maturities and terms of such indebtedness, the use of proceeds and, where the lender is not a supervised financial institution, information on the origin of the borrowed funds or on the funds expected to be borrowed;
- (4) an outline of any security interests, guarantees or indemnities granted or expected to be granted by the applicant credit institution prior to the commencement of its activities as a credit institution;

- (5) where available, information about the credit rating of the applicant credit institution and the overall rating of its group;
- (6) where Articles 11(1), 11(3) and 14(1) of Regulation (EU) No 575/2013 (the ‘consolidation requirements’) would require the applicant credit institution or its parent undertaking to comply with obligations laid down in Parts Two to Eight of that Regulation on the basis of their consolidated situation, an analysis of the scope of consolidated supervision pursuant to the consolidation requirements, including information on which group entities will be included in the scope of consolidated supervision, and an analysis of the effect of any proposal that the competent authorities apply a waiver, derogation or exclusion or specific method or treatment referred to in Title II of Part One of that Regulation;
- (7) an outline of the following frameworks and policies of the applicant credit institution:
  - (a) risk management framework, explaining the applicant credit institution’s high-level strategy for identifying and managing risks to its business, including money laundering and terrorist financing risks, outlining the strategy for managing such risks and including a risk tolerance and appetite statement and measures to align the assessed risk with the risk appetite;
  - (b) liquidity risk management policy;
  - (c) funding concentration and diversification policy;
  - (d) collateral management policy;
  - (e) deposit policy;
  - (f) credit and lending policy;
  - (g) concentration risk policy;
  - (h) provisioning policy;
  - (i) dividend distribution policy; and
  - (j) trading book policy;
- (8) a description of the applicant credit institution’s process for developing a recovery

plan within the meaning of point (32) of Article 2(1) of Directive 2014/59/EU<sup>7</sup> where a recovery plan would be required in accordance with that Directive.

## Article 6

### **Programme of operations, structural organisation, internal control systems and auditors**

1. The application shall set out all of the following relating to the programme of operations (the business plan), the organisational structure, the internal control systems and the auditors of the applicant credit institution:

- (a) a programme of operations for at least the first three years, which shall include, on a base case and stress scenario basis, information on planned business and the structural organisation of the applicant credit institution, including the following items:
  - (i) an overview of the geographical distribution of the activities to be carried out by the applicant credit institution, including through branches or subsidiaries or through the exercise of the freedom to provide services, in the home Member State and in any other Member State or third country and future expansion plans;
  - (ii) an explanation of the initial and on-going viability of the business model;
  - (iii) an overview of target markets, customer segmentation, products and services and delivery channels such as branches, internet, post, agencies and subsidiaries;
  - (iv) an overview of all the likely business and regulatory risk factors, including money laundering and terrorist financing risks, and an explanation of how these will be monitored and controlled;
  - (v) a confirmation of whether the applicant credit institution has an implementation plan covering the period until the applicant credit institution is fully operational and, where such plan exists, an overview of the plan; and
  - (vi) an overview of the applicant credit institution's overall strategy, including strategic goals and any identified competitive advantages, and of the reason for the institution's establishment and decision to carry on the business for which it seeks authorisation;

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<sup>7</sup> Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council Text with EEA relevance (OJ L 173, 12.6.2014, p. 190–348).

- (b) information on the organisational structure and internal control function of the applicant credit institution, including the organisational chart, including each of the following items:
  - (i) the terms of reference of the management body;
  - (ii) a description of the human, technical and legal resources allocated to the various planned activities, including IT, commercial, legal, internal control and compliance functions;
  - (iii) a description of the interplay between the applicant credit institution's various functions; and
  - (iv) the name of each payment, clearing or settlement system of which the applicant credit institution intends to be, directly or indirectly, a member during the first year of operations.

2. The application shall set out all of the following on the internal control framework of the applicant credit institution:

- (a) an overview of the internal organisation (including devoted budgetary and human resources) of the compliance function, risk management function, internal audit function, including an explanation of how the applicant credit institution will satisfy its legal and prudential requirements, including anti-money laundering and counter-terrorist financing requirements, the identity of the persons responsible for the internal control functions and a description of the institution's compliance, internal control and risk management systems and procedures and of the reporting lines to the management body;
- (b) an outline of the following policies and procedures dealing with matters relevant to activities identified pursuant to Article 4:
  - (i) whistleblowing policy;
  - (ii) conflicts of interest policy;
  - (iii) complaints handling policy;
  - (iv) market abuse policy;
  - (v) the policy promoting diversity of the management body; and



- (vi) the remuneration policy for staff members whose professional activities have a material impact upon the applicant credit institution's risk profile;
  - (c) an outline of the systems and policies for assessing and managing the risks of money laundering and terrorist financing as identified in the high-level strategy referred to in Article 5(7)(a), including an overview of the key procedures that have been put in place to counter the risk that the applicant credit institution might be used by others to further financial crime.
- 3. The application shall include a description of the internal audit resources and an outline of the methodology and internal audit plan for the next three years from authorisation, including the audit of externalised services.
- 4. The application shall include an outline of the following policies and plans of the applicant credit institution:
  - (a) internal audit policy;
  - (b) product governance policy;
  - (c) consumer protection policy; and
  - (d) business continuity plan and policy, including an overview of available back-up and recovery systems and of the plans ensuring the availability of key staff in business continuity situations.
- 5. The application shall set out all of the following on the structure of the applicant credit institution:
  - (a) an outline of external and intra-group outsourcing to support the applicant credit institution's operations or internal control activities, including the outsource supplier, any link to the credit institution, supplier location, rationale for outsourcing, human resources, the internal control system for managing the outsourcing, contingency plans in the event that the outsourced service provider cannot provide continuity of service and retained functions regarding outsourced activities;
  - (b) an outline of oversight responsibilities and arrangements, systems and controls for each outsourced function material to the applicant credit institution's management and operations;

- (c) an outline of the service level agreements and arrangements for each outsourcing material to the applicant credit institution's management and operations; and
  - (d) a description of the applicant credit institution's IT infrastructure, including the systems in use or to be used, hosting arrangements, the organisation of the IT function of the applicant credit institution including its structure, IT strategy and IT governance, security policies and procedures, and any systems and controls in place or to be put in place in respect of the provision of online banking facilities.
6. The application shall set out the name, address and contact details of the credit institution's statutory auditors or audit firm.

#### Article 7

#### **Initial capital**

1. The application shall set out evidence of the applicant credit institution's issued capital, paid-up capital and capital which is not yet paid up and shall specify the types and amounts of own funds corresponding to the initial capital.
2. Where the initial capital has not been paid-up in full at the time of submitting the application to the competent authority, the application shall set out the envisaged plan and implementation deadline for ensuring that the initial capital is paid up in full before authorisation to commence the activity of credit institutions.
3. The application shall provide an explanation of the available funding sources for own funds and, where available, evidence of the availability of those funding sources, including:
  - (a) a summary of the use of private financial resources, including their availability and source;
  - (b) a summary of access to financial markets, including details of financial instruments issued or to be issued;
  - (c) a summary of any agreements and contracts entered into in respect of own funds, including, in relation to borrowed funds or to funds expected to be borrowed, the name of the lenders and the details of the facilities granted, the use of proceeds and, where the lender is not a supervised financial institution, information on the origin of the borrowed funds or on the funds expected to be borrowed;

- (d) the identity of the payment service provider used to transfer financial resources to the applicant credit institution.
4. The application shall set out an assessment of the amounts, types and distribution of internal capital that is considered adequate to cover the nature and level of the risks to which the applicant credit institution will be or might be exposed and an analysis, including projections, showing that the capital resources will be sufficient to meet the own funds requirement at authorisation and through a severe but plausible stress over at least three years. The stress scenario and methodology shall take into account the scenario and methodology used in the most recent annual supervisory stress test carried out by the competent authority pursuant to Article 100(1) of Directive 2013/36/EU, if any such supervisory stress test was carried out, and the information shall be provided both for the applicant credit institution on an individual basis as well as for the consolidated situation, if applicable.

#### Article 8

#### **Effective direction**

1. The application shall set out the information referred to in paragraph 1 of Annex I in relation to each of the members of the applicant credit institution's management body and shall also provide the information referred to in paragraphs 2 to 5 of Annex I.
2. If the applicant credit institution is determined to be a significant institution by the competent authority and where the suitability assessment is to be conducted by the competent authority, the application shall, in addition, set out the information referred to in Annex I, with the exception of the information referred to in paragraphs 1(f) and (g), 2, 4 and 5 of Annex I, for the heads of internal control functions and the chief financial officer, where they are not part of the management body.
3. The application shall include a description of the powers, responsibilities and proxies conferred upon the members of the applicant credit institution's management body, and, where the competent authority makes a determination in accordance with paragraph 2 and where they are not part of the management body, the heads of internal control functions and the chief financial officer.
4. For the purposes of this Article, the following definitions shall apply:  
'chief financial officer' means the person that is overall responsible for managing all of the following activities: the financial resources, financial planning and financial reporting;

'heads of internal control functions' means the persons at the highest hierarchical level in charge of effectively managing the day-to-day operation of the independent risk

management, compliance and audit functions;

‘member’ means a proposed or appointed member of the management body;

‘significant institution’ means a credit institution that is determined by the competent authority to be significant based on an assessment of the institution’s size, its internal organisation and the nature, the scope and the complexity of the activities;

‘suitability’ means the degree to which an individual is deemed to have good repute, and to have, individually and collectively with other individuals, adequate knowledge, skills and experience to perform his, her or their duties. Suitability also covers the honesty, integrity and independence of mind of each individual and his/her ability to commit sufficient time to perform his/her duties.

## Article 9

### **Shareholders or members with qualifying holdings**

1. The application shall set out the information referred to in paragraph 1 of Annex II relating to the identity and participation of each natural and legal person, and other entities that have or will, in case of authorisation, have a qualifying holding in the credit institution and to the relevant holding.
2. Where a person who has or will, in case of authorisation, have a qualifying holding is a natural person, the application shall set out the information referred to in paragraph 2 of Annex II relating to the suitability of that person.
3. Where a person or entity who has or will, in case of authorisation, have a qualifying holding in the credit institution is a legal person or is an entity which is not a legal person and which holds or shall hold the participation in its own name, the application shall set out the information referred to in paragraph 3 of Annex II relating to the suitability of that legal person or entity.
4. Where a trust already exists or would result from the subscription to the applicant credit institution’s share capital, the application shall include, in addition, the following:
  - (a) the identity of all trustees who will manage assets under the terms of the trust document and of each person who is a beneficiary or a settlor of the trust property and, where applicable, their respective shares in the distribution of income generated by the trust property;
  - (b) a copy of any document establishing or governing the trust; and
  - (c) a description of the main legal features of the relevant trust and its functioning.

5. Where a person who has or will, in case of authorisation, have a qualifying holding is a member of an entity which is not a legal person and the participation will be treated as an asset of that entity, the application shall set out the following information:
- (a) the identity of all members of the entity, together with the information set out in paragraph 2 (if such members are natural persons) or, as the case may be, in paragraph 3 (if such members are legal persons); and
  - (b) a summary of the terms of the agreements governing the entity.

#### Article 10

#### **20 largest shareholders or members**

Where no person or other entity has or will, in case of authorisation, have a qualifying holding in the credit institution, the application shall set out the chart referred to in paragraph 1(a), and the information referred to in the list in paragraph 1(b), of Annex II indicating the list of the 20 largest shareholders or members in the credit institution or, as the case may be, if the credit institution has fewer than 20 shareholders or members, all its shareholders or members, and information on whether any such shareholder or member is subject to supervision by a competent authority.

### **REQUIREMENTS FOR PERSONS HAVING QUALIFYING HOLDINGS AND OBSTACLES WHICH MAY PREVENT THE EFFECTIVE EXERCISE OF THE SUPERVISORY POWERS**

#### Article 11

#### **Requirements applicable to persons having qualifying holdings**

1. To ensure the sound and prudent management of the applicant credit institution, the suitability of the applicant credit institution's shareholders or members that have or will, in case of authorisation, have direct or indirect qualifying holdings shall be assessed having regard to their likely influence on the applicant credit institution.
2. The suitability of the shareholders or members with qualifying holdings shall be assessed on the basis of each of the following criteria:
  - (a) the reputation of such shareholders or members;
  - (b) the reputation, knowledge, skills and experience of any members of the management body or any member of senior management who will direct the business of the applicant credit institution and will have been appointed by, or

following a nomination from, such shareholders or members;

- (c) the financial soundness of such shareholders or members, in particular in relation to the type of business pursued and envisaged to be carried out by the credit institution;
- (d) whether such holding would cast doubts on the applicant credit institution's ability to comply with Directive 2013/36/EU and Regulation (EU) No 575/2013 and, where applicable, other Union law, in particular Directives 2002/87/EC and 2009/110/EC, including whether the group of which it is or will become a part has a structure which makes it possible to exercise effective supervision, effectively exchange information among the competent authorities and determine the allocation of responsibilities among the competent authorities; and
- (e) whether there are reasonable grounds to suspect that, in connection with the authorisation of the applicant credit institution, or the contribution made by such shareholders or members to the applicant credit institution's capital, money laundering or terrorist financing within the meaning of Article 1 of Directive (EU) 2015/849 is being or has been committed or attempted, or that the authorisation of the applicant credit institution or the contribution to its capital could increase the risk thereof.

#### Article 12

### **Obstacles which may prevent the effective exercise of the supervisory functions of the competent authorities**

To identify obstacles that could prevent the effective exercise of the supervisory functions, including, where applicable, supervision on a consolidated basis, competent authorities shall consider any relevant information, circumstance or situation, including those of a legal, geographical, financial or technical nature, such as:

- (1) the influence of the nature of the close links that exist or will, following the granting of the authorisation, exist between the credit institution and other natural or legal persons, including politically exposed persons;
- (2) the interactions of the laws, regulations or administrative provisions of a third country governing those natural or legal persons with which the credit institution has or will, following the granting of the authorisation, have close links, including the difficulties involved in the enforcement of those laws, regulations or administrative provisions or in obtaining information from the authorities in such third countries or from such persons;

- (3) the possibility of exchanging information with the authority, if any, supervising the persons having close links with the credit institution;
- (4) the complexity and transparency of the structure of the group of the applicant credit institution or of the person or persons having such close links;
- (5) the geographical location of the members of the group of the applicant credit institution or of the person or persons having such close links; and
- (6) the activities performed or to be performed by the members of the group of the applicant credit institution or of the person or persons having such close links.

## **FINAL AND TRANSITIONAL PROVISIONS**

### Article 13

#### **Entry into force**

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 applies from the date which is six months after the entry into force and to applications submitted after such date.

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]*

## Annex I

1. Personal individual details and information on good repute, honesty, integrity, knowledge, skills, experience, and, details and information on independence of mind and time commitment, as follows:
  - (a) the person's full name and, if different, name at birth, gender, place and date of birth, address and contact details, nationality, personal identification number or copy of an ID card or equivalent;
  - (b) details of the position held or to be held by the person, including whether the position is executive or non-executive, the start date or planned start date and duration of mandate, and a description of the person's key duties and responsibilities;
  - (c) a curriculum vitae containing details of education and experience (including professional experience, academic qualifications, other relevant training), including the name and nature of all organisations for which the individual has worked and the nature and duration of the functions performed, in particular highlighting any activities within the scope of the position sought (banking and/or management experience);
  - (d) a list of reference persons including contact information, preferably from employers in the banking or financial services sector, including full name, institution, position, telephone number, email, nature of the professional relationship and information about if any non-professional relationship exists or existed with this individual;
  - (e) each item as follows:
    - (i) criminal records and relevant information on criminal investigations and proceedings, relevant civil and administrative cases, and disciplinary actions (including disqualification as a company director, bankruptcy, insolvency and similar procedures) notably through an official certificate or, in cases where such a certificate does not exist, any reliable source of information concerning the absence of criminal conviction, investigations and proceedings;
    - (ii) a statement of whether criminal proceedings are pending or the person or any organisation managed by him or her has been involved as a debtor in insolvency proceedings or a comparable proceeding;
    - (iii) information concerning the following:



- a. investigations, enforcement proceedings or sanctions by a supervisory authority which the individual has been directly or indirectly involved in;
  - b. refusal of registration, authorisation, membership or licence to carry out a trade, business or profession; or the withdrawal, revocation or termination of registration, authorisation, membership or licence; or expulsion by a regulatory or government body or by a professional body or association;
  - c. dismissal from employment or a position of trust, fiduciary relationship or similar situation, or having been asked to resign from employment in such a position (excluding redundancies);
  - d. whether an assessment of the reputation of the individual as an acquirer or a person who directs the business of an institution has already been conducted by another competent authority (including the identity of that authority, the date of the assessment and evidence of the outcome of this assessment) and the consent of the individual, where required, to seek such information to be able to process and use the provided information for the suitability assessment; and
  - e. whether any previous assessment of the individual by an authority from another, non-financial, sector has already been conducted (including the identity of that authority and evidence of the outcome of this assessment);
- (f) a description of all financial and non-financial interests that could create potential conflicts of interest, including, but not limited to:
- (i) any financial interests (including loans, shareholdings, guarantees or security interests, whether granted or received) and non-financial interests or relationships (including close relations such as spouse, registered partner, cohabitant, child, parent or other relation with whom the person shares living accommodation) between the person or his or her close relatives (or any company that the person is closely connected with) and the applicant credit institution, its parent undertaking or subsidiaries, including any members of the management body, the head of an internal control function or the chief financial officer, or any person holding a qualifying holding in the applicant credit institution;
  - (ii) whether or not the person conducts any business or has any commercial relationship (or has had over the past 2 years) with any of the above listed persons or is involved in any legal proceedings with

- any such persons;
- (iii) whether or not the person and his or her close relatives have any competing interests with the applicant credit institution, its parent undertaking or its subsidiaries;
  - (iv) whether or not the person is being proposed on behalf of any one significant shareholder or member with a qualifying holding and, if so, the identity of such shareholder or member;
  - (v) any financial obligations to the applicant credit institution, its parent or its subsidiaries; and
  - (vi) any positions of political influence (nationally or locally) held over the past 2 years;
  - (vii) if a material conflict of interest is identified, a statement of how this conflict has been satisfactorily mitigated or remedied including a reference to the relevant part of the institution's conflicts of interest policy or any bespoke conflict management or mitigation arrangements; and
- (g) details to show that the individual has sufficient time to commit to the mandate, including:
- (i) the estimated minimum time that will be devoted to the performance of the person's functions within the applicant credit institution (annual and monthly indications);
  - (ii) a list of the predominantly commercial mandates that the individual holds including whether or not the privileged counting rules<sup>8</sup> in Article 91(4) of Directive 2013/36/EU apply;
  - (iii) where the privileged counting rules apply, an explanation of any synergies that exist between the companies;
  - (iv) a list of those mandates which are pursuing predominantly non-commercial activities or are set up for the sole purposes of managing the economic interests of the individual;
  - (v) the size of the companies or organisations where those mandates are

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<sup>8</sup> This is where the individual avails of the possibility that several mandates that are part of the same group, or within undertakings where the institution holds a qualifying holding or in institutions that are part of the same institutional protection schemes.

- held including, for example, total assets, whether or not the company is listed, number of employees;
- (vi) a list of any additional responsibilities associated with those mandates (such as the chair of a committee);
  - (vii) the estimated time in days per year dedicated to each mandate; and
  - (viii) the number of meetings per year dedicated to each mandate.
2. A description of any committee of the management body foreseen at the time of the application, including its members and powers.
  3. Details of the result of any assessment of the suitability of each individual performed by the applicant credit institution, such as relevant board minutes or suitability assessment or document, including a statement of whether or not the individual has been assessed as having the requisite experience and, if not, details of the training plan imposed, including the content, provider and date by which the training plan will be completed.
  4. A statement regarding the applicant credit institution's overall assessment of the collective suitability of the management body such as relevant board minutes or suitability assessment report/documents.
  5. A description of how the diversity of qualities and competences was taken into account when selecting the members of the management body.

## Annex II

1. Information relating to the identity and participation of all natural and legal persons that have or will, in the case of authorisation, have a qualifying holding in the credit institution:
  - (a) a chart setting out the shareholder structure of the credit institution, including the breakdown of the capital and voting rights;
  - (b) a list of the names of all persons and other entities that have or will, in case of authorisation, have qualifying holdings in the credit institution, indicating in respect of each such person or entity:
    - (i) the number and type of shares or other holdings subscribed or to be subscribed;
    - (ii) the nominal value of such shares or other holdings;
    - (iii) any premium paid or to be paid;
    - (iv) any security interests or encumbrances created over such shares or other holdings, including the identity of the secured parties; and
    - (v) where applicable, any commitments made by such persons or entities aimed at ensuring that the credit institution will comply with applicable prudential requirements;
  - (c) details of that person's or entity's financial or business reasons for owning that holding and the person's or the entity's strategy regarding the holding, including the period for which the person or the entity intends to hold the holding and any intention to increase, reduce or maintain the level of the holding in the foreseeable future;
  - (d) details of the person's or the entity's intentions in respect of the credit institution and of the influence that the person or the entity intends to exercise over the credit institution, including in respect of the dividend policy, the strategic development and the allocation of resources of the credit institution, whether or not it intends to act as an active minority shareholder and the rationale for such intention;
  - (e) information on the person's or the entity's willingness to support the credit institution with additional own funds if needed for the development of its

activities or in case of financial difficulties;

- (f) the content of any intended shareholder's or member's agreements with other shareholders or members in relation to the applicant credit institution;
- (g) an analysis of whether the qualifying holding will have any impact, including as a result of the person's close links to the applicant credit institution, on the ability of the applicant credit institution to provide timely and accurate information to the competent authorities; and
- (h) the identity of each member of the management body or of senior management who will direct the business of the applicant credit institution and will have been appointed by, or following a nomination from, such shareholders or members, together with, to the extent not already provided, the information set out in paragraphs (a)-(f) of paragraph 1 of Annex I;
- (i) an explanation of the sources of funding for the proposed acquisition, including where applicable:
  - (i) details on the use of private financial resources, including their availability and (to ensure that the competent authority is satisfied that the activity that generated the funds is legitimate) source;
  - (ii) details on the means of payment for the intended acquisition and the network used to transfer funds;
  - (iii) details on access to capital sources and financial markets including details of financial instruments to be issued;
  - (iv) information on the use of borrowed funds, including the name of the lenders and details of the facilities granted, such as maturities, terms, security interests and guarantees, as well as information on the source of revenue to be used to repay such borrowings. Where the lender is not a credit institution or a financial institution authorised to grant credit, the applicant shall provide to the competent authorities information on the origin of the borrowed funds;
  - (v) information on any financial arrangement with other persons who are shareholders or members of the credit institution;
  - (vi) information on any assets of a person who is a shareholder or member of the applicant credit institution which are to be sold to help finance

the proposed participation, such as conditions of sale, price, appraisal and details regarding their characteristics, including information on when and how the assets were acquired.

2. Information relating to natural persons that have or will, in the case of authorisation, have a qualifying holding in the credit institution:
  - (a) personal details including the person's name and, if different, name at birth, date and place of birth, citizenship, personal national identification number (where available), address, contact details and a copy of an official identity document;
  - (b) a detailed curriculum vitae, stating the relevant education and training, and any professional experience in acquiring and managing holdings in companies, and any professional activities or other functions currently performed;
  - (c) a statement containing the following information concerning the person and any undertaking directed or controlled by the person over the last 10 years and of which the applicant is aware after due and careful enquiry:
    - (i) subject to national legislative requirements concerning the disclosure of spent convictions, any criminal conviction or proceedings where the person or undertaking has been found against and which were not set aside;
    - (ii) any civil or administrative decisions in matters of relevance to the assessment or authorisation process where the person or undertaking has been found against and any administrative sanctions or measures imposed as a consequence of a breach of laws or regulations (including disqualification as a company director), in each case which were not set aside and against which no appeal is pending or may be filed (except in the case of administrative penalties imposed under Article 65, 66 or 67 of Directive 2013/36/EU and of criminal convictions, in respect of which information shall also be provided for rulings still subject to appeal);
    - (iii) any bankruptcy, insolvency or similar procedures;
    - (iv) any pending criminal investigations;
    - (v) any civil or administrative investigations, enforcement proceedings,

sanctions or other enforcement decisions against the person or undertaking concerning matters which may reasonably be considered to be relevant to the authorisation or to the sound and prudent management of a credit institution;

- (vi) where such documents can be obtained, an official certificate or any other equivalent document evidencing whether any of the events set out in sub-paragraphs (i)-(v) has occurred in respect of the relevant person or undertaking;
  - (vii) any refusal of registration, authorisation, membership or licence to carry out trade, business or a profession;
  - (viii) any withdrawal, revocation or termination of a registration, authorisation, membership or licence to carry out trade, business or a profession;
  - (ix) any expulsion by a regulatory or government body or by a professional body or association;
  - (x) any position of responsibility with an entity subject to any criminal conviction or civil or administrative penalty or other civil or administrative measure in matters of relevance to the assessment or authorisation process taken by any authority or any on-going investigation, in each case for conduct failings, including in respect of fraud, dishonesty, corruption, money laundering, terrorist financing or other financial crime or of failure to put in place adequate policies and procedures to prevent such events, held at the time when the alleged conduct occurred, together with details of such occurrences and of the person's involvement, if any, in them; and
  - (xi) any dismissal from employment or a position of trust, any removal from a fiduciary relationship (save as a result of the relevant relationship coming to an end by passage of time) and any similar situation;
- (d) where an assessment of reputation of the person has already been conducted by another supervisory authority, the identity of that authority and the outcome of the assessment;
- (e) the current financial position of the person, including details concerning sources of revenues, assets and liabilities, security interests and guarantees,

whether granted or received;

- (f) a description of the business activities of the person and of any undertaking which the person directs or controls;
- (g) financial information, including credit ratings and publicly available reports on any undertakings directed or controlled by the person;
- (h) a description of the financial interests of the person, including credit operations, guarantees and security interests, whether granted or received, and of any non-financial interests of the person, including family or close relationships with any of the following natural or legal persons:
  - (i) any other current shareholder or member of the applicant credit institution;
  - (ii) any person entitled to exercise voting rights of the applicant credit institution in any of the following cases or combination of them:
    - voting rights held by a third party with whom that person or entity has concluded an agreement, which obliges them to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the management of the issuer in question;
    - voting rights held by a third party under an agreement concluded with that person or entity providing for the temporary transfer for consideration of the voting rights in question;
    - voting rights attaching to shares which are lodged as collateral with that person or entity, provided the person or entity controls the voting rights and declares its intention of exercising them;
    - voting rights attaching to shares in which that person or entity has the life interest;
    - voting rights which are held, or may be exercised within the meaning of the first four items of this sub-paragraph, by an undertaking controlled by that person or entity;
    - voting rights attaching to shares deposited with that person or entity which the person or entity can exercise at its discretion in the absence of specific instructions from the shareholders;
    - voting rights held by a third party in its own name on behalf of that person or entity;
    - voting rights which that person or entity may exercise as a proxy where the person or entity can exercise the voting rights at its discretion in the absence of specific instructions from the shareholders;



(iii) any member of the administrative, management or supervisory body, in accordance with relevant national legislation, or of the senior management of the applicant credit institution; or

(iv) the applicant credit institution or any other member of its group,

and, to the extent any conflict of interest arises from such relationships, proposed methods for managing such conflict;

- (i) a description of any links to politically exposed persons, as defined in Article 3(9) of Directive (EU) 2015/849<sup>9</sup>; and
- (j) any other interests or activities of the person that may be in conflict with those of the credit institution and proposed methods for managing those conflicts of interest.

3. Information relating to legal persons that have or will, in the case of authorisation, have a qualifying holding in the credit institution:

- (a) name of the legal person or entity;
- (b) where the legal person or entity is registered in a central register, commercial register, companies register or similar public register, the name of the register in which the legal person or entity is entered, the registration number or an equivalent means of identification in that register and a copy of the registration certificate;
- (c) the addresses of its registered office and, where different, of its head office, and principal place of business;
- (d) contact details;
- (e) corporate documents or agreements governing the entity and a summary explanation of the main legal features of the legal form or of the entity;
- (f) whether the legal person or entity has ever been or is regulated by a competent authority in the financial services sector or other government body;

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<sup>9</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (OJ L 141 of 5.6.2015, p. 73).

- (g) the information referred to in:
- (i) paragraph 2(f) in relation to the legal person or entity;
  - (ii) paragraph 2(d) in relation to the legal person or entity;
  - (iii) paragraph 2(g) and (i) in relation to the legal person or entity, any person who effectively directs the business of the legal person or entity, any undertaking under the legal person or entity's control;
  - (iv) paragraph 2(c) in relation to the legal person or entity, any undertaking under the legal person or entity's control, and any shareholder exerting significant influence on the legal person or entity;
- (h) a description of the financial interests of the legal person or entity, of persons who effectively direct the business of the legal person or of the entity, or, where applicable, the group to which the legal person or entity belongs, as well as the persons who effectively direct its business, including credit operations, guarantees and security interests, whether granted or received, as well as of any non-financial interests of any such legal person or entity, including, where applicable, family or close relationships, with any of the following natural or legal persons:
- (i) any other current shareholder or member of the applicant credit institution;
  - (ii) any person entitled to exercise voting rights of the applicant credit institution in any of the following cases or combination of them:
    - voting rights held by a third party with whom that person or entity has concluded an agreement, which obliges them to adopt, by concerted exercise of the voting rights they hold, a lasting common policy towards the management of the issuer in question;
    - voting rights held by a third party under an agreement concluded with that person or entity providing for the temporary transfer for consideration of the voting rights in question;
    - voting rights attaching to shares which are lodged as collateral with that person or entity, provided the person or entity controls the voting rights and declares its intention of exercising them;
    - voting rights attaching to shares in which that person or entity has the life interest;

- voting rights which are held, or may be exercised within the meaning of the first four items of this sub-paragraph, by an undertaking controlled by that person or entity;
- voting rights attaching to shares deposited with that person or entity which the person or entity can exercise at its discretion in the absence of specific instructions from the shareholders;
- voting rights held by a third party in its own name on behalf of that person or entity;
- voting rights which that person or entity may exercise as a proxy where the person or entity can exercise the voting rights at its discretion in the absence of specific instructions from the shareholders;

(iii) any politically exposed person, as defined in Article 3(9) of Directive (EU) 2015/849;

(iv) any member of the administrative, management or supervisory body, in accordance with relevant national legislation, or of the senior management of the applicant credit institution; or

(v) the applicant credit institution or any other member of its group,

and, to the extent any conflict of interest arises from such relationships, proposed methods for managing such conflict;

- (i) a list of each person who effectively directs the business of the legal person or entity, their name, date and place of birth, address, contact details, their national identification number, where available, and detailed curriculum vitae (stating relevant education and training, previous professional experience, any professional activities or other relevant functions currently performed), together with the information referred to in paragraphs 2(c) and 2(d) in respect of each such person;
- (j) the shareholding structure of the legal person, including at least the identity of all shareholders exerting significant influence and their respective share capital and voting rights including information on any shareholder agreements;
- (k) in the case of an entity which is not a legal person and which holds or shall hold the participation in its own name, the identity of all members of the entity, together with the information set out in paragraph 2 (if such members are natural persons) or, as the case may be, in this paragraph 3 (if such

members are legal persons);

- (l) if the legal person or entity is part of a group (which, for the purpose of this paragraph, shall, in the case of such entities, include the members of the entity and the subsidiaries of such members), a detailed organisational chart of the structure of the group and information on the share of capital and voting rights of shareholders with significant influence over the entities of the group and on the activities currently performed by the entities of the group;
- (m) if the legal person or entity is part of a group, information on the relationships between any credit institution, insurance or re-insurance undertaking or investment firm within the group and any other group entities, and the names of the relevant supervisory authorities;
- (n) if the legal person or entity is part of a group, identification of any credit institution, insurance or re-insurance undertaking or investment firm within the group, the names of the relevant competent authorities, as well as an analysis of the perimeter of prudential consolidation of the credit institution and the group, including information about which group entities would be included in the scope of consolidated supervision requirements and at which levels within the group these requirements would apply on a full or sub-consolidated basis;
- (o) annual financial statements, at the individual level and, where applicable, at the consolidated and sub-consolidated group levels, for the last three financial years, where the legal person or entity has been in operation for that period of time (or such shorter period of time for which the legal person or the entity has been in operation and financial statements were prepared), approved by the statutory auditor or audit firm within the meaning of Directive 2006/43/EC<sup>10</sup>, where applicable, including each of the following items:
  - (i) the balance sheet;
  - (ii) the profit and loss accounts or income statement;
  - (iii) the annual reports and financial annexes and any other documents registered with the relevant registry or competent authority of the legal

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<sup>10</sup> Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (OJ L 157, 9.6.2006, p. 87–107).

person, including, as set out as relevant in the annual reports, financial annexes and any other registered documents, the planning assumptions used, at least under base case and stress scenarios;

(p) where the legal person or entity has its head office in a third country, at least all of the following information:

(i) where the legal person or entity is supervised by an authority of a third country in the financial services sector, a certificate of good standing, or equivalent where not available, from such foreign authority in relation to the legal person or entity;

(ii) where the legal person or entity is supervised by an authority of a third country in the financial services sector and if the authority does issue such declarations, a declaration by that authority that there are no obstacles or limitations to the provision of information necessary for the supervision of the credit institution; and

(iii) general information on the regulatory regime of that third country as applicable to the legal person or entity, including information on the extent to which the third country's anti-money laundering and counter-terrorist financing regime is consistent with the Financial Action Task Force's Recommendations;

(q) where the legal person is a collective investment undertaking:

(i) the identity of the unit holders controlling the collective investment undertaking or having a holding enabling them to prevent the taking of decisions by the collective investment undertaking;

(ii) details of the investment policy and any restrictions on investment;

(iii) the name and position of the persons responsible, whether individually or as a committee, for defining and making the investment decisions for the collective investment undertaking, as well as a copy of any management mandate or, where applicable, terms of reference of the committee;

(iv) a detailed description of the applicable anti-money laundering legal framework and of the anti-money laundering procedures of the collective investment undertaking; and

- (v) a detailed description of the performance of former holdings of the collective investment undertaking in other credit institutions, insurance or re-insurance undertakings or investment firms, indicating whether such holdings were approved by a competent authority and, if so, the identity of the authority; and
- (r) where the person is a sovereign wealth fund:
  - (i) the name of the public body in charge of defining the investment policy of the fund;
  - (ii) details of the investment policy and any restrictions on investment,
  - (iii) the names and positions of the individuals responsible for making the investment decisions for the fund; and
  - (iv) details of any influence exerted by that public body on the day-to-day operations of the fund and the applicant credit institution.

## 4. Draft Implementing Technical Standards

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

**supplementing Directive 2013/36/EU of the European Parliament and of the Council  
of 26 June 2013 with regard to implementing technical standards in respect of the  
information to be provided for the authorisation of credit institutions**

**(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, and in particular Article 8(3) thereof,

Whereas:

- (1) The information to be provided to the competent authorities in applications for the authorisation as credit institutions referred to in Article 8(1) of Directive 2013/36/EU is set out in Commission Delegated Regulation (EU) No XX/2017 adopted pursuant to Article 8(2) of Directive 2013/36/EU, together with which the provisions of this Regulation should be read.
- (2) For the purposes of harmonisation it is important that the applicant submit the information required for the application for authorisation in accordance with the same standard form, template and procedure across the Union.
- (3) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.
- (4) 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:



## Article 1

### **Submission of the application**

1. The applicant for authorisation as a credit institution shall submit the information set out in Articles 3 to 10 of Commission Delegated Regulation (EU) No XXX/2017 (if applicable, as varied in accordance with Article 2 thereof), by filling in the template set out in the Annex to this Regulation.
2. The applicant shall provide to the competent authority information which is true, accurate, complete and not misleading and shall notify the competent authority in writing if any information which was provided ceases to be true, accurate and complete or becomes misleading.
3. When submitting the required information, the applicant should not make reference to specific provisions of internal procedures or documents which are not provided to the competent authority.
4. The competent authority shall indicate on its website the contact details for submitting such application for authorisation and whether it shall be submitted in paper format, in electronic form or both.

## Article 2

### **Assessment of completeness**

1. An application shall be deemed to be complete if it contains all information needed by the competent authority to assess the application in accordance with Commission Delegated Regulation (EU) No XXX/2017.
2. Where the information provided in the application is assessed to be incomplete, the competent authority shall send, in paper format or by electronic means, a request to the applicant indicating the further information required, and shall provide to the applicant the opportunity to submit the information identified.
3. Upon an application being assessed as complete, the competent authority shall inform the applicant of that fact, together with the date of receipt of the complete application or, as the case may be, the date of receipt of the information that completed the application.
4. In any case, the competent authority may require the applicant to provide additional explanations and supplemental information for the purposes of assessing the application.
5. Where an application contains information, or relies on information held by the competent authorities, that is no longer true, accurate or complete, an update to the application shall be provided to the competent authorities without delay. The update

shall identify the information concerned, its location within the original application, the reason for the information no longer being true, accurate or complete, the updated information and confirmation that the rest of the information in the application remains true, accurate and complete.

Article 3  
**Entry into force**

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 applies from the date which is six months after the entry into force and to applications submitted after such date.

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]*

## ANNEX

### Information provided for the purposes of the application for authorisation

Date: .....

Reference number: .....

Name of the applicant:

Address:

(Contact details of the designated contact person)

Name:

Telephone:

Email:

This is an application for authorisation of a credit institution provided in accordance with Commission Delegated Regulation (EU) No .../... (the 'Regulation').

We certify that the information provided in this application is true, accurate, complete and not misleading.<sup>11</sup> Unless specifically stipulated otherwise, the information speaks as of the date of this application. Where certain information is expressed to speak as of a future date, this is specifically set out in the application and we undertake to notify the authority in writing if any such information is not true, accurate and complete or is misleading as of the date specified in the application in respect of such information.

[Name of the applicant]

By: .....

Name:

Position:

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<sup>11</sup> When filling in the application form, the applicant should consult the provisions of the Regulation. Where it is more convenient to do so, the required information can be provided in a numbered annex attached to the application, provided that the annex is clearly identified in the application.

**Table 1: Presentation of the applicant credit institution, place of head office and history**  
**(Article 3 of Commission Delegated Regulation (EU) No XX/2017)**

<b><u>1.1 Contact persons for the purposes of the application (Article 3(1) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
<b>Person designated by the applicant credit institution as the person whom the competent authority should contact regarding the application</b>	
Title	
Full name	
Position	
Telephone	
Mobile number	
Facsimile (if available)	
Email	
<b>Principal professional adviser used by the applicant credit institution (if any)</b>	
Title	
Full name	
Position	
Telephone	
Mobile number	
Facsimile (if available)	
Email	
<b><u>1.2 Identification of the applicant credit institution (Article 3(2) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Name of the applicant credit institution and any other trading name used or to be used by the applicant credit institution	
Proposed plans (if any) to change the name of the applicant credit institution and an explanation of the proposed changes	
Logo	
Legal form of the applicant credit institution	
Date of incorporation or formation	
Jurisdiction of incorporation or formation	
Address of the applicant credit institution's registered office and, if different, its head office, and principal place of business	
Contact details for the applicant credit institution if different from the details provided under	

section 1.1 of this table: telephone, mobile number, facsimile (if available), and email	
Where the applicant credit institution is registered in a central register, commercial register, companies register or similar public register, the name of the register and the registration number or an equivalent means of identification in that register	
The Legal Entity Identifier (LEI), if any, of the applicant credit institution	
The date of the accounting year end for the applicant credit institution	
The website address, if any, of the applicant credit institution	
<b><u>1.3 Constitutional documents (Article 3(3) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which is provided a copy of the articles of association of the applicant credit institution or equivalent constitutional documents and, where applicable, evidence of registration with the register designated by the law of the relevant Member State in accordance with Article 3 of Directive 68/151/EEC	
<b><u>1.4 History of the applicant credit institution and its subsidiaries (Article 3(4) and (5) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Confirmation of whether the applicant credit institution has carried out previously commercial or other activities (yes/no) (if yes, complete the remaining fields in section 1.4 of this table)	
Details of licences, authorisations, registrations or other permissions of the applicant credit institution or of any of its subsidiaries to carry	

<p>out activities in the financial services sector by a competent authority or other public sector entity in any Member State or third country falling within the categories set out in Article 3(4)(a) of Commission Delegated Regulation (EU) No XX/2017</p>	
<p>Declaration of significant events relating to the applicant credit institution or to any of its subsidiaries which have taken place or are taking place which may be reasonably considered to be relevant to the authorisation, including each of the matters set out in Article 3(4)(b) of Commission Delegated Regulation (EU) No XX/2017</p>	
<p>Information on any events set out in the declaration, including the name and address of the relevant criminal court, civil or administrative authority, the date of the event, the amount involved, the outcome and an explanation of the circumstances</p>	
<p><b><u>1.5 Applicable fees (Article 3(6) and (7) of Commission Delegated Regulation (EU) No XX/2017)</u></b></p>	
<p>Elements necessary to calculate any applicable fees where, under Union or national law, any application fee or supervisory fee to be paid by the applicant credit institution is calculated on the basis of the activities or of the characteristics of the institution</p>	
<p>Annex under which can be found evidence of the payment of any application fee, where applicable under Union or national law</p>	

**Table 2: Programme of activities (Article 4 of Commission Delegated Regulation (EU) No XX/2017)**

<b><u>2.1 Activities (Article 4(1) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the programme of activities, including (a) the list of the activities that the applicant credit institution intends to carry out, including the activities listed in Annex I to Directive 2013/36/EU, and (b) the description of how the scope of the application aligns with the proposed activities	
<b><u>2.2. Deposit guarantee scheme (Article 4(2) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Confirmation that, before or upon authorisation, the applicant credit institution shall become a member of a deposit guarantee scheme officially recognised in the Member State where the application is submitted, in accordance with Article 4(3) of Directive 2014/49/EU	
Name of the deposit guarantee scheme	
<b><u>2.3 Institutional protection scheme (Article 4(3) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Name of any institutional protection scheme, as defined in Regulation (EU) No 575/2013, that the applicant credit institution has entered into or proposes to enter into	

**Table 3: Financial information (Article 5 of Commission Delegated Regulation (EU) No XX/2017)**

<b><u>3.1 Forecast information (Article 5(1) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found forecast information on the applicant credit institution at an individual level and, where applicable, at a consolidated group and sub-consolidated level in accordance with Article 5(1) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>3.2 Statutory financial statements (Article 5(2) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the statutory financial statements of the applicant credit institution at an individual level and, where applicable, at a consolidated group and sub-consolidated levels in accordance with Article 5(2) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>3.3 Indebtedness (Article 5(3) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the outline of any indebtedness incurred or expected to be incurred by the applicant credit institution prior to the commencement of its activities as a credit institution in accordance with Article 5(3) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>3.4 Security interests, guarantees and indemnities (Article 5(4) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the outline of any security interests, guarantees or	



indemnities granted or expected to be granted by the applicant credit institution prior to the commencement of its activities as a credit institution	
<b><u>3.5 Credit rating (Article 5(5) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Where available, the credit rating of the applicant credit institution and the overall rating of its group	
<b><u>3.6 Consolidated supervision (Article 5(6) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found, where applicable, the analysis of the scope of consolidated supervision pursuant to the consolidation requirements in accordance with Article 5(6) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>3.7 Frameworks and policies (Article 5(7) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Outline of the risk management framework in accordance with Article 5(7)(a) of Commission Delegated Regulation (EU) No XX/2017	
Outline of the liquidity risk management policy	
Outline of the funding concentration and diversification policy	
Outline of the collateral management policy	
Outline of the deposit policy	
Outline of the credit and lending policy	
Outline of the concentration risk policy	
Outline of the provisioning policy	
Outline of the dividend distribution policy	
Outline of the trading book policy	

**3.8 Process for developing a recovery plan (Article 5(8) of Commission Delegated Regulation (EU) No XX/2017)**

Description of the applicant credit institution's process for developing a recovery plan within the meaning of point (23) of Article 2(1) of Directive 2014/59/EU where a recovery plan would be required in accordance with that Directive	
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**Table 4: Programme of operations, structural organisation, internal control systems and auditors (Article 6 of Commission Delegated Regulation (EU) No XX/2017)**

<b><u>4.1 Programme of operations (Article 6(1)(a) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the programme of operations in accordance with Article 6(1)(a) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>4.2. Organisational structure and internal control function (Article 6(1)(b) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the description of the organisational structure and internal control function of the applicant credit institution in accordance with Article 6(1)(b) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>4.3 Internal control framework (Article 6(2) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the overview of the internal organisation (including devoted budgetary and human resources) of the compliance function, risk management function and internal audit function in accordance with Article 6(2)(a) of Commission Delegated Regulation (EU) No XX/2017	
Outline of the whistleblowing policy	
Outline of the conflicts of interest policy	
Outline of the complaints handling policy	
Outline of the market abuse policy	
Outline of the policy promoting diversity in the management body	
Outline of the remuneration	

<p>policy for staff members whose provisional activities have a material impact upon the applicant credit institution's risk profile</p>	
<p>Outline of the systems and policies for assessing and managing the risks of money laundering and terrorist financing, including an overview of the key procedures that have been put in place to counter the risk that the applicant credit institution might be used by others to further financial crime</p>	
<p><b><u>4.4 Internal audit resources (Article 6(3) of Commission Delegated Regulation (EU) No XX/2017)</u></b></p>	
<p>Description of the internal audit resources and an outline of the methodology and internal audit plan for the next three years from authorisation, including the audit of externalised services</p>	
<p><b><u>4.5. Policies and plans (Article 6(4) of Commission Delegated Regulation (EU) No XX/2017)</u></b></p>	
<p>Outline of the internal audit policy</p>	
<p>Outline of the product governance policy</p>	
<p>Outline of the consumer protection policy</p>	
<p>Outline of the business continuity plan and policy, including an overview of available back-up and recovery systems and of the plans ensuring the availability of key staff in business continuity situations</p>	
<p><b><u>4.6 Structure of the applicant credit institution (Article 6(5) of Commission Delegated Regulation (EU) No XX/2017)</u></b></p>	
<p>Outline of external and intra-group outsourcing to support the applicant credit institution's operations or internal control</p>	

<p>activities, including the outsource supplier, any link to the credit institution, supplier location, rationale for outsourcing, human resources, the internal control system for managing the outsourcing, contingency plans in the event that the outsourced service provider cannot provide continuity of service and retained functions regarding outsourced activities</p>	
<p>Outline of oversight responsibilities and arrangements, systems and controls for each outsourced function material to the applicant credit institution's management and operations</p>	
<p>Outline of the service level agreements and arrangements for each outsourcing material to the applicant credit institution's management and operations</p>	
<p>Description of the applicant credit institution's IT infrastructure, including the systems in use or to be used, hosting arrangements, the organisation of the IT function of the applicant credit institution including its structure, IT strategy and IT governance, security policies and procedures, and any systems and controls in place or to be put in place in respect of the provision of online banking facilities</p>	
<p><b><u>4.7 Statutory auditors or audit firm (Article 6(6) of Commission Delegated Regulation (EU) No XX/2017)</u></b></p>	
<p>Name</p>	
<p>Address</p>	
<p>Point of contact (name, telephone number, email address)</p>	

**Table 5: Initial capital (Article 7 of Commission Delegated Regulation (EU) No XX/2017)**

<b><u>5.1 Initial capital and own funds (Article 7(1) and (2) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found evidence of the applicant credit institution's issued capital, paid-up capital and capital which is not yet paid up	
Description of the types and amounts of own funds corresponding to the initial capital	
Where the initial capital has not been paid up in full at the date of the application, description of the envisaged plan and implementation deadline ensuring that the initial capital is paid up in full before authorisation to commence the activity of credit institutions	
<b><u>5.2 Available funding sources for own funds (Article 7(3) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Explanation of funding sources for own funds and Annex under which can be found evidence of the availability of those funding sources in accordance with Article 7(3) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>5.3 Amounts, types and distribution of internal capital (Article 7(4) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the assessment of the amounts, types and distribution of internal capital considered adequate to cover the nature and level of the risks to which the applicant credit institution will or might be exposed in accordance with Article 7(4) of Commission Delegated Regulation (EU) No XX/2017	

**Table 6: Effective direction (Article 8 of Commission Delegated Regulation (EU) No XX/2017)**

<b>6.1 Members of the management body (complete a separate copy of this section of the table for each individual) (Article 8(1) of Commission Delegated Regulation (EU) No XX/2017)</b>	
Name and, if different, name at birth	
Gender	
Place of birth	
Date of birth	
Address	
Telephone number	
Mobile	
Email address	
Nationality	
Personal identification number or annex under which a copy of the ID card or equivalent can be found	
Details of the position held or to be held by the person, including whether the position is executive or non-executive, the start date or planned start date and duration of mandate, and a description of the person's key duties and responsibilities	
Annex under which can be found a curriculum vitae in accordance with paragraph 1(c) of Annex I to Commission Delegated Regulation (EU) No XX/2017	
Annex under which can be found a list of reference persons including contact information, preferably from employers in the banking or financial services sector, including full name, institution, position, telephone number, email, nature of the professional relationship and information if any non-professional relationship exists or existed with this individual	
Annex under which can be found criminal records and relevant information on criminal investigations and proceedings, relevant civil and	

<p>administrative cases, and disciplinary actions (including disqualification as a company director, bankruptcy, insolvency and similar procedures) notably through an official certificate or, in cases where such a certificate does not exist, any reliable source of information concerning the absence of criminal conviction, investigations and proceedings</p>	
<p>Annex under which can be found a statement of whether criminal proceedings are pending or the person or any organisation managed by him or her has been involved as a debtor in insolvency proceedings or a comparable proceeding</p>	
<p>Annex under which can be found information on matters set out in paragraph 1(e)(iii) of Annex I to Commission Delegated Regulation (EU) No XX/2017</p>	
<p>Annex under which can be found a description of all financial and non-financial interests that could create potential conflicts of interest in accordance with paragraph 1(f) of Annex I to Commission Delegated Regulation (EU) No XX/2017</p>	
<p>Annex under which details can be found to show that the individual has sufficient time to commit to the mandate in accordance with paragraph 1(g) of Annex I to Commission Delegated Regulation (EU) No XX/2017</p>	
<p>Details of the result of any assessment of the suitability of the individual performed by the applicant credit institution as described in paragraph 3 of Annex I to Commission Delegated Regulation (EU) No XX/2017</p>	



**6.2 Other information required in relation to members of the management body (Article 8(1) of, and paragraphs 2, 4 and 5 of Annex I to, Commission Delegated Regulation (EU) No XX/2017)**

Description of any committee of the management body foreseen at the time of the application, including its members and powers	
Statement regarding the applicant credit institution's overall assessment of the collective suitability of the management body such as relevant board minutes or suitability assessment report/documents	
Description of how the diversity of qualities and competences was taken into account when selecting the members of the management body	

**6.3 Heads of internal control function and chief financial officer where not members of the management body (complete a separate copy of this section of the table for each individual) (Article 8(2) of Commission Delegated Regulation (EU) No XX/2017)**

Name and, if different, name at birth	
Gender	
Place of birth	
Date of birth	
Address	
Telephone number	
Mobile	
Email address	
Nationality	
Personal identification number or annex under which a copy of the ID card or equivalent can be found	
Details of the position held or to be held by the person, including whether the position is executive or non-executive, the start date or planned start date and duration of mandate, and a description of the person's key duties and responsibilities	
Annex under which can be found a curriculum vitae in	

<p>accordance with paragraph 1(c) of Annex I to Commission Delegated Regulation (EU) No XX/2017</p>	
<p>Annex under which can be found a list of reference persons including contact information, preferably from employers in the banking or financial services sector, including full name, institution, position, telephone number, email, nature of the professional relationship and information if any non-professional relationship exists or existed with this individual</p>	
<p>Annex under which can be found criminal records and relevant information on criminal investigations and proceedings, relevant civil and administrative cases, and disciplinary actions (including disqualification as a company director, bankruptcy, insolvency and similar procedures) notably through an official certificate or, in cases where such a certificate does not exist, any reliable source of information concerning the absence of criminal conviction, investigations and proceedings</p>	
<p>Annex under which can be found a statement of whether criminal proceedings are pending or the person or any organisation managed by him or her has been involved as a debtor in insolvency proceedings or a comparable proceeding</p>	
<p>Annex under which can be found information on matters set out in paragraph 1(e)(iii) of Annex I to Commission Delegated Regulation (EU) No XX/2017</p>	
<p>Details of the result of any assessment of the suitability of the individual performed by the applicant credit institution as</p>	

<p>described in paragraph 3 of Annex I to Commission Delegated Regulation (EU) No XX/2017</p>	
<p><b><u>6.4 Powers, responsibilities and proxies conferred upon members of the applicant credit institution’s management body (Article 8(3) of Commission Delegated Regulation (EU) No XX/2017)</u></b></p>	
<p>Description of the powers, responsibilities and proxies conferred upon the members of the applicant credit institution’s management body, and, where the competent authority makes a determination in accordance with Article 8(2) of Commission Delegated Regulation (EU) No XX/2017 and where they are not part of the management body, the heads of internal control functions and the chief financial officer</p>	

**Table 7: Shareholders and members with qualifying holdings (Article 9 of Commission Delegated Regulation (EU) No XX/2017)**

<b><u>7.1 Shareholders and members (legal and natural persons) (Article 9(1) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found in relation to each natural and legal person with a qualifying holding the information referred to in Article 9(1) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>7.2 Further information in relation to natural persons (Article 9(2) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found in relation to each natural person with a qualifying holding the additional information referred to in Article 9(2) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>7.3 Further information in relation to legal persons or entities which are not legal persons and which hold or shall hold participations in their own name (Article 9(3) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found in relation to each legal person or entity which is not a legal person and which holds or shall hold participations in its own name the additional information referred to in Article 9(3) of Commission Delegated Regulation (EU) No XX/2017	
<b><u>7.4 Trusts (Article 9(4) of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found the information referred to in Article 9(4) of Commission Delegated Regulation (EU) No XX/2017	

**7.5 Members of an entity which are not legal persons where the holding in the applicant credit institution will be treated as an asset of the entity (Article 9(5) of Commission Delegated Regulation (EU) No XX/2017)**

Annex under which can be found the information referred to in Article 9(5) of Commission Delegated Regulation (EU) No XX/2017	
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**Table 8: 20 largest shareholders or members (Article 10 of Commission Delegated Regulation (EU) No XX/2017)**

<b><u>8.1 Shareholder structure (Article 10 of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
Annex under which can be found a chart setting out the shareholder structure of the applicant credit institution, including the breakdown of the capital and voting rights	
<b><u>8.2 List of names of all persons and other entities with a shareholding and other relevant details (Article 10 of Commission Delegated Regulation (EU) No XX/2017)</u></b>	
<p>Annex under which can be found a list of the names of all persons and other entities with a shareholding of a kind described in Article 10 of Commission Delegated Regulation (EU) No XX/2017 indicating in respect of each such person or entity:</p> <ul style="list-style-type: none"> <li>- the number and type of shares or other holdings subscribed or to be subscribed;</li> <li>- the nominal value of such shares or other holdings;</li> <li>- any premium paid or to be paid;</li> <li>- any security interests or encumbrances created over such shares or other holdings, including the identity of the secured parties; and</li> <li>- where applicable, any commitments made by such persons or entities aimed at ensuring that the credit institution will comply with applicable prudential requirements</li> </ul>	

**Table 9: Items of information required in accordance with Article 2(2) of Commission Delegated Regulation (EU) No XX/2017**

<b><u>Information required by the competent authority in accordance with Article 2(2) of Commission Delegated Regulation (EU) No XX/2017 (complete as applicable, presenting in the left column a description of the information required and in the right column the information)</u></b>	

**Table 10: Items of information omitted from the application in accordance with Article 2(3) of Commission Delegated Regulation (EU) No XX/2017**

<b><u>10.1 Information omitted in accordance with the first sub-paragraph of Article 2(3)(a) of Commission Delegated Regulation (EU) No XX/2017 (complete with a list of the information as applicable)</u></b>
<b><u>10.2 Information omitted in accordance with the first sub-paragraph of Article 2(3)(b) of Commission Delegated Regulation (EU) No XX/2017 (complete with a list of the information as applicable)</u></b>
<b><u>10.3 Information omitted in accordance with the second sub-paragraph of Article 2(3) of Commission Delegated Regulation (EU) No XX/2017 (complete with a list of the information as applicable)</u></b>

## 5. Accompanying documents

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### 5.1 Cost-benefit analysis/impact assessment

#### A. Problem identification

The principle of single authorisation ensures that, once authorised, an EU credit institution may provide the services, or perform the activities, for which it has been authorised, throughout the Single Market, through either the establishment of a branch or the free provision of services. Nonetheless, the conditions and requirements for the authorisation of such institutions are not yet specified and harmonised across the EU. To this end, pursuant to Article 8(2) of Directive 2013/36/EU (CRD IV), the EBA shall draft Regulatory Technical Standards to specify:

- a. the information to be provided to the competent authorities in the application for the authorisation of credit institutions, including the programme of operations provided for in Article 10 of CRD IV;
- b. the requirements applicable to shareholders and members with qualifying holdings pursuant to Article 14 of CRD IV; and
- c. obstacles which may prevent effective exercise of the supervisory functions of the competent authority, as referred to in Article 14 of CRD IV.

Furthermore, pursuant to Article 8(3) of CRD IV, the EBA shall develop draft Implementing Technical Standards on standard forms, templates and procedures for the provision of the information referred to in point (a) above.

#### B. Policy objectives

The strategic objective of the RTS and ITS is the harmonisation of requirements relating to the submission of applications for the authorisation of credit institutions. Although the high-level principles for the authorisation of credit institutions are already in place, the specific requirements regarding the provision of information have not yet been set at EU level. Thus, the operational objective of the RTS and ITS is specifying the detailed list of information to be provided to the competent authorities in the application for the authorisation of credit institutions (the RTS), along with setting out the specific templates for doing so (the ITS).

The consultation with policy experts from EU Member States ('screening' impact assessment) showed that the establishment of the new framework for the provision of harmonised information for authorising credit institutions is not expected to generate a substantial impact on the costs and benefits associated with the applications for authorisation as credit institutions or



with the issuance of authorisations by the competent authorities. Thus, respecting the principle of proportionality when conducting impact assessments, i.e. that the length and depth of impact assessments should always be proportional to the expected impact, the current impact assessment does not include an in-depth cost-benefit analysis (CBA) for the precise quantification of costs and benefits of the implementation of the information requirements. Nonetheless, the CBA estimates the magnitude of the additional cost and benefits from the implementation of the Technical Standards in relation to the current cost of the specific banking operation.

### C. Baseline scenario

The current landscape in the provision of information in the application for the authorisation of credit institutions is diverse across EU, although certain information is provided on an ad hoc basis, if requested by the competent authorities. Although the set of information depicted in the draft RTS and ITS draws substantially from the existing practices of national competent authorities, it does not mirror the existing practices of any given authority. However, it is not expected that there will be any significant change in the information requirements which would generate significant additional costs, while the benefits from the implementation would exceed these costs of the operational changes.

Additionally, in the absence of persons having qualifying holdings, the current regime requires a reduced set of information in respect of the 20 largest shareholders or members of the prospective credit institution compared with the information required in respect of shareholders or members with qualifying holdings.

### D. Options considered

The current section contains a more detailed qualitative assessment of the various options for each of the two sections considered, together with the rationale for selecting the preferred option in each of the sections.

The main policy options **relating to the mandate in Article 8(2)(a) of CRD IV**, i.e. the list of information to be provided to the competent authorities in the application for the authorisation of credit institutions, are the following:

Policy option 1: the 'do nothing' option, i.e. retaining the existing status quo of the diverse content of information required across the EU for the authorisation of credit institutions. This option is not in line with the requirements of CRD IV, which contemplates a harmonised set of information, or with the objective of the single rulebook.

Policy option 2: the 'common denominator' option, i.e. restricting the list of information to cover only those matters which are harmonised by virtue of EU law or, alternatively, those information requirements which are applicable across all Member States.

Pros:

- This option would increase the flexibility for Member States, providing them with the discretion to supplement the minimum list set out in the RTS to address all requirements set out by the Member States or national competent authorities. It would also allow the national competent authorities to have more flexibility to request additional information from the credit institutions where and when needed.
- This solution implies lower implementation (one-off) costs.

Cons:

- This approach does not seem to fully adhere to the mandate in Article 8(2)(a) of CRD IV, which refers to the information to be provided in such an application without making any distinction between requirements arising from CRD IV or other EU law requirements, and those arising from national requirements.
- This option would only achieve a minimum harmonisation requirement across the EU, while there will be no assurance that a level playing field is ensured among the EU Member States. This would undermine the objective of the single rulebook.

Policy option 3: the ‘maximum harmonisation’ option, i.e. setting out an exhaustive list of information requirements which would not permit any deviation by any Member State.

Pros:

- This approach ensure certainty, common understanding and in-depth knowledge of the information requirements by all the stakeholders.
- The approach would ensure maximum harmonisation across the EU.

Cons:

- it would be difficult to ensure that all possible requirements of individual Member States will be covered, especially considering the fact that MS can, pursuant to Article 8(1) of CRD IV, lay down their own requirements for the authorisation of credit institutions.
- Depending on the type of applicant and its contemplated activities, the list might be too cumbersome if no flexibility is provided, resulting in unnecessary excessive costs for the applicant, i.e. this option/requirement would not be proportional for the nature of certain credit institutions, including their contemplated activities.

Policy option 4: the ‘flexible maximum harmonisation’ option, i.e. setting out a complete list, subject to a certain flexibility to vary the requirements.

Pursuant to this approach, which was embraced by the RTS, the required list of information could vary either by requesting additional information or by dispensing with the requirement to provide certain information, subject to specified conditions (which are also set out in the RTS).

Pro:

- This option would draw the optimal line between the sufficient harmonisation requirement, while at the same time ensuring the necessary flexibility.

Con:

- The requirements would not be fully harmonised across the various Member States. However, this is consistent with the approach taken by CRD IV in Article 8(1), where Member States are requested to develop their own requirements.

The main policy options **relating to the requirements applicable to the 20 largest shareholders or members**, in the absence of persons having qualifying holdings, are the following:

Policy option 1: the 'do nothing' option, i.e. retaining the existing provision in CRD IV, which, in the absence of persons having qualifying holdings, requires the names of the 20 largest shareholders or members without specifying any additional information. However, this option would not contribute towards the harmonisation of the content of the information to be provided for the 20 largest shareholders, and would leave the landscape of the provision of information quite heterogeneous across the EU.

Policy option 2: the option of aligning the requirements with those applicable to persons having qualifying holdings.

Pro:

- In the absence of qualifying holdings, the largest shareholders would be subject to similar scrutiny, thus ensuring that, in any event, the shareholders are subject to adequate scrutiny without having to conduct a preliminary search to distinguish the persons having qualifying holdings from the rest of the shareholders.

Cons:

- This might be seen as not being fully in line with CRD IV, which does not appear to align the treatment of such shareholders with the persons having qualifying holdings.
- Considering the above, applying similar information requirements to such shareholders might not be proportional and might trigger unnecessary costs, considering the reduced level of influence such shareholders may have over the credit institution.

Policy option 3: The option of implementing less stringent requirements.

Pro:

- This option would introduce information requirements that would be more proportional to the reduced influence of such shareholders.

Con:

- In the absence of qualifying holdings, the main shareholders might be subject to a substantially reduced level of scrutiny.

#### E. Cost-benefit analysis

Having already assessed the policy options considered for the drafting of the current RTS and ITS, this section evaluates in quantitative terms the cost and benefits (net impact) of the individual policy options, in relation to the current level of operational cost of credit institutions and national competent authorities. The estimations set out in this section are substantially based on the deliberations among the competent authorities but not on any stock-taking exercise. Thus, the evaluation could contain a certain level of subjectivity. To overcome this obstacle, the analysis presents only the level of impact in terms of magnitude relating to the current operational cost, i.e. zero, negligible, low, medium and high,<sup>12</sup> instead of presenting the exact figures in monetary terms.

**The CBA relating to the mandate in Article 8(2)(a) of CRD IV**, i.e. the list of information to be provided to the competent authorities in the application for the authorisation of credit institutions, for each policy option is the following:

Policy option 1: this option was not examined further, as it is not in line with the requirements set out in CRD IV, so the CBA was not applicable in this case.

Policy option 2: both costs and benefits would be close to zero, resulting in a zero net impact (benefits minus costs).

Policy option 3: the one-off costs from the implementation of this solution would be low, and the on-going costs after the implementation would be negligible, mainly arising from the need of some NCAs to request data mandated by their national legislation. The on-going operational benefits from the implement would be low, although there are some reputational benefits that cannot be quantified. The net impact from the implementation of this option would be negligible (but positive).

Policy option 4: the one-off and on-going costs from the implementation of this solution would be negligible. The on-going operational benefits from the implement would be low. The net impact from the implementation of this option would be low (positive).

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<sup>12</sup> Zero, 0-0.5% of the current operational cost; negligible, 0.5-2% of the current operational cost; low, 2-10% of the current operational cost; medium, 10-20% of the current operational cost; high, more than 20% of the current operational cost.

The CBA relating to the **requirements applicable to the 20 largest shareholders or members, in the absence of persons having qualifying holdings**, is shown below:

Policy option 1: the one-off costs from the implementation of this solution would be zero, and the on-going costs after the implementation would be negligible, mainly arising from the need of some NCAs to request additional information, not already mandated by CRD IV. The on-going operational benefits from the implementation of this option would be zero. The net impact from the implementation of this option would be negligible (but negative).

Policy option 2: the one-off and on-going costs from the implementation of this solution would be negligible and low respectively, resulting in an overall cost of low magnitude. The on-going operational benefits from the implementation of this option would be low, although there would be some additional reputational benefits (not quantifiable) arising from the transparency of the requirements. The net impact from the implementation of this option would be negligible (but positive).

Policy option 3: both the one-off and on-going costs from the implementation of this solution would be negligible. The on-going operational benefits from the implementation of this option would be low, although there would be some additional reputational benefits (not quantifiable but less than those of option 2) of requesting additional information for the 20 largest shareholders. The net impact from the implementation of this option would be low (positive).

#### F. Preferred option

Having taken into account the qualitative assessment of the policy options and the accompanying CBA, the preferred policy option for the informational content relating to the mandate in **Article 8(2)(a) of CRD IV is policy option 4**, while the preferred policy option for the informational content relating to **the 20 largest shareholders or members, in the absence of persons having qualifying holdings, is policy option 3**.

## 5.2 Feedback on the public consultation

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

The consultation period lasted three months and ended on 8 February 2017. Eight responses were received, of which six were published on the EBA website.

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

In many cases, several industry bodies made similar comments or the same body repeated its comments in response to different questions. In such cases, the comments and the EBA's analysis are included in the section of this paper where the EBA considers them most appropriate.

Changes to the draft RTS and ITS have been made as a result of the responses received during the public consultation.

### Summary of key issues and the EBA's response

The comments received were generally supportive of the proposals put forward in the consultation paper, notwithstanding certain comments to the effect that the required list of information was too extensive, as well as various submissions regarding certain specific requirements contemplated in the technical standards.

A significant number of comments focused on the sequencing process. Whereas several respondents strongly endorsed such a scheme, comments were also received calling into question whether providing for such a process sits within the scope of the mandate conferred under Article 8 of CRD IV and whether the technical standards were the correct instrument for dealing with this matter.

Other issues generally arising in the responses concerned the identity of the key function holders in respect of which information should be provided in the application, the extent to which national competent authorities should have flexibility in applying the requirements of the technical standards, the interplay between the list set out in the technical standards and the entitlement of Member States to lay down requirements for authorisation pursuant to Article 8(1) of CRD IV, and the situation of newly formed credit institutions and bridge institutions.

Relatively few comments were received on the ITS, which are intended to mirror the contents of the RTS.



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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<b>Responses to questions in Consultation Paper EBA/CP/2016/19</b>			
<b>Question 1: Do you have any general comments on the draft Regulatory Technical Standards under Article 8(2) of Directive 2013/36/EU or on the draft Implementing Technical Standards under Article 8(3) of Directive 2013/36/EU?</b>			
General comments	The draft RTS are clear and well drafted and respondents welcomed the recognition that the objective is to harmonise the information to be provided to competent authorities (CAs), albeit respondents acknowledged that it might take some time for applicant credit institutions (applicants) and CAs to become familiar with the various requirements. Given this, a compliance delay of six months should be a minimum.	The EBA notes the comments made and, in the course of the finalisation of the draft RTS, has carried out some restructuring to further enhance the clarity of the information to be submitted in the application.	General restructuring.
Sequencing	The introduction of a sequencing process lasting 12 months could benefit smaller firms and less complex, monoline, specialised business models.  The sequencing process could be highly beneficial to facilitating innovation and the creation of strong new banks with the associated benefits for the real economy and consumers.	The comment regarding the sequencing process is addressed within the context of Question 8, which deals with sequencing.	–
Proportionality and flexibility  Article 2 of the draft RTS (which appeared as Article 11 of the draft RTS as published in the	The RTS should be proportionate in terms of the volume of information requested – some information fields may not be necessary for the purposes of the assessment of suitability for authorisation. The list of information requested	Article 2 of the draft RTS (which appeared as Article 11 of the draft RTS as published in the CP) lays down an appropriate degree of flexibility regarding information already in possession of the CA, information which is relevant only to activities	Article 2 of the draft expanded to include a provision enabling information not to be provided where it



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Consultation Paper (the CP))	<p>could be adjusted.</p> <p>CAs should have more freedom and flexibility. A CA should, for example, be able to dispense with requesting data and documents if it already possesses this information or is of the opinion that it does not need this information to assess an application for authorisation.</p>	<p>the applicant will not be carrying out, and information in relation to requirements waived pursuant to Article 21 of Directive 2013/36/EU (CRD). Article 2 of the draft RTS has been further expanded to provide additional flexibility for the CAs (see next column) and a number of information fields in the draft RTS as published in the CP have been omitted or amended to streamline the information required to be submitted in the application for authorisation (see next column).</p>	<p>has been requested and obtained from another competent authority.</p> <p>Various provisions of the draft RTS have also been omitted or amended to require only outlines to be provided rather than detailed information (e.g. the policies referred to in Article 6(4)), and Article 2(3) has been introduced to enable the CAs to request additional explanations or supplemental information for the purposes of assessing the application.</p>
Potential conflicts between the draft RTS and national legislation	<p>Article 8(1) of the CRD empowers Member States to establish the requirements for the authorisation of credit institutions. Thus the draft RTS should not affect the procedure and conditions for authorisation established under national laws.</p> <p>Moreover, the draft RTS should be redrawn</p>	<p>Article 2(1) of the draft RTS (as appeared at Article 11(1)(a) of the draft RTS as published in the CP) envisages the possibility for CAs to request additional information according to national requirements, in keeping with Article 8(1) of the CRD.</p>	No change.





Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>distinguishing between (i) documents requested in order to fulfil the requirements from Articles 1-14 of the CRD and (ii) documents related to national requirements.</p>	<p>The draft RTS contain provisions applicable EU-wide flowing from requirements relating to the operation of credit institutions specified under EU law. It is not contemplated that the draft RTS should include information relating to specific national requirements, as this is a matter of national law.</p>	
<p><b>Question 2: Do you have any comments on the proposed list of information to be provided for the authorisation of credit institutions?</b></p>			
<p>Volume and complexity of information</p>	<p>The list of information that an applicant is required to submit is too long and too detailed and might constitute an obstacle to the establishment of a credit institution without delivering any added value.</p>	<p>The complexity of the operations of credit institutions and the nature of the regulatory regime applicable to them make it unavoidable that an application for authorisation should include information about a range of features of the business, operations and structure of the applicant.</p> <p>The list of information required to be submitted in accordance with the draft RTS is the result of a review of the practices of CAs in this area and reflects existing requirements to provide information flowing from requirements relating to the operation of credit institutions specified under EU law. However, in accordance with the feedback received, a number of information fields have been omitted or amended with the effect of reducing the amount of information required to be presented in the application.</p>	<p>See above in relation to proportionality and flexibility.</p>
<p>Information about the 20 largest shareholders Article 6(3)(a) of the draft RTS as published in the CP</p>	<p>If no person has a qualifying holding in the credit institution, Article 6 of the draft RTS as published in the CP requires the submission of a large amount of information on the 20 largest shareholders. The burden that this will impose</p>	<p>Article 6 of the draft RTS as published in the CP requires fewer items of information to be presented in relation to the 20 largest shareholders or members than is required under Article 6 of the RTS for shareholders or members with qualifying</p>	<p>Please refer to the revised wording of Article 10 of the draft RTS and see above in relation to</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	does not appear justified compared with the limited influence such shareholders have.	holdings, reflecting their limited influence over the credit institution. However, taking account of the feedback received, the text has been adjusted and Article 10 of the draft RTS (which replaces Article 6 of the draft RTS as published in the CP) requires only the identities of the 20 largest shareholders to be given, subject to Article 2(3), which enables the competent authorities to request additional explanations or supplemental information for the purposes of assessing the application.	proportionality and flexibility.
Market research and competitor analysis Article 8(1) (second sub-paragraph) of the draft RTS as published in the CP	Article 8(1) (second sub-paragraph) of the draft RTS as published in the CP requires ‘details of market research and competitor analysis and its outcome’ (point (i)). It is not clear what is meant by ‘details’.  It is equally unclear what relevance details of ‘initial and future promotion and marketing’ have to the assessment of the applicant.	Article 8 now appears as Article 6 of the draft RTS. The text which appeared previously in the second sub-paragraph of Article 8(1) has been omitted and Article 6(1)(a) has been revised to incorporate some of the information that appeared in that sub-paragraph (and is now requested in the form of an outline rather than detailed information). The requirement to provide details of market research and competitor analysis has been omitted.	Please refer to the revised wording of Article 6(1)(a) of the draft RTS.
Policies and procedures Article 9(8)(b)-(j) of the draft RTS as published in the CP Article 10(4)(a)-(h) of the draft RTS as published in the CP	It is sufficient for a credit institution to provide a summary of its policies when submitting an application for authorisation. The requirement to submit the full policies called for in Articles 9 and 10 of the draft RTS as published in the CP goes too far; the full policies are required only as from the commencement of activities and are not needed at the time of the application.	The EBA welcomes the feedback received. The draft RTS has been revised such that the application needs to include only an outline of the policies referred to in what are now Articles 5(7) and 6(4) of the draft RTS.	Please refer to the revised wording of Articles 5(7) and 6(4) of the draft RTS.
Defined terms	It is not clear what is meant by the term ‘management body’ and what level this should go	The term ‘management body’ is defined in the CRD	Please refer to Article 8(4) of the

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Article 7 of the draft RTS as published in the CP	<p>to in an organisation.</p> <p>The term ‘key function holders’ is not defined. This causes uncertainty among banks and other market participants. As obligations are tied to this term, it should be defined precisely.</p>	<p>(point (7) of Article 3(1)).</p> <p>Article 7 of the draft RTS as published in the CP, which now appears at Article 8 of the draft RTS, has been revised to include definitions of relevant terms.</p>	draft RTS.
<p>Anti-money laundering and counter-terrorist financing</p> <p>Article 10(1) of the draft RTS as published in the CP</p>	<p>The draft RTS requires information on the applicant’s governance arrangements, including in respect of anti-money laundering and counter-terrorist financing. Given the potential scale of this topic, there should be further guidance provided about the information required. Failing to indicate what kind of information should be submitted will result in inconsistent implementation.</p>	<p>Article 10(1) of the draft RTS as published in the CP now appears as Article 6(2)(a) of the draft RTS. The information required will depend on the applicant’s business model and the risks. Applicants should work with the CA to ensure that the information provided is appropriate.</p>	No change.
<p>Relevant events</p> <p>Article 2(4)(b)(ii) of the draft RTS as published in the CP</p>	<p>The RTS require information on all administrative penalties, judgments and arbitration as well as any criminal and civil convictions which are relevant to the authorisation (see Article 3 of the draft RTS, which is the former Article 2). This requirement is too broad and the concept of ‘relevance’ is intrinsically subjective and will be understood differently within the various European jurisdictions. We recommend indicating that relevance should be determined considering objective criteria such as financial loss, number of transactions concerned, loss of sanction, etc.</p>	<p>Bearing in mind the range of potential administrative, civil or other decisions and awards that may be relevant, it is not considered possible to set out ex ante a complete list of decisions and awards that would be both (i) applicable in all Member States and (ii) sufficiently comprehensive. Therefore, as drafted, it is incumbent on the applicant to disclose all matters that they consider to be relevant, which the CA may then consider as appropriate. However, further indicative and non-exhaustive guidance is provided in recitals (17) and (18) to help illustrate the sort of information that is expected to be provided.</p>	<p>Please refer to the new text that appears in recitals (17) and (18) of the RTS.</p>
Confidential decisions and settlements	Confidential decisions and settlements from non-state justice mechanisms should not be required to	Such exceptions are not justified. A significant dispute might be resolved by way of arbitration and	No change (please note that Article 2 of

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Article 2(4)(b)(ii) of the draft RTS as published in the CP	be disclosed. The confidentiality of private arbitration and transactions should be preserved.	a material adverse award should be disclosed regardless of the forum in which it was awarded; the mere fact that the dispute was resolved by arbitration does not affect the relevance of the award. Additionally, it is expected that any confidentiality undertakings agreed in the course of an arbitration do not prevent disclosure where required by law.	the draft RTS as published in the CP now appears as Article 3 of the draft RTS).
Data protection Article 2(4)(b)(ii) of the draft RTS as published in the CP	A reference to the data protection of managers/employees/intermediaries should be introduced in Article 2(4)(b)(ii) of the draft RTS, which now appears as Article 3(4)(b)(ii).	All processing of personal data by CAs pursuant to the RTS and ITS is subject to the rules resulting from Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the movement of such data. Accordingly it is not necessary to make an express provision in the draft RTS on this point.	No change.
Minimum time devoted to the performance of the person's functions for management body members Article 7(1)(g) of the draft RTS as published in the CP	The requirement should be eliminated, since it is very difficult to estimate beforehand the minimum amount of time devoted by members of the management and supervisory bodies.	Time commitment is a relevant criterion for the assessment according to the CRD, which requires the management body of an institution to commit sufficient time to allow it to perform its functions and to be able to understand the business of the institution, its main risk exposures and the implications of the business and the risk strategy (see Article 13(1) (second sub-paragraph) and Article 91(2) of the CRD).	No change (see now the list of information set out in Annex I to the draft RTS).
Recovery plan Article 9(9) of the draft RTS as published in the CP	There is no added value in requiring a recovery plan at this stage of the process, a summary of the policies being sufficient. Nevertheless, if a recovery plan is finally compulsory, business model specificities should be	Directive 2014/59/EU (the BRRD) requires institutions that are not part of a group subject to consolidated supervision to have recovery plans (Article 6). The RTS has been amended to make it clear that information on the process for preparing	Please refer to the revised wording of Article 5(8) of the draft RTS.

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	<p>taken into account, especially with public and promotional banks, because of the low-risk profile of their activities.</p> <p>Recovery plan obligations set out in Article 9(9) of the draft RTS as published in the CP (which now appears as Article 5(8)) do not distinguish whether the credit institution is a parent undertaking or subsidiary. This is not in line with Article 7(2) BRRD and can interfere with the CA's options regarding Article 7(2) BRRD about imposing on subsidiaries the obligation to draw up a recovery plan on an individual basis.</p>	<p>the draft recovery plans needs to be submitted in the application where the applicant credit institution is required to have such a plan pursuant to Directive 2014/59/EU.</p> <p>Article 5(8) of the draft RTS refers expressly to the recovery plan within the meaning of point (23) of Article 2(1) BRRD. Accordingly, this requirement is to be interpreted in line with the requirements under the BRRD, including taking account of whether the applicant is in a group and, if the applicant is not the parent undertaking, whether the CA concerned requires a plan in relation to the applicant (as a subsidiary) in accordance with the power specified in Article 7(2) BRRD.</p>	
<p>Stress scenario</p> <p>Article 4(4) of the draft RTS as published in the CP</p> <p>Article 8(1)(a) of the draft RTS as published in the CP</p>	<p>Article 4(4) of the draft RTS as published in the CP (which now appears as Article 8(4) of the draft RTS) requires a stress scenario. It should be clarified whether this refers to the tests specified in Article 100 of the CRD or to others.</p> <p>Clarification is required regarding the base case and a stressed case scenario referred to in Article 8(1)(a) of the draft RTS as published in the CP (which now appears at Article 5(1)(a) of the draft RTS).</p>	<p>Article 8(4) of the RTS does not refer to the same stress tests as Article 100 of the CRD (which refers to annual supervisory tests). Nevertheless, the CA may require that the methodology be similar to that which is applied to the annual supervisory stress tests, to facilitate the review and evaluation process under Article 97 of the CRD (supervisory review and evaluation).</p> <p>It can be confirmed that Article 5(1)(a) requires both a base case and a stress case scenario. The CA may specify the methodology of the approach to be used for determining the scenarios.</p>	<p>No change.</p>
<p>Use of LEI</p>	<p>A broader use of LEI and GLEIF standards would</p>	<p>The EBA supports the use of LEI numbers. However,</p>	<p>No change.</p>



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<p>Article 2(2)(g) of the draft RTS as published in the CP and other relevant provisions</p>	<p>result in a more efficient and effective approach.</p>	<p>as regards institution-specific information, it is preferable for CAs to receive the information required pursuant to the RTS directly from the applicant, bearing in mind the applicant’s obligations to ensure the accuracy and completeness of the information from the moment of the application to the date of authorisation. (Note that Article 2(2)(g) of the draft RTS as published in the CP appears now as Article 3(2)(g) of the draft RTS.)</p>	
<p>Types of applicant</p>	<p>The RTS should provide specific requirements for each of the potential types of applicants, namely (i) existing legal entities, (ii) start-up institutions and (iii) bridge banks.</p>	<p>There is no compelling need to provide different subsets of requirements for the different types of applicant. First, credit institutions need to comply with the same requirements whether they have just commenced operations or have been operating for a period of time. Furthermore, Article 41(1) of Directive 2014/25/EU (BRRD) is clear that a bridge institution needs to be authorised in accordance with the CRD or with Directive 2014/65/EU, subject to the provisions of the final paragraph of Article 41(1) BRRD, which enables the waiver of requirements for a short period of time where necessary to meet the resolution objectives set out in Article 31 BRRD.</p> <p>Finally, Article 2(2) of the draft RTS provides that information held already by the competent authority or requested and obtained from another competent authority need not be included in the application.</p>	<p>No change.</p>

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<p>Bridge bank term of operation</p> <p>Article 9(1)(a) of the draft RTS as published in the CP</p>	<p>For bridge banks, the three-year term set out in Article 9(1)(a) of the draft RTS as published in the CP (which now appears as Article 5(1)(a) of the draft RTS) for the credit institution's accounts forecast is not aligned with the two-year term set out in Article 41(1) BRRD.</p>	<p>The two-year period set out in Article 41(5) BRRD runs from the date on which the last transfer from an institution under resolution pursuant to the bridge institution tool was made. That date need not be the date of authorisation. An applicant which is a bridge institution may satisfy the requirements of Article 5(1)(a) of the draft RTS merely by indicating that it will not be carrying out any activity in the third year, if that is the case, as well as relying if required on the provisions of the last paragraph of Article 41(1) BRRD. In addition, it is noted that the resolution authority may extend the period of operation of the bridge institution beyond two years in certain cases (see Article 41(6) BRRD).</p>	<p>No change.</p>
<p>IT infrastructure</p> <p>Article 8(1)(c)(ii) of the draft RTS as published in the CP</p>	<p>The information required in respect of the IT infrastructure under Article 8(1)(c)(ii) of the draft RTS as published in the CP (which now appears as Article 6(1)(b)(ii) of the draft RTS) is covered by the information required in respect of the applicant's IT functions and systems in Article 10(4) points (d)-(f) of the draft RTS as published in the CP (which now appears as Article 6(5) of the draft RTS).</p>	<p>Although both provisions include references to the IT department, they have different scopes and purposes. Thus, Article 6(1)(b)(ii) of the draft RTS focuses on the available resources, whereas Article 6(5) focuses on the organisation of the IT function, the infrastructure and its appropriateness. Given this, no overlap exists.</p>	<p>No change, albeit Article 10(4) of the draft RTS has been streamlined and appears now at Article 6(5).</p>
<p>Potential conflict with national law</p> <p>Article 2(4)(a) of the draft RTS as published in the CP</p>	<p>Article 2(4)(a) of the draft RTS as published in the CP (which now appears as Article 3(4)(a) of the draft RTS) regarding disclosure of any membership of the applicant or any of its subsidiaries to any industrial association could be seen to infringe the right to freedom of assembly. Therefore, it should be amended.</p>	<p>Without taking any view on the conflict perceived by the respondent, the information is not essential for the application, so the reference has been removed.</p>	<p>Please refer to the revised wording of Article 3(4)(a) of the RTS.</p>

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<b>Question 3: Do you have any comments on the proposed requirements applicable to shareholders and members with qualifying holdings of credit institutions?</b>			
Shareholders Article 5 of the draft RTS as published in the CP	<p>There is no benefit gained by asking for a shareholder’s reasons for or intentions regarding owning a holding.</p> <p>It is unclear what benefit derives from a shareholder being required to provide details of the means of payment/payment service provider for his or her intended participation. The other required information should allow the CA to confirm that the proposed shareholder is fit and proper.</p>	<p>The reasons for owning a holding are of relevance to the criteria applicable to the assessment of shareholders with qualifying holdings. Furthermore, the information regarding the means of payment is relevant for anti-money laundering purposes.</p>	<p>No change (please note that Article 6 of the draft RTS as published in the CP now appears as Article 9 of the draft RTS).</p>
Access to pending criminal investigations not possible Article 5(2)(c)(iv) of the draft RTS as published in the CP	<p>Article 5(2)(c)(iv) of the draft RTS as published in the CP (which now appears in Annex II to the draft RTS) requires supporting documents on pending criminal investigations. Under certain national laws, such information is not available to the public.</p>	<p>An applicant who is not aware of a pending investigation cannot provide details on it and this is recognised by the RTS.</p>	<p>No change.</p>
Right of assembly Article 5(2)(c)(viii) of the draft RTS as published in the CP	<p>Article 5(2)(c)(viii) of the draft RTS (which now appears in Annex II to the draft RTS) could be seen to be in conflict with the right to freedom of assembly, insofar as it refers to memberships.</p>	<p>In keeping with the position in Article 3(4)(a) of the draft RTS, the reference to ‘membership’ has been removed.</p>	<p>Please refer to the revised wording, which now appears in the list of information set out in the new Annex II to the draft RTS to enhance the navigability of the draft RTS.</p>



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<p>Politically exposed persons                      Article 5(2) of the draft RTS as published in the CP</p>	<p>According to Article 5(2)(i) of the draft RTS (which now appears as paragraph 2 of Annex II to the draft RTS), where a person who has or will, in case of authorisation, have a qualifying holding is a natural person, the application shall set out information relating to the suitability of that person, a description of the financial interests of the person, including credit operations, guarantees and security interests, whether granted or received, and of any non-financial interests of the person, including family or close relationship with any of the following natural or legal persons ... and a description of any links to politically exposed persons.</p> <p>Directive 2015/849/EU (AMLD) defines a politically exposed person, family members and persons known to be close associates of a politically exposed person. The AMLD further stipulates that Member States shall require obliged entities to take certain action when dealing with a politically exposed person or a family member or a person known to be a close associate. The requirements of the AMLD are limited to the defined group of people. The requirements in the AMLD relating to politically exposed persons are of a preventive and not criminal nature, and should not be interpreted as stigmatising politically exposed persons as being involved in criminal activity. Against this background it is questionable why the requirement in the draft RTS goes beyond the requirement in the AMLD.</p>	<p>Paragraph 2(i) of Annex II to the draft RTS is required in order to ensure that the CA is able fully to assess whether the existence of such links is relevant in the context of the application, and how such links might affect the institution's risk profile, should the proposed acquisition go ahead. Nothing in the RTS or in the AMLD suggests that politically exposed persons are engaged in criminal activity or that the existence of such links should automatically result in a negative assessment.</p>	<p>No change.</p>

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	The requirement should be rewritten so that it is clear that the applicant shall be placed under one of the defined groups in the AMLD.		
<p> Holders of qualifying holdings  Article 5(4)(a) of the draft RTS as published in the CP</p>	<p> Article 5(4)(a) of the draft RTS (which now appears as paragraph 1(c) of Annex II to the draft RTS) requests from potential qualifying holders information about the period during which the holder intends to keep its investment in the applicant. There are no consequences expected if this term is not fulfilled and the purpose of requesting this specific information is not clear. Therefore, it should be deleted.</p>	<p> CAs need to consider the viability of the applicant, including by reference to the holders of qualifying holdings and their capacity to support the applicant, which is implicit in the criteria contemplated in the CRD for acquirers of qualifying holdings. If a qualifying holding is expected to change in the foreseeable future, this should be taken into account in the CA’s assessment.</p>	No change.
<p> Politically exposed persons  Article 13(1) of the draft RTS as published in the CP</p>	<p> Article 13(1) of the draft RTS as published in the CP (which now appears as Article 12(1) of the draft RTS) could lead to the rejection of an application for authorisation based only on the existence of close links between the credit institution and politically exposed persons. This is particularly relevant for public or promotional banks, which have by nature close links to central, regional or local government.</p>	<p> The existence of links to politically exposed persons does not, in and of itself, automatically result in the rejection of an application and nothing in the existing wording suggests such an approach. Article 12(1) of the draft RTS refers to the influence of close links to other natural or legal persons, including politically exposed persons, which will be one of the criteria being taken into account. The CA will assess each case on its own merits.</p>	No change.
<b>Question 4: Do you have any comments on the proposed list of obstacles which may prevent the effective exercise of supervisory powers?</b>			
<p> The existence of close links to politically exposed persons</p>	<p> See comment above in relation to politically exposed persons.</p>	As above.	No change.
<b>Question 5: Do you have any comments on the procedure set out in the draft Implementing Technical Standards?</b>			
<p> Sequencing process</p>	<p> One commentator strongly supported the</p>	<p> The issue is examined under Question 8.</p>	–

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introduction of a sequencing process.			
<b>Question 6: Do you have any comments on the draft application form for authorisation as a credit institution?</b>			
Cross-referencing of the Annex to the draft ITS and the draft RTS	Every point in the application form should be numbered to facilitate cross-references between the points and annexes, and checkboxes should be introduced to show whether annexes are attached or will follow later, or if they are irrelevant.	The Annex to the ITS has been substantially amended to include a table with information fields cross-referring to the draft RTS. However, there appears to be no particular benefit in using checkboxes, as the use of free text within the form or within an annex allows the applicant appropriate flexibility in providing the required information, taking account of matters such as complexity and business models.	Please refer to the revised Annex to the draft ITS.
<b>Question 7: Regarding the assessment of the credit institution's management, do you believe that, in addition to the members of the management body, information should be provided (i) in respect of the heads of internal control function and chief financial officer, (ii) generally in respect of members of senior management or (iii) in respect of another set of officers (if so, please specify which ones)?</b>			
Heads of internal control function and chief financial officer  Article 7 of the draft RTS as published in the CP	Applicants should provide information relating only to the management body. There is no need for other roles to have been filled at the application stage. Filling these positions early would not make any economic sense, as no business can be conducted during this period.	Article 7 of the draft RTS as published in the CP (which now appears as Article 8 of the draft RTS) has been updated to align with the Joint ESMA and EBA Guidelines on the assessment of the suitability of members of the management body and key functions holders under Directive 2013/36/EU and Directive 2014/65/EU.	Please refer to the revised wording of Article 8 of the RTS and the new Annex I, which has been inserted to enhance the navigability of the RTS.
Other significant individuals	The UK Senior Managers and Certification Regime requires the identification and approval of a	This level of complexity is not appropriate for the RTS. Where CAs have additional requirements,	No change.



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	<p>number of individuals who have significant responsibilities. This is a sensible approach to ensure that key individuals beyond the most senior staff are identified and approved.</p>	<p>information can be requested in accordance with Article 2 of the draft RTS.</p>	
<p><b>Question 8: Do you believe that further flexibility along the lines of the sequencing process described in the explanatory box at the end of Article 11 should be provided for? If so, do you consider that the sequencing process as described is suitable or would you propose a different approach?</b></p>			
<p>Scope of mandate</p>	<p>There is no mandate for the sequencing process in the CRD.</p>	<p>As Article 8 of the CRD gives the EBA a mandate to draft RTS and ITS on the information required in an application to become a credit institution and on the standard procedures for the provision of such information, the sequencing process should be within the mandate the EBA has received.</p>	<p>–</p>
<p>Substantive comments on the sequencing scheme</p>	<p>Several commentators argued that a flexible sequencing approach should be provided for. Such a process can assist in the establishment of new banks, whereas having an application process that requires all the core elements (management, capital, processes, technology) to be in place and implemented at the point of application is severely limiting for those that wish to establish a new bank, acts as a significant barrier to new entrants and stifles innovation to support the real economy.</p> <p>It was also argued that restricting the size of an institution’s business during the sequencing phase is essential and that a clearly specified framework for transition to a regular authorisation should be provided.</p> <p>Some commentators drew parallels to the</p>	<p>The EBA continues to see value in the so-called sequencing approach to authorisations, whereby authorisations can be granted subject to strict conditions (e.g. on size of business activity) which can be eased at later stages when the entity concerned has in place further systems and controls to appropriately manage risks arising from a potential expansion of business. However, the RTS in this case concern information to be provided to the CAs in the application for the authorisation of credit institutions, the requirements applicable to shareholders and members with qualifying holdings, and obstacles which may prevent effective exercise of the supervisory functions of the CA. Therefore it is not open to the EBA to make provision in the RTS in relation to procedural aspects and, for instance, the specification of the circumstances in which it may be</p>	<p>No change.</p>



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	<p>mobilisation scheme currently applicable in the United Kingdom, calling for a similar approach in the RTS.</p>	<p>appropriate for an authorisation to be subject to specified conditionality, as these elements go beyond the EBA’s mandate and are currently matters reserved to the CAs (Article 8(1) of the CRD). Furthermore, the information requirements specified in the RTS enable the assessment of the suitability of the applicant taking account of requirements applicable to all credit institutions under EU law.</p>	
<p>More flexible regime at the discretion of Member States</p>	<p>A more flexible regime should be provided to set out (i) the standard information to be submitted and (ii) the simplified documentation, as an exception from the general rule.</p> <p>A Member State should be able to decide, under national legislation, when the applicants could submit the simplified set of documentation.</p>	<p>See the discussion of proportionality and flexibility above.</p>	<p>See the discussion of proportionality and flexibility above.</p>