

Decision of the European Banking Authority EBA/DC/441

of 13 May 2022

concerning supervisory reporting for IPU threshold monitoring

The Executive Director

Having regard to

- (1) Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (the 'EBA Regulation' and 'the EBA'), in particular Article 35 thereof,
- (2) 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 'Capital Requirements Directive' or the 'CRD'),
- (3) Guidelines EBA/GL/2021/08 on the monitoring of the threshold and other procedural aspects on the establishment of intermediate EU parent undertakings under Article 21b of Directive 2013/36/EU (the 'IPU Guidelines'),
- (4) Decision EBA/DC/2020/335 concerning the European Centralised Infrastructure of Data (EUCLID) (the 'EUCLID decision'),

Whereas:

- (1) Competent authorities are required, in accordance with Article 35 of the EBA Regulation, to provide the EBA with all the necessary information, in specified formats, to carry out the tasks conferred on it. The EBA may also request information to be provided at recurring intervals and in specified formats or by way of comparable templates approved by the EBA.
 - (2) Article 21b CRD requires institutions belonging to third-country groups (TCGs) to have an intermediate EU parent undertaking (IPU) established in the Union, where the TCG's total value of assets in the Union, including held via Third Country Branches (TCBs) established in the Union, is equal to or greater than EUR 40 billion. For this purpose, Article 21b(6) CRD requires competent authorities (CAs) to report to the EBA, for each TCG: (a) the names and the total value of assets of supervised institutions belonging to a third-country group; (b) the names and the total value of assets corresponding to branches authorised in that Member State in
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accordance with the CRD, Directive 2014/65/EU or Regulation (EU) No 600/2014, and the types of activities that they are authorised to carry out; (c) the name and the type of any intermediate EU parent undertaking set up in their Member State and the name of the third-country group of which it is part. In accordance with the EBA IPU Guidelines, the first reporting should occur by 30 June 2022.

- (3) Article 47(2) CRD requires CAs to report to the EBA: (a) all the authorisations for branches granted to credit institutions having their head office in a third country and any subsequent changes to such authorisations; (b) total assets and liabilities of the authorised branches of credit institutions having their head office in a third country, as periodically reported; (c) the name of the third-country group to which an authorised branch belongs.
- (4) Article 47(2a) CRD mandates the EBA to facilitate cooperation between CAs, including for the purpose of IPU threshold monitoring. In order to achieve this, the EBA will send back to all the CAs of legal entities of a given TCG the reporting required by Articles 21b(6) and 47(2) CRD. This will allow CAs to check data sent by institutions in their IPU decision process.
- (5) Point 23 of the IPU Guidelines sets an annual frequency for the reporting by CAs to the EBA, and therefore, the EBA has defined the format of such reporting.
- (6) Articles 1 and 2 of the EUCLID Decision state that the competent authorities shall submit “all necessary data, record, file, statistics, document or numbers (...) to the EBA (...) on the basis of a Data Reporting Obligation” exclusively through EUCLID, except where the EBA has explicitly acknowledged, by Decision of the Executive Director, that the submission of data through other means is permitted. The Decision of the Executive Director shall also specify the other means that may be used for submission of such data and shall set out any technical specification necessary.
- (7) There is a need to set out transitional provisions in order to allow the competent authorities to implement this decision. Submission of supervisory and financial reporting data through EUCLID should commence in 2024 with a reference date of 31 December 2023 as soon as the Data Point Model (DPM) will allow for it. The use of other formats and channels for this purpose will be notified to the competent authorities at the point and this decision will be repealed. Until then, the EBA has defined Excel templates and instructions (as specified in Annexes I, II, and III to this Decision) for CAs to report their total value of assets to the EBA and for the EBA to send the above-mentioned feedback to the CAs.¹ This will be performed via a secure collaboration area outside of EUCLID, set up for the purpose of the exercise with the usage of platforms available at the EBA.

Has decided as follows:

¹ In the Instructions of the mentioned templates, the reference date is defined as the date of the last of the four quarters which are averaged in the calculation of total assets and total liabilities. As per the IPU Guidelines data should be notified by CAs to the EBA on an annual basis as the average of the total value of assets over the four quarters of the previous calendar year.

Article 1 – Interpretation

The definitions in Article 3 CRD shall apply in this decision.

Article 2 – Scope

Entities covered by this decision are EU parent institutions, standalone institutions and branches of third-country groups.

Article 3 – Data to be reported

1. Competent authorities of the entities referred to in Article 2 shall report to the EBA the data requested in Articles 21b(6) and 47(2) CRD, in accordance with the IPU Guidelines.
2. Each competent authority shall report only one file including data of all third-country groups having entities within their jurisdiction.
3. Where the European Central Bank has submitted data referred to in paragraph 1 to the EBA, the relevant competent authorities shall, without prejudice to Article 5 (data quality), refrain from submitting those data.
4. The EBA shall facilitate cooperation among competent authorities for the purpose of IPU threshold monitoring by sending feedback data files to competent authorities.

Article 4 – Date of submission

1. Competent authorities shall submit to the EBA the data referred to in Article 3 by 30 June of every year.
2. The EBA shall send feedback on the total amount of assets of third-country groups to competent authorities by 31 July of every year.

Article 5 – Data quality

1. With the submission of the relevant data to the EBA, the competent authorities warrant the data has undergone rigorous internal controls and quality checks. Where the competent authorities cannot warrant this for a particular set of the data submitted, the competent authorities shall draw the EBA's attention thereto.
2. The EBA may conduct additional quality checks of the data received to ensure consistency and it may require revisions from the competent authorities.

Article 6 - Confidentiality and technical specifications

1. All data submitted to the EBA according to this decision shall be covered by the Union law framework of professional secrecy and confidentiality as applicable to the EBA. Access to this data shall be provided in conformity with the EBA Regulation.
2. The data referred to in this decision shall be regarded as information submitted through EUCLID and the EUCLID Decision shall apply.
3. Competent authorities shall not submit data, other than as specified in Article 3, unless they have previously obtained the EBA's consent.

Article 7 – Miscellaneous

This decision is without prejudice to the EBA's power in accordance with Article 35 of the EBA Regulation to request the competent authorities to submit other data or data from institutions not falling under Article 2.

Article 8 – Transitional provisions

For the reference dates of 2021 until 2022, the reporting and the feedback data to facilitate cooperation among CAs, referred to in Article 3, shall be performed in the form of Excel templates (as specified in Annexes I, II and III to this Decision), exchanged via a secure collaboration area outside of EUCLID, set up for the purpose of the exercise with the usage of platforms available at the EBA (MS Teams, Extranet).

Article 9 – Final provisions

This Decision enters into force on the day following its approval.

The following Annexes are attached to the electronic version of this Decision:

- a. Annex I – IPU threshold monitoring and publication of IPU/TCB relevant information – Template instructions
- b. Annex II – Template for IPU threshold monitoring
- c. Annex III – Template for EBA feedback to facilitate CAs cooperation on IPU
- d. Annex IV – Template for IPU and TCB publication

Done at Paris, 13 May 2022

[signed]

François-Louis Michaud
Executive Director