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Consultation Paper

Draft Guidelines on communication between competent authorities supervising credit institutions and statutory auditor(s) and audit firms(s) carrying out the statutory audits of credit institutions

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1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.3.

Comments are most helpful if they:

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

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by **21.01.2016**. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

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

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EC) N° 45/2001 of the European Parliament and of the Council of 18 December 2000 as implemented by the EBA in its implementing rules adopted by its Management Board. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

Article 12(2) of Regulation (EU) No 537/2014 on specific requirements regarding statutory audit of public-interest entities ('PIEs')¹ includes the requirement that an effective dialogue shall be established between the competent authorities supervising credit institutions, on the one hand, and the statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those institutions, on the other hand.

In order to facilitate the exercise of their tasks, the European Banking Authority (EBA) shall, taking current supervisory practices into account, issue guidelines addressed to the competent authorities supervising credit institutions.

Effective communication between the competent authorities and auditors should contribute to fostering financial stability and safety and soundness of the banking system by facilitating the task of supervision of credit institutions. Further convergence of the existing different practices applied across Member States should contribute to establishing a level playing field between credit institutions especially for credit institutions that pose a higher threat to financial stability.

The draft guidelines include an underlying general framework that should underpin the communication between the competent authorities and the auditors at all times. The guidelines include seven principles and detailed guidance relating to the main elements of effective communication: the scope of information shared, the form of communication, the participants in communication, the frequency and timing of communication and the communication between competent authorities and auditors collectively.

Communication between competent authorities and auditors is differentiated between the communication related to an individual credit institution, in which institution-specific information should be shared and the communication related to the credit institutions' industry, in which industry-specific information relevant to the statutory audits of more than one credit institution should be shared.

Competent authorities should request auditors to share information on any issues which are relevant to the supervision of a credit institution and should share information with auditors on issues which in the competent authorities' judgment, could be of relevance to the statutory audit of a credit institution. In addition, communication should be performed on a timely basis as frequently as necessary and on an ad hoc basis when necessary.

These guidelines should be applied by competent authorities in a proportionate manner to ensure effective communication with auditors of credit institutions at all times. The EBA proposes more

¹ Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ L 158, 27.5.2014, p.77). The definition of PIEs encompasses among others credit institutions.

specific guidance on the communication between competent authorities and auditors of credit institutions referred to in Article 131 CRD IV (global systemically important institutions or 'G-SIIs', other systemically important institutions or 'O-SIIs') and, other credit institutions determined by the competent authorities where a greater supervisory effort is applied and in-depth communication is required. Competent authorities should meet with the auditors of these credit institutions at least on an annual basis and discuss among other issues, the audit approach and the reports which are prepared by the auditor and addressed to the credit institution.

In line with the EBA's mandate, these guidelines have been developed taking into account the current practices of Member States. Other existing international guidance and practices have been considered also, including the BCBS guidance on 'External audits of banks'². These guidelines are consistent with the relevant BCBS guidance supporting the creation of a level-playing field at an international level.

Next steps

The EBA aims to finalise the proposed guidelines during 2016, taking into account the comments received during the consultation and as currently foreseen, the application date will be in the last quarter of 2016.

² <http://www.bis.org/publ/bcbs280.htm>

3. Background and rationale

Legal basis

1. Article 12(2) of Regulation (EU) No 537/2014 on specific requirements regarding statutory audit of public-interest entities ('PIEs')³ ('Audit Regulation for the statutory audit of PIEs') includes the requirement that an effective dialogue shall be established between the competent authorities supervising credit institutions (hereafter 'competent authorities' and 'credit institutions' respectively), on the one hand, and the statutory auditor(s) and the audit firm(s) carrying out the statutory audit of those institutions, on the other hand (hereafter 'auditor(s)').
2. In order to facilitate the exercise of the tasks referred to in the first subparagraph of Article 12(2) of Audit Regulation for the statutory audit of PIEs, the European Banking Authority (EBA) 'shall, taking current supervisory practices into account, issue guidelines addressed to the competent authorities supervising credit institutions', in accordance with Article 16 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council.

Rationale of the guidelines

3. Effectiveness of communication between competent authorities and auditors is acknowledged in both EU legislation and international practices as a contributing factor to financial stability:
 - Recital 15 of the Audit Regulation for the statutory audit of PIEs states that 'auditors already provide competent authorities with information on facts or decisions which could constitute a breach of the rules governing the activities of the PIE or an impairment of the continuous functioning of the PIE'. This recital also notes that 'supervisory tasks would be facilitated if competent authorities and auditors were required to establish an effective dialogue with each other'.
 - These guidelines are without prejudice to the auditor's 'duty to report' in accordance with Article 63(1) of Directive 2013/36/EU⁴ ('Capital Requirements Directive' or 'CRD IV'), as well as Article 12(1) of the Audit Regulation for the statutory audit of PIEs. Nevertheless, the effective communication between the competent authorities and the auditors can have a positive impact on the effectiveness of the auditor's duty to report, in that it may lead to more open, constructive and timely communication. And this communication may highlight the need to exercise the duty to report, without replacing it.

³ Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ L 158, 27.5.2014, p.77). The definition of PIEs encompasses among others credit institutions.

⁴ 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 (OJ L 176, 27.6.2013, p.338).

- The EU impact assessment of the proposed Audit Regulation for the statutory audit of PIEs⁵ states that ‘the lack of a streamlined and well developed dialogue between auditors and competent authorities, especially in the case of systemic financial institutions would be a missed opportunity to use the auditor's work as a tool for financial stability’. Constituents to the EU consultation on the proposals showed broad acceptance that the knowledge gathered by auditors through their work may be useful to the regular work of competent authorities.
 - The Basel Committee on Banking Supervision (BCBS) guidance ‘External audits of banks’⁶ issued in March 2014 states that ‘the recent financial crisis not only revealed weaknesses in risk management, control and governance processes at banks, but also highlighted the need to improve the quality of audits of institutions. Auditors of institutions can play an important role in contributing to financial stability when they deliver quality audits of institutions which foster market confidence in institutions’ financial statements. Quality audits of institutions are also a valuable input to the supervisory process.’ The main objective of the BCBS guidance ‘External audits of banks’ is to enhance the effectiveness of prudential supervision.
4. Although communication between competent authorities and auditors aims to facilitate the exercise of the task of supervision, each party would bear the ultimate responsibility and accountability for its individual tasks. Neither party should use the work of the other as a substitute for its own work. The supervised credit institution should remain the main source of information for their respective work.
5. However, there are areas of common interest to both parties which underlie the content of this communication. The overall objective of supervision is to ensure the safety and soundness of the financial sector and financial stability. In accordance with International Standards on Auditing (‘ISAs’) and equivalent local auditing standards, the objectives of an auditor when conducting an audit of financial statements are to ‘obtain reasonable assurance about whether the financial statements as whole are free from material misstatement, whether due to fraud or error, thereby enabling the auditor to express an opinion on whether the financial statements are prepared, in all material respects, in accordance with an applicable financial reporting framework, and to report on the financial statements, and communicate as required by ISAs, in accordance with the auditor’s findings’⁷.

Objectives of the guidelines

6. These guidelines are expected to contribute to fostering financial stability and safety and soundness of the banking system by facilitating the task of supervision of credit institutions through the promotion of effective communication between competent authorities and auditors.
7. These guidelines should also lead to further convergence of existing practices across Member States regarding the communication between competent authorities and auditors when the

⁵ http://ec.europa.eu/internal_market/auditing/docs/reform/impact_assesment_en.pdf

⁶ <http://www.bis.org/publ/bcbs280.htm>

⁷ ISA 200 *Overall Objective of the Independent Auditor, and the Conduct of an Audit in Accordance with International Standards on Auditing*, paragraph 11

current practices of a Member State are less developed than the practices established in these guidelines and also in the communication of competent authorities with auditors of credit institutions to which a greater supervisory effort is applied, for example in the case of credit institutions that pose a higher threat to financial stability.

Basis for the development of the guidelines

8. In line with the requirements of Article 12(2) of the Audit Regulation for the statutory audit of PIEs, these guidelines take into account current supervisory practices for engagement between competent authorities and auditors in Member States. The EBA performed a stock-take survey across Member States in the European Economic Area ('EEA') in order to understand the existing practices (section 5.2 provides a summary of the EBA stock-take survey to Member States⁸) and outreach to audit firms practicing in the EU. From the stock-take survey and outreach activities performed, the main observations noted were as follows:

- Competent authorities of all Member States already communicate with the auditors of credit institutions although practices vary across Member States mainly in terms of the intensity of communication, the level of detail of information shared between competent authorities and auditors and the scope of assurance provided by auditors⁹.
- Effective communication should be adaptable to unexpected future developments and maintain an appropriate balance of formality and frequency of communication.

9. Besides the current practices of Member States, other existing international guidance and practices have been considered in developing these guidelines, including the BCBS guidance 'External audits of banks' and relevant work performed by the Centre for Financial Reporting Reform ('CFRR') of The World Bank on the communication between auditors and supervisors. These guidelines are consistent with the BCBS guidance on 'External audits of banks' supporting the creation of a level-playing field at an international level.

Structure of these guidelines

10. These guidelines include an underlying general framework and seven principles for the communication between competent authorities and auditors. The general framework should underpin the communication between competent authorities and auditors at all times. The seven principles relate to:

- Communication between competent authorities and auditors of a credit institution
 - Scope of the information shared
 - Form of communication

⁸ This section is included in the consultation paper on the draft guidelines for illustration purposes as part of the documents accompanying the consultation and will not be part of the final guidelines.

⁹ In some jurisdictions, the auditor may perform additional tasks under national legislation such as extended reporting on matters such as internal controls of the credit institution.

- Participants in communication
- Frequency and timing of communication
- Communication between competent authorities and auditors collectively

11. The general framework, the principles and the detailed guidance all have the same authoritative status in these guidelines.

Proportional approach

12. These guidelines should be applied in accordance with the proportionality principle. Communication between competent authorities and auditors (scope of information shared, form of communication, participants in communication, frequency and timing of communication, communication with auditors collectively) should be commensurate with the credit institutions' size, internal organisation and the nature, scope and complexity of their activities, as well as ad hoc circumstances in order to meet efficiently the objective of these guidelines.

13. The proportionality principle is further addressed in the guidelines by establishing more specific guidance on the communication between competent authorities and auditors of credit institutions referred to in Article 131 CRD IV (global systemically important institutions or 'G-SIIs', other systemically important institutions or 'O-SIIs'¹⁰) and, other institutions determined by competent authorities.

¹⁰ G-SIIs: Commission Implementing Regulation (EU) No 1030/2014 of 29 September 2014 laying down implementing technical standards with regard to the uniform formats and date for the disclosure of the values used to identify global systemically important institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council Text with EEA relevance. List of G-SIIs is published in the EBA website and regularly updated.

O-SIIs: EBA Guidelines On the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) EBA/GL/2014/10.

EBA/GL-REC/20XX/XX

DD Month YYYY

4. Draft Guidelines

on communication between competent authorities supervising credit institutions and statutory auditor(s) and audit firm(s) carrying out the statutory audit of credit institutions

1. Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010¹¹. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must make every effort to comply with the guidelines.
2. Guidelines set the EBA view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

3. According to Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA as to whether they comply or intend to comply with these guidelines, or otherwise with reasons for non-compliance, by ([dd.mm.yyyy]). In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website to compliance@eba.europa.eu with the reference 'EBA/GL/201x/xx'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

¹¹ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p.12)./

2. Subject matter, scope, addressees and definitions

2.1 Subject matter

5. These guidelines specify, in accordance with Article 12(2) of Regulation (EU) No 537/2014 on specific requirements regarding statutory audit of public-interest entities ('PIEs')¹² ('Audit Regulation for the statutory audit of PIEs') the requirement for the establishment of effective dialogue between competent authorities supervising credit institutions (hereafter 'competent authorities' and 'credit institutions' respectively), on the one hand, and statutory auditor(s) and audit firm(s) carrying out the statutory audit of those institutions, on the other hand (hereafter 'auditor(s)').
6. The objective of these guidelines is the facilitation of the task of supervision of credit institutions through promotion of effective communication between competent authorities and auditors.

2.2 Scope of application

7. These guidelines apply in relation to the communication between competent authorities and auditors while supervising and carrying out the statutory audit of those credit institutions, respectively.
8. These guidelines refer to the communication between the competent authority and the auditor or the group auditor of a credit institution at the individual or consolidated levels, respectively, unless otherwise indicated in the text of the guidelines.
9. These guidelines are without prejudice to the auditor's 'duty to report' in accordance with Article 63(1) of Directive 2013/36/EU¹³ ('Capital Requirements Directive' or 'CRD IV'), as well as Article 12(1) of the Audit Regulation for the statutory audit of PIEs.

Question 1: Is the scope of application of the guidelines appropriate and sufficiently clear?

¹² Regulation (EU) 537/2014 of the European Parliament and of the Council of 16 April 2014 on specific requirements regarding statutory audit of public-interest entities and repealing Commission Decision 2005/909/EC (OJ L 158, 27.5.2014, p.77).

¹³ 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 (OJ L 176, 27.6.2013, p.338).

2.3 Addressees

10. These guidelines are addressed to competent authorities as defined in point i) of Article 4(2) of Regulation (EU) No 1093/2010.

2.4 Definitions

11. Unless otherwise specified, the terms used and defined in Directive 2006/43/EC¹⁴ (the 'Audit Directive'), the Audit Regulation for the statutory audits of PIEs and the CRD IV have the same meaning in these guidelines. For the purposes of these guidelines, the following definitions apply:

In-depth communication	Communication held on a more regular, formalised and documented basis (for example through more frequent meetings) in order to obtain further insights about a credit institution when a greater supervisory effort may be needed.
Material information	Information obtained during the supervision or the statutory audit of a credit institution which could change or influence the assessment or decision of a competent authority or an auditor relying on that information for the purpose of exercising their respective tasks.
Institution-specific information	Information concerning an individual credit institution.
Industry-specific information	Information concerning the credit institutions' industry as a whole or a part of that industry.
Knowledgeable individual	A person working for the competent authority or the auditor who has the necessary technical knowledge, skills and experience related to a particular issue under discussion.
Informed individual	A person working for the competent authority or the auditor who has sufficient information of the risk profile, size and complexity of an institution's operations and up-to-date information on the developments of the particular issue under discussion.

¹⁴ 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).



Empowered individual

A person working for the competent authority or the auditor who has the legal authority to act on behalf of its organisation so as to be able to share information and, where deemed necessary, to take appropriate decisions regarding a particular issue under discussion.

Supervisory team leader

Staff member of the competent authority responsible for the organisation and coordination of the work within the supervisory team involved in the supervision of a credit institution.

Bilateral meeting

Meeting between the competent authority and the auditor of a credit institution.

Trilateral meeting

Meeting between the competent authority, the auditor and the credit institution.

3. Implementation

Date of application

12. These guidelines apply from [2 months from the date of publication of the guidelines in all EU official languages. The final factual date ('dd month year') will be inserted the day of the publication on the EBA website].

Question 2: As currently foreseen, the application date will be in the last quarter of 2016. Is the date of application of the guidelines appropriate?

4. Guidelines on communication between competent authorities supervising credit institutions and statutory auditor(s) and audit firm(s) carrying out the statutory audits of credit institutions

4.1 General framework of the communication

13. Competent authorities and auditors are both responsible for establishing effective communication in accordance with Article 12(2) of the Audit Regulation for the statutory audits of PIEs.
14. The communication to be established between competent authorities and auditors should be open and constructive, as well as adaptable to unexpected future developments.
15. Competent authorities and auditors should establish adequate processes and be aware of them in order to build and ensure effective communication.
16. Competent authorities and auditors should contribute to developing a mutual understanding of their respective roles and responsibilities and contribute to building trust between them.
17. Neither party should discharge their respective responsibilities or use the work of the other as a substitute for its own work. The supervised credit institution should remain the main source of information for their respective work.
18. Effective communication between competent authorities and auditors should facilitate the sharing of information about the credit institution which is relevant to the competent authorities' and the auditors' respective functions. Sharing of information should take into account the different responsibilities of competent authorities and auditors, which derive from the different scope of their functions.
19. Information shared during the communication between competent authorities and auditors must remain confidential in accordance with Article 56 of CRD IV and does not constitute a breach of any contractual or legal restriction on disclosure of information in accordance with Article 12(3) of the Audit Regulation for the statutory audits of PIEs.

20. Competent authorities should apply a proportionate approach in their communication with auditors and use their resources efficiently to establish effective communication.
21. A proportionate approach to the application of these guidelines aims to align the elements of the communication between competent authorities and auditors (scope of information shared, form of communication, participants in communication, frequency and timing of communication, communication with auditors collectively) with the credit institutions' size, internal organisation and nature, scope and complexity of their activities, so that the objective of these guidelines is achieved efficiently.
22. In particular, in-depth communication should be exercised with auditors of credit institutions referred to in Article 131 CRD IV ('global systemically important institutions' ('G-SIIs')¹⁵ and 'other systemically important institutions' ('O-SIIs')¹⁶) and other institutions determined by competent authorities, based on an assessment of the credit institution's size, internal organisation and nature, scope and complexity of their activities.
23. In addition, competent authorities should regularly assess whether it is necessary to apply in-depth communication with the auditor of any credit institution due to ad hoc or emerging issues that may necessitate more communication, such as:
- recent significant findings from the supervisory assessment or statutory audit
 - recent developments that may change the risk assessment or the level of the supervisory effort applied to a credit institution
 - a change in the auditor being appointed to perform the statutory audit of a credit institution (including cases when a new auditor enters the market for statutory audits of credit institutions)
 - a dismissal or resignation of the auditor during the engagement

Question 3: Is the general framework of the communication between competent authorities and auditors appropriate and sufficiently clear? Please indicate any additional elements to be included.

Question 4: Please provide any comments you may have on the appropriateness of the proposed proportionality approach.

¹⁵ Commission Delegated Regulation (EU) No 1222/2014 of 8 October 2014 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards for the specification of the methodology for the identification of global systemically important institutions and for the definition of subcategories of global systemically important institutions (OJ L 330, 15.11.14, p. 27).

¹⁶ EBA Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10).

4.2 Communication between competent authorities and auditors of a credit institution

4.2.1 Scope of the information shared

Principle 1: The information shared should be information relevant to the tasks of both parties considering the materiality of the information.

24. Competent authorities should identify in collaboration with auditors the areas of common interest to competent authorities and auditors, where sharing of that information may facilitate the task of supervision and possibly have an impact on the statutory audit.
25. When considering what information to share, due consideration should be given to the materiality of the information including the likely magnitude and possible impact on the supervision and the statutory audit of the credit institution.
26. The type of information to be shared may be:
 - a. institution-specific
 - b. industry-specific
 - c. current issues
 - d. emerging issues
27. Annex I of these guidelines includes detailed examples of issues on which information could be shared between competent authorities and auditors.
28. To assist effective communication and sharing of information, and when practicable, competent authorities should prepare a list of the issues for discussion. Competent authorities should consult auditors on the appropriateness of this list before the communication takes place and encourage them to contribute to it.

Principle 2: Competent authorities should request auditors to share information on any issues which are relevant to the supervision of the credit institution.

29. The information requested may include information related to the audit procedures performed, relevant audit evidence obtained and auditor's conclusions whenever in the competent authority's judgement, it may facilitate the exercise of supervisory tasks.

30. Relevant information is information related but not limited to the following areas:
- a. External environment and profile of the credit institution
 - b. Corporate governance and internal controls
 - c. Ability of the credit institution to continue as a going concern
 - d. Audit approach
 - e. Financial statements, assets and liabilities' valuation and disclosures
 - f. Auditor's reports (including the additional report to the audit committee referred to in Article 11 of the Audit Regulation for the statutory audit of PIEs)
31. Where in-depth communication is applied, competent authorities should at least discuss with auditors, the audit approach and the communication between the auditor and the management body, senior management or audit committee where applicable, of a credit institution on significant matters related to financial reporting and control functions (such as the additional report to the audit committee referred to in Article 11 of the Audit Regulation for the statutory audit of PIEs). In particular, for the discussion of the audit approach, competent authorities may use findings from the supervision of the credit institution.
- Principle 3:** Competent authorities should share information with auditors on issues which are relevant to the statutory audit of the credit institution.
32. Relevant information which should be shared between competent authorities and auditors includes issues that emerge during the process of supervision and which in the competent authority's judgement could be of relevance to the statutory audit of credit institutions.
33. Relevant information is information related but not limited to the following:
- a. Ability of the credit institution to continue as a going concern
 - b. Supervisory assessment
 - c. Corporate governance and internal controls
 - d. Assets and liabilities' valuation, such as significant interactions between the prudential and accounting treatment of transactions which may influence the prudential or accounting treatment of such transactions
 - e. External environment and profile of the credit institution
34. In addition, competent authorities may communicate to auditors any current or emerging issues affecting the credit institution's industry, such as changes in regulation or

macroeconomic developments and results of thematic and peer reviews performed across the credit institutions' industry.

Question 5: Are the guidelines on the scope of the information to be shared during the communication appropriate and sufficiently clear? Are the issues on which information may be shared in Annex I appropriate and sufficiently clear? Please indicate any additional issues to be included.

4.2.2 Form of communication

Principle 4: Effective communication between competent authorities and auditors should be established through appropriate communication channels.

35. The form of communication can be broadly differentiated between:

- written (for example reports prepared by the auditor, e-mails or fax) and oral (for example physical meetings or remote communication such as phone calls)
- regular (for example communication related to auditors' reports) and ad hoc (for example the text of new regulations)

36. Written communication should be used in cases when there is a need to ensure clarity or for retaining a record of the communication. It should be used at least when it is related to auditors' reports. Competent authorities should consider the use of written communication when information relates to the discussion of complex technical matters, emerging material issues or findings and changes in regulation.

37. Physical meetings between competent authorities and auditors should be used to facilitate open and effective communication, particularly when in-depth communication is applied.

Question 6: Are the guidelines on the form of communication appropriate and sufficiently clear? Please indicate whether any particular form of communication should be used and under which circumstances it should be used.

4.2.3 Participants in the communication

Principle 5: The participants in the communication should include individuals from both parties who are knowledgeable, informed and empowered to share information on the subject matter under discussion.

38. The supervisory team leader and the key audit partner should be the primary participants in the communication.

39. In cases when the communication occurs between individuals other than the supervisory team leader and the key audit partner, both the supervisory team leader and the key audit partner should be informed by their respective parties about the issues discussed and the outcome of such communication without undue delay.
40. Competent authorities should assess the usefulness of organising trilateral meetings, in particular where in-depth communication is applied. When trilateral meetings are organised, they should be in addition to any bilateral meetings. Trilateral meetings may include members of the audit committee, experts on relevant key control functions, or the management body and senior management in a credit institution as necessary.
41. In making this assessment, competent authorities should consider whether:
- a. clarifications from the management body, senior management or audit committee, where applicable, of a credit institution are deemed necessary for a particular issue to be discussed between competent authorities and auditors
 - b. coordination of actions across the competent authority, auditor and credit institution are necessary
42. If in the competent authorities' judgement it would facilitate the exercise of supervisory tasks, and subject to professional secrecy conditions required by Union or national law, competent authorities may invite other relevant authorities (such as those responsible for the supervision of financial markets or for the public oversight of auditors) to the meetings with the auditors or inform these authorities of the outcome of the discussions with the auditors.
43. Competent authorities and auditors should safeguard the succession of the communication regardless of the turnover of staff involved in the communication. There should be internal tracking of communication to ensure that successors from each side are able to obtain sufficient information about the communication performed in the past. This information may include:
- a. minutes of communication or a summary of them
 - b. key issues discussed
 - c. conclusions of discussions
 - d. future actions

Question 7: Are the guidelines on the participants in the communication between competent authorities and auditors appropriate and sufficiently clear? Are there any other participants that should be considered participating? Under which circumstances should other participants be considered?

4.2.4 Frequency and timing of communication

Principle 6: Communication between competent authorities and auditors should be as frequent as necessary to ensure timely sharing of relevant information.

44. Competent authorities should establish an appropriate frequency and timing of communication with the auditor which enables timely sharing of information about relevant issues identified during the performance of their respective tasks.
45. Competent authorities should consult auditors on the appropriateness of the frequency and timing of communication.
46. Communication could take place during any phase of the supervisory or the audit processes, including one or more of the following phases and timings:
 - a. preparation and planning of supervisory inspections (on-site or off-site)
 - b. during the performance of supervisory inspections (on-site or off-site)
 - c. after completion of the supervisory inspections (on-site or off-site)
 - d. preparation and planning of the statutory audit
 - e. before signing of audit report and
 - f. after signing of audit report
47. Competent authorities should assess on an ongoing basis whether there are any emerging issues that necessitate adapting the frequency and timing of communication or initiating communication on an ad hoc basis. These may include issues affecting the entire industry of credit institutions (such as macroeconomic conditions) or a particular credit institution (such as results obtained from the supervisory inspection, or from the statutory audit, or cases when further clarifications are necessary for a specific issue).
48. When in-depth communication is applied, a bilateral meeting should be held at least on an annual basis.

Question 8: Are the guidelines on the frequency and timing of communication appropriate and sufficiently clear? Please provide information on any additional circumstances which may necessitate a different frequency and timing of communication.

4.3 Communication between competent authorities and auditors collectively

Principle 7: Communication between competent authorities and auditors collectively should take place in a timely manner in order to allow sharing of information on issues which are relevant to the statutory audits of credit institutions.

49. Competent authorities and auditors collectively (such as a group of auditors or professional bodies representing the auditors) should ensure that they develop a common understanding of current and emerging developments of relevance to the statutory audit of more than one credit institution.
50. Competent authorities should meet with auditors collectively at least annually and irrespective of the meetings organised between the competent authority and the auditor of an institution on an individual basis.
51. Annex I of these guidelines includes detailed examples of issues on which information could be shared between competent authorities and auditors collectively, as appropriate.
52. If in the competent authorities' judgement it could facilitate the exercise of supervisory tasks, competent authorities may invite other relevant authorities (such as those responsible for the supervision of financial markets or for the public oversight of auditors) and associations (such as associations representing the banking industry) into these collective meetings or inform these authorities and associations of the outcome of the discussions with the auditors.

Question 9: Are the guidelines on the communication between competent authorities and auditors collectively appropriate and sufficiently clear? Please indicate any additional element which should be included in the guidelines regarding the communication of competent authorities and auditors collectively.

Annex I – Examples of issues on what information could be shared between competent authorities and auditors

53. This Annex includes examples of issues on what information could be shared between the competent authority and auditor of an individual credit institution or auditors collectively, as appropriate when applying these guidelines. The issues listed below are grouped by subject matter, irrespective of the provider of information.

External environment and profile of the credit institution

- a. Risk assessment and scope – competent authorities’ and auditors’ assessments in light of the external environment and the credit institution’s performance, business model and risk appetite
- b. Changes in regulation
- c. Changes in accounting and auditing standards
- d. Macroeconomic developments affecting the credit institutions’ industry

Corporate governance and internal controls

- a. The culture and tone set from the governing body of the credit institution (including quality of corporate governance)
- b. The suitability of the members of the management body, the senior management or the audit committee, where applicable, in a credit institution
- c. The role of the audit committee in the supervision of the financial reporting process
- d. The quality of the audit committee’s relationship with the auditors
- e. Observations on internal controls (for example governance effectiveness, control environment, application controls and monitoring controls, quality of key control functions, IT systems)
- f. Material control weaknesses identified in the credit institution’s financial reporting processes. For example, significant deficiencies in internal control processes and the auditor’s observations on matters that are significant to the responsibilities of the members of the management body, senior management or audit committee, where applicable, in overseeing the strategic direction of the credit institution or the credit

institution's obligations related to the accountability of the credit institution. This may include, where relevant, their observations on the effectiveness of the internal audit function, risk management function and compliance function

Ability of the credit institution to continue as a going concern

- a. Assessment of the risks related to the continuous functioning of a credit institution, including capital adequacy risks (such as credit, market and operational risk and minimum requirement for own funds and eligible liabilities or 'MREL'), large exposures, leverage, liquidity and funding risks
- b. Observations on any areas of potential reputation risk and risk from non-compliance of the credit institution with relevant legal requirements

Audit approach

- a. Materiality in planning and performing the statutory audit
- b. Use of external experts in the statutory audit
- c. Use of internal auditors' work in the statutory audit
- d. Application of accounting policies and changes to them
- e. Sources of potential management bias
- f. Areas of significant risk identified
- g. Specific work undertaken by the auditor on particular transactions (which may have also required the use of experts)
- h. Significant difficulties encountered during the statutory audit
- i. Circumstances that have led to a significant change in the audit planning

Financial statements, assets and liabilities' valuation and disclosures

- a. Views and judgments on key risk areas and assumptions, including significant transactions and valuations
- b. Accounting practices and areas encompassing a significant degree of estimation uncertainty, including impairment policies and decisions
- c. Critical accounting estimates and indications of management bias:

- i. where a credit institution consistently uses valuations that exhibit a pattern of optimism or pessimism within a range of acceptable valuations or other indications of possible management bias or
 - ii. where a credit institution undertakes transactions to achieve a particular accounting or regulatory outcome, such that the accounting or regulatory treatment is technically acceptable, but it obscures the substance of the transaction
- d. Unadjusted misstatements identified during the statutory audit and evaluation of them by the auditor
- e. Adequacy and reliability of disclosures in light of statutory reporting requirements and risks, transactions, judgments, and assumptions discussed in this and previous meetings

Auditors' reports

- a. Audit report referred to in Article 10 of the Audit Regulation for the statutory audit of PIEs
- b. Additional report to the audit committee referred to in Article 11 of the Audit Regulation for the statutory audit of PIEs
- c. Issues identified during the statutory audit and communicated to the management body senior management or audit committee, as applicable, of a credit institution, such as deficiencies in internal control that in the auditor's professional judgment merit management's attention
- d. Significant issues which have been intensely discussed with the management body, senior management or audit committee, where applicable, in a credit institution

Supervisory assessment

- a. Supervisory measures imposed on a credit institution
- b. Issues arising from recent institution-specific supervisory risk assessments and reviews (such as during the supervisory review and evaluation process 'SREP'¹⁷)
- c. Results of thematic reviews and peer reviews performed across the credit institutions' industry
- d. Observations arising from a credit institution's regulatory reporting, including regulatory capital
- e. Compliance with relevant legal and prudential requirements.

¹⁷ EBA guidelines (EBA/GL/2014/13) issued in accordance with Article 107(3) of the CRD IV.

Others

- a. Issues discussed in previous years and meetings, if still deemed relevant
- b. Issues related to the appointment, change, dismissal or resignation of the auditor appointed to perform the statutory audit
- c. Additional matters arising from the statutory audit, such as matters arising from existing or new requirements provided for in Union or national law
- d. Feedback on the quality of the communication between competent authorities and auditors and ways to improve communication

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

54. Article 16(2) of the EBA Regulation¹⁸ provides that, where appropriate, the EBA should analyse ‘the related potential costs and benefits’ of guidelines issued by the EBA. Such analysis shall be proportionate in relation to the scope, nature and impact of the guidelines. The following section provides an impact assessment (IA) of the proposals of the draft guidelines. It includes an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.

A. Problem identification

55. Ineffective communication between competent authorities and auditors leads to inadequate information being available to competent authorities supervising credit institutions. This undermines their ability to supervise the banking system effectively. This poses risks to the stability of the financial system and the safety and soundness of credit institutions, especially in the case of systemically important credit institutions.

56. Supervisory practices with respect to the communication between competent authorities and auditors vary across Member States in terms of the intensity of communication, level of detail of information shared between the competent authorities and the auditors, and scope of assurance provided by auditors¹⁹. This could impede a level playing field between credit institutions in the European Economic Area (‘EEA’).

B. Policy objectives

57. These guidelines are expected to contribute to fostering financial stability and safety and soundness of the banking system by facilitating the task of supervision of credit institutions though the promotion of effective communication between competent authorities and auditors in accordance with the EBA’s mandate in Article 12(2) of the Audit Regulation for the statutory audit of PIEs.

58. These guidelines should enable adaptability to unexpected future developments but also lead to further convergence of existing practices across Member States where the current practices of a Member State are less developed than the practices established in these

¹⁸ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12)

¹⁹ This fact is confirmed by a stock-take survey to the national competent authorities supervising institutions in Member States in EEA which the EBA performed.

guidelines and in the communication of competent authorities with auditors of credit institutions to which a greater supervisory effort is applied, for example in the case of credit institutions that pose a higher threat to financial stability.

59. Therefore, for the purposes of the IA, the policy objectives are as listed below:

- **Policy objective 1:** effective supervision
- **Policy objective 2:** adaptability of communication
- **Policy objective 3:** consistency of practices across Member States

C. Baseline scenario

60. The baseline scenario consists of the existing current practices of Member States on the communication between competent authorities and auditors. Under this scenario, there is a risk of ineffective communication with potentially detrimental consequences.

D. Options considered: cost-benefit analysis and preferred options

a. Proportionality approach

Option 1: to require competent authorities to apply all guidelines at all times for all credit institutions.

- **Benefits:** This would ensure the maximum level of convergence of current practices across Member States (policy objective 3 is met).
- **Costs:** This option would not meet the objective of retaining adaptability of the communication (policy objective 2 is not met). Competent authorities would not be able to adjust the communication to specific circumstances that may necessitate a particular type of communication with auditors. In this regard, it is not clear whether the objective of effective supervision (policy objective 1) would be met.

The direct compliance costs (such as costs of meetings and additional human resources) as well as the indirect compliance costs (such as passing of the direct incremental costs to the credit institution through an increase in audit fees) might be significantly disproportionate to the benefits, particularly in the case of credit institutions which pose a lower threat to financial stability (such as smaller credit institutions or credit institutions with less complex activities).

Option 2: to require competent authorities to apply guidelines in a proportionate manner, but not providing more specific requirements on how to apply the requirements in different circumstances.

- **Benefits:** This would enable full adaptability of the communication and competent authorities would be able to adjust communication based on the exercise of supervisory judgement (policy objective 2 is met).
- **Costs:** This option would not achieve convergence of practices on the communication between competent authorities and auditors across Member States (policy objective 3 is not met). Regarding the objective of effective supervision (policy objective 1), it is not clear whether it would be met, because it would depend on the ability of competent authorities and auditors to identify and establish the necessary practices for effective communication.

This option would not specifically address circumstances where a great supervisory effort is applied, such as communication with auditors of credit institutions whose potential failure poses a higher threat to the stability of the financial system. In this regard, the ultimate high-level objective of fostering financial stability would not be met.

Option 3: different requirements to be applied in the communication between competent authorities and auditors for each category of credit institutions in accordance with the supervisory review and evaluation process ('SREP').

- **Benefits:** This would enable competent authorities to adjust their communication approach to each category of credit institution identified for supervisory purposes (instead of none or full adaptability of the communication as in options 1 and 2 respectively) and therefore the proportionality approach applied to meet the objectives of these guidelines would be consistent with the proportionality approach applied in the supervisory process (policy objective 2 is met).
- **Costs:** This option would be disproportionately complex and costly to apply (same types of direct and indirect costs as in option 1). In particular, the supervisory approach applied to a credit institution would not provide sufficient justification on its own for the communication approach to be differentiated for each category of credit institutions. (this option could lead to communication which is not effective, for example when unjustified differentiation of requirements on communication exists). In this regard, the objectives of effective supervision and convergence of practices across Member States would not be met (policy objectives 1 and 3 are not met).

Option 4: (combination of options 1 and 2) to require competent authorities to apply all the requirements in a proportionate manner and additional requirements to be applied in the communication between competent authorities and auditors of credit institutions referred to in Article 131 CRD IV ('global systemically important institutions' or 'G-SIIs', other systemically important institutions or 'O-SIIs') and other credit institutions determined by competent authorities.



- **Benefits:** The competent authorities would be able to adjust the communication to the specific circumstances. This would meet both the objectives of effective supervision and adaptability of the communication (policy objectives 1 and 2 are met).

This option would lead to further convergence of current practices in Member States in particular for systemically important institutions (where additional requirements will be applied). This would also be consistent with the EU Impact assessment of the requirements of the Audit Regulation for the statutory audit of PIEs²⁰ (policy objective 3 is partially met).

- **Costs:** This option would leave convergence of practices across Member States incomplete, in cases other than G-SIIs, O-SIIs and others (policy objective 3 is partially not met).

This option would lead to compliance costs (same types of direct and indirect as in option 1). However, such costs should be less than under option 1, because costs will be limited to the communication between competent authorities and auditors of those credit institutions for which additional requirements are applied, rather than with auditors of all credit institutions.

Based on the EBA stock-take survey, in most Member States competent authorities apply a proportional approach in their communication practices with auditors. The proportional approach in the draft guidelines has taken into account the existing EBA regulation on identifying systemically important institutions, as well as the current practices of Member States regarding the criteria used to identify cases when additional communication is necessary. Therefore, compliance costs are expected to be relevant to some Member States, who either do not currently apply a proportionate approach or they use different criteria to identify cases when there is need for more communication with auditors. Overall, the costs of this option will be outweighed by the benefits of increased convergence of the practices of communication across Member States (for those credit institutions for which additional requirements are applied) and the effective supervision, with a sufficient degree of adaptability of the communication.

Preferred Option: option 4 is the preferred approach, because this option achieves the objectives of the guidelines whilst maintaining the most appropriate balance between benefits and costs compared to the other options considered.

b. Frequency of communication between competent authorities and auditors of an institution

Option 1: to require competent authorities to communicate with auditors of all credit institutions at specific frequencies.

²⁰ http://ec.europa.eu/internal_market/auditing/docs/reform/impact_assesment_en.pdf



- **Benefits:** This would ensure communication with auditors of all credit institutions, which may increase effectiveness of supervision in the cases in which there is currently no communication at all (policy objective 1 is met). It would also ensure the maximum level of convergence of current practices across Member States (policy objective 3 is met).
- **Costs:** This option would not meet the objective of adaptability of communication. Competent authorities would not be able to adjust the frequency of communication to specific circumstances in cases when the nature of the information which is to be shared doesn't justify the need to have a specific set frequency of communication (policy objective 2 is not met).

The direct compliance costs (such as costs of meetings and additional human resources) and the indirect compliance costs (such as passing of the direct incremental costs to the credit institution through increase in audit fees) might be significantly disproportionate to the benefits, particularly for credit institutions which pose a lower threat to financial stability and for which a different frequency of communication would be appropriate in order to meet the objectives of these guidelines.

The EU impact assessment of the proposed Audit Regulation for the statutory audit of PIEs provides an estimation of the cost of a bilateral meeting being €5.400 per meeting. This estimate covers only the costs for the audit firm, whereas costs to the supervisor are not taken into account since they will not be passed on to the PIE and would be part of the task of supervision. In addition, based on the EBA stock-take survey, most Member States apply an adaptable and proportionate approach to the frequency of communication with auditors. Communication is primarily on an ad hoc basis for most credit institutions in most Member States rather than at specified frequencies.

The compliance costs of this option would be disproportionately high compared to the benefits of achieving effective communication and convergence of practices.

Option 2: to not specify the frequency of communication in the guidelines.

- **Benefits:** This option would enable full adaptability of the frequency of communication. Competent authorities would be able to adjust the frequency of communication based on the exercise of supervisory judgement, in order to increase the effectiveness of supervision (policy objective 2 is met).

Costs: This option would not achieve convergence of the practices on the frequency of communication between competent authorities and auditors across Member States (policy objective 3 is not met). Regarding the objective of effective supervision (policy objective 1), it is not clear whether it would be met, because it would depend on the ability of competent authorities and auditors to identify and establish the appropriate frequency for effective communication.



This option would not specifically address circumstances where a greater supervisory effort is applied, such as communication with auditors of credit institutions whose potential failure poses a higher threat to the stability of the financial system. In this regard, the ultimate objective of fostering financial stability would not be met.

Option 3: (combination of options 1 and 2) to require competent authorities to define the appropriate frequency of communication with auditors of each credit institution and that competent authorities meet at least annually with the auditors of systemically important credit institutions and other credit institutions in accordance with the proportionality approach applied by competent authorities.

- **Benefits:** This would enable adaptability in the frequency of communication. Competent authorities would be able to adjust the frequency of communication to specific circumstances. This would meet both the objectives of adaptability of communication and effective supervision (policy objectives 1 and 2 are met).

This option would lead to further convergence of current practices in Member States in particular for systemically important credit institutions (where additional requirements will be applied). This would also be consistent with the EU Impact assessment of the requirements of the Audit Regulation for the statutory audit of PIEs (policy objective 3 is partially met).

- **Costs:** This option would leave convergence of practices across Member States on the frequency of communication incomplete, in cases other than G-SIIs, O-SIIs and others (policy objective 3 is partially not met).

This option would lead to compliance costs (same types of direct and indirect as in option 1) in the case of communication with the auditors of credit institutions where additional requirements are applied. However, to a lesser extent than in option 1, because costs will be limited to the communication of competent authorities with the auditors of those credit institutions for which additional requirements are applied, rather than from the communication of competent authorities with auditors of all credit institutions.

Based on the EBA stock-take survey, in some Member States competent authorities meet at least annually with the auditors of credit institutions and all Member States meet at least annually with the auditors of credit institutions whose potential failure poses a higher threat to the stability of the financial system. Therefore, these compliance costs are expected to affect a limited number of Member States. In this regard, the cost of this option will be outweighed by the benefits of increased convergence of the practices of communication across Member States (for those credit institutions for which additional requirements are applied) and effective supervision with a sufficient degree of adaptability of communication.

Preferred Option: option 3 is the preferred approach, because this option would achieve the objectives of the guidelines whilst maintaining the most appropriate balance between benefits and costs compared to the other options considered.

c. **Frequency of communication between competent authorities and auditors collectively**

Option 1: to require competent authorities to communicate with auditors on a collective basis more than once per year.

- **Benefits:** This would ensure communication with auditors of all credit institutions, which may increase the effectiveness of supervision in cases in which there is currently no communication at all (policy objective 1 is met). It would also ensure the maximum level of convergence of current practices across Member States (policy objective 3 is met).
- **Costs:** This option would not meet the objective of adaptability of communication. Competent authorities would not be able to adjust the frequency of communication to any specific circumstances in cases when the nature of the information which is to be shared doesn't justify the need to have this frequency of communication (policy objective 2 is not met).

Although the costs of such meetings could be approximated by the costs estimated in the EU impact assessment of the proposed Audit Regulation for the statutory audit of PIEs for bilateral meeting being at €5.400 per meeting, they could be different for a number of reasons including the type of information shared and the participants to the communication would not be the same. In addition, based on the EBA stock-take survey, in most Member States, competent authorities meet with auditors on a collective basis predominantly on an ad hoc basis and for some Member States the meeting frequency varies from annually to four meetings per year.

The direct compliance costs (such as costs of meetings and additional human resources) and the indirect compliance costs (such as passing the direct incremental costs to the credit institutions through increases in audit fees) would be disproportionately high compared to the benefits of achieving effective communication and convergence of practices.

Option 2: to not specify the frequency of communication in the guidelines.

- **Benefits:** This option would enable full adaptability in the frequency of communication with auditors of credit institutions on a collective basis. Competent authorities would be able to adjust the frequency of communication based on the exercise of supervisory judgement (policy objective 2 is met).
- **Costs:** This option would not achieve convergence of practices on the frequency of communication between competent authorities and auditors across Member States



(policy objective 3 is not met). Regarding the objective of effective supervision (policy objective 1), it is not clear whether it would be met, because it would depend on the ability of competent authorities and auditors to identify and establish the necessary frequency for effective communication.

Option 3: (combination of options 1 and 2) to require that competent authorities meet at least annually with auditors and define an appropriate frequency of communication with auditors at a collective level.

- **Benefits:** This would enable adaptability in the frequency of communication. Competent authorities would be able to adjust the frequency of communication to the specific circumstances. This would meet both the objectives of adaptability of communication and effective supervision (policy objectives 1 and 2 are met).

This option would lead to further convergence of current practices in Member States to the extent that at least one annual meeting will be held between competent authorities and auditors on a collective basis (policy objective 3 is met).

- **Costs:** This option would leave convergence of practices across Member States on the frequency of communication on a collective basis incomplete, in cases when more frequent communication on a collective basis is applied. However, based on the EBA stock-take survey, this is not a common practice across Member States and therefore it would be of limited relevance.

This option would lead to compliance costs for the annual meeting that will be held (same types of direct and indirect costs as in option 1 but less than option 1, because costs will be limited to one annual meeting of competent authorities with auditors collectively).

Based on the EBA stock-take survey, in the large majority of Member States, competent authorities meet with auditors on a collective basis on an ad hoc basis and in some Member States competent authorities meet with auditors at least annually. These compliance costs are expected to affect some Member States, to the extent that meetings on a collective basis are held less frequently than annually. However, the cost of this option will be outweighed by the benefits of increased convergence of practices of communication across Member States to the extent that minimum requirements will apply whilst retaining a sufficient degree of adaptability of the communication.

Preferred Option: option 3 is the preferred approach, because this option would achieve the objectives of the guidelines whilst maintaining the most appropriate balance between benefits and costs compared to the other options considered.

E. Conclusion

61. The overall cost impact of the guidelines compared to the baseline scenario is low, while the benefits are medium to high. The implementation of the guidelines will create on-going costs for both auditors (direct costs) and credit institutions (indirect costs), in particular those related to the annual communication on a credit institution basis between competent authorities and auditors of systemically important credit institutions and other credit institutions determined by competent authorities, based on the size, internal organisation and the nature, the scope and the complexity of their activities. In addition, on-going costs may also arise from the annual communication between competent authorities and auditors on a collective basis. However, the costs of the application of the guidelines would be outweighed by the benefits of enhanced stability of the financial system, the facilitation of the supervision of credit institutions and the higher level of convergence of related practices across Member States.

Question 10: Do you agree with the impact assessment and its conclusions, having regard to the baseline scenario used for this impact assessment? Please provide any additional information regarding the costs and benefits from the application of these guidelines?

Question 11: Please provide any additional comments on the draft guidelines.

5.2 Summary of the EBA stock-take survey to Member States

1. The EBA stock-take survey was performed in late 2014 and was addressed to the national competent authorities supervising credit institutions in Member States in the EEA. The aim of the stock-take survey was to collect information on the current practices in Member States in relation to the communication between competent authorities and auditors, as well as on their perception of the related benefits, limitations and possible improvements of these practices.
2. The stock-take survey included questions regarding the relationship between the competent authority and the auditor of a credit institution (frequency, structure and timing of communication and information shared) and the relationship between the competent authority and the auditors collectively. All 31 Member States in EEA participated in the stock-take survey.
3. In describing the results of the stock-take survey, the following terms are used:
 - Few: 0-7 Member States
 - Some: 8-15 Member States
 - Most: 16-23 Member States
 - A large majority: 24-31 Member States

Relationship between competent authority supervising credit institutions and auditors

4. In all Member States, competent authorities communicate with auditors (except for one Member State, in all Member States, communication between competent authorities and auditors is direct). In a large majority of Member States, the supervisory approach is at least reliant on the audit report and in most Member States the supervisory approach is reliant on other reports in addition to the audit report (outputs of a statutory audit such as communication with the management body, senior management or audit committee, where applicable, in a credit institution, assurance on FINREP/COREP, internal controls assessment and other reports required by Union or national law).
5. Most of the Member States apply a proportionate approach in their communication with auditors. The criteria most commonly used for applying a proportionate approach are the risk profile of the credit institution, the size of the credit institution, the complexity of the credit institution's operations and other criteria, such as the systemic importance of a credit institution and emerging issues.
 - a. **Frequency and structure of communication**
6. In most Member States, different means of communication are used, both formal (for example written reports) and informal (for example phone calls). Member States suggest that written

and formal communication would be most appropriate in cases of emerging significant issues or findings, submission of auditors' reports and communication of changes in regulation which are of interest to the auditor.

7. In most Member States the supervisory team (leader, on-site and off-site supervisors) is usually involved in the communication and in some cases the senior management of the competent authorities as well as relevant experts, if needed are involved. In the large majority of Member States, the supervisory team leader always participates in the communication and the key audit partner always participates in the communication together with the audit manager.
8. In all jurisdictions, competent authorities meet auditors (either bilaterally or trilaterally). In a large majority of Member States auditors and competent authorities hold bilateral meetings. Trilateral meetings (between the competent authority, management body, senior management or audit committee, where applicable, in a credit institution and the auditors) may be more commonly used in the communication with auditors of credit institutions when a greater supervisory effort is applied.
9. A large majority of Member States organise ad hoc meetings, and some Member States organise at least one annual meeting, subject to the proportionality approach that is applied in some Member States. More specifically, some Member States follow a proportionate approach to holding meetings with auditors and expect for one, all of them organise at least an annual bilateral meeting between competent authorities and auditors, in cases when greater supervisory effort is applied. Most Member States that follow a proportionate approach to holding meetings with auditors, organise meetings more frequently: twice per year or more in cases when greater supervisory effort is applied. For cases when less supervisory effort is applied, communication is usually on an ad hoc basis.
10. A large majority of Member States describe bilateral meetings as being effective. Most Member States suggest that trilateral meetings may be appropriate in certain circumstances (such as in avoiding duplication of meetings and miscommunication), but overall may be less useful than bilateral meetings.

b. Timing of the communication

11. In most Member States communication occurs mainly after issuing the audit opinion and less frequently during the planning phase of the statutory audit or before issuing the audit opinion. The timing of communication also depends on the importance of issues that may arise or during the supervisory inspection of a credit institution and may be on an ad hoc basis.

c. Information shared

12. In some Member States the audit plan may be discussed if needed (such as in emerging situations or during the process of supervision). However, when a proportionate approach is applied, this is common practice in cases when a greater supervisory effort is applied.



13. In a large majority of Member States, competent authorities share information on material issues affecting the statutory audit including issues related to the asset quality and / or valuation of financial instruments with auditors. Competent authorities in most Member States discuss issues related to industry-specific risks (such as results of thematic reviews, changes in regulation and other emerging issues relevant to the credit institutions' industry) and issues related to institution-specific risks (such as if a credit institution is an outlier compared to its peers, significant changes in the risk of an individual credit institution, internal control and corporate governance issues, supervisory measures imposed on the credit institution).
14. In most Member States, auditors share information related to loan loss provisioning, financial asset valuation, risk management and presentation and disclosures in the financial statements, followed by issues on the effectiveness of internal controls, communication with the management body, the senior management or the audit committee, where applicable, in a credit institution, quality of corporate governance and the role and reaction of audit committee with competent authorities.

Relationship between the competent authority supervising credit institutions and auditors collectively

15. Most Member States meet either with one audit firm or with several audit firms on a collective basis. In the large majority of Member States, these meetings are held on an ad hoc basis. The meeting frequency varies from annual to 4 meetings per year. In most Member States, issues usually discussed relate to regulatory and accounting changes followed by accounting issues or accounting techniques applied, risks, supervisory concerns and the audit approach applied.
16. A large majority of Member States mentioned that the communication between competent authorities and auditors collectively is useful in order to share information on industry-specific issues.

5.3 Overview of questions for consultation

1. Is the scope of application of the guidelines appropriate and sufficiently clear?
2. As currently foreseen, the application date will be in the last quarter of 2016. Is the date of application of the guidelines appropriate?
3. Is the general framework of the communication between competent authorities and auditors appropriate and sufficiently clear? Please indicate any additional elements to be included.
4. Please provide any comments you may have on the appropriateness of the proposed proportionality approach.
5. Are the guidelines on the scope of information to be shared during the communication appropriate and sufficiently clear? Are the issues on which information may be shared in Annex I appropriate and sufficiently clear? Please indicate any additional issues to be included.
6. Are the guidelines on the form of communication appropriate and sufficiently clear? Please indicate whether any particular form of communication should be used and under which circumstances it should be used.
7. Are the guidelines on the participants in the communication between competent authorities and auditors appropriate and sufficiently clear? Are there any other participants that should be considered participating? Under which circumstances should other participants be considered?
8. Are the guidelines on the frequency and timing of communication appropriate and sufficiently clear? Please provide information on any additional circumstances which may necessitate a different frequency and timing of communication.
9. Are the guidelines on the communication between competent authorities and auditors collectively appropriate and sufficiently clear? Please indicate any additional element which should be included in the guidelines regarding the communication of competent authorities and the auditors collectively.
10. Do you agree with the impact assessment and its conclusions, having regard to the baseline scenario used for this impact assessment? Please provide any additional information regarding the costs and benefits from the application of these guidelines.
11. Please provide any additional comments on the draft guidelines.