

EBA/GL/2016/05

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Final Report

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

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1. Executive Summary

Article 12(2) of Regulation (EU) No 537/2014¹ (the Audit Regulation) 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 these parties' 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 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 the information shared, the form of communication, the participants in the communication, the frequency and timing of communication, and the communication between competent authorities and auditors collectively.

Communication between competent authorities and auditors is divided into two categories: communication related to an individual credit institution, in which institution-specific information should be shared; and the communication related to the credit institution's 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 material issues which are relevant to the supervision of a credit institution and should share information with auditors on material issues which in the competent authorities' judgement 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.

¹ Regulation (EU) No 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 other entities, credit institutions.

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 guidelines include more specific guidance on the communication between competent authorities and auditors of credit institutions referred to in Article 131 of Directive 2013/36/EU² (CRD IV) (global systemically important institutions, or G-SIIs, and other systemically important institutions, or O-SIIs) and other credit institutions, as determined by the competent authorities, where a greater supervisory effort is applied or needed 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 banks³ and the relevant work performed by the Centre for Financial Reporting Reform (CFRR) of the World Bank⁴. These guidelines are consistent with the relevant BCBS guidance supporting the creation of a level-playing field at an international level.

The draft guidelines were also subject to a three-month consultation period between October 2015 and January 2016. The EBA received thirteen responses to the draft guidelines, overall supporting the content of the draft guidelines, subject to additional clarifications mainly on confidentiality requirements, objectives of the guidelines, implementation date, duties and responsibilities, scope of the communication and information to be shared, form of communication and communication between competent authorities and auditors collectively. The EBA assessed the arguments presented in the responses in order to decide whether any amendments were necessary before issuing the final guidelines. The result of this assessment is included in the feedback section of this paper.

Next steps

The guidelines will be translated into the official EU languages and published on the EBA website. The deadline for competent authorities to report whether they comply with the guidelines will be two months after the publication of all the translations. The guidelines will apply from 31 March 2017.

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 (OJ L 176, 27.6.2013, p. 338).

³ <http://www.bis.org/publ/bcbs280.htm>

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<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTCENFINREPREF/0,,contentMDK:21541321~menuPK:4368642~pagePK:64168445~piPK:64168309~theSitePK:4152118,00.html#14>

2. Background and rationale

Legal basis

1. Article 12(2) of Regulation (EU) No 537/2014⁵ (the Audit Regulation) 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 ‘auditors’).
2. In order to facilitate the exercise of the tasks referred to in the first subparagraph of Article 12(2) of the Audit Regulation, 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 1093/2010⁶ 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 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/EU⁷ (CRD IV) and Article 12(1) of the Audit Regulation. 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.

⁵ Regulation (EU) No 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 other entities, credit institutions.

⁶ 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).

⁷ 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 proposals for the Audit Regulation⁸ 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’. Respondents 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 on external audits of banks⁹ 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 external audits of banks. External auditors of banks can play an important role in contributing to financial stability when they deliver quality bank audits which foster market confidence in banks’ financial statements. Quality bank audits are also a valuable input in the supervisory process.’ The main objective of the BCBS guidance on 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 the work of the competent authorities and the auditors.
5. However, there are areas of 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 a 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’¹⁰.

Objectives of the guidelines

6. These guidelines are expected to contribute to fostering financial stability and the 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.

⁸ http://ec.europa.eu/internal_market/auditing/docs/reform/impact_assesment_en.pdf

⁹ <http://www.bis.org/publ/bcbs280.htm>

¹⁰ ISA 200, *Overall Objective of the Independent Auditor, and the Conduct of an Audit in Accordance with International Standards on Auditing*, paragraph 11.

7. These guidelines should also lead to further convergence of existing practices across Member States regarding communication between competent authorities and auditors when the 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 or needed, 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, these guidelines have been developed taking into account the 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 practices¹¹ and an outreach to audit firms practising in the EU. From the stock-take survey and outreach activities performed, the main observations noted were as follows:
 - The 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 auditors¹².
 - 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 on external audits of banks¹³ and relevant work performed by the Centre for Financial Reporting Reform (CFRR) of the World Bank on the relationship between auditors and supervisors¹⁴. 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 the guidelines

10. These guidelines include an underlying general framework and seven principles for the communication between competent authorities and auditors. The general framework should

¹¹ The summary of the EBA stock-take survey of Member States is included for illustrative purposes as an accompanying document in the consultation paper on the draft guidelines (EBA/CP/2015/17).

¹² In some jurisdictions, the auditor may perform additional tasks under national legislation, such as extended reporting on matters such as the internal controls of the credit institution.

¹³ <http://www.bis.org/publ/bcbs280.htm>

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<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTCENFINREPREF/0,,contentMDK:21541321~menuPK:4368642~pagePK:64168445~piPK:64168309~theSitePK:4152118,00.html#14>

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 (section 5 of the guidelines):
 - Scope of the information shared
 - Form of communication
 - Participants in communication
 - Frequency and timing of communication
- Communication between competent authorities and auditors collectively (section 6 of the guidelines).

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, and communication with auditors collectively) should be commensurate with the credit institution's size and internal organisation and the nature, scope and complexity of its activities, as well as ad hoc circumstances, in order to meet efficiently the objectives 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, and other systemically important institutions, or O-SIIs¹⁵) and other institutions as determined by the competent authorities.

¹⁵ 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 on 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 in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10).

Guidelines

on communication between competent
authorities supervising credit
institutions and the statutory auditor(s)
and the 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 1093/2010¹⁶. 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 two months from issuance in all EU languages. 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/2016/05'. 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).

¹⁶ 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 of application, addressees and definitions

2.1 Subject matter

5. These guidelines specify, in accordance with Article 12(2) of Regulation (EU) No 537/2014¹⁷, the requirements 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 ‘auditors’).
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 in their role of supervising and carrying out, respectively, the statutory audit of those credit institutions.
8. These guidelines refer in particular to the communication between the competent authority and the auditor or group auditor of a credit institution (institution-specific communication, as described in section 5), and to the communication between competent authorities and auditors collectively (collective communication, as described in section 6).
9. These guidelines are without prejudice to the auditor’s ‘duty to report’, set out in Article 63(1) of Directive 2013/36/EU¹⁸ and Article 12(1) of Regulation (EU) No 537/2014.

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

¹⁷ 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).

¹⁸ 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).

11. Unless otherwise specified, the terms used and defined in Directive 2006/43/EC¹⁹, Regulation (EU) No 537/2014 and Directive 2013/36/EU have the same meaning in these guidelines. For the purposes of these guidelines, the following definitions apply:

In-depth communication	Communication held in the cases referred to in paragraphs 22 and 23, on a more frequent, formalised and/or documented basis, in order to obtain further insights about a credit institution when a greater supervisory effort is applied or 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 institution's 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 and up-to-date information on the risk profile, size and complexity of a credit institution's operations and related to a particular issue under discussion.
Empowered individual	A person working for the competent authority or the auditor who has the legal authority to act on behalf of their organisation so as to be able to share information and, where necessary, 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

¹⁹ 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).



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 31 March 2017.

4. General framework of the communication between competent authorities and auditors

13. Competent authorities and auditors are both responsible for establishing effective communication between them in accordance with the first subparagraph of Article 12(2) of Regulation (EU) No 537/2014.
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.
17. The parties should discharge their respective responsibilities and one party should not 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 the parties' 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 and purpose of their functions.
19. Any information shared during the communication between competent authorities and auditors is subject to the confidentiality requirements laid down in Section II of Chapter 1 in Title VII of Directive 2013/36/EU and the disclosure in good faith to the competent authorities by auditors of any information emerging during this communication does not constitute a breach of any contractual or legal restriction on disclosure of information in accordance with Article 12(3) of Regulation (EU) No 537/2014.
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 as referred to in Sections 5 and 6 of these guidelines (scope of information shared, form of communication, participants

in the communication, frequency and timing of communication, communication with auditors collectively) with the credit institution's size, internal organisation and nature, scope and complexity of its activities, so that the objective of these guidelines is achieved efficiently.

22. In particular, in-depth communication should be held with auditors of credit institutions referred to in Article 131 of Directive 2013/36/EU (global systemically important institutions (G-SIIs)²⁰ and other systemically important institutions (O-SIIs)²¹) and other institutions determined by competent authorities based on an assessment of the credit institution's size and internal organisation and the nature, scope and complexity of its activities.
23. In addition, competent authorities should assess on an on-going basis whether it is necessary to apply in-depth communication with the auditor of any credit institution due to ad hoc or emerging issues, such as:
 - recent significant findings from the supervisory assessment or statutory audit
 - recent developments that may change the risk assessment or the level of 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)
 - the dismissal or resignation of the auditor during the audit engagement.

²⁰ 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).

²¹ EBA Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU in relation to the assessment of other systemically important institutions (O-SIIs) (EBA/GL/2014/10).

5. Communication between competent authorities and auditors of a credit institution

Scope of the information shared

Principle 1: The information shared should be 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 relevant information may facilitate the task of supervision and potentially 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. The Annex to these guidelines provides a non-exhaustive list of areas and 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 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 auditors' conclusions, whenever, in the

competent authority's judgement, such information may facilitate the exercise of supervisory tasks.

30. Relevant information is information and knowledge obtained in the statutory audit and related, but not limited, to the following areas, which are described in further detail in the Annex to these guidelines with a non-exhaustive list of issues under each of them:

- a. External environment and risk 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, valuation of assets and liabilities and disclosures
- f. Audit report and auditors' communication with the credit institution's management body, senior management or audit committee, or a body performing equivalent functions within the credit institution, on significant matters related to financial reporting and control functions
- g. The main findings of the audit procedures carried out and conclusions.

31. Where in-depth communication is applied, competent authorities should discuss with auditors, at least, the audit approach, the audit report and the auditors' communication with the credit institution's management body, senior management or audit committee, or a body performing equivalent functions within the credit institution, on significant matters related to financial reporting and control functions, including the audit report and the additional report to the audit committee referred to, respectively, in Articles 10 and 11 of Regulation (EU) No 537/2014 and as described in more detail in the Annex to these guidelines. In particular, for the discussion of the audit approach, competent authorities may take into consideration any findings or conclusions 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 the credit institution.

33. Relevant information is information and knowledge emerging during the process of supervision and related, but not limited, to the following areas, which are described in further detail in the Annex to these guidelines with a non-exhaustive list of issues under each of them:

- a. External environment and risk profile of the credit institution
 - b. Corporate governance and internal controls
 - c. Ability of the credit institution to continue as a going concern
 - d. Financial statements, valuation of assets and liabilities and disclosures
 - e. Supervisory assessments and actions.
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-group reviews performed across the credit institution's industry.

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 categorised as:
- written (for example email or fax) and oral (for example physical meetings or remote communication, such as phone calls)
 - regular (for example audit 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. Competent authorities should consider the use of written communication when communication relates to the following:
- Audit report and auditors' communication with the credit institution's management body, senior management or audit committee, or a body performing equivalent functions within the credit institution, on significant matters related to financial reporting and control functions
 - Findings and conclusions from audit procedures performed and supervisory processes
 - Complex technical matters
 - Emerging issues
 - Changes in regulation.
37. Physical meetings between competent authorities and auditors should be held to facilitate open and effective communication, particularly when in-depth communication is applied.
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Participants in the communication

Principle 5: The participants in the communication should include knowledgeable, informed and empowered individuals from both parties.

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. In making this assessment, competent authorities should consider whether:
 - a. clarifications from the credit institution's management body, senior management or audit committee, or a body performing equivalent functions within the 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.
41. When trilateral meetings are organised, they should be in addition to any bilateral meetings. Trilateral meetings may include members of the credit institution's audit committee, internal auditors, experts on relevant key control functions, or members of the credit institution's management body and senior management as necessary.
42. If in the competent authority's 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 public authorities (such as those responsible for the supervision of financial markets, the public oversight of auditors or the resolution of credit institutions) to the meetings with the auditors or inform these authorities of the outcome of the discussions with the auditors.
43. Effective communication between competent authorities and auditors should include adequate safeguards for the continuity of the communication regardless of the turnover of staff involved. Competent authorities should keep their own internal records of the communication to ensure that successors of the staff previously participating in the communication are able to obtain sufficient information about the communication performed in the past. This information may include:
 - a. minutes of communications or a summary of minutes

- b. key issues discussed
- c. conclusions of discussions
- d. future actions.

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 auditors 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 processes or the audit processes, including one or more of the following:
 - a. during the 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 supervisory inspections (on-site or off-site)
 - d. during the preparation and planning of the statutory audit
 - e. before signing of the audit report
 - f. after signing of the audit report.
- 47. Competent authorities should assess on an on-going basis whether there are any emerging issues that require the frequency and timing of communication to be changed or the initiation of communication on an ad hoc basis. These may include issues affecting the credit institution's entire industry or part of it (such as macroeconomic conditions) or issues affecting a particular credit institution (such as findings during the performance of supervisory processes or audit procedures, or cases when further clarifications on a specific issue are necessary).
- 48. When in-depth communication is applied, a bilateral meeting should be held at least on an annual basis.

6. Communication between competent authorities and auditors collectively

Principle 7: Communication between competent authorities and auditors collectively should be as frequent as necessary to ensure timely sharing of information on issues which are relevant to the supervisory tasks and the statutory audit of credit institutions.

49. Competent authorities and auditors collectively (such as a group of auditors or a professional body representing auditors) should aim to develop a common understanding of current and emerging developments of relevance to the supervisory tasks and the statutory audit of credit institutions.
50. Competent authorities should meet with auditors collectively at least annually and irrespective of the meetings organised on an individual basis between the competent authority and the auditor of one or more credit institutions.
51. Communication could take place during any phase of the supervisory processes or the audit processes, and competent authorities should consult auditors on the appropriateness of the frequency and timing of communication.
52. The Annex to these guidelines provides a non-exhaustive list of areas and issues on which information could be shared between competent authorities and auditors collectively, as appropriate.
53. If in the competent authority's judgement it could facilitate the exercise of supervisory tasks, competent authorities may invite other competent authorities responsible for the prudential supervision of credit institutions or relevant public 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, accounting or auditing industry) to these collective meetings or inform these authorities and associations of the outcome of the discussions with the auditors.

Annex – Areas and issues for the communication between competent authorities and auditors

54. This Annex provides a non-exhaustive list of areas and issues on which information could be shared between the competent authorities and auditors of a 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 risk profile of the credit institution

- a. Risk assessment and scope: the competent authority's and the auditors' assessments in light of the external environment and the credit institution's performance, business model, corporate structure, risk concentration and risk appetite (including any changes of thereto).
- b. Changes in regulation.
- c. Changes in accounting and auditing standards.
- d. Macroeconomic developments affecting the credit institution's industry.

Corporate governance and internal controls

- a. Culture, philosophy and operating style of the governing body of the credit institution (including quality of corporate governance and concentration/sharing of power amongst the members of the governing body).
- b. Suitability of the credit institution's members of the management body, the senior management or the members of the audit committee, or a body performing equivalent functions within the credit institution on significant matters related to financial reporting and control functions (including the implementation of structural internal changes of management and organisational restructuring processes).
- c. Role of the audit committee, or a body performing equivalent functions within the credit institution, in the supervision of the financial reporting process.
- d. Quality of the relationship of the audit committee, or a body performing equivalent functions within the credit institution, with the auditors.
- e. Observations on internal controls (for example the auditors' opinion on the description, included in the corporate governance statement in accordance with Article 20 of

Directive 2013/34/EU²², of the main features of the credit institution's internal control and risk management systems in relation to the financial reporting process, governance effectiveness, the control environment, the application and monitoring of controls, the quality of key control functions, and IT systems), the results of the internal control tests performed by the auditor and their consequences for the audit approach (for example their impact on the extent of performance of direct verification and the use of experts in the statutory audit).

- f. Significant deficiencies in internal control processes (for example material control weaknesses identified in the credit institution's financial reporting processes) and the auditors' observations on matters that are significant for the responsibilities of the members of the credit institution's management body, senior management or audit committee, or the members of a body performing equivalent functions within the credit institution, in overseeing the strategic direction of the credit institution or the credit institution's obligations related to its accountability. This may include, where relevant, the auditor's observations on the effectiveness of the internal audit function, risk management function and compliance function (including the assessment of fraud risks, especially due to weaknesses in internal controls).

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 (including material actual or potential litigation and legal disputes).

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.

²² Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

- 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 (including disagreements between auditors and members of the credit institution's management body, senior management or audit committee, or members of a body performing equivalent functions within the credit institution).
- i. Circumstances that have led to a significant change in the audit planning.

Financial statements, valuation of assets and liabilities and disclosures

- a. Views and judgements on key risk areas and assumptions, including significant transactions and valuations (for example in the areas of estimation of loan loss provisions and valuation of financial instruments).
- b. Accounting practices and areas encompassing a significant degree of estimation uncertainty (for example the areas of estimation of loan loss provisions and valuation of financial instruments).
- 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. Misstatements in the financial statements (corrected and uncorrected) identified during the statutory audit and the auditors' evaluation of them.
- e. Adequacy and reliability of disclosures in financial statements in light of statutory reporting requirements and risks, transactions, judgements and assumptions discussed in current and previous meetings.

Audit report and auditors' communication with the credit institution's management body, senior management or audit committee, or a body performing equivalent functions within the credit institution, on significant matters related to financial reporting and control functions

- a. Audit report referred to in Article 10 of Regulation (EU) No 537/2014.

- b. Additional report to the audit committee referred to in Article 11 of Regulation (EU) No 537/2014.

The main findings of the audit procedures carried out and conclusions

- a. Issues identified during the statutory audit and communicated to the credit institution's management body, senior management or audit committee, or a body performing equivalent functions within the credit institution, such as deficiencies in internal control that in the auditors' professional judgement merit management's attention.
- b. Significant issues which have been intensely discussed with the credit institution's management body, senior management or audit committee, or a body performing equivalent functions within the credit institution.

Supervisory assessments and actions

- 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, or SREP²³).
- c. Results of thematic reviews and peer-group reviews performed by the competent authority across the credit institution's industry.
- d. Observations arising from a credit institution's regulatory reporting, including regulatory capital.
- e. Compliance with relevant legal and prudential requirements.

Others

- a. Issues discussed in previous years and meetings, if deemed to be still 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.

²³ EBA guidelines (EBA/GL/2014/13) issued in accordance with Article 107(3) of Directive 2013/36/EU.

7. Accompanying documents

7.1 Draft cost-benefit analysis/impact assessment

55. Article 16(2) of the EBA Regulation²⁴ 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 guidelines. It includes an overview of the findings regarding the problem to be dealt with, the solutions and the potential impact of the options considered.

A. Problem identification

56. 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.

57. 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 auditors²⁵. This could impede the creation of a level playing field between credit institutions in the European Economic Area (EEA).

B. Policy objectives

58. These guidelines are expected to contribute to fostering financial stability and the 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 Regulation (EU) No 537/2014 (the Audit Regulation).

59. These guidelines should enable adaptability to unexpected future developments and also lead to further convergence of existing practices across Member States where the current

²⁴ 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)

²⁵ This was confirmed by a stock-take survey of the national competent authorities supervising institutions in Member States in the EEA which the EBA performed in late 2014. A summary of the EBA stock-take survey of Member States is included for illustrative purposes as an accompanying document in the consultation paper on the draft guidelines (EBA/CP/2015/17).

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

60. 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

61. The baseline scenario consists of the existing current practices of Member States with regard to 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 ensuring the adaptability of communication (policy objective 2 is not met). Competent authorities would not be able to adjust communication to specific circumstances that might 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 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 with regard to 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 this 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 or needed, 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 to communication between competent authorities and auditors for each category of credit institution in accordance with the supervisory review and evaluation process (SREP)²⁶.

- **Benefits:** this would enable competent authorities to adjust their communication approach to each category of credit institution identified for supervisory purposes (instead of no adaptability and full adaptability of communication as in options 1 and 2, respectively) and therefore the proportionality approach applied to meet the objective 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 complex and costly to apply (involving the same types of direct and indirect costs as 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 existed). 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: to require competent authorities to apply all the requirements in a proportionate manner, with additional requirements to be applied in communication between competent

²⁶ EBA Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP) EBA/GL/2014/13.

authorities and auditors of credit institutions referred to in Article 131 of Directive 2013/36/EU (CRD IV) (global systemically important institutions, or G-SIIs, and other systemically important institutions, or O-SIIs) and other credit institutions as determined by competent authorities (combination of options 1 and 2).

- **Benefits:** the competent authorities would be able to adjust communication to the specific circumstances. This would meet the objectives of both effective supervision and adaptability of 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 would be applied). This would also be consistent with the EU impact assessment of the proposals for the Audit Regulation²⁷ (policy objective 3 is partially met).

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

This option would lead to compliance costs (the same types of direct and indirect costs as in option 1). However, such costs should be lower than under option 1, because costs would be limited to communication between competent authorities and auditors of those credit institutions for which additional requirements were applied, rather than arising from communication between competent authorities and 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 set out in the guidelines has taken into account the existing EU legislation 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 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 communication practices across Member States (for those credit institutions for which additional requirements are applied) and of effective supervision with a sufficient degree of adaptability of communication.

Preferred option: option 4 is the preferred approach, because this option can be reasonably expected to effectively achieve the objectives of the guidelines whilst maintaining a more efficient balance between benefits and costs than the other options considered.

²⁷ http://ec.europa.eu/internal_market/auditing/docs/reform/impact_assesment_en.pdf

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 with a specific frequency.

- **Benefits:** this would ensure communication with auditors of all credit institutions, which might 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 specific circumstances in cases when the nature of the information to be shared did not 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 an 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 objective of these guidelines.

The EU impact assessment of the proposals for the Audit Regulation provides an estimation of the cost of a bilateral meeting at EUR 5 400. This estimate covers only the costs for the audit firm²⁸, whereas costs to the competent authority are not taken into account, since they will not be passed on to the credit institution 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 with 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

²⁸ In particular, that estimate is based in the EU impact assessment for the proposals for the Regulation (EU) No 537/2014. It covers the preparation and participation in the bilateral meeting by one audit partner and one audit manager, assuming average hourly rates of EUR 600 (audit partner) and EUR 300 (audit manager) and 6 working hours per meeting (a 2-hour meeting and 4 hours for preparation). This leads to an estimated cost of EUR 5 400 (6 hours at EUR 600 per hour plus 6 hours at EUR 300 per hour) for a single meeting.

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 with regard to 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 this 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 or needed, 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 of the frequency of communication. Competent authorities would be able to adjust the frequency of communication to specific circumstances. This would meet the objectives of both 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 proposals for the Audit Regulation (policy objective 3 is partially met).

- Costs: this option would leave convergence of practices across Member States with regard to the frequency of communication incomplete, in relation to institutions other than G-SIIs, O-SIIs and certain others (policy objective 3 is partially not met).

This option would lead to compliance costs (the same types of direct and indirect costs as in option 1) in cases of communication with the auditors of credit institutions for which additional requirements were applied. However, this would apply to a lesser extent than in option 1, because costs would be limited to communication of competent authorities with auditors of those credit institutions for which additional requirements were applied, rather than arising from 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 communication practices across Member States (for those credit institutions for which additional requirements are applied) and of effective supervision with a sufficient degree of adaptability of communication.

Preferred option: option 3 is the preferred approach, because this option would effectively achieve the objectives of the guidelines whilst maintaining a more efficient balance between benefits and costs than 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 might 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 to be shared did not justify this frequency of communication (policy objective 2 is not met).

Although the costs of such meetings could be close to the costs estimated in the EU impact assessment of the proposals for the Audit Regulation for a bilateral meeting of EUR 5 400 per meeting, they could be different for a number of reasons, including variations in the type of information shared and the participants. 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 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 credit institutions through increases in audit fees) would be disproportionately high compared with 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 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 with regard to 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 this would depend on the ability of competent authorities and auditors to identify and establish the necessary frequency for effective communication.

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

- **Benefits:** this would enable adaptability of the frequency of communication. Competent authorities would be able to adjust the frequency of communication to specific circumstances. This would meet the objectives of both 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 would 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 with regard to the frequency of communication on a collective basis incomplete, in cases when more frequent communication on a collective basis was 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 arising from the annual meeting that will be held (same types of direct and indirect costs as in option 1, but lower than in option 1, because costs would 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 is expected to be outweighed by the benefits of increased convergence of communication practices across Member States to the extent that minimum requirements will apply whilst retaining a sufficient degree of adaptability of communication.

Preferred option: option 3 is the preferred approach, because this option would effectively achieve the objectives of the guidelines whilst maintaining a more efficient balance between benefits and costs than the other options considered.

E. Conclusion

62. The overall cost impact of these guidelines compared with the baseline scenario is low, while the benefits are medium to high. The implementation of these guidelines will create on-going costs for both auditors (direct costs) and credit institutions (indirect costs); these will arise in particular from those guidelines related to annual communication on a credit institution basis between competent authorities and auditors of systemically important credit institutions and other credit institutions, as determined by the competent authorities, based on size and internal organisation and on the nature, scope and complexity of their activities. In addition, on-going costs may also arise from annual communication between competent authorities and auditors on a collective basis. However, the costs of the application of these 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.

7.2 Feedback on the public consultation and the opinion of the Banking Stakeholder Group

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

The consultation period lasted for three months and ended on 21 January 2016. Thirteen responses were received, of which twelve 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 if deemed necessary.

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 EBA considers them most appropriate.

Changes to the draft guidelines have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

Overall, the respondents and the Banking Stakeholder Group (BSG) support the content of the draft guidelines, subject to additional clarifications mainly on confidentiality requirements, objectives of the guidelines, implementation date, duties and responsibilities, scope of the communication and information to be shared, form of communication and the communication between competent authorities and auditors collectively. The main points raised by the respondents with regard to these draft guidelines are the following:

Confidentiality

Many respondents raised concerns about the application of the guidelines in practice, in relation to the confidentiality requirements for groups of credit institutions operating across different Member States within the EU or outside the EU, where confidentiality requirements may impose limitations on effective communication.

Objectives

Some respondents suggested expanding the objectives of the guidelines to include, besides the facilitation of supervisory tasks, the enhancement of audit quality and, in this regard, suggested that more information about the supervisory assessment and approach should be made available to auditors by competent authorities during the communication.

Implementation date

A few respondents prefer to postpone the application date of the guidelines to 2017 and the start of a new audit cycle, instead of the proposed last quarter of 2016.

Duties and responsibilities

A few respondents suggested clarifying that both the competent authorities and the auditors retain their existing individual duties and responsibilities and that each party assess the reliability of the information shared during the communication before taking it into account when performing its individual tasks.

Scope of the information to be shared

Many respondents recommended some clarifications, additional items or deletion of some of the items included in the list of issues in the Annex on the information which could be shared, in order to ensure that the scope of the statutory audit remains the same, with no additional tasks required to be performed by auditors.

Flow of information from competent authorities to auditors

Some respondents suggested that competent authorities should promptly notify auditors about the main findings identified during the supervisory process and provide auditors with additional information related to the supervisory process.

Flow of information from auditors to competent authorities

Some respondents suggested clarifying that auditors are not required to provide written material at all times on the issues for discussion which are included in the guidelines in their communication with competent authorities. Besides written communication, other forms of communication may be used as appropriate.

Communication between competent authorities and auditors collectively

Some respondents recommended some clarifications on the scope of the information to be shared, timing and the participants in communication between competent authorities and auditors collectively.

The EBA's responses

The EBA welcomes the comments received from respondents and the BSG, which were constructive and useful in developing the final guidelines. The final guidelines have been



amended to address these issues, to the extent that the issues raised were not already addressed in the draft guidelines and that they fell within the EBA's remit and the mandate to develop these guidelines in accordance with Article 12(2) of the Audit Regulation.

For more detailed responses to the issues raised, please refer to the feedback table below.



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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Objectives of the guidelines	Some respondents suggested expanding the objectives to include the enhancement of audit quality, through an effective two-way communication between auditors and competent authorities. To this end, more information about supervisory assessment and approach should be made available to auditors.	The objective of these guidelines is consistent with the EBA's mandate under Article 12(2) of the Audit Regulation and recital 15 of the cited Regulation. The addressees of the guidelines are consistent with the EBA Founding Regulation (i.e. competent authorities). The EBA acknowledges that audit quality contributes to financial stability and that it is a valuable input to the supervisory process. Paragraph 24 of the guidelines requires competent authorities to identify in collaboration with auditors the areas of common interest to competent authorities and auditors, where sharing of that information may also have an impact on the statutory audit. In this regard, effective communication between the competent authorities and auditors could indirectly contribute to enhancing audit quality.	No change.
Definitions	One respondent suggested defining the term 'auditors' and specifying that they refer exclusively to statutory auditors and audit firms carrying out the statutory audit of credit institutions.	The definition of auditors is already provided in the Directive 2006/43/EC (Audit Directive), to which paragraph 11 of the guidelines refers.	No change.
	One respondent deemed that the definitions of 'knowledgeable individual' and 'informed individual' could be merged	'Knowledgeable' and 'informed' are different attributes that the participants in the communication should have. A knowledgeable individual will have	Amendment to the definition of 'informed



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	into one definition.	the necessary technical competences, whereas the informed individual will have sufficient up-to-date information related to a particular institution. This has been clarified in the guidelines in the amended definition of 'informed individual'. These attributes may be possessed by the same or different individuals, hence the need to retain separate definitions.	individual'.
One respondent suggested amending the definition of 'material information' by adding 'relevant' together with 'material information', in line with the provisions of ISAs, and, in the executive summary, replacing the expression 'any issues which are relevant' with 'any material issues that are relevant'.	'Relevant' information to be shared is specified under principles 1, 2 and 3 and the more detailed guidelines under these principles, which should all be read together in order to assess the information to be shared. Materiality of information is a different concept which relates to the likely magnitude and the possible impact of that information (paragraph 25). Relevant information is not necessarily also material. Therefore, materiality should be assessed separately from relevance, hence the need to mention these terms separately in the guidelines. In the executive summary, the terms are combined for completeness.	No change in the definition of 'material information'. Amendment to the executive summary.	
A few respondents suggested adjusting the definition of in-depth communication to consider that effective communication could occur in meetings which are neither formal nor documented.	In accordance with principle 4 (form of communication) and the more detailed guidelines under this principle, communication between competent authorities and auditors should be established through appropriate communication channels. Please refer also to comments on Question6 (form of communication). The definition of	Amendment to the definition of 'in-depth communication'.	



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		‘in-depth communication’ is amended to avoid the misinterpretation that communication should always be formal or documented.	
Review of the guidelines	A few respondents deemed it useful that the EBA reviews the guidelines and the guidelines require competent authorities to assess the effectiveness of communication with auditors periodically.	The Annex includes issues for possible discussion between the competent authorities and auditors, including the feedback on the quality of the communication and ways to improve it, as an example of these issues. EBA guidelines may be reviewed in the future in accordance with the EBA Founding Regulation.	No change
Responses to questions in Consultation Paper EBA/CP/2015/17			
Question 1 (Scope of application)			
Paragraph 7 (Scope)	<p>A few respondents suggested amending the scope to include a reference to the communication between competent authorities and auditors collectively.</p> <p>A few respondents suggested amending the scope to include a reference to the communication between competent authorities and auditors outside the statutory audit of credit institutions.</p>	<p>Paragraphs 7 and 8 envisage communication between competent authorities and auditors at both individual and collective levels.</p> <p>For the avoidance of any ambiguity on the scope of communication, paragraph 8 has been amended.</p> <p>These guidelines apply in relation to the communication between competent authorities and auditors in their role of supervising and carrying out the statutory audit of credit institutions, respectively (paragraph 7), under the EBA’s mandate under article 12(2) of the Audit Regulation.</p> <p>In addition, paragraphs 17 and 18 clarify that the</p>	Amendment to paragraphs 7 and 8.



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Paragraph 8 (Group audits)	A few respondents asked for clarifications with regard to group audits, particularly in relation to the relationship between auditors of subsidiaries and the auditor of the parent company, especially where groups extend beyond the EU and confidentiality obligations with competent authorities are in place.	<p>credit institution is the main source of information and the guidelines do not aim to change the roles and responsibilities of the competent authorities and the auditors.</p> <p>Paragraph 29 also requires that information shared includes information related to the audit procedures performed, relevant audit evidence obtained and auditors' conclusions.</p> <p>For the avoidance of any ambiguity on the scope, paragraph 7 has been amended.</p> <p>Please refer also to the comments on Question 3 and to paragraph 19 of the guidelines (confidentiality).</p> <p>Paragraph 8 envisages communication between competent authorities and auditors at both individual and collective levels.</p> <p>In addition, the addressees of these guidelines are the competent authorities (paragraph 10) in line with the EBA Founding Regulation and the EBA mandate under Article 12(2) of Audit Regulation.</p> <p>Communication between competent authorities when supervising cross-border credit institutions falls within the scope of the EBA Regulation on colleges of supervisors (Commission Delegated Regulation (EU) 2016/98 and Commission Implementing Regulation (EU) 2016/99) rather than the scope of these</p>	No change.



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>guidelines. Both the Level 1 Regulation (Directives, Regulation) and the Level 2 Regulation (e.g. technical standards on colleges of supervisors) provide the necessary safeguards for ensuring that the exchange of information between competent authorities and third country supervisory authorities within the supervisory colleges framework is organised subject to the confidentiality requirements of Union law.</p>	
Question 2 (Implementation)			
<p>Paragraph 12 (Application date)</p>	<p>Most respondents considered the application date at the end of 2016 as appropriate.</p> <p>A few respondents prefer to postpone the application date to 2017 and at the start of a new audit cycle.</p>	<p>The date of application is relevant to the frequency and timing of the communication (principles 6 and 7 and the detailed guidelines on them). The guidelines include the requirement for an annual bilateral and collective meeting which could take place at any phase during the supervisory or the audit process. There is no specific period or date in the calendar year when this communication should take place.</p> <p>In order to allow sufficient time for the completion of the publication process of the final EBA guidelines and for the competent authorities to incorporate the guidelines into their national legal frameworks, the EBA considers that the implementation date of the guidelines can be set up to 31 March 2017, which will also be closer to the start of the audit cycle.</p>	<p>Amendment to paragraph 12: implementation date to be 31 March 2017.</p>
Question 3 (General framework of the communication)			



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Paragraph 16 (Relationship of parties)	One respondent considered that how to build trust between parties should be further specified.	The EBA believes that the concept of building trust is implicit and embedded in the guidelines, and therefore has removed this wording from the guidelines to avoid misunderstanding.	Amendment to paragraph 16
Paragraph 17 (Scope of responsibilities)	A few respondents suggested clarifying that no additional duties or increase of responsibilities are required of auditors or competent authorities through these EBA guidelines. Each party should assess by itself the reliability of the information shared. Paragraph 17 could be reformulated in line with paragraph 78 of the BCBS guidance on external audits of banks.	Paragraph 17 of the guidelines requires that both parties retain their individual responsibilities and that the supervised credit institution should remain the main source of information for their work. Please refer also to question 1 (paragraph 7) on the scope of the guidelines.	Amendment to paragraph 7.
Paragraph 18 (Rationale for sharing information)	A drafting suggestion was provided by one respondent: ‘different scope and purpose of their functions’.	The EBA agrees that this suggestion clarifies the guidelines.	Amendment to paragraph 18.
Paragraph 19 (Confidentiality)	<p>Many respondents raised concerns about the application of the guidelines in practice in relation to confidentiality requirements for banking groups operating across different EU Member States or outside Europe.</p> <p>A few respondents asked for more detailed guidelines on how to ensure that sharing of information did not constitute a breach of any confidentiality rules of the</p>	<p>Please refer also to the comments on question 1 (paragraph 8) on the scope of the communication for group audits and communication outside the EU.</p> <p>In accordance with Article 12(3) of the Audit Regulation information shared during the communication between competent authorities and auditors does not constitute a breach of any contractual or legal restriction on disclosure of information.</p>	Amendment to paragraph 19.



Comments

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auditor and on the consequences when confidentiality has been breached.

One respondent recommended that the EBA carry out a survey on the professional secrecy standards in place in each jurisdiction, and a few respondents recommended that the EBA coordinate with the national competent authorities and the European Central Bank to develop mechanisms to solve related issues when they arise.

Information shared during the communication is subject to the confidentiality requirements laid down in Section II of Chapter 1 in Title VII of Directive 2013/36/EU (CRD IV). The guidelines have been amended to refer to the legal text in order to clarify this (paragraph 19). It should be noted that by the time of application of these guidelines, the Audit Regulation will be effectively applied, providing for a safe harbour for the information sharing within the scope of these guidelines.

The breach of confidentiality rules falls outside the scope of these guidelines; this issue is addressed in the EU legal framework (for example the Audit Directive, CRD IV) and in the transposition of these laws in each Member State.

Question 4 (General framework of communication).



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Paragraph 21 (Proportionality)	<p>One respondent suggested stating explicitly that the proportionality approach depends also on the credit institution's risk profile.</p> <p>A few respondents suggested including some specifications also in relation to communications for non-systemically important institutions.</p> <p>One respondent suggested making a size and/or systematic impact test to determine the scope of the guidelines, in addition to the proportionality principle.</p> <p>A few respondents deemed that the application of a proportionality approach is facilitated when competent authorities inform auditors as to which credit institutions are considered as posing a systemic risk or require a greater supervisory effort. In addition, one respondent suggested that competent authorities and auditors discuss and agree on a communication plan including when "in-depth communication" could be required, before the start of each audit cycle.</p>	<p>Paragraphs 21-23 of the guidelines include the criteria for the competent authority to use in order to assess whether to apply an in-depth communication. These criteria are consistent with the criteria mentioned in CRD IV, when referring to institutions which are significant. The 'risk profile' of the credit institution is embedded in the criteria mentioned in this paragraph.</p> <p>The guidelines include more specific requirements also for non-systemically important institutions (paragraphs 22 and 23 refer to 'other institutions determined by competent authorities'). As explained in the impact assessment of the guidelines, including more specific requirements for these credit institutions would increase complexity and the operational burden on the competent authorities and the auditors, and the costs would not be expected to be outweighed by the possible additional benefits.</p> <p>The proportional application of the guidelines entails an assessment of the size and systemic impact of a credit institution (paragraphs 21 and 22)</p> <p>Including a requirement to communicate the competent authority's need for in-depth communication to the auditor through a communication plan would increase the operational burden on both parties in the communication and</p>	No change



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<p>reduce its effectiveness. Instead, the appropriateness of the communication should be assessed on an on-going basis (at any time during the supervisory or audit processes in addition to at the start of each audit cycle) so as to remain adaptable to unexpected circumstances and to meet the objective of the guidelines (paragraph 23); the competent authorities should consult auditors on the appropriateness of the frequency and timing of communication (paragraph 45).</p>			
<p>Question 5 (Scope of the information shared)</p>			
<p>Paragraphs 27 52 Annex (issues to share information)</p>	<p>One respondent suggested stating that the list of issues in the Annex is indicative rather than comprehensive, in order to support the evolution of communications over time.</p>	<p>The Annex to these guidelines provides a non-exhaustive list of areas and issues on which information could be shared between competent authorities and auditors.</p>	<p>Amendments to paragraphs 27, 30, 33 and 52 and to the introductory paragraph 54 in the Annex.</p>
<p>Paragraphs 29 to 31 (Flow of information from auditors to competent authorities)</p>	<p>a) Some respondents suggested clarifying that auditors are not required to provide competent authorities with written materials on the areas for discussion mentioned in the guidelines. b) A few respondents mentioned that auditors should not be obliged to disclose</p>	<p>a) The topics for discussion which are mentioned in the guidelines are areas for possible discussion and they do not necessarily require auditors to provide written material on them, unless it is deemed appropriate to do so in accordance with the requirements of paragraph 36 of the guidelines (please refer also to comments on Question 6 on the form of communication).</p>	<p>a) Amendments to the definition of 'in-depth communication' and to paragraph 36. b) No change for impact on the roles</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<p>their working papers to the competent authorities as this may bring confusion to the roles of competent authorities, auditors and audit oversight bodies.</p> <p>c) A few respondents suggested that auditors are not required to perform additional work (such as long-form reporting) for supervisory purposes and that the scope of information to be provided by the auditors relates to the statutory audit work.</p> <p>d) One respondent mentioned that auditors should only be obliged to provide information on the audit report (article 10 of the Audit Regulation), the additional report to the audit committee (article 11 of the Audit Regulation) and to report to the competent authorities in accordance with article 12(1) of the Audit Regulation.</p> <p>e) One respondent deemed that the examples of information shared in the Annex should not go beyond the auditor's duty to report.</p>	<p>b) Regarding the disclosure of working papers by the auditors to the competent authority, paragraphs 17 and 18 of the guidelines require that each party retains its respective responsibilities, taking into account the different responsibilities of competent authorities and auditors, which derive from the different scope and purpose of their functions. The supervised credit institution should remain the main source of information for their work. Principles 1 and 2 (and the detailed guidance on them) specify that the information shared should be relevant and material information which may facilitate the exercise of the supervisory tasks. Therefore, the competent authority will need to assess whether the information meets these criteria in order to require the auditors to share additional material related to it.</p> <p>c) Regarding the scope of the information to be shared, please refer to Question 1 (paragraph 7) on the scope of the guidelines, which refers to the statutory audit of credit institutions. Amendments have been made to clarify the issues for sharing information between the auditors and competent authorities within the scope of communication.</p> <p>(d) Besides the topics for discussion which are mentioned by the respondent, additional areas may be discussed in accordance with the objectives and</p>	<p>and responsibilities of the disclosure of working papers.</p> <p>c) Amendment to paragraph 7 (scope) and to the definition of 'in-depth communication' in paragraph 30 and Annex.</p> <p>d) Amendments to paragraphs 27, 30, 33, 52 and the introductory paragraph 54 in the Annex.</p> <p>e) No change.</p>	



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		<p>the scope of guidelines. Please refer to the comments on question 1 (paragraph 7 on the scope of the communication).</p> <p>(e) The scope of the guidelines is without prejudice to the auditor’s duty to report as mentioned in the Audit Regulation (Article 12(1)) and paragraph 9 of the guidelines. Nevertheless, as mentioned in the background section of the guidelines (paragraph 3), 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.</p>	
<p>Paragraphs 32 to 34 (Flow of information from competent authorities to auditors)</p>	<p>a) Some respondents asked for a requirement for competent authorities to promptly notify auditors of the main findings detected and to give auditors access to other useful information (e.g. supervisory risk assessments, other supervisory reviews, regulatory reports and related regulatory communications).</p> <p>b) A few respondents suggested that the guidelines should require that competent authorities communicate with auditors any matter that might significantly impact</p>	<p>(a) Competent authorities should share information on issues that emerge during the process of supervision and that are considered, in the competent authority’s judgement, relevant for the statutory audit (paragraph 32). Paragraph 33 and the Annex refer to the information to be provided by the competent authorities, which includes also the areas for discussion mentioned by the respondents, subject to the abovementioned assessment performed by the competent authority.</p> <p>(b) Notwithstanding the fact that the scope of the guidelines is without prejudice to the auditor’s duty</p>	<p>No change</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	the credit institution's financial statements or ability to be considered a going concern.	to report (as mentioned in the Audit Regulation in Article 12(1) and in paragraph 9 of the guidelines), the guidelines include in the relevant information to be shared between competent authorities and auditors (paragraphs 30 and 33), the 'ability of the credit institution to continue as a going concern', together with more specific issues related to this area in the Annex to these guidelines.	
Paragraph 28 (List of issues for sharing information)	One respondent suggested clarifying that the list prepared by competent authorities should include issues identified by both competent authorities and auditors.	The guidelines include the requirements that information shared should be relevant to the tasks of both parties (principle 1), both parties are responsible for establishing effective communication (paragraph 13) and competent authorities should consult auditors on the issues to be included in the list of issues for discussion (paragraph 28). Therefore, issues identified by auditors could also be included in this list.	No change
Paragraph 33 (Issues for sharing information)	One respondent suggested reordering the bullet points in paragraphs 30 and 33 to make comparisons easier.	To avoid confusion, the bullet points have been reordered to follow the order of the Annex.	Reorder bullet points in paragraph 33
Paragraph 38 (Inclusion of auditors in communication of competent authority with credit institutions)	One respondent suggested that it would be helpful for competent authorities to routinely include auditors in significant emails to the credit institution, e.g. about SREP or capital and liquidity requirements.	Principle 3 and paragraphs 32-33 include the requirements for the competent authority to assess the information to be shared with the auditors, and during this assessment the competent authority may deem it appropriate to inform the auditors also about the information mentioned by the respondents.	No change



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<p>Paragraphs 30, 33 and Annex (Examples of issues for sharing information)</p>	<p>A few respondents suggested specifying further some of the examples of issues for sharing information. Some of these are:</p> <ul style="list-style-type: none"> (a) corporate governance and internal controls which are 'relevant to financial reporting' (30(b) and 33(c)) (b) reference to Article 20 (corporate governance statement) of Directive 2013/34/EU (c) auditors' reports are already available to competent authorities. 	<p>The scope of information to be shared during the communication is mentioned in the introduction in paragraphs 30 and 33, respectively (topic (a)).</p> <p>The detailed issues for sharing information which are mentioned in the Annex have been amended in line with the comments of respondents for more clarity and accuracy (topics (b) and (c)).</p>	<p>Amendments to the Annex for (b) and (c).</p>
<p>Annex (Examples of issues for sharing information)</p>	<p>A few respondents suggested removing some of the examples of areas for sharing information which seem too detailed or the benefits of sharing information on them are unclear. Some of these are:</p> <ul style="list-style-type: none"> a) the critical accounting estimates and indications of management bias specifications, b) risk assessment and scope, c) specific work undertaken by the auditor on particular transactions, d) audit approach, e) significant difficulties encountered during the statutory audit and circumstances that have led to a significant change in the audit planning, f) auditors' reports, g) issues identified during the statutory 	<p>These examples of information which may be shared during the communication aim at facilitating communication for both parties. For this reason, they have been retained in the guidelines. Amendments to paragraphs 27, 52 and 54 to clarify the aim of the Annex, which is to provide a non-exhaustive list of areas and issues on which information could be shared between competent authorities and auditors. Amendments also to paragraphs 30 and 33 and the relevant subheadings in Annex to clarify previous term used 'auditors' reports' (distinguishing between auditors' communication with the credit institution, audit report and auditors' findings) (all topics a, b, c, d, e, f, g, h).</p>	<p>Amendments to paragraph 27, 52 and the introductory paragraph 54 in the Annex (all topics). Amendments to paragraphs 30, 33 and the relevant Subheadings in Annex (all topics).</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>audit and communicated to the credit institution's management body, senior management or audit committee, or body performing equivalent functions within the credit institution, and significant issues which have been intensely discussed</p> <p>h) appointment, removal and oversight of external auditors regulated by national laws.</p>		
<p>Annex (Examples of issues for sharing information)</p>	<p>A few respondents suggested removing some of the examples of areas for sharing information as they seem to require information which is beyond the scope of the role and responsibility of the external auditor.</p> <p>Some of these are: 'a) suitability of the members of the credit institution's management body, the senior management or the audit committee, or body performing equivalent functions within the credit institution b) auditors to assess if information is relevant to supervisory tasks (e.g. audit approach) may create liability risk.</p>	<p>Regarding the scope of the information to be shared, please refer to Question 1 (paragraph 7) on the scope of the guidelines, which refers to the statutory audit of credit institutions. The relevant wording of the areas in paragraphs 30 and 33 and the detailed topics within these areas in the Annex have been amended to clarify the type of information to be shared which is relevant to the statutory audit and the supervisory process.</p> <p>With regard to topic (b), paragraph 17 of the guidelines specifies that the main source of information is the credit institution and Article 12(3) of the Audit Regulation provides for a safe harbour for the communication to take place.</p>	<p>Amendments to the subheadings in paragraphs 30 and 33 and detailed issues in Annex. Amendment to paragraph 7 (scope of communication).</p>



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**Annex
(Examples of issues
for sharing
information)**

A few respondents suggested adding or specifying further some areas for sharing information. Some of these are:

- a) main concerns of the competent authority regarding the risks of credit institutions, according to the results of the supervisory activity,
- b) emerging issues and macroeconomic developments affecting the credit institution's industry, problems encountered in past audits or communication with auditors and possible solutions,
- c) sharing information based on 'each party's views and perspectives on relevant risks of the credit institution',
- d) sharing information on the "assessment of the capability, competence and quality of the credit institution's internal audit function, including whether the function is operating to internationally recognised standards, such as the International Professional Practices Framework",
- e) material actual or threatened litigation and disputes,
- f) fraud risks, especially due to weaknesses in internal controls,

Topics (a), (b) and (c) are already mentioned in the Annex and, in accordance with paragraph 18 of the guidelines, during this communication the different roles and responsibilities, as well as the scope and purpose of each party, should be taken into account. The benefit of specific reference to internationally recognised standards may be unnecessarily prescriptive (topic (d)).

The wording of the Annex has been amended in line with the comments received to the extent that these topics were not already mentioned in the guidelines (topics (e), (f), (g), (h) and (i)).

Amendments to the detailed issues in the annex (topics (e), (f), (g), (h) and (i)).



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>g) adjusted audit differences, h) disagreements between management and the auditor, i) 'auditor's observations on matters that are significant...' as an example of material control weakness,</p>		
Question 6 (Form of communication)			
<p>Paragraph 36 (Use of written form of communication)</p>	<p>A few respondents thought that written communication should not be mandated by the guidelines as this would result in higher costs and may be less effective as written communication tends to be more tightly risk-managed and may be less timely.</p> <p>One respondent would like communication to be written where the credit institution needs to act in response to the communication.</p>	<p>Please refer to the response to the general comments on definitions with regard to the amendment to the definition of 'in-depth communication' and also to the response to the comments on the use of the term 'auditors' reports' in the Annex.</p> <p>The EBA understands that the costs and burdens arising from requiring written communication with respect to auditors' reports needs to be considered in the light of the proportional application of these guidelines, as well as the requirement to consider the materiality and relevance of information shared. In this regard, paragraph 36 of these guidelines sets out some criteria for the competent authorities to assess when written communication should be used, so that the additional benefits should outweigh the associated additional costs. The text of the guidelines</p>	<p>Amendment to the definition of 'in-depth communication', paragraphs 30 33 and the relevant Subheadings in Annex and paragraph 36.</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Paragraph 37 (Physical meetings)	A few respondents would prefer the guidelines to focus on physical meetings.	<p>in paragraph 36 has been amended to include auditors' communication with management, audit reports and auditors' findings' as an example of a case where the use of written communication may be appropriate.</p> <p>Paragraph 36 in the guidelines describes situations where written communication may be appropriate. This may include situations where a credit institution is required to act in response to the communication.</p> <p>Principle 4 on the form of communication and the detailed guidance on it require the form of communication to be appropriate in order to facilitate the task of supervision. Physical meetings may be the appropriate form of communication, but other forms of communication may be appropriate also under certain circumstances, for example when physical meetings are not feasible or for cost-efficiency reasons, when the guidelines are applied in a proportionate manner.</p>	No change.
Question 7 (Participants in the communication)			
Paragraph 38 (Contact details)	One respondent stated that it should be clear to both parties whom they should contact, including when their usual contact is unavailable.	Under paragraph 13 of the guidelines both the competent authorities and the auditors are responsible for establishing effective communication and therefore both parties should be aware of the relevant contact persons.	No change.



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<p>Paragraphs 40, 41 (Involvement of the credit institution in the communication)</p>	<p>One respondent preferred that trilateral meetings be the primary method of communication.</p>		
	<p>One respondent preferred that the credit institution be given the right to request a trilateral meeting and that the competent authority should consider this request.</p>	<p>The participants in the communication are linked to the scope and the objective of the guidelines. Based on the EBA stock-take survey, bilateral communication is more effective than trilateral meetings. However, paragraphs 40-41 of the guidelines include the conditions for arranging trilateral meetings including the credit institution. Internal auditors could be one example of other participants in the communication.</p>	
	<p>One respondent suggested also that the competent authority updates the credit institution on the communication with the auditor, provides the credit institution notice if additional regulators were to be invited to meetings between the auditor and competent authority, and give the credit institution the opportunity to respond to any potential issues.</p>		<p>Principle 5 and the detailed guidelines on it include circumstances when a trilateral meeting (including the Audit Committee) may be useful (paragraphs 40-40). The participants in the communication should be primarily the representatives of the competent authority and the auditors, in line with the scope of the guidelines. Additional participants may be involved if deemed useful in the competent authority's judgement (paragraphs 40-41), and the Audit Committee of the institution could be one of these parties.</p>
	<p>One respondent noted that there may be circumstances where other members should be invited to meetings (internal auditors).</p>		
	<p>One respondent deemed that any relevant information related to a credit institution should also be shared with the Audit Committee of that credit institution.</p>		



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>One respondent suggested that both auditors and competent authorities consider communicating in writing to the credit institution matters that they think the other would be interested in.</p>		
<p>Paragraph 42 (Involvement of other authorities in the communication)</p>	<p>A few respondents prefer that the audit regulator is not included in the institution-specific meetings because it would impair the effectiveness of those meetings. However, they would be support the audit regulator being included in the collective meetings.</p> <p>One respondent noted that there may be circumstances where the resolution authority should be invited to meetings.</p>	<p>Paragraph 41 of the guidelines provides the possibility to invite other authorities to the bilateral meetings with auditors or to inform them about the outcome of their discussions if in the competent authority’s judgement it would facilitate the exercise of supervisory tasks. The audit regulator is an example of another participant in a trilateral meeting, as well as resolution authorities. Based on the EBA stock-take survey, inviting other authorities to the bilateral communication with auditors or informing them about the outcome of the bilateral communication may be useful in some circumstances (e.g. when the information is relevant to the tasks of the other authorities).</p>	<p>Amendment to paragraph 42</p>
<p>Paragraph 43 (Drafting of minutes)</p>	<p>One respondent suggested that to the extent that a written record of oral communication is deemed necessary, the competent authority could draft minutes for the auditor to approve.</p>	<p>In accordance with paragraph 43 of the guidelines, minutes may be retained by the competent authorities and the auditors for the purpose of internal tracking of the communication and safeguarding the succession continuity of the communication. It is unclear how a requirement for auditors to approve the minutes of the meetings would be consistent with the objectives mentioned above and whether any benefits from this would justify the additional administrative cost for both</p>	<p>No change.</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		parties.	
Question 8 (Frequency and timing of communication)			
Paragraph 45 (Authoritative status)	One respondent was concerned that the guidelines do not state the legal implications if auditors and competent authorities disagree on the frequency of meetings.	Please refer to paragraph 13 of the guidelines, where both parties are responsible for establishing effective communication. The legal implications of non-compliance with EBA guidelines fall within the remit of national sanctioning provisions and the established system of administrative procedures.	No change.
Paragraph 46 (Timing of communication)	A few respondents prefer that bilateral meetings be required at both the planning and concluding (before signing the audit report) stages of the audit for in-depth communication. One respondent would like an additional bilateral meeting to be required during auditors' review of interim reporting.	The scope of the guidelines is communication of the competent authority with auditors in their role of supervising and carrying out the statutory audit of credit institutions respectively (paragraph 7), and both parties are responsible for the effective communication in accordance with the Audit Regulation (paragraph 13). The supervisory process is an on-going process and communication may take place at any time during the supervisory and audit processes (paragraph 46). Paragraph 45 includes the requirement for the competent authorities to consult auditors on the appropriateness of the frequency and timing of communication; therefore, communication could also take place during the times that respondents have mentioned in their responses. The benefits of a requirement for more than one annual bilateral meeting would be disproportionate	No change.



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Paragraph 47 (Additional circumstances for meetings)	One respondent recommended that handover meetings take place when there is a change of primary contact at either the audit firm or the competent authority supervising the credit institution.	<p>compared with the benefits, according to the EBA stock-take survey and the impact assessment.</p> <p>Regarding a bilateral meeting during the interim reporting, so far as it is within the scope of the statutory audit, communication could also take place during that time (paragraph 45).</p> <p>Please refer to paragraph 13 of the guidelines, in which it is required that both parties are responsible for establishing effective communication, and principle 6 and paragraph 46 of the guidelines, where it is required that communication takes place in a timely manner, at any time during the supervisory and audit processes, as appropriate. Communication may also occur on an ad hoc basis if needed in accordance with paragraph 47 of the guidelines, and a change in primary contact may fall within these categories. However, the EBA believes that requiring communication to take place in these particular circumstances would place an undue burden on both parties, considering also that this requirement is already envisaged in paragraph 43 of the guidelines, in that both of them should safeguard the continuity of the communication.</p>	No change
Question 9 (Collective communication)			



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
<p>Principle 7 (Timing of meeting)</p>	<p>One respondent recommended that the collective meeting should take place at the planning stage of the audit and that there may be a demand for a second collective meeting later in the cycle.</p>	<p>The guidelines require competent authorities to meet collectively with auditors at least annually (paragraph 50) and collective meetings may take place more frequently. The supervisory process is an on-going process and communication may take place at any time during the supervisory and audit processes as appropriate. Based on the EBA stock-take survey and the impact assessment, the benefits of a requirement of more than one annual collective meeting would be disproportionate compared to the benefits of it.</p> <p>Similar to the requirements in paragraphs 45 and 46 of the guidelines (institution-specific communication), the guidelines have been amended for consistency (principle 7 and a new paragraph after paragraph 50) to clarify that communication could take place at any time during the supervisory and audit processes and that the competent authorities should consult the auditors on the appropriateness of the frequency and timing of the communication at the collective level.</p>	<p>Amendment to principle 7 and new paragraph after paragraph 50.</p>
<p>Paragraphs 49-52 (Participants)</p>	<p>One participant mentioned that the guidelines do not explain comprehensively what is meant by ‘auditors collectively’. This could include representatives of a single firm that audits a number of institutions, a network of firms from</p>	<p>The guidelines do not prescribe a particular composition for collective meetings, other than different groupings of auditors may be appropriate (paragraph 49). The EBA understands that different groupings of auditors may facilitate collective meetings and that interactions at different levels may</p>	<p>No change.</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>across a number of member states, multiple firms or multiple networks of firms, or a professional association of accountants. It may be helpful to recite that interactions at all these levels may be useful but might have a different focus.</p>	<p>have a different focus.</p>	
<p>Paragraph 49 (Information to be shared)</p>	<p>A few respondents said that it was not clear how the EBA envisaged this meeting. The guidelines should explain how information flows from institution-specific meetings to the collective meeting, whilst retaining confidentiality.</p> <p>One respondent suggested that ‘ensuring’ a common understanding would be too difficult to achieve. A better wording would be to ‘endeavour to develop’.</p>	<p>Principle 7 and paragraph 49 include the requirements to share industry-specific information during collective communication; therefore, no institution-specific information which may be confidential should be shared during collective meetings. Please refer also to the comments on confidentiality (paragraph 19), which clarifies that information shared during the communication is subject to the confidentiality requirements laid down in Section II of Chapter 1 in Title VII of CRD IV.</p> <p>Edits for clarity to replace ‘ensure’ understanding with ‘endeavour to develop’.</p>	<p>Amendments to paragraphs 19 and 49. Amendment to principle 7 and new paragraph after paragraph 50.</p>
<p>Paragraph 52 (Involvement of other authorities in the communication)</p>	<p>A few respondents suggested that representatives of accounting or auditing bodies could attend the collective meetings (such as the Federation of European Accountants (FEE) and Institute of Internal Auditors).</p>	<p>In accordance with paragraph 53 (previous paragraph 52 in the consultation paper on the draft guidelines) of the guidelines, the participants in collective meetings may include the competent authority, representatives of the audit firms that conduct the statutory audit of credit institutions and other relevant authorities. These participants mentioned by respondents may also be included as examples of participants (‘accounting’ and ‘auditing’</p>	<p>Amendment to paragraph 53.</p>



Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		have been added to the wording, together with associations representing the banking industry).	
Question 10			
Impact assessment (Cost-benefit analysis)	A few respondents considered that communication may cost more than indicated in the impact assessment.	<p>Based on the EBA stock-take survey across Member States and outreach activities with audit firms practising in the EU, competent authorities of all Member States already communicate with the auditors of credit institutions on both a bilateral and a collective basis.</p> <p>In the impact assessment of these guidelines, the EBA has identified costs related mainly to:</p> <ol style="list-style-type: none"> 1. an annual meeting with the auditors of credit institutions that require in-depth communication (GSILs, OSILs and other credit institutions designated by a competent authority) 2. an annual collective meeting <p>Both requirements would lead to compliance costs (such as costs of meetings, additional human resources, passing of the direct incremental costs to the credit institution through an increase in audit fees) in the case of communication with the auditors of credit institutions for which additional requirements are applied or in cases when collective meetings are not already taking place. Both these cases are expected to be limited</p>	Amendments to the Cost-benefit analysis to explain the basis for the estimate of the costs of a bilateral meeting.



Comments

Summary of responses received

EBA analysis

Amendments to the proposals

The EBA believes that the incremental costs of these requirements 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.

Question 11 (Additional comments)

Comments have been included under the questions above on the basis of their relevance.
