

EBA FINAL draft implementing technical standards

on collaboration concerning supervision between the competent authorities of home and host Member States in relation to sharing of information in accordance with Article 50(7) of Directive 2013/36/EU



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Contents

1.	Executive summary	3
2.	Background and rationale	5
3.	Draft implementing technical standards on collaboration concerning supervision between the competent authorities of home and host Member States in relation to sharing of information in accordance with Article 50(7) of Directive 2013/36/EU	7
4.	Accompanying documents	14
4.1	Cost–benefit analysis/impact assessment	14
4.2	Feedback on the public consultation and on the opinion of the Banking Stakeholder Group	19

1. Executive summary

The draft implementing technical standards (ITS) establish standard forms, templates and procedures for the information sharing requirements which are likely to facilitate the monitoring of institutions which operate through a branch or through the freedom to provide services in one or more Member States other than that in which their head offices are situated. The standards apply in relation to the information specified in regulatory technical standards (RTS) adopted by the Commission under Article 50(7) of Directive 2013/36/EU (the Capital Requirement Directive [CRD]).

The draft ITS are structured in two major parts: (i) the procedure for information exchange during going concern situations and (ii) procedures for information exchange in a liquidity stress situation. For going concern situations, the main elements of the ITS refer to the timing of the exchange of information, which envisages semi-annual exchange of information regarding liquidity and findings from liquidity supervision, the annual exchange of information regarding solvency and other items specified in the draft RTS as a regular procedure, and speedier procedures for notification regarding issues of non-compliance with regulatory requirements and application of supervisory administrative penalties or other administrative measures. It is planned that information regarding provision of services will be exchanged upon request by the competent authorities.

The draft ITS also outline operational procedures, including the establishment of contact lists and interaction in cases where a college of supervisors has been set up, and use of common formats and templates. The draft ITS also set out the procedure for ad hoc information requests.

The draft ITS are supplemented by two annexes: Annex 1, containing templates and explaining the formats to be used for quantitative and qualitative information to be exchanged on a regular basis (semi-annual for liquidity information for significant branches and annual for all other information), and Annex 2, containing the template for the exchange of information in a liquidity stress situation. It should be noted that certain non-quantitative information regarding management and ownership, liquidity management policies and procedures, and preparations for emergency situations, and information regarding non-compliance with regulatory requirements, the application of supervisory measures and administrative penalties or other administrative measures shall be provided in the format deemed appropriate by the competent authority providing the information.

The draft ITS should be read together with the accompanying draft RTS specifying the information to be exchanged between the competent authorities of the home and host Member States. The EBA publicly consulted on both RTS and ITS and did not receive any comments.

Given that certain quantitative information items specified in Annex 1 are based on the information reported by supervised institutions under the format specified in the EBA reporting standards, the EBA intends to provide exact references to these information items in the reporting standards. However, given that the RTS and ITS will not apply until the liquidity coverage requirement becomes applicable due to the transitional arrangements specified in Title XI, Chapter 1 of Directive 2013/36/EU, the EBA will update the Annex with correct references at a later stage. As the addition of these references has

already been subject to consultation, the EBA does not plan to carry out a further public consultation prior to submitting the final references to the Commission in a revised technical standard.

Following the requirement of Article 50(8), the EBA has submitted both technical standards to the European Commission; however, their adoption is subject to the transitional arrangements specified in Title XI, Chapter 1 of Directive 2013/36/EU.

2. Background and rationale

The CRD ⁽¹⁾ sets out the requirements for competent authorities to cooperate and exchange information regarding institutions operating through branches and the freedom of provision of services, and mandates the EBA to prepare draft ITS in this area.

Supervisory cooperation between competent authorities of home and host Member States is an important element for ensuring safeness and soundness of the single market and protecting the interests of depositors and investors across the Union. The importance of appropriate exchange of information and cooperation between the competent authorities supervising institutions operating through branches or through the freedom to provide services in one or more Member State has already been recognised in the earlier amendments to the CRD, which in Article 42 required competent authorities to ‘supply one another with all information concerning the management and ownership of such credit institutions that is likely to facilitate their supervision and the examination of the conditions for their authorisation, and all information likely to facilitate the monitoring of such institutions, in particular with regard to liquidity, solvency, deposit guarantees, the limiting of large exposures, administrative and accounting procedures and internal control mechanisms’.

In 2009, the EBA’s predecessor, the Committee of European Banking Supervisors (CEBS), was asked by the Commission in a Call for Advice to specify categories of information to be exchanged between supervisors in relation to institutions operating through branches. The CEBS provided its advice in June 2009 ⁽²⁾, but this has not been explicitly incorporated into the Level 1 legislation, and the CRD at that time did not specify what information should be exchanged and how it should be exchanged between the competent authorities, leaving this to national discretion and implementation.

Certain episodes of the financial crisis, however, highlighted weaknesses in the framework for exchange of information regarding institutions operating through branches, and the branches themselves. To address this significant shortcoming highlighted by the crisis, the revised CRD in its Article 50 strengthens the requirements for competent authorities to cooperate and exchange information regarding institutions operating through branches. Article 50(7) also mandates the EBA to draft ITS to establish standard forms, templates and procedures for information exchange amongst competent authorities.

These ITS are seen as a major step forward in order to introduce structure and consistency in information exchange, ensuring equal access for competent authorities of host Member States to supervisory information regarding institutions operating through branches or through their freedom to provide services in other Member States, especially through the introduction of regular and structured provision of key supervisory information on a semi-annual and annual basis, as opposed to unstructured and uncoordinated ad hoc information requests.

The draft ITS should be read together with the accompanying draft RTS specifying what information shall be exchanged between the competent authorities.

⁽¹⁾ The final text of the CRD is available at OJ L 176, 27/06/2013, p. 338, <http://new.eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L:2013:176:TOC>

⁽²⁾ See: <http://www.eba.europa.eu/documents/10180/16106/CEBS%27s+advice+on+article+42+of+CRD.pdf>

The EBA publicly consulted on both RTS and ITS and did not receive any comments. The EBA has submitted both technical standards to the European Commission; however, their adoption is subject to the transitional arrangements specified in Title XI, Chapter 1 of Directive 2013/36/EU.

Given that certain quantitative information items specified in Annex 1 are based on the information reported by supervised institutions under the format specified in the EBA reporting standards, the EBA intends to provide exact references to these information items in the reporting standards. However, given that the RTS and ITS will not apply until the liquidity coverage requirement becomes applicable due to the transitional arrangements specified in Title XI, Chapter 1 of Directive 2013/36/EU, the EBA will update the Annex with correct references at a later stage. As the addition of these references has already been subject to consultation, the EBA does not plan to carry out a further public consultation prior to submitting the final references to the Commission in a revised technical standard.

Any draft ITS are produced in accordance with Article 15 of the EBA Regulation. According to Article 15(4) of the EBA Regulation, ITS must be adopted by means of regulations or decisions.

According to EU law, EU regulations are binding in their entirety and directly applicable in all Member States. This means that, on the date of their entry into force, they become part of the national law of the Member States and that their transposition into national law is not only unnecessary, but also prohibited by EU law, except insofar as this is expressly required by them.

Shaping these rules in the form of a regulation will ensure a level playing field by preventing diverging national practices, and will ease the cross-border provision of services.

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3. Draft implementing technical standards on collaboration concerning supervision between the competent authorities of home and host Member States in relation to sharing of information in accordance with Article 50(7) of Directive 2013/36/EU

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

of XXX

laying down implementing technical standards with regard to collaboration concerning supervision between competent authorities of home and host Member States in relation to sharing of information, according to Directive 2013/36/EU of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council 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 Directive 2006/48/EC and 2006/49/EC³, and in particular to Article 50(7) thereof,

Whereas:

- (1) In order to ensure efficient and timely cooperation between competent authorities of home and host Member States information exchange should be two-way, within the respective supervisory competences of those authorities. Standard formats, templates and operating procedures, including timelines, should therefore be specified for the exchange of information during going concern situations and liquidity stress situation. Harmonised reference dates and maximum remittance dates for the information to be exchanged on a regular basis should also be established, providing for information to be exchanged on a semi-annual or annual basis. To ensure that the most up-to-date information is exchanged, competent authorities should nevertheless exchange information as early as is practicable without waiting until the maximum remittance dates specified.
- (2) Without prejudice to procedures for standard information exchange established in this Regulation, competent authorities of home or host Member States should inform each other without undue delay about any potential situation affecting the financial stability or functioning of a branch and provide all essential and relevant information regarding that situation.

³ OJ L 176, 27.6.2013, p.338.

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- (3) Given the differences in size, complexity and significance of branches, it is important to recognise the principle of proportionality in the exchange of information and in the standard forms, templates and procedures established to facilitate that exchange. To this end, the more limited information needs of competent authorities in host Member States which are responsible for branches and compared with those which are responsible for branches identified as significant in accordance with Article 51 of Directive 2013/36/EU should be reflected in establishing more extensive forms and templates and frequencies to be shared with the latter than with the former.
 - (4) Information exchange between competent authorities of home and host Member States is not limited to the types of information specified in Article 50 of Directive 2013/36/EU, and therefore to the types of information specified in this Regulation. In particular, Directive 2013/36/EU makes separate provision for exchange of information regarding on-the-spot verification of branches, notifications of the exercise of the right of establishment and of the freedom to provide services, and measures, including precautionary measures, taken by competent authorities in relation to branches and their parent undertakings. This Regulation should therefore not specify exchange of information requirements in those areas.
 - (5) Standard forms, templates and procedures should also address exchange of information in relation to the carrying on of activities in a host Member State by way of the provision of services. Given the nature of cross-border services, competent authorities of host Member States have an information gap regarding operations being conducted in their jurisdictions, and covering that gap is essential for the purposes of safeguarding financial stability and monitoring conditions of authorisations, in particular monitoring whether the institution provides services in accordance with the notifications provided. Despite the importance of such information, the potential burden in collecting and disseminating it to all competent authorities of host Member States is such that the information should be provided following a request from the competent authorities of host Member States rather than being exchanged on a regular basis.
 - (6) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.
 - (7) The EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010⁴,

⁴ 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).

HAS ADOPTED THIS REGULATION:

CHAPTER I

Subject matter

Article 1

Subject matter

This Regulation establishes standard forms, templates and procedures for the information sharing requirements which are likely to facilitate the monitoring of institutions which operate through a branch or through the freedom to provide services in one or more Member States other than that in which their head offices are situated. It applies in relation to the information specified in regulatory technical standards adopted by the Commission in accordance with Article 50(6) of Directive 2013/36/EU.

CHAPTER II

Information exchange regarding institutions operating through a branch on a going concern basis

Article 2

Timing and frequency of information exchange

1. Information shall be exchanged with the following frequencies:
 - (a) without undue delay in relation to information which concerns non-compliance with legislative or regulatory requirements or the application of supervisory measures, administrative penalties or other administrative measures, or criminal penalties and at the latest within fourteen calendar days of the earlier of the determination by the competent authorities of the non-compliance situation or of the application of the supervisory measure, administrative penalty or other administrative measure or criminal penalty;
 - (b) semi-annually in relation to quantitative information which concerns liquidity and findings from the supervision of liquidity and which is provided to the competent authorities of host Member States which supervise a significant branch;
 - (c) annually for information other than that referred to in points (a) and (b).
2. Quantitative information regarding liquidity and findings from the supervision of liquidity shall be provided by the competent authorities of the home Member State to the competent authorities of host Member States which supervise a significant branch by 28 February each year on the basis of the position as at the preceding 31 December and by 31 August each year on the basis of the position as at the preceding 30 June.
3. Information to be provided on an annual basis shall be provided by 30 April each year on the basis of the position as at the preceding 31 December, except for information regarding management and ownership of an institution, which shall be provided on the basis of the most recent information available.

Article 3
Operational procedures

1. The competent authorities of the home Member State shall provide all information regarding the institution to the competent authorities of all host Member States. Information which affects a particular branch only, including information which concerns non-compliance with legislative or regulatory requirements or the application of supervisory measures, administrative penalties or other administrative measures or criminal penalties to a branch, is only required to be provided to the competent authorities of the host Member States in which the affected branch operates.
2. The competent authorities of the home Member State shall maintain and share with the competent authorities of host Member States an up-to-date list for each institution which contains the relevant contacts for the exchange of information between the competent authorities of the home Member State and of the host Member States, including emergency contacts, . For this purpose, the competent authorities of host Member States shall inform the competent authorities of the home Member State of its contacts and of any changes in those contacts without undue delay. The competent authorities of the home Member State and of host Member States shall review the contact list each year.
3. Information shall be exchanged in written or electronic form and shall be addressed to the relevant contact persons identified in the contact list referred to in paragraph 2 unless specified otherwise by a competent authority when it makes a request for information.
4. Where information is exchanged in electronic form, secure channels of communication shall normally be used. The competent authorities may decide to use unsecure channels of communication where appropriate.
5. The following information may be provided orally before being confirmed in written or electronic form:
 - (a) information regarding non-compliance with legislative or regulatory requirements
 - (b) information regarding the application of administrative penalties or other administrative or supervisory measures;
 - (c) information relating to a liquidity stress situation.
6. Competent authorities shall confirm the receipt of information. Where information has been provided in electronic form using secure means of communication the confirmation shall be provided using the same means. Confirmation shall not be required for information which has been provided orally or using a secure means of communication which enables the sender to confirm that the information has been received.
7. Where a college of supervisors has been established to facilitate cooperation in relation to an institution with significant branches in accordance with Article 51(3) of Directive 2013/36/EU, paragraphs 2 to 6 shall not apply and information shall be exchanged using the process agreed in the written arrangements for that college

unless the institution also operates through branches which are not significant branches.

Article 4

Use of common formats and templates

1. Quantitative information regarding the liquidity and solvency of an institution shall be exchanged using the appropriate template specified in Annex 1 and shall be provided in the format specified in the template.
2. Quantitative information regarding the market shares of a branch and volumes of services offered through the exercise of the freedom to provide services shall be exchanged using the appropriate template specified in Annex 1 and shall be provided in the format deemed appropriate by the competent authority that provides the information.
3. Non-quantitative information on the following matters shall be exchanged using the appropriate template specified in Annex 1 and shall be provided in the format deemed appropriate by the competent authority that provides the information:
 - (a) information on liquidity, except information concerning non-compliance;
 - (b) information on solvency, except information concerning non-compliance;
 - (c) information on deposit guarantee schemes;
 - (d) information on cross-border provision of services.
4. Non-quantitative information regarding management and ownership, liquidity management policies and procedures, and preparations for emergency situations shall be provided in the format deemed appropriate by the competent authority that provides the information. The information shall be provided as an appendix to the information exchanged using the template in Annex 1.
5. Information regarding non-compliance with regulatory requirements, application of supervisory measures and administrative penalties or other administrative measures, and identification of an institution as a global systemically important institution or as an other systemically important institution within the meaning of Article 131(1) of Directive 2013/36/EU shall be provided in the format deemed appropriate by the competent authority that provides the information.

CHAPTER III

Information on request of competent authorities

Article 5

Ad-hoc information requests of competent authorities

1. Requests for information that concern information that is not required to be exchanged pursuant to regulatory technical standards adopted by the Commission in accordance with Article 50(6) of Directive 2013/36/EU shall be transmitted in written or electronic form to the appropriate contact persons identified in the contact list referred to in Article 3(2).

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2. A request of the type referred to in paragraph 1 shall explain how the information is likely to facilitate supervision or monitoring of an institution by the competent authority making the request, the examination by that competent authority of the conditions for the authorisation of an institution or the protection of the stability of the financial system, and shall specify a reasonable time by which the response is requested taking into account nature and urgency of the request and information requested.
 3. A competent authority which receives a request of the type referred to in paragraph 1 shall provide the information without undue delay and shall make every effort to respond by the time indicated in the request. If that competent authority is unable to reply by the time indicated in the request it shall inform the competent authority that made the request without undue delay of the time by which it will provide its answer. If the information requested is not available, the competent authority which received the request shall inform the competent authority that made the request accordingly.

CHAPTER IV

Information exchange regarding institutions exercising the freedom to provide services on a going concern basis

Article 6

Principles for information exchange regarding cross-border services

Competent authorities of host Member States in which an institution carries out its activities in exercise of the freedom to provide services which request the competent authorities of the home Member State to provide the information regarding those services specified in regulatory technical standards adopted by the Commission in accordance with Article 50(6) of Directive 2013/36/EU shall provide the request in written or electronic form to the appropriate contact person identified in the contact list referred to in Article 3(2). The competent authorities of the home Member State shall provide the information within three months of receiving the request.

CHAPTER V

Information exchange regarding institutions operating through a branch in a liquidity stress situation

Article 7

Principles for information exchange in a liquidity stress situation

Information concerning a liquidity stress situation shall be provided immediately by the competent authority that determine that a liquidity stress has occurred, or can reasonably be expected to occur with respect to an institution or a branch, using the template specified in Annex 2 and following the procedures specified in Article 3.

CHAPTER VI

Final provisions

Article 8

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Commission
The President

4. Accompanying documents

4.1 Cost-benefit analysis/impact assessment

4.1.1 Introduction

The CRD, enacted in 2006, sets out in Article 42 that competent authorities of the Member States collaborate closely in order to supervise the activities of credit institutions operating in more than one Member State through a branch.

Responding to this, the European Commission had requested the advice of CEBS ('the Advice') to compile an indicative list of information that would facilitate the monitoring of these credit institutions. The CEBS issued its Advice on this in 2009 and underlined the indicative nature of the topics included in the list. The Advice, in general terms, did not provide for how this information should be exchanged.

Directive 2013/36/EU requires in Article 50(6) that the EBA develop draft ITS to establish standard forms, templates and procedures to determine how the information pertaining to this topic of information exchange between supervisory authorities involved in the monitoring of credit institutions operating in more than one Member State should be provided. The CRD also requires that a draft RTS be prepared on this topic. The cost-benefit analysis of that RTS should be read in conjunction with this analysis, as the documents have a complementary nature.

4.1.2 Current framework and procedural issues

While developing its work, the EBA considered whether the Advice issued by the CEBS in 2009 could be used as a potential starting point for the discussions for the preparation of this ITS. However, the Advice remained silent on procedures, templates and forms, and was not fit for this purpose. Furthermore, the Advice was not binding and was not subject to the 'comply or explain' rule.

The main elements used to prepare this ITS have been (i) the debates conducted in the EBA based on the experiences of different Member States in this field and (ii) the ITS for passport notifications (Articles 35 to 39 of the CRD), to the extent that it is relevant.

The EBA also conducted an extensive stocktake among competent authorities of topics that could be included in the accompanying draft RTS, and finally an Impact Assessment Questionnaire was developed to facilitate the appraisal of the expected impact of this new regulation.

4.1.3 Problem definition

The main problem that the EBA is called to contend with is the standardisation of forms and templates and the establishment of common procedures for the information to be notified from (i) the competent authority of the home Member State to the competent authority of the host Member State and (ii) vice versa. In both cases, the information specified can be of a periodic nature, after a specific situation has taken place or because of particular ad hoc requests.

The main goal of the supervisory framework is to achieve harmonisation both at the level of the content of information exchange (which is dealt with by the draft RTS on this topic) and the procedure of information exchange (which is covered by the present draft ITS). To accomplish this, the EBA has to bear in mind that the goal of every technical standard is to achieve the maximum possible harmonisation in order to achieve the objectives of the level playing field, prevention of regulatory arbitrage opportunities and enhancement of supervisory convergence and legal clarity. In addition, developing procedures and templates that address identified problems within current practice is expected to reduce the compliance burden and stimulate effective cooperation for competent authorities in both the home and the host Member States. Nevertheless, maximum harmonisation across the European Economic Area (EEA) does not preclude the use of 'ad hoc' requests, if necessary.

4.1.4 Objectives

It is important to underline that the draft ITS will have no costs for credit institutions, as it refers to information to be exchanged between supervisors.

The impact assessment has been carried out with the aim of ensuring that the four general objectives of the CRD are met and that negative externalities have been contained ⁽⁵⁾. In general terms, it is deemed that the ITS will contribute to a better functioning of the internal market and, in that vein, will foster these general objectives. In particular, for the purpose of the forthcoming analysis, three general objectives are more relevant to the specific ITS:

- Enhance financial stability (G-1). This objective is satisfied, insofar as the draft ITS lay down a particular accelerated procedure for some cases where financial stability could be in jeopardy.
- Enhance safeguarding of depositor interests (G-2). The draft ITS satisfy this objective by providing a definite procedural framework for the exchange of information.
- Ensure the international competitiveness of the EU banking sector (G-3). The common and standardised set of information required by the draft ITS is based as much as possible on information already available to supervisors, thus avoiding compliance costs for the banking sector. At the same time, flexibility is provided, as in some cases the use of a free format is permitted in order to not burden supervisors with the preparation of templates.

The (specific) operational objectives that are the most relevant and addressed, implicitly or explicitly, by this impact assessment are the following:

- Prevent regulatory arbitrage opportunities (S-3). In line with the task of building up a Single Rule Book of Supervision at European level, the draft ITS reduce the risk of national approaches that could result in inconsistencies in the set of information required by authorities for credit institutions that operate across borders within the EEA.
- Enhance legal clarity (S-4), by providing clarity on the respective roles of home and host authorities, and the templates to be used. It is expected that costs resulting from the use of inappropriate means of transmission will be reduced.
- Reduce the compliance burden (S-5). A harmonised framework of technical standards among competent authorities in the EU will have a beneficial impact on the compliance costs sustained both by competent authorities and by credit institutions: for authorities and credit institutions, because information submissions are based as much as possible on information already available, and for credit institutions, because they are not required to submit information to different authorities.
- Enhance supervisory cooperation and convergence (S-7). Cooperation among authorities will benefit from the introduction of the ITS, as this exchange of information will converge on a common standard in the light of the precise procedures for sending information and the use of common templates and forms.

4.1.5 Policy options: analysis and comparisons/preferred options

Conditions set out by the Level 1 text

A number of conditions were set out by the Level 1 text and are thus being put forward by the draft ITS as elements to define that comprise the baseline option. Not taking any other action to specify the additional information needed would be one of the alternative options considered (the so-called 'do nothing' option in relation to the Level 1 text and the draft RTS).

⁽⁵⁾ For further information, see the 'Commission Staff Working Paper – Impact Assessment' accompanying the document 'Regulation of the European Parliament and the Council Regulation on prudential requirements for the credit institutions and investment firms' (http://ec.europa.eu/internal_market/bank/docs/regcapital/CRD4_reform/IA_regulation_en.pdf).

i. Distinction between significant and non-significant branches

Given the differences in size and complexity of branches, it has been deemed important to take account of the principle of proportionality, and this has been done by aligning this boundary with the concept of significant branches, as defined in Article 51 CRD. In particular, it is possible that in the case of significant branches a college of supervisors has been established, and the ITS allows the use of this setting to exchange information, thus reducing the cost for the authorities involved.

ii. Common templates and formats

The draft ITS provide for enhanced harmonisation at EU level using standard forms, while at the same time permitting flexibility using a common template, but not a pre-defined format, or even free templates in some cases, such as the internal control mechanisms or information regarding ownership. Insofar as is possible, the templates are the 'mirror' of the information specified in the corresponding RTS.

iii. Frequency and remittance dates

The draft ITS strike an equilibrium between the needs of (mainly host) supervisors and the costs for (mainly home) supervisors. Generally, an annual frequency has been established as the appropriate balance for these two diverging requirements. Nevertheless, two exceptions are envisaged by the relevant RTS:

- Without undue delay in the case of non-compliance issues or the application of supervisory measures or sanctions. A backstop (14 days) has been added to provide further harmonisation.
- Semi-annual information in the case of liquidity items for supervisors of significant branches, to take due account of the importance of this topic for competent authorities in host Member States.

Issues covered by the draft ITS

In addition to the aforementioned elements that are identified and set out in the Level 1 text and the draft RTS on information exchange, the draft ITS will assess the additional impact from implementing the following two elements in the information exchange:

iv. Operational procedures

Written or electronic (where possible, secure) are the typical means, while oral communication can be used in particular cases, thus providing further flexibility, if needed. The draft ITS also establish the need to prepare – and keep updated – contact lists to facilitate the distribution of information.

v. Ad hoc information from host authorities

Finally, the draft ITS allow the possibility of further requests from host competent authorities to home authorities (and vice versa), provided that this additional information will help facilitate the safeguarding of financial stability or the examination of the conditions for the authorisation of a branch. The ITS describe the procedures for such requests.

4.1.6 Cost–benefit analysis ⁽⁶⁾

General assessment

In general terms, the responses provided by the competent authorities ('the respondents') to the impact assessment questionnaire show that the policy options to be introduced by the draft RTS on information exchange have a total net neutral impact upon supervisory authorities. The total net impact has been estimated as the add-on impact on the 'do-nothing' option in relation to the Level 1 text and the draft RTS on information exchange.

⁽⁶⁾ The initial part of this analysis applies to both the RTS and the ITS on this subject.

For the sake of proportionality, the respondents were not asked to provide the exact monetary impact, which would be burdensome to estimate, but were asked to provide the magnitude of impact, i.e. negligible impact (= 1), low impact (= 2), medium impact (= 3) and high impact (= 4). The impact appears as a positive value on the side of benefits and as a negative value on the side of costs. Wherever the net impact (the difference in absolute values between benefits and costs) appears to be negative, it is indicated that there is a net negative (monetary) impact from the implementation of the draft RTS, whereas the net positive values indicate that there is a positive (monetary) impact from the implementation of the draft RTS.

The individual answers on the magnitude of the impact are weighted by the number of banks that have branches in other EEA countries (for home supervisors) and the number of banks from other EEA countries that retain branches (for host supervisors). The result, after applying this weighting, is a marginally positive net impact. The cost–benefit analysis of this report has been based on the weighted results, rather than on the unweighted results, as they are more representative of the absolute magnitude at European level. Nonetheless, and for further information, the summary of the impact, according to the unweighted and weighted approaches, is shown in the following table (where 0 would be a total neutral impact).

Table 1: Unweighted and weighted magnitude of net impact for home and host supervisors and joint net impact for the draft ITS (note: net impact refers to both RTS and ITS impacts)

Unweighted impact		
Net impact for home supervisors	–0.4	Negligible negative impact
Net impact for host supervisors	0.2	Negligible positive impact
Net impact for both home and host supervisors	–0.2	Negligible negative impact
Weighted impact		
Weighted net impact for home supervisors (weights according to number of banks per country)	–0.7	Negligible negative impact
Weighted net impact for host supervisors (weights according to number of banks per country)	0.9	Negligible positive impact
Weighted net impact for both home and host supervisors (weights according to number of banks per country)	0.1	Negligible positive impact

Specific items assessment

i. Benefits

With respect to home authorities, respondents from Member States participating in the questionnaire expect the major benefits from implementing a structured and regular exchange of information to be:

- first, the possibility of receiving timely information regarding non-compliance issues and the application of sanctions and supervisory measures, without undue delays and waiting for the regular cycle;
- second, the possibility of making information exchange suitable for all host supervisors, reducing the workload of the home supervisors;
- third, the prevention of excessive and uncoordinated communication between home and host supervisors, thus reducing the workload of the home supervisors through improved communication management and preparation of information exchange.

From a host authority perspective, the main provisions in the draft ITS stated to be advantages were:

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- the possibility of receiving comprehensive quantitative information on liquidity and solvency as part of a single package, as opposed to receiving and analysing underlying data from the supervisory reporting (COREP/FINREP data);
 - the possibility of streamlining the work carried out at the authorities' level and minimise the need for ad hoc information requests;
 - harmonisation across EU Member States, the possibility of receiving information in a timely manner regarding non-compliance issues and the application of sanctions and supervisory measures, without undue delays and waiting for the regular cycle.

ii. Costs

Regarding home authorities, an analysis of the responses shows that the highest expected costs may be assigned to:

- first, the cost of producing the package of information to exchange;
- second, the collection of information from various sources;
- third, the cost of populating the package with quantitative data on solvency and liquidity, instead of forwarding underlying COREP/FINREP templates.

From a host point of view, the costs declared were:

- the excessive cost of processing the data;
- the excessive – and unnecessary – information received;
- the excessive cost of data storage.

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

The EBA publicly consulted on the draft proposal contained in this paper. The public consultation ran from 8 July 2013 to 8 October 2013. The EBA did not receive any responses to the consultation and the Banking Stakeholder Group did not provide any comments.