



EBA/RTS/2014/07

05 June 2014

EBA FINAL draft Regulatory Technical Standards

on the methodology for the identification of global systemically important institutions (G-SIIs) under Article 131 of Directive 2013/36/EU

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1. Executive summary

Pursuant to Article 131(1) of Directive 2013/36/EU ('the Directive'), competent or designated authorities in the Member States will identify European banks representing a higher risk to the global financial system as Global systemically important institutions (G-SIIs). For G-SIIs, higher own funds requirements will apply depending on their systemic relevance, according to which they will be allocated to sub-categories ('buckets'). Whilst the Directive outlines certain basic principles of the methodology for identifying G-SIIs and allocating them to subcategories, Article 131(18) sets out a mandate for the present draft RTS to specify this methodology further.

The Directive and these draft RTS require Member States' authorities to take into account internationally agreed standards for the identification of systemically important institutions. In particular, this means the framework for global systemically important financial institutions established by the Financial Stability Board and developed by the Basel Committee on Banking Supervision (BCBS). The Directive and the further specification of the methodology are designed so that data reported by EU and non-EU banks for the BCBS identification process can also be used for identification pursuant to the Directive. Member States' authorities should ensure that the data are identical to those used by the BCBS.

Every year, Member States' authorities will calculate a score for each bank to measure its systemic significance. The Directive defines five categories of indicators to be used in this scoring process and these draft RTS specify 12 (sub)-indicators that fall into these categories. In addition, authorities are required to apply the same parameters for calculation and allocation to subcategories: for each year, 'denominators' calculated on the basis of indicator data taken from a sample of large EU and non-EU banks to normalise the indicator values and make the scores comparable, and cut-off scores between the subcategories.

The indicators are designed to reflect the different aspects of potential negative externalities of an entity's failure and its critical functions for the stability of the financial system. In addition, the Directive empowers Member States' authorities to exercise supervisory judgment and designate a bank as a G-SII or re-allocate it from a lower to a higher subcategory. This judgment also refers to the potential impact of a failure and not to the probability that the G-SII will fail.

The identification as a G-SII, i.e. with a higher own funds requirement, will apply with a time lag of approximately one year following the publication of the results of the scoring exercise by Member States' authorities, so the G-SIIs have time to adjust their own funds to the buffer requirement.

In 2015, the first year of application of the RTS, the scoring process will take place twice. In early 2015, authorities will identify G-SIIs based on a score for 2014. For these G-SIIs, the higher own funds requirement will apply as of 1 January 2016. In the second half of 2015, the scores will be updated. This scoring will form the basis for the own funds requirement as of 1 January 2017.

2. Background and rationale

The Directive allows higher own funds requirements to be imposed on G-SIIs to compensate for the higher risk they represent to the financial system and the potential impact of their failure on sovereign finance and taxpayers. When defining the identification process, the subcategories, how G-SIIs are allocated into subcategories and the G-SII buffer capital requirement, the Directive takes into account internationally agreed standards, in particular the framework for global systemically important financial institutions established by the Financial Stability Board following the report 'Reducing the moral hazard posed by systemically important financial institutions – FSB Recommendations and Time Lines'. Based on these recommendations, the Basel Committee on Banking Supervision (BCBS) developed standards for the methodology for assessing global systemically important banks and the higher loss absorbency requirement. The scoring process at the BCBS is already taking place. Several Member States, which are also represented in the G20, have committed to applying a higher own funds requirement to G-SIIs starting in 2016, based on the scoring for 2014.

To reduce the administrative burden for institutions as much as possible, the identification of G-SIIs in the EU is synchronised with the BCBS process, and institutions must report the same data as reported to the BCBS to Member States' authorities. The methodology and parameters applied in the scoring process are substantially the same.

To ensure a harmonised methodology, these draft RTS aim to provide consistent parameters and common timelines and procedures for the identification process and its implementation. Without specifications on these points, the methodology would be incomplete: in the absence of consistent parameters, the scoring process stipulated in Article 131(2) of the Directive could not be carried out because there would be no basis for normalisation and ensuring that indicators are comparable. Therefore, the objectives of harmonising the scoring process and taking into account international standards could not be achieved. In addition, to ensure the comparability of the data used for scoring and an even application of the buffer requirement across the Union, the specification of the methodology in these draft RTS not only incorporates harmonised parameters such as denominators and cut-off scores, but also provides timelines for the scoring process, the publication of results and the application of the buffer requirement following this publication.

A public consultation of the draft RTS on the identification methodology together with the draft ITS and the draft guidelines on disclosure was held in the period from 12 December 2013 to 28 February 2014, and in a public hearing on 28 January 2014. Nine responses were submitted, of which eight have been published on the EBA website. Most respondents welcomed the approach of using the same indicators as under the methodology of the BCBS. In line with their comments, the indicator data, template and instructions have been updated for the latest data collection exercise, and some definitions have been clarified.

3. EBA FINAL draft Regulatory Technical Standards on the methodology for the identification of global systemically important institutions (G-SIIs)

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

of **XXX**

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 institutions

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council 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/EC¹, and in particular Article 131(18) thereof,

Whereas:

- (1) Directive 2013/36/EU empowers competent or designated authorities of the Member States to impose higher own funds requirements on Global systemically important institutions (G-SIIs) in order to compensate for the higher risk that G-SIIs represent for the financial system and the potential impact of their failure on taxpayers. The Directive outlines certain basic principles of a methodology how G-SIIs are to be identified and in a second step allocated to subcategories in accordance with their systemic relevance. In accordance with this allocation they will be assigned an additional Common Equity Tier 1 capital requirement, the G-SII buffer. The methodology of this identification and allocation is based on five categories measuring the systemic significance of a bank for the global financial market, and is further specified in this Regulation.
- (2) When defining the identification process, the subcategories and the allocation of G-SIIs in subcategories and setting a G-SII buffer capital requirement, Directive 2013/36/EU takes into account internationally agreed standards, in particular the framework for global systemically important financial institutions established by the Financial Stability Board following the report ‘Reducing the moral hazard posed by systemically important financial institutions – FSB Recommendations and Time

¹ OJ L 176, 27.6.2013, p. 338.

Lines'. Based on these recommendations, the Basel Committee on Banking Supervision developed standards for the methodology of assessing global systemically important banks and for the higher loss absorbency requirement. In order to follow the approach of Directive 2013/36/EU, this Regulation should take into account the process elaborated by the Basel Committee on Banking Supervision. As international standards for systemically important financial institutions constantly evolve, this Regulation will need to be updated when changes are made to the international standards.

- (3) Directive 2013/36/EU makes clear that the identification and allocation methodology is harmonised in all Member States by the use of uniform and transparent parameters for determining an overall score of an entity to measure its systemic importance. In order to ensure that the sample of European banks and banking groups authorised in third countries serving as a reference to reflect the global financial system are uniform across the Union, the European Supervisory Authority (European Banking Authority) (EBA) should determine it. Exclusions and additions to the sample based on supervisory judgment should be chosen strictly to ensure its function as a term of reference and must not be based on other grounds.
- (4) Timelines and procedures of the G-SIIs identification process should be part of the methodology, as the process should be based on comparable data and should take into account that institutions need clarity as to whether and in which amount a buffer requirement will apply to them. However, since the identification of G-SIIs is to be based on up-to-date data in regard of the sample of large global banking groups some of which are authorised in third countries, the data needed will not be available earlier than in the course of the second half of each year. In order to enable institutions to comply with the requirements resulting from the status as a G-SII, the buffer requirement should take effect as of approximately one year following their identification.
- (5) Directive 2013/36/EU sets forth five categories measuring systemic significance, which are to consist of quantifiable indicators. In order to minimise the administrative burden for institutions and authorities, the categories parallel those applied by the Basel Committee on Banking Supervision. In further defining the quantifiable indicators, this Regulation should follow the same approach. The indicators should be chosen to reflect the different aspects of potential negative externalities of an entity's failure and its critical functions for the stability of the financial system. The reference system for assessing systemic significance should be the global financial markets and the global economy.
- (6) The systemic significance of each banking group measured by the indicators on consolidated basis should be expressed as an individual overall score for a certain year measuring its position relative to other entities of the sample. Based on the overall score banks are to be identified as G-SIIs and allocated to the sub-categories to which different capital buffer requirements will apply. When calculating the score as the average of the category scores, each of the five categories should receive a weighting of 20%. Given that on the basis of an analysis of data until and including the year 2013 the substitutability category proved to have a disproportionately high impact on the score for banks that are dominant in the provision of payment, underwriting and asset custody services, a cap should be applied to that category for the purpose of calculating the overall score.
- (7) National authorities have the option to use sound supervisory judgment to re-allocate a G-SII from a lower to a higher subcategory or to designate an entity as a G-SII that has an overall score that is lower than the cut-off score of the lowest subcategory. As the

objective of this identification by supervisory judgment is the same as the purpose of the regular scoring process, the criterion on which this judgment is to be based should also be the bank's systemic significance for the global financial market and the global economy, in line with the methodology used by the Basel Committee on Banking Supervision. The failure risk of the bank should not be a criterion, as it is already accounted for in other prudential requirements, inter alia in the total risk exposure amount and, where applicable, in further own fund requirements like the systemic risk buffer.

- (8) This Regulation is based on the draft regulatory technical standards submitted by the EBA to the Commission.
- (9) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010.
- (10) This Regulation will apply as of 1 January 2015, as the G-SII buffer requirement set forth in Article 131 of Directive 2013/36/EU will apply and be phased in from 1 January 2016. Therefore the identification of G-SIIs has to take place in early 2015 at the latest. Pursuant to Article 162(5) of Directive 2013/36/EU, the G-SII buffer requirement will be phased in over a period of three years: the first step of the requirement should apply as of 1 January 2016 for those G-SIIs which have been identified by national authorities in early 2015, on the basis of data of financial year-ends prior to July 2014. The second step of the G-SII buffer requirement should apply as of 1 January 2017 for those G-SIIs which have been identified by national authorities by the end of 2015 or, at the latest, the beginning of 2016, on the basis of data of preceding financial year-ends prior to July 2015.

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation specifies the methodology in accordance with which the competent authority or the designated authority of a Member State shall identify, on a consolidated basis, a relevant entity as a global systemically important institution (G-SII), and the methodology for the definition of subcategories of G-SIIs and the allocation of G-SIIs to these subcategories in accordance with their systemic significance and, as part of the methodology, timelines and data to be used for the identification.

Article 2

Definitions

For the purpose of this Regulation, the following definitions apply:

- (1) 'Relevant entity' means an EU parent institution or EU parent financial holding company or EU parent mixed financial holding company or an institution that is not a subsidiary of an EU parent institution or EU parent financial holding company or EU parent mixed financial holding company.
- (2) 'Sample' means a sample of relevant entities and banks authorised in third countries as set out in Article 3(1).

- (3) ‘Indicator’ means one of the quantifiable indicators set out in Article 6 in relation to each of the categories.
- (4) ‘Indicator value’ means for each indicator and for each relevant entity of the sample the individual value of the indicator and for each bank authorised in a third country a comparable individual value publicly disclosed in accordance with internationally agreed standards.
- (5) ‘Denominator’ means for each indicator the total aggregate value of the indicator values of the relevant entities and banks authorised in third countries of the sample.
- (6) ‘Cut-off score’ means a score value determining the lowest boundary and the boundaries between the five subcategories as defined in Article 131(9) of Directive 2013/36/EU.
- (7) ‘National authority’ means in respect of each Member State the authority designated as being in charge of identifying G-SIIs authorised within its jurisdiction pursuant to Article 131(1) of Directive 2013/36/EU.

Article 3

Common parameters for the methodology

1. The EBA shall identify a sample of institutions or groups whose indicator values are to be used as reference values representing the global banking sector for the purpose of calculating the scores, taking into account internationally agreed standards, in particular the sample used by the Basel Committee on Banking Supervision for the identification of global systemically important banks and notify national authorities of the relevant entities included in the sample by 31 of July of each year. The sample shall consist of relevant entities and banks authorised in third countries and comprise the 75 largest of them, based on the total exposure as defined in Article 6(1), and in addition relevant entities that were designated as G-SIIs and banks in third countries that were designated as global systemically important in the previous year. The EBA shall exclude or add relevant entities or banks authorised in third countries, if and to the extent necessary to ensure an adequate reference system for assessing systemic significance reflecting the global financial markets and the global economy, taking into account internationally agreed standards including the sample used by the Basel Committee on Banking Supervision.
2. The national authority shall report the indicator values of each relevant entity with an exposure measure above 200 billion Euro which is authorised within its jurisdiction to the EBA not later than 31 July of each year. The national authority shall ensure that the indicator values are identical to those disclosed by the relevant entity concerned in accordance with the Commission Implementing Regulation (EU) No [.../...]² and shall use the templates specified therein.
3. Based on these indicator values the EBA shall compute the denominators, taking into account internationally agreed standards, in particular the denominators published by the Basel Committee on Banking Supervision for that year, and notify them to national authorities. The denominator of an indicator shall be the aggregate amount of the indicator values across all relevant entities and banks authorised in third

² OJ [Please insert reference to publication of Implementing technical standards with regard to the uniform formats and date for the disclosure of the values of the indicators used for determining the score of the institutions identified as global systemically important institutions]

countries in the sample, as reported for the relevant entities pursuant to paragraph 2 and disclosed by the banks authorised in third countries in July of the relevant year.

Article 4

Identification procedure

1. The national authority shall calculate the scores of the relevant entities that are included in the sample notified by the EBA, which are authorised in its jurisdiction, not later than 15 December of each year. When exercising supervisory judgment to designate a relevant entity as a G-SII in accordance with Article 131(10), letter (b), of Directive 2013/36/EU, the national authority shall communicate by this date a detailed statement in written form on the reasons for its assessment to the EBA.
2. The identification of a relevant entity as a G-SII and the allocation to a subcategory shall take effect as of the 1 January of the second year following the calendar year when the denominators pursuant to Article 3 have been determined.

Article 5

Identification as G-SII and determination of the scores and allocation to subcategories

1. The indicator values shall be based on reported data of the relevant entity of the preceding financial year-end, on consolidated basis, and for banks authorised in third countries on data disclosed in accordance with internationally agreed standards. National authorities may use indicator values of relevant entities whose financial year-end is 30 June based on their position as of end of December.
2. The national authority shall determine the score of each relevant entity of the sample as the simple average of the category scores subject to a maximum category score of 500 base points for the category measuring the substitutability. Each category score shall be calculated as the simple average of the values resulting from dividing each of the indicator values of this category by the denominator of the indicator notified by the EBA. The scores shall be expressed in base points and shall be rounded to the nearest whole base point.
3. The lowest cut-off score shall be 130 base points. The subcategories shall be allocated as follows:
 - (a) Subcategory 1 shall encompass scores from 130 to 229 base points,
 - (b) subcategory 2 shall encompass scores from 230 to 329 base points,
 - (c) subcategory 3 shall encompass scores from 330 to 429 base points,
 - (d) subcategory 4 shall encompass scores from 430 to 529 base points, and
 - (e) subcategory 5 shall encompass scores from 530 to 629 base points.
4. The national authority shall identify a relevant entity as a G-SII, if the score is equal to or higher than the lowest cut-off score. Any decision to designate a relevant entity as a G-SII in the exercise of sound supervisory judgment pursuant to Article 131(10) letter (a), of Directive 2013/36/EU shall be based on an assessment whether its failure would have a significant negative impact on the global financial market and the global economy.

5. The national authority shall allocate a G-SII to a subcategory in accordance with its score. Any decision to re-allocate a G-SII from a lower subcategory to a higher subcategory in the exercise of sound supervisory judgment pursuant to Article 131(10) letter (b), of Directive 2013/36/EU shall be based on an assessment whether its failure would have a higher negative impact on the global financial market and the global economy.
6. The judgments mentioned in paragraphs 3 and 4 can be supported by ancillary indicators and shall not take the probability that the relevant entity fails as reference. They shall comprise well documented and verifiable quantitative and qualitative information.

Article 6

Indicators

1. The category measuring the size of the group shall consist of one indicator equal to the total exposure of the group as further specified in the Annex.
2. The category measuring the interconnectedness of the group with the financial system shall consist of the following indicators:
 - (a) intra financial-system assets;
 - (b) intra financial-system liabilities; and
 - (c) securities outstanding;
 each as further specified in the Annex.
3. The category measuring the substitutability of the services or of the financial infrastructure provided by the group shall consist of the following indicators:
 - (a) assets under custody;
 - (b) payments activity; and
 - (c) underwritten transactions in debt and equity markets;
 each as further specified in the Annex.
4. The category measuring the complexity of the group shall consist of the following indicators:
 - (a) notional amount of over-the-counter derivatives;
 - (b) assets included in the level 3 of fair-value measured in accordance with International Financial Reporting Standards as adopted in Regulation (EC) No 1606/2002; and
 - (c) trading and available-for-sale securities;
 each as further specified in the Annex.
5. The category measuring the cross border activity of the group shall consist of the following indicators:
 - (a) cross-jurisdictional claims; and
 - (b) cross-jurisdictional liabilities;
 each as further specified in the Annex.

6. For data reported in currencies other than the Euro, the national authority shall use an appropriate exchange rate taking into account the reference exchange rate published by the European Central Bank applicable at end of December and international standards. For the payment activity indicator pursuant to paragraph 3(b) of this Article, are the average exchanges rates for the relevant year.

Article 7

Entry into force and transitory provisions

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

It shall apply from 1 January 2015.

2. In the first year of application of this Regulation, and in partial derogation to Article 3, the following timeline shall be observed. The EBA shall determine an initial sample by 14 January 2015. The national authorities shall report the indicator values based on data for financial year-ends prior to July 2014 of relevant entities of this initial sample to the EBA by 21 January 2015. Based on these indicator values, EBA shall compute the denominators for the year 2014, by 30 January 2015. Without prejudice and in addition to the scores for the year 2015 to be determined later in 2015 based on the denominators for the year 2015, national authorities shall determine scores for the year 2014 in accordance with the timelines set forth in Article 4, based on the respective denominators for the year 2014, and determine G-SIIs, allocate them to subcategories and notify them to the Commission, the ESRB and EBA and publish their names based on these scores for the year 2014. By way of derogation to Article 4(2), the identification of a relevant entity as a G-SII and the allocation to a subcategory based on the scores for the year 2014 shall take effect as of 1 January 2016.

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

Done at Brussels,

*For the Commission
The President*

*[For the Commission
On behalf of the President
[Position]*

ANNEX

For the purpose of this Regulation the indicators shall be determined as follows:

1. Total Exposure

The total exposure shall be the aggregate of total on-balance sheet items and of total derivative and off-balance sheet items, on consolidated basis, including entities consolidated for accounting purposes but not for risk-based regulatory purposes, less regulatory adjustments.

The total exposure shall generally follow the accounting measure of exposure (however, using the broader scope of consolidation) subject to the following principles:

- On-balance sheet, non-derivative exposures are included in the exposure measure net of specific provisions and valuation adjustments (for example credit valuation adjustments).
- Netting of loans and deposits shall not be allowed.
- Physical or financial collateral, guarantees or credit risk mitigation purchased shall not reduce on-balance sheet exposures.

On-balance sheet items shall be the aggregate of

- (a) counterparty exposure of derivatives contracts;
- (b) gross value of securities financing transactions (SFTs);
- (c) counterparty exposure of SFTs;
- (d) the maximum of (i) other assets less securities received in SFTs that are recognised as assets and (ii) zero.

Off-balance sheet items shall be the aggregate of

- (a) potential future exposure of derivative contracts;
- (b) notional amount of off-balance sheet items with a 0% Credit Conversion Factor (CCF), less 100% of unconditionally cancellable credit card commitments, less 100% of other unconditionally cancellable commitments;
- (c) 10% of unconditionally cancellable credit card commitments;
- (d) 10% of other unconditionally cancellable commitments;
- (e) notional amount of off-balance sheet items with a 20% CCF;
- (f) notional amount of off-balance sheet items with a 50% CCF;
- (g) notional amount of off-balance sheet items with a 100% CCF.

For entities consolidated for accounting purposes but not for risk-based regulatory purposes the indicator value shall be increased by the aggregate of:

- (a) on-balance sheet assets;
- (b) potential future exposure of derivatives contracts;
- (c) 10% of unconditionally cancellable commitments;
- (d) other off-balance sheet commitments;
- (e) less investment value in the consolidated entities.

2. Interconnectedness

For the purpose of the interconnectedness indicators, financial institutions shall be defined as including banks (and other deposit-taking institutions), bank holding companies, securities dealers, insurance companies, mutual funds, hedge funds, pension funds, investment banks, and central counterparties (CCPs). Central banks and other public sector bodies (for example multilateral development banks) shall be excluded, but state-owned commercial banks shall be included.

2.1. Intra Financial System Assets:

Intra Financial System Assets shall be the aggregate of funds deposited with or lent to other financial institutions and undrawn committed lines extended to other financial institutions, holdings of securities issued by other financial institutions, the net positive current exposure of securities financing transactions and Over-the-counter (OTC) derivatives with other financial institutions that have a net positive fair value.

(a) Funds deposited and undrawn committed lines

Funds deposited and undrawn committed lines shall be the aggregate of

- (1) Funds deposited with or lent to other financial institutions, including certificates of deposit;
- (2) Undrawn committed lines extended to other financial institutions.

(b) Holdings of securities issued by other financial institutions

This item shall reflect all holdings of securities issued by other financial institutions. Total holdings shall be counted at fair value for securities classified as held-for-trading and available-for-sale; held-to-maturity securities shall be counted at amortized cost.

Holdings of securities issued by other financial institutions shall be the aggregate of

- (1) Secured debt securities;
- (2) Senior unsecured debt securities;
- (3) Subordinated debt securities;
- (4) Commercial paper;
- (5) the maximum of stock (including par and surplus of common and preferred shares) less offsetting short positions in relation to the specific stock holdings and zero.

(c) Securities Financing Transactions

Securities Financing Transactions shall be the aggregate of net positive current exposure of securities financing transactions with other financial institutions.

The reported value shall not be intended to reflect amounts recorded on the balance sheet. It shall represent the single legally owed amount per netting set. Netting shall only be used where the transactions are covered by a legally enforceable netting agreement. Where these criteria are not met, the gross balance sheet amount shall be counted. Conduit lending transactions shall not be included.

- (d) Over-the-counter (OTC) derivatives with other financial institutions that have a net positive fair value

Over-the-counter (OTC) derivatives with other financial institutions that have a net positive fair value shall be the aggregate of

- (1) Net positive fair value (including collateral held if it is within the master netting agreement);
- (2) Potential future exposure.

2.2. Intra Financial System Liabilities

Total intra financial system liabilities shall be the aggregate of deposits by financial institutions, securities financing transactions and OTC derivatives with other financial institutions that have a net negative fair value.

- (a) Deposits by financial institutions

Deposits by financial institutions shall be the aggregate of

- (1) Deposits due to depository institutions;
- (2) Deposits due to non-depository financial institutions;
- (3) Undrawn committed lines obtained from other financial institutions.

- (b) Securities Financing Transactions

Securities Financing Transactions shall be the aggregate of net negative current exposure of securities financing transactions with other financial institutions.

- (c) OTC derivatives with other financial institutions that have a net negative fair value

OTC derivatives with other financial institutions that have a net negative fair value shall be the aggregate of

- (1) Net negative fair value (including collateral provided if it is within the master netting agreement);
- (2) Potential future exposure.

2.3. Securities Outstanding

The indicator shall reflect the book value of outstanding securities issued by the relevant entity. Intra-financial and other activity shall not be distinguished.

Total securities outstanding shall be the aggregate of:

- (a) Secured debt securities;
- (b) Senior unsecured debt securities;
- (c) Subordinated debt securities;
- (d) Commercial paper;
- (e) Certificates of deposit;
- (f) Common equity

- (g) Preferred shares and any other forms of subordinated funding not captured in point (c).

3. Substitutability of the services or of the financial infrastructure provided by the group

3.1. Payments Activity

The total payment activity shall be payments made in the reporting year excluding intragroup payments.

The relevant payment value shall be the total gross value of all cash payments sent by the reporting group via large value funds transfer systems, along with the gross value of all cash payments sent through an agent bank (for example using a correspondent or nostro account). Cash payments made on behalf of the relevant entity as well as those made on behalf of customers (including financial institutions and other commercial customers) shall be included. Payments made through retail payment systems shall not be included. Only outgoing payments shall be included. The value shall be calculated in Euro.

3.2. Assets Under Custody

The value of Assets under Custody shall be the value of all assets, including cross-border assets, which the reporting group held as a custodian on behalf of customers, including financial institutions other than the reporting group. Any assets under management or assets under administration which are not also classified as assets under custody shall not be included.

3.3. Underwritten Transactions in Debt and Equity Markets

The total underwritten transactions in debt and equity markets shall be the aggregate of equity underwriting activity and debt underwriting activity.

All underwriting where the bank is obligated to purchase unsold securities shall be included. When the underwriting is on a best-efforts basis (which shall mean that the bank is not obligated to purchase the remaining inventory), only the securities that were actually sold shall be included.

4. Complexity of the group

4.1. Notional Amount of Over-the-Counter (OTC) Derivatives

This indicator shall measure the scope of the reporting group's engagement in OTC derivatives transactions and shall include all types of risk categories and instruments. Collateral shall not be deducted when reporting the notional derivative values.

The total notional amount of over-the-counter (OTC) Derivatives shall be the aggregate of OTC derivatives cleared through a central counterparty and OTC derivatives settled bilaterally.

4.2. Trading and Available-for-Sale Securities

The Trading and Available-for-Sale Securities shall be the total amount of securities in the held-for-trading (HFT) and available-for-sale (AFS) accounting categories less the subset of securities held in those categories that are eligible for classification as high quality liquid assets (HQLA).

4.3. Level 3 Assets

The value of Level 3 Assets shall be the value of all assets that are priced on a recurring basis using Level 3 measurement inputs.

5. Cross border activity of the group

5.1. Cross-Jurisdictional Claims

The value of Cross-Jurisdictional Claims shall be the value of all claims over all sectors that, on an ultimate-risk basis, are cross-border claims, local claims of foreign affiliates in foreign currency, or local claims of foreign affiliates in local currency, excluding derivatives activity. Cross-border claims shall extend from an office in one country to a borrower in another country. Local claims of foreign affiliates in foreign and local currency shall extend from the local office of the bank to borrowers in that location.

5.2. Cross-Jurisdictional Liabilities

Total cross-jurisdictional liabilities shall be the aggregate of

- (a) Local liabilities in local currency;
- (b) Foreign liabilities (excluding local liabilities in local currency);
- (c) less any foreign liabilities to related offices included in item (b).

4. Accompanying documents

4.1 Cost-benefit analysis/impact assessment

The problem

After the outbreak of the recent financial crisis, a number of large, internationally active credit and financial institutions transmitted shocks to their counterparts and the financial markets, eventually affecting the real economy. In response to this, the G20, the Financial Stability Board and the Basel Committee on Banking Supervision (BCBS), and consequently the EU co-legislators, have started to develop an appropriate framework to identify global and other systemically relevant institutions and require them to set aside additional capital buffers to increase their resilience to financial crises and prevent them from transmitting shocks to the rest of the economy.

The current impact assessment attempts to evaluate the impact of both the RTS and the ITS on the various stakeholders, as the ITS are considered to be the materialisation of the RTS and thus a consequence of the ITS.

Regulatory objectives

The regulatory objective that has to be safeguarded is the financial stability of the European banking system. The operational objective to achieve financial stability comprises the increase of capital buffers for G-SIIs. The additional buffer will also partially mitigate or entirely eliminate the initial impact of the failure of a G-SII on the rest of the banking system and the real economy. As a starting point, the set of G-SIIs should be defined along with their relative significance. The RTS further specify the methodology set out in general terms in the Directive.

The baseline of the analysis

The Macroeconomic Assessment Group's (MAG) paper on 'Assessment of the macroeconomic impact of higher loss absorbency for globally systemically important banks' (Bank for International Settlements, October 2011, www.bis.org/publ/bcbs202.htm) presents a methodology for defining systemically important banks (SIBs) and assessing their importance for the global banking system and the real economy. The paper presents a concise methodology for defining the G-SIBs and assessing their significance for the resilience of the international banking system. The methodology is then applied to the 75 largest global banks which act as proxies for the global banking sector. The methodology for identifying G-SIIs pursuant to the Directive and the RTS is very close to this methodology. Consequently, the impact assessment of the RTS on specifying the methodology for identifying G-SIIs and assigning them to sub-categories depends on the results produced by the aforementioned BIS report.

The options considered

The options considered for setting up the methodology for defining the EU G-SIIs within the framework of the identification process specified in Article 131(2) were the following:

- i) establishing and validating a methodology from scratch for defining the EU G-SIIs using completely different indicators, data and parameters for the identification and scoring process; and,
- ii) taking into account the already established internationally accepted methodology for identifying G-SIIs, as suggested by the BIS paper, by using an essentially identical set of indicators, data and parameters, where applicable.

The first option would involve a higher administrative burden on the institutions and require additional resources for authorities, as well as a more significant need for coordination among EU Member States to achieve a harmonised scoring process with comparable outcomes, which would be time-consuming. The process would probably lead to very similar results to the FSB/BCBS process as far as the Member States already taking part in that exercise are concerned. The second option would be implemented more easily. The BCBS methodology for defining G-SIIs is well-structured and accepted among the supervisors in whose jurisdictions the largest international banks are established. From a European perspective, the sample used by the BCBS paper includes the EU G-SIIs in the five largest economies of the EU (DE, FR, UK, IT, ES), rendering the representation of the EU banks in the sample sufficient.

In consideration of the above, the preferred option would be the second, in line with the requirements of the Directive.

Regarding the frequency of (potentially) updating the list of EU G-SIIs to reflect the economic developments in the EU banking sector, the following frequencies of updating the list were considered:

- i) Semi-annual
- ii) Annual

It is proposed that the list be updated on an annual basis. The reasoning behind this is to allow potential financial decisions (e.g. mergers and acquisitions among banks) or economic developments (natural deleveraging due to the shrinkage of an economy) to be concluded or established.

Cost-benefit analysis of the preferred option

The cost-benefit analysis that follows focuses on the costs and benefits that arise from the implementation of the preferred option for the RTS and ITS, without considering the costs and benefits already assessed in the Directive, which has taken into account the impact assessment of the BCBS paper on global GDP.

Costs

The additional costs from implementing the technical standards are administrative and comprise the cost of producing the list of G-SIIs. Although, due to the lack of data, this cannot be expressed in monetary terms, the anticipated time required for initially creating the list of G-SIIs is estimated to be 30 man days, i.e. one employee dealing with it for 30 full days. However, this will drop to 20 man days for every update of the list thereafter, due to the experience acquired from the first application of the methodology.

Benefits

The benefits can be assessed in terms of opportunity cost from not investing time and resources in developing a new methodology, other than that proposed by the BCBS for Member States where the process has already been established. By following the proposal of the BCBS paper, the NSAs and the EBA will not have to assign resources to establish and validate a new methodology.

4.2 Feedback on the public consultation

The EBA publicly consulted on the draft proposal of the draft RTS, ITS and guidelines relating to the identification methodology of G-SIIs together.

The consultation period began on 12 December 2013 and ended on 28 February 2014. Nine responses were received, of which eight 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 necessary.

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

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

Summary of key issues and the EBA's response

Most respondents welcomed the concept of using the same data as under the methodology applied by the Basel Committee for Banking Supervision for identifying systemically relevant institutions. Nevertheless, some of the proposed indicators were criticised by some respondents. Among other things, they suggested using qualitative indicators such as institutions' recovery and resolution plans, business and funding models, risk management and stress testing frameworks. Some respondents also questioned the cross-country indicator, under which intra-EU liabilities were accounted for as cross-border activities, which increased systemic importance.

EBA response:

Article 131(3) and (10) of Directive 2013/36/EU exhaustively govern the role of supervisory judgment and qualitative indicators in the methodology for identification. Only qualitative elements that refer to the impact of the institution's failure should influence the allocation of an institution to a sub-category. Therefore, resolvability and resolution plans may be a suitable element, whereas there may be concerns about including risk management and stress testing. As Article 131(2) of Directive 2013/36/EU defines the indicator category as 'cross-border activity of the group, including cross border activity between Member States and between a Member State and a third country', there is no room for deviating from this in the draft RTS.

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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Acronym G-SII	Respondents pointed out that the acronym G-SII is used to denote global systemically important insurance undertakings.	The acronym is used in Directive 2013/36/EU. There is no room for deviating from this in the draft RTS.	No amendment.
Intra-EU/Eurozone banking activity under the cross-border activity indicator	<p>Many respondents were critical of the fact that intra-EU or intra-Eurozone banking activities are accounted for under the cross-border activity indicator, thereby increasing the measured systemic relevance.</p> <p>One respondent suggested that exposures and liabilities to local persons/entities in a local currency of a group's subsidiaries in countries other than the home country of the group should be defined as not cross-jurisdictional.</p>	<p>Article 131(3) of Directive 2013/36/EU defines the indicator category as 'cross-border activity of the group, including cross border activity between Member States and between a Member State and a third country'. Although it can be argued that the impact on systemic relevance is lower within the EU, the Directive is clear on this point. There is no room for deviating from this in the draft RTS.</p> <p>The indicator of cross-border activity measures the global systemic impact of a failure and its resolvability. The systemic impact is expected to be higher, and the group less resolvable, if a group is active in jurisdictions other than the EU home country of the group.</p>	No amendment.
Qualitative indicators	Respondents expressed the view that, while the quantitative indicators adequately reflect the systemic risk of institutions, qualitative elements should be part of the G-SII assessment. These elements could include institutions' recovery and resolution plans, business and funding models, risk	Pursuant to Article 131(3) of Directive 2013/36/EU, the identification methodology will be based on categories consisting of quantifiable indicators. Paragraph (10) of the same Article provides that authorities may re-allocate institutions to a higher sub-category based on sound supervisory	No amendment.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>management and stress testing frameworks. One respondent also criticised the fact that activities are measured as a group-wide aggregate, while the distribution and dispersal might be useful in terms of risk diversification.</p>	<p>judgment, in which qualitative elements can be assessed. However, the methodology leaves no room for allocation to a lower sub-category based on supervisory judgment and qualitative indicators.</p> <p>Qualitative elements informing the sound supervisory judgment pursuant to Paragraph (10) should refer to the impact of the institution's failure. Therefore, resolvability and resolution plans may be a suitable element, whereas there are concerns about including risk management and stress testing, which regularly do not imply a lower impact of the institution's failure. The organisational or financial structure could only be suitable to the extent it facilitates resolvability. For the time being, neither the resolution plans nor resolvability considerations are sufficiently advanced to justify taking them into account in favour of an institution.</p>	
<p>Definition of 'relevant entities'.</p>	<p>One respondent expressed the view that it is not entirely clear if the definition includes a group's uppermost European consolidated entity or not.</p>	<p>The definition in the draft RTS refers to the cases listed in Article 131(1), and the definitions in Article 3(25) and (29) of Directive 2013/36/EU apply. This makes it clear that relevant entities may not be a subsidiary of an institution or of another financial holding company or mixed financial holding company set up in any Member State.</p>	<p>No amendment to the RTS, clarification to the definition in Title I of the guidelines.</p>
<p>Responses to questions in Consultation Paper EBA/CP/2013/44</p>			
<p>Question 1.</p>	<p>Nearly all respondents supported and welcomed the proposal to use the same data</p>		

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Is it adequate to use the same data as used in the BCBS identification process for the scoring?	as under the methodology used by the Basel Committee on Banking Supervision. However, one respondent raised concerns, not about the proposal to use identical data in general, but about certain indicators.	Concerns about certain indicators are discussed under Question 2 below.	
Question 2. Are the indicators set out in Article 6 adequate for reflecting the systemic relevance of a systemically important institution?	A few respondents raised concerns about the payment activity indicator as part of the substitutability/financial infrastructure category. They expressed the view that it was unreliable for the following reasons: only payments via large payment systems are captured; payments for other parties were included; it was already captured by the size, interconnectedness and complexity indicator; and the relevant data were not usually required for risk or financing reporting and therefore not stored and monitored centrally. One respondent asked for clarification relating to unsettled payments.	The draft RTS aim to use the same data and indicators as the BCBS methodology. This approach reduces the administrative burden and enhances data quality as well as transparency, and therefore has been welcomed by nearly all respondents. In this vein, deviations from the indicators used by the BCBS would need a well-founded justification. On the other hand, however, the payment activity indicator is appropriate for measuring systemic relevance; payment activity is an evidently critical function of banking groups. The substitution of this function by another market participant does not seem practicable in many cases. Overlaps with other indicators cannot be avoided in view of the objective to capture all sources of systemic relevance. Unsettled transactions in general can be reported under data point 2d Other assets. Details may be discussed with the competent authority.	No amendment.
	One respondent criticised the fact that most of the indicators reflected size.	Size is an important criterion for determining systemic relevance. In addition, it is probable	No amendment.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
		that quantifiable criteria will normally correlate with size.	
	Respondents raised concerns about the consolidation scope, which they think should be more precise.	In general, the draft RTS leave some room for defining the consolidation scope to cater for specificities of regulatory consolidation, applicable accounting principles and for different indicators. For the various indicators, details with regard to the applicable consolidation scope are indicated in the reporting instructions.	No amendment.
<p>Question 3.</p> <p>Are the timelines for the identification process and the coming into force of the buffer requirement adequate, and do they allow for sufficient time for adjusting to it?</p>	<p>The majority of the respondents expressed their satisfaction with the timelines of the identification process.</p> <p>One respondent proposed a shorter assessment cycle that should be more responsive to changes in banks' systemic profile, including a recalibration when a G-SII undertakes a material divestment or M&A.</p>	<p>The timeline for the assessment and for the coming into force of the buffer requirement aims to give authorities the required time to make the necessary calculations, and institutions sufficient time to adjust to higher own funds requirements. In addition, the assessment cycle should be in line with international standards and with the implementation of higher own funds requirements resulting from this assessment on an international level.</p> <p>However, the timelines should be re-assessed in a future review to the draft RTS.</p>	No amendment.
<p>Question 4.</p> <p>Are the template and the instructions clear and sufficiently comprehensive for enabling institutions to complete the disclosure</p>	<p>Respondents referred to the updated 2013 data template and instructions issued by the BCBS to include changes to indicator and ancillary data requirements.</p> <p>One respondent pointed out that it is important that applicable rules align to the</p>	<p>The draft RTS, ITS and guidelines will reflect the most up-to-date rules at the time it is finalised, ensuring alignment with the BCBS methodology at that point. Any later updates will have to be implemented by an amendment of one or more of these products.</p>	<p>Data template and instructions have been updated in line with updates to the BCBS</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
process?	<p>revised rules for calculating the Basel III leverage ratio. Another respondent asked for the definition of a mapping between the requested template and the official reporting modules.</p> <p>One respondent asked for further clarification as to the classification of economic agents.</p>	Certain terms should be more clearly defined.	<p>methodology.</p> <p>Certain definitions such as the terms ‘financial institutions’ and ‘small businesses’ have been added.</p>
<p>Question 5.</p> <p>Do you agree with our analysis of the impact of the proposals in this CP? If not, can you provide any evidence or data that would explain why you disagree or might further inform our analysis of the likely impacts of the proposals?</p>	<p>Most respondents expressed their satisfaction with the analysis of the impact of the proposals.</p> <p>One respondent highlighted the need for qualitative elements in the methodology.</p>	Qualitative elements in the assessment are discussed under the section General remarks above.	
	<p>One respondent expressed concerns that the identification of G-SIIs could lead to market distortions (e.g. in the behaviour of depositors or in interbank funding).</p>	<p>Although there may indeed be an argument that the identification of a G-SII may lead to market reactions in individual cases, this is a consequence of the identification itself and not from the regulatory approach in these</p>	No amendment.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	One respondent suggested an exemption whereby when G-SII reporting disclosure takes place at group-consolidated level, an operating entity would be exempted from the G-SII reporting and disclosure requirements; notwithstanding, it may exceed the EUR 200 billion exposure threshold.	guidelines. The consolidation scope of Article 131(1) of Directive 2013/36/EU, draft RTS, ITS and guidelines should be more clearly aligned.	Clarification on the definition of the term 'relevant entity' in Title I of the guidelines.

