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EBA/ITS/2014/07

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EBA FINAL draft regulatory and implementing technical standards

on colleges of supervisors in accordance Articles 51 and 116 of Directive 2013/36/EU (Capital Requirements Directive)

Contents

1. Executive Summary	3
2. Background and rationale	5
3. EBA FINAL draft regulatory and implementing technical standards for colleges of supervisors under Article 51 and Article 116 of Directive 2013/36/EU	7
4. Accompanying documents	56
4.1 Impact assessment	56
4.2 Feedback on the public consultation and on the opinion of the BSG	65
Summary of key issues and the EBA's response	65
Summary of responses to the consultation and the EBA's analysis	67

1. Executive summary

Both the draft regulatory technical standards (RTS) and the draft implementing technical standards (ITS) on colleges of supervisors are incorporated into this document. The draft RTS specify general conditions for the establishment and functioning of colleges of supervisors, while the draft ITS establish important procedures to structure and facilitate the interaction and cooperation between the consolidating supervisor and the relevant competent authorities.

The draft RTS and ITS, both for colleges established under Article 51 (colleges for institutions with significant branches in other Member States) and colleges established under Article 116 (colleges for cross-border banking groups) of Directive 2013/36/EU (Capital Requirements Directive - CRD), are structured in three main chapters: (i) general conditions of functioning of colleges; (ii) planning and coordination of supervisory activities in going concern situations; and (iii) planning and coordination of supervisory activities in preparation for and during emergency situations.

- With regard to the general conditions of the functioning of colleges, the provisions begin with a mapping exercise that is led by the consolidating supervisor to identify the group's subsidiaries or branches, the countries where they are based, their significance for the local market and their materiality for the group as a whole. This mapping exercise serves as the starting point for the designation of members and observers of the supervisory college, with specific conditions that need to be fulfilled, in particular for authorities participating as observers (e.g. third country supervisory authorities). The establishment and the functioning of supervisory colleges are based on written cooperation and coordination arrangements, which, among other issues, cover observers' participation in the college, inviting each college to determine the rules of this participation. The draft technical standards also specify a minimum frequency for college meetings, in particular for colleges established under Article 116 of the CRD, given the tasks that these colleges need to perform on an annual basis.
- The second chapter of the draft binding technical standards (BTS) covers the planning and coordination of supervisory activities – including information exchange for performing these activities – on a going concern basis. The draft RTS specify the information to be exchanged between college members, while the draft ITS establish the process that members of the college should follow for this information exchange. This includes, among other things, information on the outcome of the Supervisory Review and Evaluation Process (SREP), information on the performance of approved internal models, information aiming to identify early warning signs, potential risks and vulnerabilities faced by the group, and information on compliance issues relevant to the group or any of its entities.

This chapter also covers the college supervisory examination programme, its main elements and the process that college members should follow to develop, consult with each other and finalise this programme.

In addition, obligations to exchange information, mainly to enable the competent authorities to participate in colleges for assessing group recovery plans and to be informed of financial support agreements arising from the provisions of the Banking Recovery and Resolution Directive (Directive 2014/59/EU), were also taken into account when drafting these BTS.

- The final chapter of the draft BTS covers the planning and coordination of supervisory activities in preparation for and during emergency situations and includes provisions requiring college members to agree on a framework to deal with emergency situations and specify the minimum set of information to be exchanged once an emergency situation has been identified.

A separate section covers the functioning of colleges of significant branches that have been established in accordance with Article 51(3) of the CRD. It follows the same approach as that taken for colleges of subsidiaries or colleges of subsidiaries and significant branches, with necessary adjustments made to reflect the different nature of supervisory tasks and responsibilities.

When finalising these draft RTS and ITS, the EBA considered the responses submitted to the relevant Consultation Paper (EBA/CP/2014/12).

The Guidelines of the Committee of European Banking Supervisors (CEBS) on the operational functioning of colleges (GL34) and the CEBS Guidance on the Template for a Multilateral Cooperation and Coordination Agreement on the Supervision of XY Group will be repealed with the implementation of this proposed Regulation.

2. Background and rationale

Enhanced cooperation between authorities at both the EU and global level is key to strengthening the supervision of cross-border banking groups. Colleges of supervisors allow supervisory authorities to join forces, share knowledge and use skills and resources more effectively and efficiently, regardless of their individual jurisdiction. This requires determination and significant efforts to prompt coordinated approaches among competent authorities. Supervisory colleges should ensure a common and aligned work programme and coordinated supervisory decisions. Cooperation between the competent authorities of the home and host Member States should be strengthened through a higher degree of transparency and information sharing during going concern and emergency situations.

Articles 51 and 116 of the CRD mandate the EBA with the development of draft RTS to specify general conditions for the functioning of colleges of supervisors and with the development of draft ITS to determine the operational functioning of colleges of supervisors.

Article 51 of the CRD covers the colleges of supervisors that are established for institutions that have a presence through branches which are designated as significant in Member States other than that in which they have been authorised. Article 116 of the CRD covers those colleges that have been established for cross-border banking groups with a parent and/or subsidiaries and/or significant branches in multiple Member States. The draft RTS and ITS therefore encompass both types of colleges of supervisors, although the provisions dedicated to colleges of significant branches under Article 51 of the CRD are less extensive, reflecting the more limited tasks performed by these colleges.

These BTS follow the mandate outlined above and build on the CEBS Guidelines published in 2010 on the operational functioning of colleges (GL34). They also benefit from experience gained during the practical implementation of these guidelines and EBA engagement with colleges as part of the annual monitoring of college activities.

The standards are structured around three main chapters, named 'Titles': (i) general conditions of functioning of colleges; (ii) planning and coordination of supervisory activities in going concern situations; and (iii) planning and coordination of supervisory activities in preparation for and during emergency situations.

Following the provisions of the chapter on the general conditions of the functioning of colleges, the BTS introduce two new templates that are included as annexes to the draft ITS; for the performance of the mapping exercise and for the written cooperation and coordination agreements, with the aim of ensuring uniformity in approaches across colleges, and reducing compliance costs both for consolidating supervisors, and in particular for host competent authorities. For the mapping exercise, the use of a harmonised template is expected to have a notably positive impact on the host competent authorities, as those supervisors will provide

information in one consistent format. Similarly, although the proposed template for the written coordination and cooperation agreements differs from the CEBS template (Template for a Multilateral Cooperation and Coordination Agreement on the Supervision of XY Group) that has been extensively used by EU colleges since its publication, and which provides more standard text, this new template has the same objective of facilitating a consistent approach to these agreements, at the same time allowing college-specific arrangements to be noted.

The second chapter specifies the information to be exchanged for certain joint activities where previously there was no consistency, either in the content or the process of the information being exchanged between members of the college. This chapter now specifies the information to be exchanged for communicating the SREP outcome (building on the SREP elements as noted in the EBA Guidelines on common SREP), the review of the performance of approved internal models, key risk indicators and compliance issues. In addition, with regard to the college supervisory examination programme, which is a new CRD requirement, the RTS specify the main elements of the joint work to establish a practical college approach for this new task, building on the Level 1 provisions (Article 99 of the CRD).

The BTS also introduce new requirements in the chapter on the planning and coordination of supervisory activities in preparation for and during emergency situations, with the provisions of the draft BTS introducing further details relating to the framework of cooperation among the members of a college when dealing with emergency situations, building on the experience gained through the implementation of relevant provisions of GL34, Chapter 8. Until recently, most colleges did not have a framework of cooperation for preparation and for dealing with emergency situations, other than setting up and maintaining emergency contact lists. The new provisions aim to ensure that colleges establish an appropriate framework for information sharing and put their efforts into developing a coordinated supervisory assessment of emergency situations, agreeing on coordinated supervisory actions to address these situations, and monitoring the implementation of these actions in a coordinated way as detailed in the BTS.

The BTS implement a more structured and comprehensive approach to college functioning, which is needed to ensure that new tasks, such as the assessment of group recovery plans and undertaking the college supervisory examination programme, and established college tasks, such as identifying the group entities in the mapping and identifying college members and observers, will be, or will continue to be, fully coordinated and performed consistently across colleges.

3. EBA FINAL draft regulatory and implementing technical standards for colleges of supervisors under Articles 51 and 116 of Directive 2013/36/EU

(a) Draft regulatory technical standards on general conditions of the functioning of colleges of supervisors under Article 51(4) and Article 116(4) of Directive 2013/36/EU (Capital Requirements Directive – CRD IV)



EUROPEAN COMMISSION

Brussels, **XXX**
[...](2012) **XXX** draft

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 specifying the general conditions for the functioning of colleges of supervisors

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of 26 June 2013 of the European Parliament and of the Council 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 to Article 51(4) and Article 116(4) thereof,

Whereas:

¹ Text with EEA relevance.

- (1) The performance of the mapping of the group entities in EEA and non-EEA countries is considered as an important element for the identification of possible college members and observers. In this context, information on the importance of a branch for the group and its significance for the Member State in which it is established is essential in order to determine the participation of the competent authorities of that Member State in college activities. Information on the nature of the group entities (institutions, branches or other financial sector entities), as well as on the country of authorisation or establishment (Member State or third country) of group entities.
- (2) Information on the importance of a group entity for the group and its significance for the Member State in which it is authorised or established is essential for determining the level of engagement of the competent authority of that Member State in the activities of the college, and, in particular, for carrying out the supervisory review and evaluation process.
- (3) The written coordination and cooperation arrangements should cover all areas of college work to strengthen the efficiency of supervisory colleges. The written arrangements should also cover arrangements between some college members involved in specific college activities. The written arrangements should also include operational aspects of college work as these aspects are essential for facilitating the functioning of the college both in going concern and during emergency situations. As ensuring cooperation within the college before and for the purpose of providing input for group resolution issues is key, the written arrangements should provide for the processes of coordinating the relevant input as well as the responsibilities and role of the consolidating supervisor in communicating that input through the group-level resolution authority as defined in Directive 2014/59/EU to the resolution college. The written arrangements should be comprehensive, coherent and exhaustive and should provide an adequate and appropriate basis to the competent authorities for them discharging their relevant duties and tasks within, rather than outside the college.
- (4) In order to perform the college activities, the consolidating supervisor and the other members of the college should have an overview of the activities carried out by all group entities, including by those carrying out financial activities without being qualified as institutions and by those operating outside the EU. Interaction between the consolidating supervisor, college members, third-country supervisory authorities and other public authorities or bodies which are empowered by national law to supervise financial sector entities, which are neither an EU institution nor an EU branch should be promoted by allowing these third-country supervisory authorities and other public authorities or bodies in the EU to participate in college work as observers, as applicable.
- (5) College members should discuss and agree on the scope and level of involvement of observers, if any, in the college. The framework of observers' participation in college should be clearly stated in the written coordination and cooperation arrangements and should be communicated to the observers.
- (6) Members of the college of supervisors should work together, coordinating their supervisory actions to the maximum extent possible and cooperating closely in order to better perform their duties, to avoid duplication of tasks, including duplication of information requests addressed to the supervised entities of the group. In this context,

agreements on entrustment of tasks and delegation of responsibilities should be considered on a regular basis by the members of the college, and at least when college members develop their college supervisory examination programme.

- (7) The consolidating supervisor should have access to all information necessary for the performance of its tasks and responsibilities and should act as the coordinator for the collection and dissemination of information received from any college member or observer or from any entity of the group, or any input received from the resolution college, in particular from the relevant group-level resolution authority. The same applies also for the members of the college. In particular, where the consolidating supervisor determines the relevance of a particular information for another member of the college, including the competent authority in a host Member State where a significant branch is established, it should act in an inclusive way and it should refrain from unjustifiably excluding members of the college from receiving information.
- (8) To perform their tasks as provided for in the relevant legislation, members of the college participating in the performance of the tasks referred to in Article 113 of Directive 2013/36/EU should be encouraged in exchanging information on the assessment of the main elements of the supervisory review and evaluation process as referred to in Article 97 of that Directive, recognising at the same time that the supervisory review and evaluation process may be performed differently across the Member States depending on the implementation of the said article in the national legislation taking also into account the guidelines [Guidelines on common procedures and methodologies for the supervisory review and evaluation process] issued by the EBA under Article 107(2) of Directive 2013/36/EU.
- (9) To facilitate cooperation between competent authorities and to coordinate any decisions intended to address issues of an institution's compliance with the requirements regarding approaches that need permission by competent authorities before using such approaches for the calculation of own fund requirements (use of internal models for credit risk, market risk, counterparty risk and operational risk), the conditions of cooperation between the consolidating supervisor and the relevant host competent authorities for exchanging information on the performance of these internal approaches, and for discussing and reaching agreement on measures to address inefficiencies identified should be specified.
- (10) To facilitate the identification of early warning signs, potential risks and vulnerabilities for the group and its entities and for the system in which they operate, college members are expected to exchange quantitative information, for the group and its entities, in a consistent and comparable way. This information should cover main areas of the information collected by the competent authorities in accordance with Regulation (EU) No 680/2014² specifying the uniform formats, frequencies, dates of reporting, definitions and the IT solutions to be applied by the institutions for supervisory reporting purposes, and should be exchanged while the competent authorities are in the process of developing the group risk assessment report and

² Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

reaching the joint decisions on capital and liquidity pursuant to Article 113 of Directive 2013/36/EU. Each college should decide on the exact set of information to be exchanged for these purposes.

- (11) To develop the college supervisory examination programme, college members shall take into account the group risk assessment report and the outcome of the capital and liquidity joint decision so as to better identify the priorities of common work. Thus, the development of the college supervisory examination programme should start once the group risk assessment and joint decision process have been concluded, while for its finalisation the competent authorities should consider the tasks they have committed to perform at national level, the resources committed and the respective timelines for the performance of these tasks.
- (12) Members of the college should coordinate their activities in preparation for and during emergency situations such as for adverse developments which may seriously jeopardise the orderly function and the integrity of the financial markets or the stability of the whole or part of the financial system of the Union or for other situations that affect or might affect explicitly the financial and economic situation of a banking group or any of its subsidiaries. Therefore, the planning and coordination of the competent authorities' activities in preparation for and during emergency situations should include, but not be limited to the activities referred to in the relevant provisions of Directive 2014/59/EU³; in particular activities aiming at co-ordinating the group recovery planning and at providing coordinated input to resolution authorities, where needed, should be seen as examples of activities in preparation for and during emergency situations.
- (13) While dealing with an emergency situation, college members, under the coordination of the consolidating supervisor should aim to develop a coordinated supervisory assessment of this situation, agree on a coordinated supervisory response and monitor the implementation of this response to ensure that the emergency situation is properly assessed and addressed. They shall also ensure that any external communication is done in a coordinated way and covers elements which are agreed ex-ante between the members of the college.
- (14) The provisions in this Regulation are closely linked to each other, since they deal with the general conditions of the functioning of the colleges of supervisors. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations it is desirable to include all the regulatory technical standards required by Article 51(4) and 116(4) of Directive 2013/36/EU in a single Regulation.
- (15) This Regulation is based on the draft regulatory technical standards submitted by the European Banking Authority to the Commission.

³ Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC, and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/36/EC, 2011/35/EU, 2012/30/EU and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council.

- (16) The European Banking Authority 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 Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010.

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This regulation specifies the general conditions of functioning of the college of supervisors formed in accordance with Article 116 and Article 51(3) of Directive 2013/36/EU.

Article 2

Definitions

For the purposes of this regulation, the following definitions shall apply:

- (1) ‘EU institution’ means an institution authorised in a Member State;
- (2) ‘EU branch’ means a branch established in a Member State;
- (3) ‘EU financial sector entity’ means a financial sector entity, as defined in point 27 of Article 4(1) of Regulation (EU) No 575/2013, authorised or established in a Member State;
- (4) ‘EU group entity’ means an EU institution, an EU branch or an EU financial entity or any other undertaking of the group established in a Member State;
- (5) ‘Non-EU group entity’ means a group undertaking or branch as referred to in point 4 which is authorised or established in a third country;
- (6) ‘group entity’ means an EU group entity or non-EU group entity;
- (7) ‘Other relevant authority’ means any of the following:
 - an ESCB central bank which is not empowered by national law to supervise an EU institution or an EU branch;
 - a public authority or a body in Member State officially recognized by national law, which is empowered by national law to supervise financial sector entities,

as defined in point 27 of Article 4(1) of Regulation (EU) No 575/2013, which are neither an EU institution nor an EU branch;

- (8) ‘College supervisory examination programme’ means a supervisory examination programme determined in accordance with point c of Article 116(1) of Directive 2013/36/EU;
- (9) ‘Group risk assessment report’ means the report containing the risk assessment of the group of institutions referred to in point a of Article 113(2) of Directive 2013/36/EU;
- (10) ‘Group liquidity risk assessment report’ means the report containing the assessment of the liquidity risk profile of the group of institutions referred to in point b of Article 113(2) of Directive 2013/36/EU.

TITLE II

GENERAL CONDITIONS FOR THE FUNCTIONING OF COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 116 OF DIRECTIVE 2013/36/EU

CHAPTER I

ESTABLISHMENT AND FUNCTIONING OF COLLEGES

Article 3

Establishment of the mapping of a group of institutions

- (1) The consolidating supervisor shall establish the mapping of the group of institutions in accordance with Article 3 of the Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).
- (2) The mapping of a group of institutions, shall result in the identification of the following group entities:
 - (a) EU institutions and EU branches;
 - (b) EU financial sector entities;
 - (c) Non-EU group entities.
- (3) The following information shall be reflected in the mapping for each EU institution and EU branch:
 - (a) the Member State where the institution is authorised or the branch established;
 - (b) the competent authority responsible for the supervision of the institution or the competent authority of the host Member State where the branch is established;
 - (c) for an institution, including for a subsidiary of an EU parent undertaking established in the same Member State as well as for the EU parent undertaking itself, information as to whether the institution is subject to prudential

supervision on a solo basis or whether it has been granted a waiver from the application of requirements set out in Parts Two to Eight of Regulation (EU) No 575/2013⁴ on an individual basis pursuant to Articles 7, 8, or 10 of that Regulation;

- (d) for an institution, information relating to the significance of the institution for the Member State where it is authorized and to the importance of that institution for the group;
 - (e) for a branch, information relating to the significance of the branch, in particular whether this branch has been designated or is proposed to be designated as significant, in accordance with Article 51 of Directive 2013/36/EU, as well as information relating to the importance of that branch for the group;
 - (f) for the purposes of (d) and (e) as appropriate, the business volume expressed as the total amount of assets and off-balance sheet items of the institution, provided that this total is more than 1% of the group's consolidated balance sheet and off balance sheet, and any other measure or criterion applied by the consolidating supervisor in order to determine the importance of the institution or branch for the group and the significance of this institution or branch for the Member State where the institution is authorised or the branch is established.
- (4) The following information shall be reflected in the mapping for each EU financial sector entity and non-EU group entity:
- (a) the Member State or the third country where the group entity is authorised or established;
 - (b) the other authority involved in the supervision of the EU financial sector entity or the third country supervisory authority responsible for the prudential supervision of the non-EU group entity, as applicable;
 - (c) for a non-EU group entity, information relating to the importance of that group entity for the group;
 - (d) for an EU financial sector entity, information relating to its main activities and its importance for the group;
 - (e) for the purposes of (c) and (d), the business volume expressed as the total amount of assets and off-balance sheet items of the group entity, provided that this total amount is more than 1% of the group's consolidated balance sheet and off-balance sheet, and any other measure or criterion applied by the consolidating supervisor in order to determine the importance of the entity for the group and the significance of this entity for the Member State or the third country where the entity is authorised or established.

⁴ Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012.

Article 4

Designation of the members and observers of a college

- (1) The consolidating supervisor shall invite the following authorities to become members of the college:
 - (a) the competent authorities responsible for the supervision of subsidiaries of an EU parent institution or of an EU parent financial holding company or of an EU parent mixed financial holding company and the competent authorities of host Member States where significant branches as referred to in Article 51 of Directive 2013/36/EU are established;
 - (b) ESCB central banks of Member States that are involved in accordance with their national law in the prudential supervision of the legal entities referred to in point a, but which are not competent authorities; and
 - (c) the European Banking Authority (EBA).
- (2) The consolidating supervisor may invite the competent authorities of host Member States where non-significant branches are established to participate in the college as observers in accordance with the process determined in point b of Article 4(1) of Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).
- (3) The consolidating supervisor may invite third country supervisory authorities to participate in the college as observers in accordance with the process determined in point c of Article 4(1) of Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).
- (4) The consolidating supervisor may invite the other relevant authorities, to participate in the college as observers in accordance with the process determined in point d of Article 4 of Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).
- (5) The consolidating supervisor and the members of the college shall specify the arrangements covering the participation of the observers in the college in the written coordination and cooperation arrangements referred to in Article 4. The consolidating supervisor shall notify these arrangements to the observers.

Article 5

Communication of the setting up of a college

The consolidating supervisor shall communicate to the EU parent undertaking of the group the establishment of a college and the identity of its members and observers, as well as any changes in the membership and observership of the college.

Article 6

Establishment of the written coordination and cooperation arrangements

The written coordination and cooperation arrangements referred to in Article 115 of Directive 2013/36/EU shall include, at least, the following:

- (a) information on the overall structure of the group covering all group entities;
- (b) identification of the members and observers of the college;
- (c) description of the arrangements covering the participation of observers in the college as referred to in Article 4(5), including their involvement in the various dialogues and processes of the college and their rights and obligations with regard to exchanging information;
- (d) description of the arrangements for exchanging information including their scope, frequency and channels of communication;
- (e) description of the arrangements for the treatment of confidential information;
- (f) description of the arrangements on entrustment of tasks and on delegation of responsibilities, where relevant;
- (g) description of any substructures of the college;
- (h) description of the framework for the planning and coordination of supervisory activities in going concern situations;
- (i) description of the framework for the planning and coordination of supervisory activities in preparation for and during emergency situations, including contingency planning, communication tools and procedures;
- (j) description of the communication policy of the consolidating supervisor and the members of the college with the EU parent undertaking and with the group entities;
- (k) agreed procedures and time frames to be followed for the circulation of the meeting documents;
- (l) any other agreement between the college members, including agreed indicators for identifying the early warning signs, potential risks and vulnerabilities; and
- (m) description of the framework for providing coordinated input to the resolution college, including without limitation for the purposes of the consultation process referred to in Articles 12, 13, 16, 18, 91 and 92 of Directive 2014/59/EU and in the relevant Commission Delegated Regulation;

- (n) description of the role of the consolidating supervisor in particular with regard to coordinating the provision of the input referred in (m) through the group-level resolution authority to the relevant resolution college; and
- (o) provisions covering arrangements in case of discontinuation of any membership or observership in the college.

Article 7

Participation in college meetings and activities

- (1) When deciding which authorities shall participate in a college meeting or activity in accordance with Article 116(7) of Directive 2013/36/EU, the consolidating supervisor shall take into account the following:
 - (a) the topics to be discussed and the objective of the meeting or activity, in particular with regard to their relevance for each group entity; and
 - (b) the significance of the group entity in the Member State where the group entity is authorised or established, and its importance for the group.
- (2) The consolidating supervisor and the members of the college shall ensure that the most appropriate delegates participate in the college meetings or activities based on the topics discussed and objectives pursued. These delegates shall have the power to commit their authorities as members of the college, to the maximum extent possible, for the decisions planned to be taken during these meetings or activities.
- (3) The consolidating supervisor may invite group entities' representatives to participate in a college meeting or activity, based on the topics and objectives of the college meeting or activity.

Article 8

Entrustment of tasks and delegation of responsibilities

- (1) While developing the college supervisory examination programme pursuant to Article 17, and after if need be, the consolidating supervisor and the members of the college shall consider the possibility of agreements on voluntary entrustment of tasks and delegation of responsibilities pursuant to Article 116(1)(b) of Directive 2013/36/EU, especially if such entrustment or delegation is expected to lead to more efficient and effective supervision, in particular by removing unnecessary duplication of supervisory requirements, including in relation to information requests.
- (2) The conclusion of an agreement on entrustment of tasks or delegation of responsibilities shall be notified by the consolidating supervisor to the EU parent

undertaking, and by the competent authority, which delegates its powers, to the institution concerned.

Article 9

Communication of information from college members to a group of institutions

- (1) The consolidating supervisor shall be responsible for communicating, including requesting information, to the EU parent undertaking. The members of the college shall be responsible for communicating, including requesting information, with the EU institutions and EU branches under their supervisory remit.
- (2) When, exceptionally, a member of the college intends to communicate or request information from the EU parent undertaking, it shall inform in advance the consolidating supervisor.
- (3) When, exceptionally, the consolidating supervisor intends to communicate or request information from an EU institution or an EU branch outside its supervisory remit, it shall inform in advance the member of the college responsible for supervising this EU institution or EU branch.

CHAPTER II

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS

Article 10

General conditions with regard to exchange of information between the consolidating supervisor and college members

- (1) The consolidating supervisor and the members of the college shall exchange among themselves all information necessary to facilitate the exercise of the tasks referred to in Articles 112 and 113 of Directive 2013/36/EU, subject to the confidentiality requirements laid down in Chapter 1, Section II of that Directive, and where applicable, Articles 54 and 58 of Directive 2004/39/EC.
- (2) Members of the college shall also exchange all information necessary to facilitate the exercise of the tasks referred to in Article 8 of Directive 2014/59/EU.
- (3) The consolidating supervisor and the members of the college shall exchange all essential information with each other, whether received from a group entity, a competent or supervisory authority or any other source. This information shall be adequate, accurate and timely, thereby enabling and facilitating the efficient, effective and full performance of the supervisory tasks of the college members.

Article 11

Information exchange for performing group risk assessments and reaching joint decisions

- (1) For the purposes of joint decisions on institution-specific prudential requirements as referred to in Article 113 of Directive 2013/36/EU, the consolidating supervisor and the relevant members of the college referred to in Article 113(1) of that Directive shall exchange all information necessary, at both a solo and consolidated level, to reach a joint decision.
- (2) In particular, the consolidating supervisor and the relevant members of the college referred to in paragraph 1 shall exchange information on the outcomes of the supervisory review and evaluation process performed in accordance to Article 97 of Directive 2013/36/EU. This information shall provide the outcome of the assessment, at least, of the following elements:
 - i. Business model analysis, including the assessment of the viability of current business model and sustainability of institution's forward-looking business strategy;
 - ii. Internal governance arrangements and institution-wide controls;
 - iii. Individual risks to institution's capital, covering the following elements:
 - (a) Assessment of inherent individual risks;
 - (b) Assessment of risks management and controls;
 - iv. Capital adequacy assessment, including proposed required own funds pursuant to Article 104(1)(a) of Directive 2013/36/EU;
 - v. Risks to institution's liquidity and funding, covering the following elements:
 - (a) Assessment of liquidity risk and funding risk;
 - (b) Assessment of liquidity and funding risk management;
 - vi. Liquidity adequacy assessment, including proposed quantitative and qualitative liquidity measures pursuant to Article 105 of Directive 2013/36/EU;
 - vii. Other supervisory measures or early intervention measures taken or planned to be taken in order to address the inefficiencies identified as a result of the supervisory review and evaluation process;
 - viii. Results of the supervisory stress tests performed pursuant to Article 100 of Directive 2013/36/EU; and
 - ix. Findings from on-site inspections and off-site monitoring that are relevant for the assessment of the risk profile of the group or any of its entities.

Article 12

Information exchange with regard to the ongoing review of the permission to use internal approaches and non-material extensions or changes in internal models

- (1) For the purposes of ensuring coherence and co-ordination with regard to the ongoing review of the permission to use internal approaches as referred to in Article 101 of Directive 2013/36/EU, the consolidating supervisor and the relevant members of the college, which supervise EU institutions that have been granted permission to use internal approaches in accordance with Articles 143(1), Article 151(4) or (9), Article 283, Article 312(2), or Article 363 of Regulation (EU) No 575/2013, shall exchange all relevant information, including without limitation on the outcome of this ongoing review.
- (2) Where the consolidating supervisor or any relevant member of the college referred to in paragraph 1 has identified that an EU institution, including the EU parent undertaking, no longer meets all requirements for applying an internal approach or has identified weaknesses in accordance with Article 101 of Directive 2013/36/EU, they shall immediately exchange the following information, as applicable, for the purposes of facilitating the reach of common agreement as referred to in Article 9 of the Commission Implementing Regulation (EU) .../...(ITS on supervisory colleges):
 - (a) assessment of the effect of the weaknesses identified and issues of non-compliance and their materiality;
 - (b) assessment of the plan to restore compliance and to address the weaknesses identified as presented by the EU parent institution or any EU institution, including information on the timeline for its implementation;
 - (c) information on the intention of the consolidating supervisor or of any relevant member of the college to revoke the permission or restrict the use of the model to compliant areas or those where compliance can be achieved within an appropriate timeline or those areas that are not affected by the weaknesses identified; and
 - (d) information on any proposed additional own funds requirements pursuant to point d of Article 104(2) of Directive 2014/36/EU as a supervisory measure to address the issues of non-compliance or weaknesses identified.
- (3) The consolidating supervisor and the relevant members of the college referred to in paragraph 1, shall also exchange information regarding extensions or changes in these internal models which are not material model extensions or changes as referred to in Article 13 of the Commission Implementing Regulation (EU) No .../...(ITS on joint decisions on prudential requirements).

- (4) Information referred to in paragraphs 1 and 2, to the extent it is available, shall be exchanged while developing the group risk assessment and reaching a joint decision in accordance with point a of Article 113(1) of Directive 2013/36/EU.

Article 13

Information exchange on early warning signs, potential risks and vulnerabilities

- (1) The consolidating supervisor and the members of the college participating in the development of a group risk assessment report or a group liquidity risk assessment report for the purposes of reaching joint decisions on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU shall exchange quantitative information aiming to identify early warning signs, potential risks and vulnerabilities and to inform the group risk assessment report and group liquidity risk assessment report.
- (2) The information referred to in paragraph 1 shall be developed based on the information collected by the competent authorities in accordance with Commission Implementing Regulation (EU) No 680/2014⁵, in order to ensure consistency and comparability on the data used. This information shall cover at least all EU group entities, and at least the following areas:
- (a) capital;
 - (b) liquidity;
 - (c) asset quality;
 - (d) funding;
 - (e) profitability; and
 - (f) concentration risk.
- (3) The consolidating supervisor and members of the college referred to in paragraph 1 shall also consider exchanging information on the macroeconomic environment in which the group of institutions and its group entities operate.

Article 14

Information exchange with regard to non-compliance and sanctions

⁵Commission Implementing Regulation (EU) No 680/2014 of 16 April 2014 laying down implementing technical standards with regard to supervisory reporting of institutions according to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

- (1) The members of the college shall communicate to the consolidating supervisor information regarding any situations in respect of which the members of the college have determined that an institution under their supervisory remit has not complied with national or Union law or with requirements, in relation to the prudential supervision or market conduct supervision of institutions, including the requirements laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU and any of the administrative penalties imposed or other administrative measures applied in accordance with Articles 64 to 67 of Directive 2013/36/EU when this information affects or is likely to affect the risk profile of the group or any of its group entities. The members of the college shall discuss with the consolidating supervisor the possible impact of these issues of non-compliance and sanctions for the group entities or for the group as a whole.
- (2) The consolidating supervisor shall decide to communicate information specified in paragraph 1 to the members of the college for whom this information is deemed relevant in accordance with Article 8 of the Commission Implementing Regulation .../... (ITS on supervisory colleges).

Article 15

Information exchange for the assessment of the group recovery plan

- (1) The consolidating supervisor and the members of the college shall exchange all information necessary for reaching a joint decision on the elements specified in Article 8(2) of Directive 2014/59/EU.
- (2) For the purposes of paragraph 1, the consolidating supervisor shall provide the group recovery plan to the members of the college following the procedure specified in Article 8 of Commission Implementing Regulation .../... (ITS on supervisory colleges).
- (3) The consolidating supervisor shall ensure that all members of the college are appropriately informed of the outcome of the process referred to in paragraph 1.
- (4) The consolidating supervisor shall inform the group-level resolution authority about the timeline followed for the review and assessment of the group recovery plan and indicate a date for the group-level resolution authority to provide its recommendations, if any, in accordance to Article 6(4) of 2014/59/EU.

Article 16

Information exchange with regard to group financial support agreements

The consolidating supervisor shall ensure that all members of the college are appropriately informed of the main terms of authorisations of group financial support agreements that have been granted in accordance with the joint decision process referred to in Article 20 of Directive 2014/59/EU.

Article 17

Establishment and update of the college supervisory examination programme

- (1) For the purposes of determining the college supervisory examination programme in accordance to point c of Article 116(1) of Directive 2013/36/EU, the consolidating supervisor and the members of the college shall identify the supervisory activities to be undertaken.
- (2) The college supervisory examination programme shall contain at least the following:
 - (a) the areas of joint work identified as a result of the group risk assessment and group liquidity risk assessment and joint decisions on institution-specific prudential requirements pursuant to Article 113 of Directive 2013/36/EU or as a result of any other college activities undertaken, including in an effort to contribute to efficient supervision and to remove unnecessary duplication of tasks in accordance with Article 116(1)(d) of that Directive;
 - (b) the respective supervisory examination programmes of the consolidating supervisor and the members of the college for the parent undertaking and for all EU institutions and EU branches;
 - (c) the areas of focus of the college work and its planned supervisory activities, including planned onsite inspections pursuant to point c of Article 99(1) of Directive 2013/36/EU;
 - (d) the members of the college responsible for undertaking the planned supervisory activities;
 - (e) the expected timelines, both in terms of timing and duration, for each of the planned supervisory activities.
- (3) The establishment and update of the college supervisory examination programme shall be performed pursuant to Article 12 of Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).

CHAPTER III

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN PREPARATION FOR AND DURING EMERGENCY SITUATIONS

Article 18

College framework in preparation for emergency situations

- (1) The consolidating supervisor and the members of the college shall establish in advance a college framework in preparation for emergency situations, taking into account the specificities and structure of the group of institutions.
- (2) The framework of paragraph 1 shall include at least the following:
 - (a) the college-specific procedures that shall apply during emergency situations;
 - (b) the minimum set of information that shall be exchanged during emergency situations as referred to in Article 114(1) of Directive 2013/36/EU.
- (3) The minimum set of information referred to in point b of paragraph 2 shall include the following:
 - (a) an outline of the situation that has occurred, including the underlying cause of the emergency situation, and the expected impact of the emergency situation on the group entities and the group as a whole, on the market liquidity and on the stability of the financial system;
 - (b) an explanation of the measures and actions that have been taken or are planned to be taken, by the consolidation supervisor or any of the members of the college or the group entities themselves; and
 - (c) the latest available quantitative information regarding liquidity and capital position of the group entities affected or likely to be affected by the emergency situation on an individual and consolidated basis.

Article 19

General conditions with regard to exchange of information during an emergency situation

- (1) The consolidating supervisor and the members of the college shall exchange among themselves all information necessary to facilitate the exercise of the tasks referred to in Article 114(1) of Directive 2013/36/EU, subject to the confidentiality requirements laid down in Chapter 1, Section II of that Directive, and where applicable, Articles 54 and 58 of Directive 2004/39/EC.
- (2) Upon being alerted of an emergency situation by any member or observer of the college or having identified an emergency situation, the consolidating supervisor shall communicate the information referred to in point b of Article 18(2), following the procedures referred to in point a of paragraph 2 of that Article, to the members of the college affected or likely to be affected by the emergency situation, and the EBA.
- (3) Depending on the nature, severity, potential systemic impact or other impact, and likelihood of contagion of the emergency situation, the members of the college affected or likely to be affected by the emergency situation and the consolidating supervisor may decide to exchange additional information.

- (4) The consolidating supervisor shall consider whether the information referred to in paragraphs 2 and 3 is relevant for the performance of the tasks of the resolution college. In this case, the consolidating supervisor shall communicate this information to the group-level resolution authority as defined in point 44 of Article 2(1) of Directive 2014/59/EU.
- (5) The information referred to in paragraphs 2 and 3, where applicable, shall be updated immediately when new information is available.
- (6) When the communication referred to in this Article is made orally, written communication shall be submitted at the earliest convenience of the involved competent authorities.

Article 20

Coordination of the supervisory assessment of an emergency situation

- (1) Where an emergency situation occurs, the consolidating supervisor shall coordinate the assessment of the emergency situation (hereinafter ‘coordinated supervisory assessment’) in cooperation with the members of the college pursuant to Article 112(3) of Directive 2013/36/EU.
- (2) The coordinated supervisory assessment of the emergency situation, performed in accordance with Article 15 of the Commission Implementing Regulation .../... (ITS on supervisory colleges), shall cover at least the following elements:
 - (a) the nature and severity of the emergency situation;
 - (b) the impact or potential impact of the emergency situation on the group and on any of its affected or likely to be affected group entities;
 - (c) the risk of cross-border contagion.
- (3) While assessing point c of paragraph 2, the consolidating supervisor shall consider the potential systemic consequences in any of the Members States where entities of the group have been authorised or where significant branches are established.

Article 21

Coordination of the supervisory response to an emergency situation

- (1) Where an emergency situation occurs, the consolidating supervisor shall coordinate the development of a supervisory response to the emergency situation (hereinafter ‘coordinated supervisory response’) in cooperation with the members of the college pursuant to Article 112(3) of Directive 2013/36/EU.

- (2) The coordinated supervisory assessment referred to in Article 20 shall form the basis of the coordinated supervisory response, which shall define the supervisory actions needed, their scope, and the timetable for their implementation.
- (3) The coordinated supervisory response shall be developed by the consolidating supervisor and the members of the college, which supervise group entities that are affected or likely to be affected by the emergency situation.

Article 22

Monitoring of the implementation of the coordinated supervisory response to an emergency situation

- (1) The consolidating supervisor and the members of the college which supervise group entities that are affected or likely to be affected by the emergency situation shall monitor and exchange information on the implementation of the coordinated supervisory response referred to in Article 21.
- (2) The information to be exchanged shall include at least an update on the implementation of the agreed actions within the foreseen timeline, as referred to in Article 21(2), and the need to update or adjust these actions.

Article 23

Coordination of the external communication in an emergency situation

- (1) Within the framework of the Union and national law applicable, the consolidating supervisor and the members of the college affected or likely to be affected by the emergency situation shall coordinate to the extent possible their external communications.
- (2) For the purpose of co-ordination of the external communication, the consolidating supervisor and the members of the college shall agree on the following elements:
 - (a) the allocation of responsibilities for coordinating external communication at the different stages of the emergency situation;
 - (b) the level of information to be disclosed taking into account the need to maintain market confidence and any other additional disclosure obligations where financial instruments issued by group entities affected or likely to be affected by the emergency situation are publicly traded in one or more regulated markets in the EU;
 - (c) the co-ordination of public statements, including those made by only one member of the college, in particular where these are likely to have consequences for group entities supervised by other members of the college;

- (d) the allocation of responsibilities and appropriate timing for contacting group entities;
- (e) the allocation of responsibilities and actions to be taken for communicating externally the coordinated actions taken to address the emergency situation;
- (f) a description of possible coordination with another group or college that may be involved in dealing with an emergency situation affecting the group, such as a crisis management group or a resolution college.

TITLE III

CONDITIONS OF FUNCTIONING OF COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 51(3) OF DIRECTIVE 2013/36/EU

CHAPTER I

GENERAL CONDITIONS FOR THE ESTABLISHMENT AND FUNCTIONING OF COLLEGES

Article 24

Designation of the members and observers of a college

- (1) Following the performance of the mapping of the institution with branches in other Member States pursuant to Article 3 of Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges), the competent authorities of the home Member State shall invite the following authorities to become members of the college of supervisors:
 - (a) the competent authorities of the host Member States where significant branches are established;
 - (b) ESCB central banks of Member States that are involved in accordance with their national law in the prudential supervision of the significant branches referred to in point a, but which are not competent authorities; and
 - (c) the European Banking Authority (EBA).
 - (2) The competent authorities of the home Member State may invite the competent authorities of host Member States where non-significant branches are established to participate in the college as observers in accordance with the process determined in point b of Article 4(1) of the Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).
 - (3) The competent authorities of the home Member State may invite third country supervisory authorities to participate in the college as observers in accordance with the process determined in point c of Article 4(1) of Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).
 - (4) The competent authorities of the home Member State may invite other relevant authorities to participate in the college as observers in accordance with the process determined in point d of Article 4(1) of the Commission Implementing Regulation (EU) .../...(ITS on supervisory colleges).
 - (5) The competent authorities of the home Member State and the members of the college shall specify the arrangements covering the participation of the observers in the college in the written arrangements referred to in Article 51(3) of Directive 2013/36/EU. The competent authorities of the home Member State shall notify these arrangements to the observers.
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Article 25

Communication of the setting up of a college

The competent authorities of the home Member State shall communicate to the institution the establishment of a college and the identity of its members and observers, as well as any changes in the membership and observership of the college.

Article 26

Establishment of the written coordination and cooperation arrangements

The establishment and functioning of colleges for significant branches formed in accordance with Article 51(3) of Directive 2013/36/EU shall be based on written coordination and cooperation arrangements to be determined in accordance with Article 6.

Article 27

Participation in college meetings and activities

- (1) When deciding which authorities shall participate in a college meeting or activity in accordance with Article 51(3) of Directive 2013/36/EU, the competent authorities of the home Member State shall take into account the following:
 - (a) the topics to be discussed and the objective of the meeting or activity, in particular with regards to their relevance for each branch; and
 - (b) the significance of the branch in the Member States in which it is established and its importance for the institution.
- (2) The competent authorities of the home Member State and the members of the college shall ensure that the most appropriate delegates participate in the college meetings or activities based on the topics discussed and objectives pursued. These delegates shall have the power to commit their authorities as members of the college, to the maximum extent possible, for the decisions planned to be taken during these meetings or activities.
- (3) The competent authorities of the home Member State may invite institution's representatives to participate in a college meeting or activity, based on the topics and objectives of the college meeting or activity.

Article 28

Conditions for communication

- (1) The communication with the institution and its branches shall be organised according to the supervisory responsibilities of the competent authorities of the home Member State and the members of the college.
- (2) The college meetings and activities shall be organized in accordance with Article 19 of Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).

CHAPTER II

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS

Article 29

General conditions with regard to exchange of information between the competent authorities of the home Member State and college members

- (1) The competent authorities of the home Member State and the members of the college shall exchange among themselves all information necessary to facilitate the cooperation under Article 50 and Article 51(2) of Directive 2013/36/EU.
- (2) The competent authorities of the home Member State and the members of the college shall also exchange all information necessary to facilitate the cooperation referred to in Articles 6, 7 and 8 of Directive 2014/59/EU.
- (3) The competent authorities of the home Member State and the members of the college shall exchange among themselves all essential information, whether received from the institution, a competent or supervisory authority or any other source. This information shall be adequate, accurate and timely, thereby enabling and facilitating the efficient, effective and full performance of the supervisory tasks of the college members.

Article 30

Information exchange for the outcome of the supervisory review and evaluation process

The information to be communicated by the competent authorities of the home Member State to the members of the college shall cover the information referred to in Article 4, Article 5, Articles 7 to 13 and Article 17 Commission Delegated Regulation (EU) No

524/2014 as a result of the supervisory review and evaluation process performed in accordance with Article 97 of Directive 2013/36/EU.

Article 31

Information exchange for the assessment of the recovery plan

- (1) The competent authorities of the home Member State shall consult the competent authorities of the host Member States where significant branches are established on the recovery plan insofar as is relevant to that branch, in accordance to Article 6(2) of Directive 2014/59/EU.
- (2) For the purposes of paragraph 1, the competent authorities of the home Member State shall provide the recovery plan of the institution to the competent authorities of the host Member States where significant branches are established in accordance with Article 20 of Commission Implementing Regulation .../... (ITS on supervisory colleges).
- (3) The competent authorities of the home Member State shall ensure that all members of the college are appropriately informed of the outcome of the process referred to in paragraph 1.

Article 32

Establishment and update of the college supervisory examination programme

- (1) For the purposes of determining the college supervisory examination, the competent authorities of the home Member State and the members of the college shall identify the supervisory activities to be undertaken.
- (2) The college supervisory examination programme shall contain at least the following:
 - (a) the areas of joint work identified as a result of the supervisory review and evaluation process pursuant to Article 97 of Directive 2013/36/EU or as a result of any other college activities undertaken;
 - (b) the areas of focus of the college work and its planned supervisory activities, including planned on-the-spot checks and inspections of the significant branches pursuant to Article 52(3) of Directive 2013/36/EU;
 - (c) the members of the college responsible for undertaking the planned supervisory activities; and
 - (d) the expected timelines, both in terms of timing and duration, for each of the planned supervisory activities.

- (3) While developing the college supervisory examination programme, and after if need be, the competent authorities of the home Member State and the members of the college shall consider the possibility of agreements on voluntary entrustment of tasks and delegation of responsibilities, especially if such entrustment or delegation is expected to lead to more efficient and effective supervision, in particular by removing unnecessary duplication of supervisory requirements, including in relation to information requests.
- (4) The conclusion of an agreement on entrustment of tasks or delegation of responsibilities shall be notified by the competent authorities of the home Member State to the EU institution, and by the competent authority, which delegates its powers, to the EU branch concerned.
- (5) The establishment and update of the college supervisory examination programme shall be performed pursuant to Article 21 of Commission Implementing Regulation (EU) .../... (ITS on supervisory colleges).

CHAPTER III

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN PREPARATION FOR AND DURING EMERGENCY SITUATIONS

Article 33

College framework in preparation for emergency situations

- (1) The competent authorities of the home Member State and the members of the college shall establish in advance a college framework in preparation for emergency situations.
 - (2) The framework of paragraph 1 shall include at least the following:
 - (a) the college-specific procedures that shall apply during emergency situations;
 - (b) the minimum set of information that shall be exchanged during emergency situations as referred to in Article 114(1) of Directive 2013/36/EU.
 - (3) The minimum set of information referred to in point b of paragraph 2 shall include the following:
 - (a) an outline of the situation that has occurred, including the underlying cause of the emergency situation, and the expected impact of the emergency situation on the institution, on the market liquidity and on the stability of the financial system;
 - (b) an explanation of the measures and actions that have been taken or are planned to be taken, by the competent authorities of the home Member State or any of the members of the college or by the institution itself; and
 - (c) the latest available quantitative information regarding liquidity and capital position of the institution.
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Article 34

General conditions with regard to exchanges of information during an emergency situation

- (1) The competent authorities of the home Member State and the members of the college shall exchange with each other all information necessary to facilitate the exercise of the tasks referred to in Article 114(1) of Directive 2013/36/EU, subject to the confidentiality requirements laid down in Chapter 1, Section II of that Directive, and where applicable, Articles 54 and 58 of Directive 2004/39/EC.
- (2) Upon being alerted of an emergency situation by any member or observer of the college or having identified an emergency situation, the competent authorities of the home Member State shall communicate the information referred to in point b of Article 33(2), following the procedures referred to in point a of paragraph 2 of that Article, to the members of the college affected or likely to be affected by the emergency situation, and the EBA.
- (3) Depending on the nature, severity, potential systemic impact or other impact, and likelihood of contagion of the emergency situation, the members of the college affected or likely to be affected by the emergency situation and the competent authorities of the home Member State may decide to exchange additional information.
- (4) The competent authorities of the home Member State shall consider whether the information referred to in paragraphs 2 and 3 is relevant for the performance of the tasks of the resolution college. In this case, the competent authorities of the home Member State shall communicate this information to the resolution authority as defined in Article 3 of Directive 2014/59/EU.
- (5) The information referred to in paragraphs 2 and 3, where applicable, shall be updated immediately when new information is available.
- (6) When the communication referred to in this Article is made orally, written communication shall be submitted at the earliest convenience of the involved competent authorities.

Article 35

Coordination of the supervisory assessment of an emergency situation

- (1) Where an emergency situation occurs, the competent authorities of the home Member State shall coordinate the assessment of the emergency situation (hereinafter 'coordinated supervisory assessment') in cooperation with the members of the college pursuant to Article 112(3) of Directive 2013/36/EU.

- (2) The coordinated supervisory assessment of the emergency situation, prepared by the competent authorities of the home Member State, shall cover at least the following elements:
 - (a) the nature and severity of the emergency situation;
 - (b) the impact or potential impact of the emergency situation on the institution and on any of its affected or likely to be affected branches;
 - (c) the risk of cross-border contagion.
- (3) While assessing point c of paragraph 2, the competent authorities of the home Member State shall consider the potential systemic consequences in any of the Members States where significant branches are established.

Article 36

Coordination of the supervisory response to an emergency situation

- (1) Where an emergency situation occurs, the competent authorities of the home Member State shall coordinate the development of a supervisory response to the emergency situation (hereinafter ‘coordinated supervisory response’) in cooperation with the members of the college pursuant to Article 112(3) of Directive 2013/36/EU.
- (2) The coordinated supervisory assessment referred to in Article 35 shall form the basis of the coordinated supervisory response, which shall define the supervisory actions needed, their scope, and the timetable for their implementation.

Article 37

Monitoring of the implementation of the coordinated supervisory response to an emergency situation

- (1) The competent authorities of the home Member State and the members of the college which supervise branches that are affected or likely to be affected by the emergency situation shall monitor and exchange information on the implementation of the coordinated supervisory response referred to in Article 36.
- (2) The information to be exchanged shall include at least an update on the implementation of the agreed actions within the foreseen timeline, as referred to in Article 36(2), and the need to update or adjust these actions.

Article 38

Coordination of external communication in an emergency situation

The competent authorities of the home Member State and the members of the college responsible for the supervision of branches affected or likely to be affected by an emergency situation shall coordinate to the extent possible their external communications, taking into account the elements specified under Article 23(2), as well as legal obligations or constraints under national law.

TITLE IV

FINAL PROVISIONS

Article 39

Entry into force

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

[For the Commission
On behalf of the President

[Position]

(b) Draft implementing technical standards on operational functioning of colleges of supervisors under Article 51(5) and Article 116(5) of Directive 2013/36/EU (Capital Requirements Directive – CRD IV)



EUROPEAN COMMISSION

Brussels, **XXX**
[...](2012) **XXX** draft

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

of **XXX**

[...]

laying down implementing technical standards with regard to determining the operational functioning of the colleges of supervisors according to Directive 2013/36/EU of the European Parliament and of the Council

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/EC⁶, and in particular Article 51(5) and Article 116(5) thereof,

Whereas:

⁶ Text with EEA relevance.

- (1) The process of establishing and updating the mapping of the group entities in EEA and non EEA countries should be led by the consolidating supervisor who should ensure that potential college members have the possibility to comment and provide their input to this exercise in order to ensure that all group entities are efficiently identified and the mapping reflects accurate and up-to-date information on the entities and branches of the group. In order to facilitate the performance of the mapping exercise, to ensure that all necessary information, in accordance with the provisions of this Regulation, is gathered and reflected in the mapping of the group of institutions, and to reduce compliance costs both for the consolidating supervisor or the competent authorities of the home Member State and other members of the college, the mapping should be performed by using a common template.
- (2) When the consolidating supervisor intends to invite competent authorities of non-significant branches, third country supervisory authorities, and other relevant authorities to participate in the college as observers, it needs to ensure that the members of the college are informed in advance of this intention and are allowed appropriate time in order to assess, agree or object on this proposal. For ensuring that this process is managed in an appropriate manner, the consolidating supervisor should first invite the authorities, potential members of the college, and once this process has been concluded, it shall proceed with invitations to possible observers of the college.
- (3) Before acceptance of an invitation addressed by the consolidating supervisor to potential observers of the college, these potential observers should become aware of the terms of their participation as agreed by the consolidating supervisor and the members of the college.
- (4) The process of concluding and amending the written coordination and cooperation arrangements should be led by the consolidating supervisor who should ensure that college members have the possibility to comment and provide their input to the proposed arrangements, including the terms of observers' participation. In order to ensure that the arrangements concluded by supervisory colleges are consistent, in terms of structure and provisions covered, while at the same time they allow for appropriate flexibility for including college-specific arrangements and agreements, they should be developed following a common template.
- (5) While the consolidating supervisor organises consultation with college members on various operational aspects of college work, the consolidating supervisor should clearly communicate a deadline by when comments and views from college members are expected.
- (6) Recognising the various supervisory tasks that the consolidating supervisor and other members of the college need to perform and their complexity, the minimum expected frequency of college meetings is set to once per year.
- (7) Given that supervisory colleges may be organised in different substructures, it is essential to safeguard that all college members are timely and appropriately informed about the discussions and decisions taken under specific substructures.
- (8) To safeguard the confidentiality of the information that is exchanged between the consolidating supervisor or the competent authorities of the home Member State and

the members of the college, colleges of supervisors should prefer secure means of communication.

- (9) The efficient and effective operation of the supervisory colleges requires that college members exchange all information necessary to enable them to assess and take measures to protect the interests of depositors and investors in their Member States and to protect the financial stability within the Union. Therefore, if the consolidating supervisor considers that a particular piece of information is not of relevance for a member of the college, the consolidating supervisor should justify its decision having previously consulted with that member: for that purpose, the consolidating supervisor should provide all necessary elements for that member to assess relevance.
- (10) When the ongoing review of the permission to use internal models reveals weaknesses in accordance to Article 101 of Directive 2013/36/EU, it is essential that the consolidating supervisor and the members of the college supervising group entities affected by these weaknesses work together in order to assess the materiality of these weaknesses and to decide on appropriate measures. Any decision on imposing capital add-ons or of revoking the approved model should be taken jointly by the consolidating supervisor and the relevant college members.
- (11) In order to facilitate the identification of early warning signs, potential risks and vulnerabilities for informing the group risk assessment report and liquidity risk assessment report, it is important that the consolidating supervisor and other college members agree in advance on a set of indicators to be exchanged at least on an annual basis. To ensure consistency and comparability, these indicators should be calculated on the basis of the supervisory data that competent authorities collect in accordance with Commission Implementing Regulation (EU) No 680/2014.
- (12) The process of establishing and updating a college framework in preparation for emergency situations should be led by the consolidating supervisor (or by the competent authorities of the home Member State) who should ensure that college members have the possibility to comment and provide their input to the proposed framework.
- (13) During an emergency situation it should be ensured that efficient and effective cooperation takes place between the consolidating supervisor and all college members affected or likely to be affected by the emergency situation and that the assessment of the emergency situation, the supervisory response to the emergency situation, and the monitoring and update of this supervisory response are performed in a coordinated manner with appropriate involvement of all college members affected or likely by that emergency situation. In addition, all college members need to be kept informed by the consolidated supervisor on the main elements of the decisions taken or information exchanged for dealing with an emergency situation.
- (14) The provisions in this Regulation are closely linked to each other, since they deal with the operational functioning of the colleges of supervisors. To ensure coherence between those provisions, which should enter into force at the same time, and to facilitate a comprehensive view and compact access to them by persons subject to those obligations, it is desirable to include all the regulatory technical standards required by Article 51(5) and 116(5) of Directive 2013/36/EU in a single Regulation.

- (15) This Regulation is based on the draft implementing technical standards submitted by the European Banking Authority to the Commission.
- (16) The European Banking Authority 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 1093/2010.

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This regulation specifies the operational functioning of the college of supervisors formed in accordance with Article 116 and Article 51(3) of Directive 2013/36/EU.

Article 2

Definitions

For the purposes of this regulation, the following definitions shall apply:

- (1) 'EU institution' means an institution authorised in a Member State;
- (2) 'EU branch' means a branch established in a Member State;
- (3) 'EU financial sector entity' means a financial sector entity, as defined in point 27 of Article 4(1) of Regulation (EU) No 575/2013, authorised or established in a Member State;
- (4) 'EU group entity' means an EU institution, an EU branch or an EU financial sector entity or any other undertaking of the group established in a Member State;
- (5) 'Non-EU group entity' means a group undertaking or a branch as referred to in point 4, which is authorised or established in a third country;
- (6) 'group entity' means an EU group entity or non-EU group entity;
- (7) 'Other relevant authority' means any of the following:
 - an ESCB central bank which is not empowered by national law to supervise an EU institution or an EU branch;
 - a public authority or a body in Member State officially recognized by national law, which is empowered by national law to supervise financial sector entities,

as defined in point 27 of Article 4(1) of Regulation (EU) No 575/2013, which are neither an EU institution nor an EU branch;

- (8) ‘College supervisory examination programme’ means a supervisory examination programme determined in accordance with point c of Article 116(1) of Directive 2013/36/EU;
- (9) ‘Group risk assessment report’ means the report containing the risk assessment of the group of institutions referred to in point a of Article 113(2) of Directive 2013/36/EU;
- (10) ‘Group liquidity risk assessment report’ means the report containing the assessment of the liquidity risk profile of the group of institutions referred to in point b of Article 113(2) of Directive 2013/36/EU.

TITLE I

OPERATIONAL FUNCTIONING OF COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 116 OF DIRECTIVE 2013/36/EU

CHAPTER I

PROCESS FOR THE ESTABLISHMENT AND FUNCTIONING OF COLLEGES

Article 3

Process for the establishment and update of the mapping of a group of institutions

- (1) The consolidating supervisor shall submit the draft mapping, prepared in accordance to Article 3 of the Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges), to the authorities which could be designated as members of the college pursuant to Article 4 of this Regulation (hereinafter ‘potential members of the college’), inviting them to provide their views and indicating the relevant deadline for the submission of these views.
- (2) For the purposes of finalising the mapping and without prejudice to the application of Article 51 of Directive 2013/36/EU, the consolidating supervisor shall consider any views and reservations expressed by the potential members of the college.
- (3) Upon finalisation, the consolidating supervisor shall communicate the mapping of the group to all potential members of the college.
- (4) The consolidating supervisor shall update the mapping, applying the process defined in paragraphs 1 to 4, at least on an annual basis or more frequently in case there are significant changes in the structure of the group.
- (5) The consolidating supervisor shall use the template in Annex I for the establishment and update of the mapping of a group of institutions.

Article 4

Process for establishing a college

- (1) To establish a college, the consolidating supervisor shall perform the following steps:
- (a) the consolidating supervisor shall send the invitations to the authorities referred to in Article 4(1) of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges);
 - (b) the consolidating supervisor shall notify to the members of the college referred to in Article 4(1) of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges) its intention to send an invitation to the competent authorities of a non-significant branch to participate as an observer in the college in accordance with Article 4(2) of that Regulation. This notification shall be accompanied by its proposal on the terms of that participation to be included in the written coordination and cooperation arrangements in accordance with point c of Article 6 of that Regulation. The notification shall also set an adequate and exclusive deadline within which any disagreeing college member may express in writing its fully reasoned objection to any aspect of the proposal of the consolidating supervisor. Upon agreement of all college members on the proposal, which shall be inferred by the consolidating supervisor if no objection has been expressed within the deadline, the consolidating supervisor shall send the invitation to the competent authority of the non-significant branch to become an observer of the college, The invitation shall be accompanied by the terms of participation as agreed by the members of the college and included in the written coordination and cooperation arrangements;
 - (c) the consolidating supervisor shall notify to the members of the college referred to in Article 4(1) of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges) its intention to send an invitation to a third country supervisor authority to participate as an observer in the college in accordance with Article 4(3) of that Regulation. This notification shall be accompanied by its opinion on the assessment of the equivalence of the confidentiality and professional secrecy requirements applicable to that authority and by its proposal on the terms of that participation to be included in the written coordination and cooperation arrangements in accordance with point c of Article 6 of that Regulation. The notification shall also set an adequate and exclusive deadline within which any disagreeing college member may express in writing its fully reasoned objection to any aspect of the proposal of the consolidating supervisor, including on the equivalence issue. Upon agreement of all college members on the proposal, which shall be inferred by the consolidating supervisor if no objection has been expressed within the deadline, the consolidating supervisor shall send the invitation to the third country supervisory authority to become an observer of the college. The invitation shall

be accompanied by the terms of participation as agreed by the members of the college and included in the written coordination and cooperation arrangements;

- (d) the consolidating supervisor shall notify to the members of the college referred to in Article 4(1) of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges) its intention to send an invitation to any other relevant authority to participate as an observer in the college in accordance with Article 4(4) of that Regulation. This notification shall be accompanied by its proposal on the terms of that participation to be included in the written coordination and cooperation arrangements in accordance with point c of Article 6 of that Regulation. The notification shall also set an adequate and exclusive deadline within which any disagreeing college member may express in writing its fully reasoned objection. Upon agreement of all college members on the proposal, which shall be inferred by the consolidating supervisor if no objection has been expressed within the deadline, the consolidating supervisor shall send the invitation to the relevant authority to become an observer of the college. The invitation shall be accompanied by the terms of participation as agreed by the members of the college and included in the written coordination and cooperation arrangements.
- (2) The consolidating supervisor shall apply first the process under point a of paragraph 1 and then the processes under points b, c and d of paragraph 1. The processes referred to in points b, c and d of paragraph 1 can be made simultaneously.
- (3) Authorities receiving an invitation to become members or observers shall acquire this status upon acceptance of the invitation. The authorities receiving an invitation to become observers shall also accept the terms of participation as notified to them by the consolidating supervisor.
- (4) Authorities referred to in point b, c and d of paragraph 1 may request to become observers of a college. The relevant request shall be addressed to the consolidating supervisor. Where the consolidating supervisor decides to invite these authorities to participate in the college as observers, it shall apply the processes referred to in points b, c, and d of paragraph 1, as applicable.

Article 5

Process for the establishment and update of contact lists

- (1) The consolidating supervisor shall maintain and share full contact details, including out-of-hours contact details to be used during emergency situations in its communication with members and observers of the college using the template in Annex II. The contact list and emergency contact list shall be annexed to the written coordination and cooperation arrangements referred to in Article 6 of Commission Delegated Regulation (EU) .../... (RTS on supervisory colleges).
- (2) The members of the college shall provide their contact details to the consolidating supervisor and shall inform the consolidating supervisor of any changes in those details without undue delay.

- (3) Any updated version of the contact list and emergency contact list shall be communicated by the consolidating supervisor to the members of the college.

Article 6

Process for concluding and amending written coordination and cooperation arrangements

- (1) The consolidating supervisor shall prepare its proposal for the conclusion of written coordination and cooperation arrangements in accordance with Article 115 of Directive 2013/36/EU and Article 6 of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges).
- (2) The consolidating supervisor shall communicate its proposal to the members of the college inviting them to provide their views and indicating the relevant deadline for the submission of these views.
- (3) For the purposes of finalising the written coordination and cooperation arrangements, the consolidating supervisor shall take into account any views and reservations expressed by the members of the college and explain, if necessary, the reason for not incorporating them.
- (4) Upon finalisation, the consolidating supervisor shall communicate the written coordination and cooperation arrangements to the members of the college.
- (5) If deemed necessary by the consolidating supervisor and members of the college, the implementation of these arrangements shall be tested by means of simulation exercises or in any other way, as appropriate.
- (6) The consolidating supervisor and the members of the college shall consider the need to amend the written coordination and cooperation arrangements in case of changes in any of its elements pursuant to Article 6 of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges).

The written coordination and cooperation arrangements shall be amended to reflect changes in the membership of the college, if any.

Elements of the written coordination and cooperation arrangements referring to the framework for the cooperation in preparation for and during emergency situations shall be reviewed by the consolidating supervisor and the members of the college on a periodical basis to be determined in these arrangements.

- (7) For the purposes of amending the written coordination and cooperation arrangements, the consolidating supervisor and the members of the college shall follow the process described in paragraphs 1 to 4.
- (8) The consolidating supervisor shall use the template in Annex II to conclude and amend the written coordination and cooperation arrangements.

Article 7

Operational aspects of college meetings and activities

- (1) Colleges of supervisors shall convene at least one physical meeting per year. The consolidating supervisor with the consent of all members of the college, having taken into account the specificities of the group, may determine a different frequency of physical meetings.
- (2) The consolidating supervisor shall clearly establish the objectives of the college meetings. The consolidating supervisor shall ensure that these objectives are reflected in the agenda of these meetings and shall invite all members of the college to propose additional agenda items. The consolidating supervisor shall take into account any proposals on agenda items made by the members of the college and shall explain, if necessary, the reason for not incorporating them.
- (3) The consolidating supervisor and the members of the college which are involved in a particular activity or meeting of the college, shall exchange documents and contributions to working documents well in advance to enable all participants in the college meeting to actively contribute to the discussions.
- (4) Agreed procedures and time frames to be followed for the circulation of meeting documents shall be set out in the written coordination and cooperation arrangements pursuant to point k of Article 6 of Commission Delegated Regulation (EU) No .../... (RTS on supervisory college).

CHAPTER II

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS

Article 8

General framework for the exchange of information between the consolidating supervisor, college members and observers

- (1) For the purpose of Article 10(3) of the Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges), the members the college shall transmit to the consolidating supervisor all essential and relevant information.
 - (2) The consolidating supervisor shall transmit the information referred to in paragraph 1:
 - (a) to the members of the college;
 - (b) to the observers as the consolidating supervisor deems appropriate and in accordance with the terms of their participation in the college.
 - (3) If the consolidating supervisor deems that any information under the scope of paragraph 1 is not relevant for a particular member of the college, it shall previously
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consult that member and provide to it key points of the information to enable the member to determine its actual relevance.

- (4) When the college is organised in different substructures, the consolidated supervisor shall keep all college members fully informed, in a timely manner, on the actions taken or the measures carried out in different college substructures.
- (5) The consolidating supervisor and the members of the college shall agree on the means for the exchange of information and shall specify this agreement in the written coordination and cooperation arrangements referred to in Article 6 of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges).

Article 9

Process for carrying out the ongoing review of the permission to use internal approaches

- (1) Where the requirements for applying an internal approach in accordance with Article 143(1), Article 151(4) or (9), Article 283, Article 312(2), or Article 363 of Regulation (EU) No 575/2013 are no longer met by any of the EU institutions, including the EU parent institution, or where weaknesses have been identified in accordance with Article 101 of Directive 2013/36/EU by any relevant member of the college within the meaning of Article 12(1) of Commission Delegated Regulation (RTS on supervisory colleges), the consolidating supervisor and that member of the college shall work together, in full consultation, to jointly agree on the revocation of the permission to use the approach, the imposition of capital add-ons or on the restriction of the use of the internal model as referred to in points c and d of Article 12(2) of that Regulation.
- (2) The decision on the revocation of an approved model shall be jointly taken by the consolidating supervisor and the relevant members of the college supervising entities using the approved model and affected by the inefficiencies identified under paragraph 1. The cooperation between the consolidating supervisor and those members of the college shall follow the process set by the provisions of Commission Implementing Regulation .../... (ITS on joint decisions on approval of internal models) in a way that is appropriate to the scope of involvement of each competent authority.
- (3) The decision resulting in the imposition of capital add-ons shall be taken through the capital joint decision process in accordance with point a of Article 113(1) of Directive 2013/36/EU.
- (4) The consolidating supervisor shall inform all other members of the college on the decisions taken pursuant to paragraph 1, where it considers that such information is likely to affect other activities of the college or is essential for the exercise of the tasks of other members of the college.

Article 10

Process for notifying non-material extensions or changes in internal models

- (1) For non-material model extensions or changes that affect any of the EU institutions, including the EU parent undertaking, the consolidating supervisor shall inform all relevant members of the college within the meaning of Article 12(1) of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges) without delay of these extensions or changes.
- (2) A relevant member of the college within the meaning of Article 12(1) of Commission Delegated Regulation (EU) No .../...(RTS on supervisory colleges) shall inform the consolidating supervisor of any non-material extensions or changes that affect any of the EU institutions under the supervisory remit of that relevant member of the college.
- (3) Where a relevant member of the college within the meaning of Article 12(1) of Commission Delegated Regulation (EU) No .../... (RTS on supervisory colleges) has concerns regarding the classification of an extension or change as non-material, it shall communicate those concerns to the consolidating supervisor who will disseminate this information to the other relevant members of the college within the meaning of Article 12(1) of Commission Delegated Regulation (EU) No .../...(RTS on supervisory colleges).

Where the consolidating supervisor has concerns regarding the classification of an extension or change as non-material, it shall communicate those concerns to all relevant members of the college within the meaning of Article 12(1) of Commission Delegated Regulation (EU) No .../ (RTS on supervisory colleges).

The consolidating supervisor and the relevant members of the college within the meaning of Article 12(1) of Commission Delegated Regulation (EU) No .../...(RTS on supervisory colleges) shall discuss the details of these concerns for the purposes of reaching a common view on the materiality of the extension or change.

- (4) Where the consolidating supervisor and the relevant members of the college within the meaning of Article 12(1) of Commission Delegated Regulation (EU) No .../...(RTS on supervisory colleges) consider that extensions or changes to an internal model have incorrectly been classified by the institution concerned as non-material, they shall inform that institution without delay.

Article 11

Process for exchanging information on early warnings signs, potential risks and vulnerabilities

- (1) The consolidating supervisor and the members of the college participating in the development of a group risk assessment report or a group liquidity risk assessment report for the purposes of reaching joint decisions on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU shall agree on indicators for identifying the early warning signs, potential risks and vulnerabilities

referred to in Article 13 of Commission Delegated Regulation (EU) .../... (RTS on supervisory colleges).

These indicators shall be computed based on the information that competent authorities collect from supervised institutions in accordance with Commission Implementing Regulation (EU) No 680/2014.

The agreed indicators shall be set out in the written coordination and cooperation arrangements in accordance to point 1 of Article 6 of Commission Delegated Regulation (EU) No .../...(RTS on supervisory colleges).

- (2) Each member of the college referred to in paragraph 1 shall communicate to the consolidating supervisor the indicators agreed pursuant to paragraph 1 for the EU institutions under its supervisory remit, as relevant.
- (3) The consolidating supervisor shall disseminate the information referred to in paragraph 2, including indicators agreed pursuant to paragraph 1 for the EU parent undertaking and at consolidated level, to each member of the college referred to in paragraph 1.
- (4) The consolidating supervisor and the members of the college referred to in paragraph 1 shall exchange this information at least on an annual basis, or more frequently if agreed by these competent authorities.

Article 12

Process for establishing and updating of the college supervisory examination programme

- (1) Once the joint decisions on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU have been finalised, the members of the college shall provide their input to the consolidating supervisor for the purposes of establishing a college supervisory examination programme in accordance with Article 17 of Commission Delegated Regulation (EU) .../... (RTS on supervisory colleges).
- (2) After receiving the contributions from the members of the college, the consolidating supervisor shall prepare a draft college supervisory examination programme.
- (3) The consolidating supervisor shall circulate the draft college supervisory examination programme to the members of the college inviting them to provide their views on the areas of joint work and indicating the relevant deadline for the submission of these views.
- (4) For the purposes of finalising the college supervisory examination programme, the consolidating supervisor shall take into account any views and reservations expressed by the members of the college and explain, if necessary, the reason for not incorporating them.
- (5) Upon finalisation, the consolidating supervisor shall communicate the college supervisory examination programme to the members of the college.

- (6) The college supervisory examination programme shall be updated at least annually, or more frequently if deemed necessary as a result of the supervisory review and evaluation process pursuant to Article 97 of Directive 2013/36/EU, or as a result of joint decisions on institution-specific prudential requirements in accordance to Article 113 of that Directive.
- (7) While updating the college supervisory examination programme, the consolidating supervisor shall follow the process defined in paragraphs 1 to 5.

CHAPTER III

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN PREPARATION FOR AND DURING EMERGENCY SITUATIONS

Article 13

Process for establishing a college framework in preparation for emergency situations

- (1) The consolidating supervisor shall prepare in advance, before any occurrence of an emergency situation, its proposal for establishing a college framework in preparation for emergency situations in accordance with Article 18 of Commission Delegated Regulation (EU) .../... (RTS on supervisory colleges).
- (2) The consolidating supervisor shall submit its proposal to the members of the college, inviting them to provide their views and indicating the relevant deadline for the submission of these views.
- (3) For the purposes of finalising the college framework in preparation for emergency situations, the consolidating supervisor shall take into account any views and reservations expressed by the members of the college, and explain, if necessary, the reasons for not incorporating them.
- (4) Upon finalisation, the consolidating supervisor shall communicate the college framework in preparation for emergency situations to the members of the college.
- (5) The consolidating supervisor and the members of the college shall consider, at least on an annual basis, the need to update the college framework in preparation for emergency situations.
- (6) While updating the college framework in preparation for emergency situations, the consolidating supervisor and the members of the college shall follow the process defined in paragraphs 1 to 4.

Article 14

Process for exchanging information during an emergency situation

- (1) Where the consolidating supervisor becomes aware of an emergency situation, which affects or is likely to affect a group entity, the consolidating supervisor shall alert the member of the college, which supervises the group entity affected by the emergency situation or likely to be affected by the emergency situation, and the EBA without undue delay.
- (2) Where a member of the college becomes aware of an emergency situation, which affects or is likely to affect a group entity under its supervisory remit, the member of the college shall alert the consolidating supervisor without undue delay.
- (3) The consolidating supervisor shall ensure that all other members of the college are adequately informed about the main elements of the following:
 - (a) the coordinated supervisory assessment of the emergency situation as referred to in Article 15;
 - (b) the coordinated supervisory response as referred to in Article 16, including the actions taken or planned to be taken, and its monitoring as referred to in Article 17; and
 - (c) if appropriate, the early intervention measures adopted pursuant to Articles 23, 23a and 24 of Directive 2014/59/EU or the determination of the conditions for resolution as per Article 27 of that Directive.
- (4) Where the coordinated supervisory response to an emergency situation as referred to in Article 16 is likely to be more efficient by involving the group-level resolution authority, resolution authorities of subsidiaries or resolution authorities of jurisdictions in which significant branches are located, central banks, competent ministries and deposit guarantee schemes, the consolidating supervisor shall consider the involvement of these authorities.
- (5) Where an emergency situation is restricted to a specific group entity, the situation shall be managed by the member of the college responsible for the supervision of that group entity concerned in liaison with the consolidating supervisor.

Article 15

Coordination of the supervisory assessment of an emergency situation

- (1) For the purposes of Article 20 of Commission Delegated Regulation .../... (RTS on supervisory colleges), the consolidating supervisor shall coordinate the development of a draft coordinated supervisory assessment of the emergency situation, based on its own assessment and the assessment of the members of the college which supervise group entities that are affected or likely to be affected by the emergency situation.
- (2) The draft coordinated supervisory assessment of the emergency situation shall cover the affected or likely to be affected group entities. The views and assessments of the

members of the college responsible for the supervision of these group entities shall be adequately taken into account by the consolidating supervisor.

- (3) In case that the emergency situation is restricted to a specific group entity, the member of the college responsible for the supervision of that group entity shall conduct, in liaison with the consolidating supervisor, the supervisory assessment of the emergency situation.

Article 16

Coordination of the supervisory response to an emergency situation

- (1) For the purposes of Article 21 of Commission Delegated Regulation .../... (RTS on supervisory colleges), the consolidating supervisor shall lead the development of a coordinated supervisory response to an emergency situation with regard to a group and its affected or likely to be affected group entities. The views and assessments of the members of the college responsible for the supervision of these group entities shall be adequately taken into account by the consolidating supervisor.
- (2) In case the emergency situation is restricted to a specific group entity, the member of the college responsible for the supervision of that group entity shall conduct, in liaison with the consolidating supervisor, the development of the coordinated supervisory response to the emergency situation.
- (3) The consolidating supervisor and the members of the college shall perform the tasks referred to in paragraphs 1 and 2 without undue delay.
- (4) Given the nature of an emergency situation, the development of the coordinated supervisory assessment of an emergency situation as referred to in Article 15 and the development of the coordinated supervisory response to this emergency situation may be run in parallel.

Article 17

Process for monitoring and updating the coordinated supervisory response to an emergency situation

- (1) For the purposes of Article 22 of Commission Delegated Regulation .../... (RTS on supervisory colleges), the consolidating supervisor shall coordinate the monitoring of the implementation of the agreed actions set out in the coordinated supervisory response referred to in Article 16.
- (2) The members of the college responsible for the supervision of the group entities affected or likely to be affected by the emergency situation shall inform the consolidating supervisor of the evolution of the emergency situation and the implementation of the agreed actions related to their respective group entities, as relevant.

- (3) Any updates on the monitoring of the coordinated supervisory response shall be provided by the consolidating supervisor to the members of the college, including the EBA, and shall cover the group and the affected or likely to be affected group entities.
- (4) The consolidating supervisor and the members of the college responsible for the supervision of the group entities affected or likely to be affected by the emergency situation shall consider the need to update the coordinated supervisory response taking into account the information provided to each other while monitoring its implementation.
- (5) The requirements set out in paragraphs 1 to 4 shall apply without undue delay.

TITLE III

OPERATIONAL FUNCTIONING OF COLLEGES FORMED IN ACCORDANCE TO ARTICLE 51(3) OF DIRECTIVE 2013/36/EU

CHAPTER I

PROCESS FOR THE ESTABLISHMENT AND FUNCTIONING OF COLLEGES

Article 18

Process of the establishment of a college, the establishment and update of the mapping of an institution, contact lists and written coordination and cooperation arrangements

For colleges formed in accordance to Article 51(3) of Directive 2013/36/EU, the competent authorities of the home Member State shall establish and update the mapping of an institution, establish a college, establish and update contact lists, and conclude and amend written coordination and cooperation arrangements in accordance with Articles 3 to 6 to the extent appropriate.

Article 19

Operational aspects of college meetings and activities

- (1) The competent authorities of the home Member State shall establish regular cooperation with college members that can take the form of meetings or other activities.
- (2) The organisation of college meetings and activities, and their objectives shall be communicated by the competent authorities of the home Member State to the members of the college, including the EBA.
- (3) The competent authorities of the home Member State shall clearly establish the objectives of the college meetings. The competent authorities of the home Member State shall ensure that these objectives are reflected in the agenda items of these meetings and shall invite the members of the college to propose additional agenda items. The competent authorities of the home Member State shall take into account any

proposals on agenda items made by the members of the college and shall explain, if necessary, the reason for not incorporating them.

- (4) The competent authorities of the home Member State and the members of the college, who are involved in a particular activity or meeting of the college, shall circulate documents and contributions to working documents well in advance to enable all participants in the college to actively contribute to the discussions.
- (5) Agreed procedures and time frames to be followed for circulation of meeting documents shall be set out in the written coordination and cooperation arrangements pursuant to point k of Article 6 of the Commission Delegated Regulation (RTS on supervisory colleges).

CHAPTER II

PLANNING AND COORDINATION SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS

Article 20

General framework for the exchange of information between the competent authorities of the home Member State, college members and observers

- (1) For the purpose of Article 29(3) of the Commission Delegated Regulation .../... (RTS of supervisory colleges), the members of the college shall transmit to the competent authorities of the home Member State essential and relevant information.
- (2) The competent authorities of the home Member State shall transmit the information of paragraph 1:
 - (a) to the members of the college;
 - (b) to the observers as the competent authorities of the home Member State deem appropriate and in accordance with the terms of their participation in the college.
- (3) If the competent authorities of the home Member State deem that any information under the scope of paragraph 1 is not relevant for a particular member of the college, it shall consult with that member and provide to it key points related to the information to enable that member to determine its actual relevance.
- (4) When the college is organised in different substructures, the competent authorities of the home Member State shall keep all college members fully informed, in a timely manner, on the actions taken or the measures carried out in different college substructures.
- (5) The competent authorities of the home Member State and the members of the college shall agree on the means for the exchange of information and shall specify this agreement in the written coordination and cooperation arrangements referred to in

Article 6 of the Commission Delegated Regulation (EU) No .../...(RTS on supervisory colleges).

Article 21

Establishment and update of the college supervisory examination programme

- (1) For the purposes of establishing a college supervisory examination programme in accordance with Article 32 of Commission Delegated Regulation (EU) .../. (RTS on supervisory colleges), the members of the college shall provide their input to the competent authorities of the home Member State.
- (2) After receiving the contributions from the members of the college, the competent authorities of the home Member State shall prepare a draft college supervisory examination programme.
- (3) The competent authorities of the home Member State shall circulate the draft college supervisory examination programme to the members of the college inviting them to provide their views on the areas of joint work and indicating the relevant deadline for the submission of these views.
- (4) For the purposes of finalising the college supervisory examination programme, the competent authorities of the home Member State shall take into account any views and reservations expressed by the members of the college and explain, if necessary, the reasons for not incorporating them.
- (5) Upon finalisation, the competent authorities of the home Member State shall communicate the college supervisory examination programme to the members of the college.
- (6) The college supervisory examination programme shall be updated at least annually or more frequently if deemed necessary as a result of the supervisory review and evaluation process pursuant to Article 97 of Directive 2013/36/EU.
- (7) While updating the college supervisory examination programme, the competent authorities of the home Member State shall follow the process defined in paragraphs 1 to 5.

CHAPTER III

PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN PREPARATION FOR AND DURING EMERGENCY SITUATIONS

Article 22

Process for establishing a college framework in preparation for emergency situations

- (1) For the purposes of establishing the college framework in preparation for emergency situations, the competent authorities of the home Member State shall prepare in advance, before any occurrence of an emergency situation, a proposal pursuant to Article 33 of Commission Delegated Regulation (EU) .../...(RTS on supervisory colleges).
- (2) The competent authorities of the home Member State shall submit its proposal to the members of the college, inviting them to provide their views and indicating the relevant deadline for the submission of these views.
- (3) For the purposes of finalising the college framework in preparation for emergency situations, the competent authorities of the home Member State shall take into account any views and reservations expressed by the members of the college, and explain, if necessary, the reasons for not incorporating them.
- (4) Upon finalisation, the competent authorities of the home Member State shall communicate the college framework in preparation for emergency situations to the members of the college.
- (5) The competent authorities of the home Member State and the members of the college shall consider, at least on an annual basis, the need to update the college framework in preparation for emergency situations.
- (6) While updating the college framework in preparation for emergency situations, the competent authorities of the home Member State and the members of the college shall follow the process defined in paragraphs 1 to 4.

Article 23

Process for exchanging information during emergency situations

- (1) Where the competent authorities of the home Member State becomes aware of an emergency situation, which affects or is likely to affect the institution, they shall alert the EBA and the members of the college without undue delay.
- (2) Where a member of the college becomes aware of an emergency situation, which affects or is likely to affect a branch in its jurisdiction, it shall alert the competent authorities of the home Member State without undue delay.

Article 24

Coordination of the supervisory assessment of an emergency situation

For the purposes of Article 32 of the Commission Delegated Regulation (RTS on supervisory colleges), the competent authorities of the home Member State shall circulate the supervisory assessment of the emergency situation to the members of the college which supervise branches affected or likely to be affected by the emergency situation.

Article 25

Coordination and monitoring of the supervisory response to an emergency situation

- (1) For the purposes of Article 36 of Commission Delegated Regulation .../... (RTS on supervisory colleges), the competent authorities of the home Member State shall develop a coordinated supervisory response to an emergency situation. The views of the members of the college which are affected or likely to be affected by this emergency situation shall be adequately taken into account by the competent authorities of the home Member State.
- (2) The competent authorities of the home Member State shall coordinate the monitoring of the implementation of any actions set out in the supervisory response, if relevant.
- (3) The members of the college shall inform the competent authorities of the home Member State on the evolution of the emergency situation and the implementation of any agreed actions related to the branch in their jurisdiction.
- (4) Any updates on the monitoring of the supervisory response shall be provided by the competent authorities of the home Member State to the members of the college, including the EBA.
- (5) Given the nature of an emergency situation, the development of the supervisory assessment of an emergency situation and the development of the supervisory response to this situation may run in parallel.

TITLE IV

FINAL PROVISIONS

Article 26

Entry into force

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

On behalf of the President

[Position]

4. Accompanying documents

4.1 Impact assessment

1. Problem definition

The main issue to be addressed by the EBA is the specification of the general conditions of the functioning of colleges and the determination of the operational functioning of colleges pursuant to Articles 51 and 113 of Directive 2013/36/EU.

To accomplish this, the EBA aims to achieve the maximum possible level of harmonisation by implementing the BTS as a means of establishing a level playing field, preventing regulatory arbitrage opportunities and enhancing supervisory convergence and legal clarity. The resolution of the problem identified should also help colleges to operate efficiently and effectively by reducing the compliance burden on supervisory authorities in their capacity as home and host competent authorities, and on other involved/affected stakeholders (e.g. credit institutions).

2. Objectives

The operational objectives that would enable the regulatory objective of the draft RTS and ITS of achieving maximum harmonisation to be met involve streamlining the tasks relating to:

- the content and the focus of the mapping exercise,
- the frequency and process for performing, agreeing and updating the mapping of cross-border banking groups,
- the main elements of the written coordination and cooperation arrangements (for both going concern and emergency situations), including setting up and maintaining contact lists – and emergency contact lists – of college members,
- the process of developing, agreeing and updating the written cooperation and coordination arrangements,
- the content of the information to be exchanged while performing different supervisory tasks within the college framework,
- the process, frequency and recipients of the sharing of the relevant information taking into account the different roles and responsibilities of college members,
- the focus of the joint work, in particular that included under the college supervisory examination programme,
- the frequency and process of performing, agreeing and updating, as needed, the college supervisory examination programme,
- the establishment of a framework for preparing and executing the envisaged cooperation in emergency situations, defining the information to be exchanged and the frequency with which this is done, as well as the process for exchanging this information,

- the establishment of the process for performing coordinated supervisory assessment of emergency situations, as well as developing and implementing coordinated supervisory responses and supervisory communication.

3. Options considered

After conducting an initial screening of the problem to identify whether there is a need for an in-depth impact assessment, it has been concluded that the specific set of technical standards do not require an analytical impact assessment to analyse specific technical options. Instead, the options examined will be restricted to a high-level set of policy options to determine whether the draft RTS and ITS framework will:

- Option 1: keep the existing practices unchanged when creating the RTS/ITS framework, i.e. current practices \equiv RTS/ITS
- Option 2: add new elements or exclude elements from the existing practices, i.e. current practices \neq RTS/ITS

3.1. Mapping exercise

The draft BTS on colleges of supervisors address the issue of the mapping of cross border banking groups given that (a) the draft RTS specify the content and focus of the mapping exercise and (b) the draft ITS introduce the requirements for the performance of the mapping exercise and specify the process for performing, agreeing and updating the mapping on an at least annual basis.

The performance of the mapping exercise, as addressed by the draft technical standards, consists in:

- identifying the entities and branches of a cross-border banking group with a presence in European Economic Area (EEA) and non-EEA countries;
- determining and noting the significance and relevance of these entities and branches for the local markets and for the group; and,
- identifying the competent authorities responsible for the supervision of these entities to collect the necessary information for determining college membership.

The mapping of cross-border banking groups is an exercise led by the consolidating supervisor upon setting up a college and is updated at least on an annual basis (as per the draft ITS provisions). Contributions and the involvement of the host competent authorities are expected, in particular with regard to determining and noting the significance of entities in their jurisdiction.

The content of the template to be used when performing this exercise (Annex 1 of the draft ITS) should be in agreement with and reflect the content of information specified in the draft RTS.

3.1.1. Differences with regards to current practices

It is expected that the draft BTS, through the inclusion of a template for the mapping exercise (the 'mapping template') which has been developed on the basis of the mapping template used by the EBA staff for collecting information when monitoring colleges, will require competent authorities to implement specific changes to their current practices. This is the case in particular for the competent authorities acting as consolidating supervisors. It is also expected that the mapping template will aid the convergence of practices among supervisors and facilitate the process of discussing, agreeing and updating the mapping of cross-border banking groups. It is envisaged that the harmonisation of the templates will have a notable positive impact on the host

competent authorities, as they would not need to provide information using different templates which vary depending on the consolidating supervisor's requirements.

3.2. Essential elements of written coordination and cooperation arrangements

The draft BTS on colleges of supervisors address the issue of written coordination and cooperation arrangements given that (a) the draft RTS specify the main elements of the written coordination and cooperation arrangements, covering both going concern and emergency situations as well as contact lists (annexes to these arrangements) and (b) the draft ITS cover the process for developing, agreeing and updating these written coordination and cooperation arrangements.

As for the performance of the mapping exercise, the process for the development of the written coordination and cooperation arrangements is led by the consolidating supervisor, who consults the host competent authorities, members of the college. The draft ITS provide a template that is to be used as the basis by the consolidating supervisor when developing the written coordination and cooperation arrangements.

3.2.1. Differences with regard to current practices

Colleges currently use a template that was developed by the CEBS and which is in the form of a legal contract with fairly general provisions covering information exchange, a collaboration framework, etc. Clear references to college-specific information were included, mainly with regard to the structure and description of the group (usually included as a chart in the annex) and the identification of the competent authorities responsible for the supervision of the group entities. Given the provisions of the Level 1 text and the requirements to be introduced by the draft RTS and ITS, the written cooperation and coordination arrangements could be more college-specific – within, of course, the framework provided by the Level 1 text and the draft technical standards on colleges. This means that the current template will be replaced by a more general, free-text template that will specify the areas that need to be covered by the written arrangements and that will provide guidance on their further development and specification to the needs and requirements of a college (college-specific written cooperation and coordination arrangements).

3.3. Planning and coordination of activities in going concern situations

a. Information exchange

- SREP elements and SREP outcome
- Risk indicators
- Information on non-compliance and sanctions

b. Internal models

- Ongoing review of approved models
- Notifications of non-material changes

c. Joint activities – colleges supervisory examination programme

With regard to the information exchange within the college framework and on a going concern basis, the draft RTS specify the information to be exchanged building on the elements of the SREP as specified in the Guidelines on common SREP (ongoing work), on the outcome of the SREP for a cross-border banking group and its entities (making links to the ITS on capital and liquidity joint decisions), on the information to be exchanged while reviewing the performance of the approved internal models, information on key risk indicators, and information on compliance issues relevant for the group or for any of its entities. The draft RTS provide specific links to Article 101

of Directive 2013/36/EU (ongoing review of the permission to use internal models) requiring competent authorities to exchange information on Article 101(3) and Article 101(4) of the CRD for cross-border entities.

With regard to the supervisory examination programme, the draft RTS specify its main elements building on the Level 1 provisions (Article 99 of the CRD IV).

The draft ITS establish the process for exchanging this information, as well as the rules for the leading authority – being the consolidating supervisor – and determines the level of involvement of other host competent authorities (e.g. the information concerning a specific entity is communicated to other members of the college, where relevant, by the consolidating supervisor; information on non-compliance issues are shared with host competent authorities only when this information is relevant to them). The draft ITS also include provisions investigating the possibility of intensifying the cooperation between home and host competent authorities should an authority plan to revoke the permission to use an internal model that has been jointly agreed by the consolidating supervisor and relevant host competent authorities.

The ITS also include information covering the process for developing, agreeing and updating the college/joint supervisory examination programme.

3.3.1. Differences with regard to current practices

The content of the information being exchanged among the members of the college is not usually consistent, particularly while in the process of reaching capital and liquidity joint decisions (however, this is captured by the draft ITS on capital and liquidity joint decisions cost-benefit analysis). The main new element that has been introduced is the information regarding the key risk indicators. However, since the information will be available at group level, the cost could be attributed to the efforts made by host supervisors in preparing the information for subsidiaries, and from the subsequent efforts made by all other competent authorities to collect and analyse this information. Another new element relating to home-host cooperation is also required to cover the revocation of models and notification of non-material extensions and changes.

3.4. Planning and coordination of activities in emergency situations

a) Development of a framework and determining the scope of information to be exchanged in emergency situations

b) Coordinated supervisory actions

- Coordinated assessment
- Coordinated supervisory response and monitoring of this response
- Coordinated supervisory communication

The draft RTS include provisions requiring the members of the college to agree on a framework for dealing with emergency situations. The provisions stipulate that college members must identify the tools and procedures to be used and followed for the exchange of information – in a secure and timely way. At the same time, college members are expected to test and, if necessary, revise on a periodical basis the framework in place. In addition, the draft RTS specify the minimum set of information to be exchanged once an emergency situation has been identified. Furthermore, the draft RTS set operational aspects of cooperation and interaction between members of the college and with other authorities and/or other forms of cooperation or arrangements that may have been established for the group, either at European or global level. The provisions also intend to cover elements of information to be exchanged, or other issues to be considered by members of the college either (a) when performing their coordinated

supervisory assessment or (b) when determining the coordinated supervisory response and deciding on the coordinated supervisory communication.

The draft ITS set the process, frequency and the level of involvement of the members of the college in conjunction with the framework for cooperation set by the draft RTS.

3.4.1. Differences with regard to current practices

From the implementation study carried out at the end of 2011/beginning of 2012, it seems that most of the colleges did not, at that time, have in place a framework for cooperation for preparing for and dealing with emergency situations, other than setting up and maintaining emergency contact lists. Since then, colleges have intensified their efforts to develop emergency plans and maintain up-to-date emergency contact lists. The provisions of the draft RTS and ITS introduce further details covering the framework of cooperation among the members of a college while dealing with emergency situations, building on the experience gained through the implementation of the relevant provisions of GL34, Chapter 8.

4. Impact assessment analysis

4.1. Mapping exercise

The cost⁷ of mapping would mainly arise from (a) potential difficulties in identifying the general structure of cross-border banking groups, particularly for those groups with a large number of subsidiaries and branches (significant/non-significant), with costs also resulting from efforts to obtain information on non-significant branches and their immediate parent, (b) the resources to be devoted to updating the mapping on a yearly basis, particularly for banking groups with many entities and branches in EEA and non-EEA countries, (c) the requirement to provide information on the criteria used for determining the significance and relevance of an entity or a branch for the local market and/or the group, as this may be more time-consuming compared to current practices across the EU, and (d) the requirement to provide information on the use of waivers to identify the scope of institution-specific prudential requirements (liquidity and capital joint decisions).

College members would benefit from having an up-to-date mapping of the group that includes (a) information on the group's entities, along with (b) criteria used for determining the relevance and significance, (c) information on the use of waivers that are relevant for understanding the entities that fall within the scope of capital and liquidity joint decisions, and (d) information on the authorities responsible for the supervision of these entities, both from EEA and non-EEA countries.

4.2. Essential elements of written coordination and cooperation arrangements

Additional costs are expected to arise from (a) the interaction between competent authorities during the process of agreeing on/updating the written coordination and cooperation arrangements, (b) the more flexible nature of these written coordination and cooperation arrangements, and efforts made by the competent authorities to keep them up to date, and (c) drawing up and adapting the written cooperation and coordination arrangements based on the

⁷ A member indicated that the costs noted in points (a) to (c) seem to be primarily associated with the very first years of performance of the mapping exercise and use of the mapping template for the identification of the entities of a banking group, and the identification of the competent and other authorities supervising these entities.

characteristics of the group and its college, with different steps for the consultation with and involvement of various divisions/sections of the competent authorities (e.g. supervision, legal)

The benefits relating to the written coordination and cooperation arrangements are expected to arise from (a) the inclusion of practical and detailed information on arrangements and agreements made among the college members in view of facilitating the functioning of colleges, both in going concern and emergency situations, and (b) the inclusion of college-specific information that could be used as the basis for ensuring the compliance of college members with the agreements in place and the audit trail for the same purposes. It is also expected that the written coordination and cooperation arrangements will facilitate group risk assessments including on-site and off-site inspections.

4.3. Planning and coordination of activities in going concern situations

(a) Information exchange; content and process-related provisions

With regard to provisions specifying the information to be exchanged (draft RTS provisions) and the process for exchanging this information (draft ITS provisions, and provisions arising from the draft ITS on joint decisions on institution-specific prudential requirements⁸), the costs are expected to arise from the (a) preparation, (b) communication and (c) analysis of this information (e.g. costs foreseen in terms of additional resources needed by the competent authorities, members of the college, to support the preparation, exchange, reading, assessment, analysis and understanding of the provided information), and (d) translation of this information from the national language into the working/common language used by the college.

The benefits linked to provisions on the information to be exchanged are expected to be (a) the facilitation of the performance of supervisory tasks arising from the Level 1 text given that a complete and up-to-date set of information will be exchanged and be available to the members of the college, based on their role and responsibilities (the draft technical standards take into account differences in the level of interaction and granularity of information to be exchanged, depending on the role of a competent authority e.g. host of subsidiary or host of a branch), (b) the facilitation of the college function and interaction of competent authorities within the college framework, and (c) the reduction in the number of information requests addressed to supervised institutions to the maximum extent possible through efforts to coordinate these requests among the competent authorities, and (d) the enabling of supervisors to develop a common understanding of the risk profile of the relevant group as the starting point for risk-based supervision.

(b) Home-host cooperation with regard to the ongoing review of internal models and notifications of non-material changes; content and process-related provisions

The foreseen costs arising from the draft RTS and ITS in this respect are expected to be (a) the constraints in man-hour resources to be devoted to home-host cooperation with regard to the ongoing review of approved models and notifications of non-material changes, and (b) the possible impact of home-host interaction during the ongoing review of internal models on interaction with credit institutions, recognising that the need for discussions, consultation or even joint decisions (e.g. revocation of an approved internal model) between the consolidating supervisor and relevant competent authorities could be time-consuming and costly.

⁸ The impact from the provisions included in the ITS on joint decisions on institution-specific prudential requirements (Article 113(8) of the CRD) has already been covered by the cost-benefit analysis of the technical standards, so it was excluded while members considered sources of costs and benefits.

The foreseen benefits of the implementation of the draft RTS and ITS could arise from (a) the intensification of the interaction and cooperation between home and host supervisors and consistency across the EU in cases where decisions concerning the revocation of permission for an internal model, jointly granted by the consolidating supervisor and relevant competent authorities, are being considered, (b) having a better overview of decisions concerning the revocation of approved models and those underlying the deficiencies identified during the ongoing review of approved models, and (c) the need for transparency and clarity in relation to non-material changes and extensions of approved models applied at different entity levels of a cross-border banking group.

(c) College supervisory examination programme; content and process-related provisions

The foreseen costs from the implementation of RTS and ITS could include (a) resource constraints or constraints arising from the national regulatory or reporting framework, (b) intensification of coordination, (c) revision of national approaches to fit into the calendar of the joint work – an element that was noted as the most important source of costs in terms of costs linked to the supervisory examination programme, (d) possible delays in drawing up the programmes given that a larger number of competent authorities will be involved, and (e) less flexibility in the process for including new activities that may be needed to cover/address unforeseen needs.

With regard to the supervisory examination programme, as an overall benefit it was noted that the college will have a better understanding of the entire group, which will enable all college members to better identify significant risks relevant to the group as a whole. In terms of more specific details relating to the draft RTS and ITS, the RTS build on the provisions of the Level 1 text (Article 99 of Directive 2013/36/EU). It is expected that, by defining the minimum elements of the joint supervisory examination programme (a) the structure and main elements of the college examination programmes will converge across colleges – even though one member expressed doubts as to whether this was necessarily a benefit and (b) there would be sufficient links and consistency between individual programmes and the college supervisory examination programme, increasing both the efficiency in the use and allocation of resources, and in the prioritisation of activities and the transparency and rationalisation of the decisions taken. In addition, with regard to the joint supervisory examination programme it is expected that the process and timeline of its development as specified in the draft ITS (e.g. once the joint decisions on capital/liquidity have been completed for year 1, the process of developing the joint supervisory examination programme for year 2 should start) (c) will help to improve the current supervisory practices, e.g. the joint supervisory examination programme will be transformed from simply an aggregation of individual supervisory examination programmes, as is currently the case, into an integrated framework for identifying areas of joint work for college members, and will avoid any overlapping of work.

4.4. Planning and coordination of activities in emergency situations

It is foreseen that the costs would arise from: (a) developing a framework for cooperation and keeping this framework up to date, in particular start-up costs, (b) setting up internal procedures or modifying risk monitoring and assessment systems in place to take into account emergency situations, (c) cooperation requirements, especially during emergency situations, which are expected to require further resources and investments in IT systems and tools enabling supervisory cooperation to be conducted in a timely and secure manner, (d) less flexibility in terms of the actions that supervisory authorities may wish to take in an uncoordinated way, given provisions requiring the dissemination of information and efforts to ensure that assessments and actions are coordinated before they are implemented, (e) translation of information from the

national language into the common/working language of the college, which can be time-consuming and costly, particularly during emergency situations.

The foreseen benefits would arise from (a) developing and agreeing on a framework for cooperation between competent authorities ex ante, which will aid the identification of emergency situations and enable the supervisory assessment and response to be conducted in a more efficient and timely manner, (b) enhancing the cooperation with other authorities e.g. resolution authorities, (c) ensuring the consistency of messages in external communication, (d) reducing the risk of problems that may arise due to contradictory actions being taken by competent authorities, (e) enabling host competent authorities to efficiently deal with emergency situations, and (f) developing internal procedures or modifying the existing risk monitoring and assessment systems to anticipate and deal with emergency situations.

4.5. Overall impact assessment

The EBA staff requested members of the Subgroup on Home host and Colleges (EBA substructure working on various issues, including the development of draft binding technical standards on home-host cooperation and colleges) to provide their feedback on the anticipated sources of costs and benefits from the implementation of the draft ITS and RTS and assess the magnitude of the costs and benefits linked to the aforementioned sources by differentiating between three categories of stakeholders (consolidating supervisor, host supervisor, other stakeholders) and various types of provisions (mapping exercise, written coordination and cooperation arrangements, etc).

22 responses were received from the following Member States: BG, CZ, DE, DK, EL, ES, HR, HU, IE, IT, LT, LU, MT, NL, NO, PT, PL, RO, SE, SI, SK and UK. The sources of additional costs and benefits identified by these Member States are included in the list of costs and benefits provided in Sections 4.1 to 4.4.

Regarding the level of costs and benefits, the individual responses received by the Member States were converted and weighted appropriately to estimate the impact at EU level, according to the aggregation method described below.

- The qualitative answers on the magnitude of cost and benefit from implementing the ITS and RTS were converted into numerical values to facilitate the aggregation. Specifically, the fields 'not completed by the NSA who submitted answers' were assigned a value of zero (0) (i.e. the cost/benefit would be zero for the specific stakeholder/provision), the 'negligible' impact was assigned 1, the 'low' impact was assigned 2, the 'medium' impact was assigned 3 and the 'high' impact was assigned 4.
- Consequently, the aggregation was conducted by calculating the weighted average of the numerical values, using as weights the size of the country that submitted answers to the quantitative part of the questionnaire. For simplicity, the seats that each Member State has in the European Parliament were used as weights.
- To calculate the overall EU level of impact, the answers to the questionnaire were categorised as either cost-related or benefit-related.
- The EU-level numerical values for cost and benefits were converted as follows: negligible to zero < 0.75, 0.75 <= negligible < 1.25, 1.25 <= low to negligible < 1.75, 1.75 <= low <

2.25, 2.25 <= medium to low < 2.75, 2.75 <= medium < 3.25, 3.25 <= high to medium < 3.75 and high >= 3.75

Following the method of aggregation and classification of the EU-wide impact specified above, the implementation of the draft ITS and RTS is expected to result in the following impact:

Table 1 - Impact per category of stakeholder and area of provisions – costs

Stakeholders	Mapping exercise	Written cooperation and coordination arrangements	Information exchange aspects for going concern	Ongoing review of models	Supervisory examination programme	Planning and coordination of activities in emergency situations
Consolidating/home supervisor	Low	Low	Low	Low	Low	Medium
Host supervisor	Low	Low	Medium	Medium	Medium	Medium
Other stakeholders (e.g. credit institutions)	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible

Table 2 - Impact per category of stakeholder and area of provisions – benefits

Stakeholders	Mapping exercise	Written cooperation and coordination arrangements	Information exchange aspects for going concern	Ongoing review of models	Supervisory examination programme	Planning and coordination of activities in emergency situations
Consolidating/home supervisor	Low	Low	Low	Low	Medium	Medium
Host supervisor	Medium	Medium	Medium	Medium	Medium	Medium
Other stakeholders (e.g. credit institutions)	Negligible	Negligible	Negligible	Negligible	Negligible	Negligible

Table 3 - Overall impact per category of stakeholder

Category	Costs	Benefits	Net impact
Consolidating/home supervisor	Medium to low	Medium to low	Zero
Host supervisor	Medium to low	Medium	Negligible to zero (positive)
Other stakeholders (e.g. credit institutions)	Negligible	Negligible	Negligible to zero (positive)
Overall	Low	Low	Negligible to zero (positive)

4.2 Feedback on the public consultation

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

The consultation period lasted for three months and ended on 3 October 2014. Three responses were received, all of which were published on the EBA website.

This paper presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments and the actions taken to address them if deemed necessary.

In many cases several industry bodies made similar comments or the same body repeated its comments in the response to different questions. In these cases, the comments and the EBA analysis are included in the section of this paper where the EBA considers them most appropriate. Changes to the draft RTS and ITS have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

The comments submitted to the Consultation Paper were supportive of the proposed Regulation, including its annexes. A comment suggesting the use of the Legal Entity Identifier (LEI) in the mapping template was taken on board and this information is now expected to be provided by the competent authorities, if available. There were also requests for these draft technical standards to cover the operational function of the joint supervisory teams (JST) that have been established under the auspices of the Single Supervisory Mechanism (SSM). However, the EBA clarified that the draft technical standards on colleges of supervisors do not need to make specific references to the European Central Bank (ECB) and its JSTs, or to any other specific competent authority and its internal substructures, since this is outside the scope of the draft RTS and ITS on supervisory colleges.

There have been also requests for the EU parent entity to have a more prominent role in supervisory colleges (e.g. to be consulted by the consolidating supervisor on the determination of members and observers, on meeting agendas and topics to be covered in college meetings etc.). The EBA addressed these comments to some extent by including clear provisions requiring the consolidating supervisor/competent authorities of the home Member States to inform the EU parent undertaking/institution of the establishment of a college and of its members and observers, or of any changes in its membership and observership. However, it was clarified that the supervisory college is a framework to facilitate the cooperation between the competent authorities involved in the supervision of cross-border banking groups/institutions that have cross-border presence through significant branches, and within which competent authorities should perform specific supervisory tasks; as such, it is important to be organised in an independent way from the supervised entities with input from the college members.

Finally, there was one comment supporting the inclusion in the technical standards of clear provisions on home-host cooperation to ensure that the revocation of a model that has been

jointly agreed by the consolidating supervisor and other relevant competent authorities is jointly decided by the authorities concerned, while in cases of disagreement the consolidating supervisor takes the decision (the same approach as in the case of the initial application).

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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Mapping template	<p>There was a comment requesting the use of the LEI (EBA/REC/2014/01) for the mapping template (Annex I of the draft ITS on colleges of supervisors), since it was considered a more efficient, effective and consistent approach for the identification of the group entities in the EEA.</p>	<p>The EBA supports this proposal.</p>	<p>Mapping template has been updated to include a column on the LEI per EEA entity, as applicable.</p>
SSM	<p>One respondent suggested that the technical standards on colleges should make specific references to the JSTs to be established under the auspices of the SMM – which they will replace the colleges of supervisors for banking groups with presence exclusively in the euro area - and the ECB playing the role of the consolidating supervisor for EEA banking groups with presence outside the euro area.</p>	<p>The EBA is of the view that the technical standards on colleges of supervisors do not need to refer specifically to ECB and its JSTs, or to any other competent authority and its internal substructures. The technical standards on colleges of supervisors specify the conditions of functioning and determine the operational functioning of colleges of supervisors, for those banking groups where colleges need to be established to facilitate the exercise of the tasks referred to in Articles 112 and 113 and Article 114(1), and the cooperation under Article 51(2) and Article 50. The roles of the consolidating supervisor or the host competent authority can be played by the ECB or by any other competent authority depending on the Member State of establishment of the parent entity of the EEA banking group and on the presence of this group in the EEA.</p>	<p>No change has been applied.</p>

Comments

Summary of responses received

EBA analysis

Amendments to the proposals

Responses to questions in Consultation Paper EBA/CP/2014/12

Question 1.

Do you have any suggestions regarding the process to be followed by the members of the college for communicating with the parent entity of the group and with its subsidiaries?

One respondent commented that the drafted proposals were reasonable and consistent with the supervisory environment.

Another respondent suggested that the supervised group, via the parent entity, should play a key role in the functioning of colleges of supervisors to improve the communication between the competent authorities and the supervised entities. In this context, it was suggested that the parent entity should not only attend college meetings, but also be actively involved in the drafting of the meeting agenda to propose topics and provide relevant information for the performance of the supervisory tasks, or to flag issues needing to be properly considered by the college. In addition, it was suggested that the consolidating supervisor should share the list of colleges with the parent entity,, provide formal feedback to the parent entity, and engage with the parent entity in order to determine the level of involvement of other entities of the group. With regard to the functioning of colleges in emergency situations, it was suggested that the consolidating supervisor should be responsible for channelling the information to the parent entity.

It was also proposed that the host competent authorities in their communication with the supervised entities of the group in their jurisdiction they should coordinate this communication

No comment.

The EBA believes that improvements may be possible in the draft RTS and ITS on colleges of supervisors to facilitate communication between the members of the college and the supervised entities. However, it is important to ensure that the college is a framework to facilitate the cooperation between the competent authorities involved in the supervision of the cross-border banking groups and the exercise of supervisory tasks, and as such it shall be primarily organised in an independent way by the consolidating supervisor, with input from the members of the college. Involvement of supervised entities shall be kept to the extent decided by the consolidating supervisor and the members of the college, without imposing any restrictions that do not follow the spirit of the Level 1 or 2 text.

New articles in the draft RTS (Articles 5 and 25) requiring the consolidating supervisor/home competent authority to inform the parent undertaking/institution of the setting up of the college, its members and observers and of any changes to membership and observership.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	beforehand with the consolidating supervisor.		
<p>Question 2.</p> <p>Do you have any suggestions regarding elements of the college supervisory examination programme that need to be considered and agreed by the members of the college?</p>	<p>One respondent suggested that the review of the IT systems, as a key factor for effective management and control, should be included in the supervisory examination programme and be assessed in a coordinated way – avoiding duplication of efforts or being more cost effective also for the supervised group – by the consolidating supervisor and other college members.</p>	<p>The draft RTS on colleges of supervisors allow for that possibility (see article 17(2)(a)) without making a specific reference to IT systems, but rather allowing college members to decide on the specific areas of focus and common work.</p>	<p>No change has been applied.</p>
<p>Question 3.</p> <p>Do you have any other suggestions regarding any other aspects of home-host cooperation that should be covered by these draft BTS, bearing in mind the mandate of the Level 1 text, to ensure that colleges operate efficiently, effectively and consistently?</p>	<p>One respondent requested that the technical standards better define the scope of colleges’ work and tasks. In this regard, clear references to the model validation work included in the draft RTS and ITS on colleges of supervisors were proposed, as approval of internal models is an important aspect of college work.</p> <p>There was also request for clearer provisions on the draft RTS and ITS with regards to the roles and responsibilities of the college members on the assessment of the group recovery plan.</p> <p>Quantitative and qualitative information to be exchanged between college members to also include information on pending supervisory procedures and debates.</p> <p>There was also a suggestion for the draft mapping of the cross-border banking group to be shared with all competent authorities/supervisory authorities of the group and its entities and not</p>	<p>The technical standards on colleges of supervisors cover aspects of home host cooperation in the process of the on-going review of approved internal models and in case of non-material extensions and changes. The actual joint decision process on the approval of internal models for the calculation of prudential requirements in case of joint applications is covered by other technical standards (draft ITS on joint decisions on prudential requirements (internal models) in accordance with Article 20 of the Capital Requirements Regulation - CRR).</p> <p>This can be addressed in the draft RTS on colleges of supervisors when the information is relevant for the group risk assessment and joint decision process (article 9 of RTS).</p> <p>Based on the EBA analysis the potential members of the college cover all competent and supervisory</p>	<p>No change has been applied.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>only with potential members of the college.</p> <p>With regard to the provisions covering the revocation of the use of an approved model, one respondent suggested that the draft technical standards should clearly provide that in cases of disagreement, the consolidating supervisor should make the decision having taken into account the views and reservations of the other competent authorities.</p> <p>The consolidating supervisor should clearly define the cases that must be reported under Article 13(1) of the draft RTS (currently, article 14(1) of the draft RTS).</p> <p>With regard to the chapters of the draft RTS and ITS on colleges covering the college work and home-host cooperation during emergency</p>	<p>authorities.</p> <p>Given that the Level 1 text does not provide for an official joint decision process on the revocation of an already approved internal model, the draft RTS and ITS aim to develop the home-host cooperation aspects and create a procedure where the consolidating supervisor and the relevant competent authorities members of the college should try to reach an agreement and a consistent approach on the revocation of an internal models. To this end, the provisions of the draft ITS make a clear link between the process to be followed for deciding on the revocation of a model to the draft ITS on joint decisions on approval of internal models, meaning that also in the case of disagreement on the revocation of the model the same rules apply as in the initial joint decision process (the consolidating supervisor takes the decision).</p> <p>Article 14(1) defines in a broad manner the information to be exchanged in the college, through the consolidating supervisor, in cases of non-compliance or imposed sanctions that may affect the group or any of its entities. Given the nature of this information, it is unlikely that the consolidating supervisor can have a complete view and define these cases in advance. However, the consolidating supervisor still has the power to decide on the addressee of this information (to which members of</p>	

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	situations, the provisions should ensure that time effectiveness is respected and ensured.	the college this information should be addressed to). This is already reflected in the provisions of the draft RTS and ITS.	