

EBA/ITS/2025/03

17 March 2025

Final Report

Draft Implementing Technical Standards on amending Commission Implementing Regulation (EU) 2016/100 laying down implementing technical standards specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council

Contents

1. Executive Summary	3
2. Background and rationale	4
3. Draft implementing standards	6
4. Accompanying documents	11
4.1 Cost-benefit analysis	11
4.2 Feedback on the public consultation	12

1. Executive Summary

Article 20(8) of the Regulation (EU) 575/2013 (CRR), as amended by the Regulation (EU) 2024/1623 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor (so-called CRR III), mandates the EBA to develop draft implementing technical standards (ITS) to specify the joint decision process referred to in Article 20(1)(a) with regard to the applications for permissions referred to in Article 143(1) and Article 151(9)¹, Article 283², and Article 325az³ of this Regulation.

This mandate was already included in the CRR and fulfilled by means of the EBA/ITS/2014/06⁴, subsequently adopted by the European Commission with the Commission Implementing Regulation (EU) 2016/100⁵. The main novelty of the new mandate stems from the overall revised scope for internal models set out in the CRR III, where the possibility to apply these approaches is no longer in place for operational risk.

Against this backdrop, the EBA decided to amend the existing ITS to consider changes to the EU legal framework, in particular changes related to the Advanced Measurement Approach (AMA) for operational risk which has been removed from the scope of application of the ITS and the EBA RTS/ITS on the general conditions and operational functioning of supervisory colleges.

Next steps

The draft implementing technical standards will be submitted to the Commission for endorsement following which the ITS will be subject to scrutiny by the European Parliament and the Council before being published in the Official Journal of the European Union.

¹ For Internal Rating Based approaches – IRB.

² For Internal Model Methods – IMM.

³ For Internal Model Approach – IMA.

⁴ EBA FINAL draft Implementing Technical Standards on Joint Decisions on Prudential Requirements in accordance with Article 20 of Regulation (EU) No 575/2013.

⁵ COMMISSION IMPLEMENTING REGULATION (EU) 2016/100 of 16 October 2015 laying down implementing technical standards specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council.

2. Background and rationale

1. The existing ITS refers to the competent authorities' decision to grant the permission, or not, and to determine the terms and conditions, if any, to which such permission should be granted for the use of internal models for credit risk, counterparty credit risk (CCR) and market risk for prudential purposes for an EU parent institution and its subsidiaries, or jointly for subsidiaries of an EU parent financial holding company or EU parent mixed financial holding company.
2. In line with its scope, the ITS details the steps to be undertaken by competent authorities when assessing a request for permission to an institution to use internal models for prudential purposes in case a joint decision (JD) is needed.
3. The objective of the mandate is to ensure the timely and efficient cooperation between authorities enabling them to reach a JD on the permission sought by the institution within the timeframe defined in accordance Article 20(2) CRR, i.e.: six months from the date of receipt of a complete application by the consolidating authority.
4. In particular, the ITS establishes the process to help the consolidating supervisor and the 'relevant competent authorities' to work together while they are performing their assessments and preparing their contributions to the JD, including specification on the procedure for assessing the completeness of application and the home-host cooperation in organising the JD process and the timing thereof, reflecting the scope and complexity of the application. The ITS also cover other aspects of cooperation like division of work and discussion of resources needed from each competent authority involved.
5. The ITS has not been revised since its entry into force in 2016. The content and objective of the revised mandate are the same as the original one but for the scope of application, which has been revised by CRR III, where Advanced Measurement Approach (AMA) for operational risk are no longer applicable.
6. In addition to this regulatory-driven change, it was explored the possibility of introducing further and more targeted changes to the ITS based on the practical experience accumulated over the last decade. This included several revalidation processes for internal models related to the EBA IRB repair program. Overall, the current framework has been regarded as robust and capable of facilitating adequate cooperation between authorities, indicating no significant need for adjustments.

7. Therefore, the proposed revised ITS reflect the changes to the EU legal framework, mainly regarding the reduced scope of application of internal models and the updated EBA RTS⁶/ITS⁷ on the general conditions of functioning and operational functioning of supervisory colleges.
8. In consideration of the delay in the implementation of the Fundamental Review of the Trading Book (FRTB) standards as provided for by the Commission Delegated Regulation (EU) 2024/2795⁸, the reference to Article 363 of CRR, as applicable on 8 July 2024, concerning the permission to use internal models for market risk has been provisionally retained in the draft amending ITS. Upon the entry into force of the new standards, the reference to Article 363 in the ITS will cease to apply automatically.

⁶ EBA/RTS/2024/01 'Final Report Draft regulatory technical standards on general conditions of the functioning of supervisory colleges under Article 51(4) and Article 116(4) of Directive 2013/36/EU (Capital Requirements Directive – CRD V)'.

⁷ EBA/ITS/2024/01 'Final Report Draft implementing technical standards on the operational functioning of supervisory colleges under Article 51(5) and Article 116(5) of Directive 2013/36/EU (Capital Requirements Directive – CRD V)'.

⁸ Commission Delegated Regulation (EU) 2024/2795 of 24 July 2024 amending Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to the date of application of the own funds requirements for market risk. This delegated act delays the date of application of the market risk rules laid down in Regulation (EU) 2024/1623 to 1 January 2026.

3. Draft implementing standards

EBA/ITS/2025/03

17 March 2025

Draft implementing technical standards amending Commission Implementing Regulation (EU) 2016/100 specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013

**COMMISSION IMPLEMENTING REGULATION (EU) No .../...
of [date]**

amending Commission Implementing Regulation (EU) 2016/100 laying down implementing technical standards specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012¹ and in particular Article 20(8), third subparagraph thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2016/100², which specifies the joint decision process with regard to the application for certain prudential permissions, should be amended to reflect the changes in the legal framework occurred since entry into force, with particular reference to the repeal of the provisions of Regulation (EU) No 575/2013 concerning the Advanced Measurement Approach (AMA) for operational risk.
- (2) In accordance with Commission Delegated Regulation (EU) 2024/2795 amending Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to the date of application of the own funds requirements for market risk, the reference to Article 363 of Regulation (EU) No 575/2013 concerning the permission to use internal models for the purpose of calculating own funds requirements for operational risk should be maintained in this Regulation.
- (3) This Regulation is based on the draft implementing technical standards submitted to the Commission by the European Banking Authority (EBA).
- (4) EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council³.

¹ OJ L 176, 27.6.2013, p. 1.

² Commission Implementing Regulation (EU) 2016/100 of 16 October 2015 laying down implementing technical standards specifying the joint decision process with regard to the application for certain prudential permissions pursuant to Regulation (EU) No 575/2013 of the European Parliament and of the Council (OJ L 21, 28.1.2016, p. 45–53).

³ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010, p. 12).

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2016/100 is amended as follows:

(1) Article 1 is replaced by the following:

‘This Regulation specifies the joint decision process referred to in Article 20(1), point (a) of Regulation (EU) No 575/2013 with regard to the applications for the permissions referred to in Article 143(1), Article 151(9), Article 283 and Article 325az or Article 363 of that Regulation with a view to facilitating joint decisions.’.

(2) In Article 3, paragraph 1 is replaced by the following:

‘1. The consolidating supervisor may decide to involve third country supervisory authorities which participate in the supervisory college pursuant to Article 3(3) of Commission Delegated Regulation (EU) 2024/XX ⁽⁴⁾ [PO Please insert the number of the new delegated regulation repealing Commission Delegated Regulation (EU) 2016/98 of 16 October 2015 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 (OJ L 21, 28.1.2016, p. 2)] in the assessment of applications submitted pursuant to Article 20(1), point (a) of Regulation (EU) No 575/2013 where the applicant operates in that third country and intends to apply the methodologies concerned to exposures in that third country. In that case, both the consolidating supervisor and those authorities shall reach an agreement on the scope of involvement of the third country supervisory authorities for the following purposes:

- (a) providing the consolidating supervisor with their contribution to the assessment report prepared by the consolidating supervisor;
- (b) adding as annexes the contributions referred to in point (a) of this paragraph to the assessment report prepared by the consolidating supervisor.’.

(3) Article 4 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Upon receipt of an application for a permission referred to in Article 143(1), Article 151(9), Article 283, and Article 325az or Article 363 of Regulation (EU) No 575/2013 submitted by the applicant, the consolidating supervisor shall forward the application to the relevant competent authorities without undue delay, and in any case within 10 days.’.

(b) paragraph 3 is replaced by the following:

‘3. An application shall be deemed complete if it contains all information needed by the competent authorities in order to assess the application in accordance with the requirements set out in Regulation (EU) No 575/2013 and in particular in Articles 143, 144, 151, 283 and 325az or Article 363 of that Regulation.’.

⁴ [PO Please insert the OJ reference to the new delegated regulation repealing Commission Delegated Regulation (EU) 2016/98 of 16 October 2015 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 (OJ L 21, 28.1.2016, p. 2)]

- (4) In Article 5, in paragraph 3, point (c) is replaced by the following:

‘(c) it shall take into account, so far as possible, the other activities being undertaken by the consolidating supervisor and the relevant competent authorities under the examination programme of the supervisory college referred to in Article 16 of Delegated Regulation (EU) 2024/XX [PO Please insert the number of the new delegated regulation repealing Commission Delegated Regulation (EU) 2016/98 of 16 October 2015 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 (OJ L 21, 28.1.2016, p. 2)].’

- (5) In Article 6, paragraph 3 is amended as follows:

- (a) point (a) is replaced by the following:

‘(a) an opinion on whether or not the permission requested should be granted, based on the requirements set out in Article 143(1), Article 151(9), Article 283, Article 325az or Article 363 of Regulation (EU) No 575/2013, together with the reasoning to support the opinion;’

- (b) point (c) is replaced by the following:

‘(c) the assessments relating to the matters which competent authorities are required to assess in accordance with the requirements set out in Regulation (EU) No 575/2013 which relate to the permissions referred to in Articles 143, 144, 151, 283, 325az or Article 363 of that Regulation;’

- (6) In Article 7, in paragraph 3, point (i) is replaced by the following:

‘(i) any terms and conditions to be met by the applicant, including corresponding reasoning, before using the permission referred to in Article 143(1), Article 151(9), Article 283, Article 325az or Article 363 of Regulation (EU) No 575/2013, where applicable;’

- (7) In Article 13, paragraph 1 is replaced by the following:

‘1. Where an application for permission relates to material model extensions or changes in accordance with Article 143(3), Article 151(9), Article 283, or Article 325az or Article 363 of Regulation (EU) No 575/2013, the consolidating supervisor and the competent authorities responsible for the supervision of institutions that are affected by these material model extensions or changes shall work together, in full consultation, to decide whether or not to grant the permission sought in accordance with Article 20 of Regulation (EU) No 575/2013, following the process set out in Articles 3 to 9 of this Regulation.’

Article 2

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

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

Done at Brussels,

*For the Commission
The President*

4. Accompanying documents

4.1 Cost-benefit analysis

A. Problem identification

The main issue that the EBA is called to address in this draft amending ITS is specifying the joint decision process between the consolidating supervisor and the relevant competent authorities regarding applications for permissions referred to in Article 143(1) and Article 151(9), Article 283, and Article 325az of the Regulation (EU) 575/2013 with a view to facilitating joint decisions. This mandate follows in the footsteps of the previous one, without altering its content and objective. The main novelty stems from the overall revised scope for internal model set out in the Regulation (EU) 575/2013, where the possibility to apply these approaches (Advanced Measurement Approach – AMA) is no longer in place for operational risk.

B. Policy objectives

The goal set out in the mandate is the same as the previous ITS, i.e. to reach maximum possible harmonisation as the way of achieving a level playing field, preventing regulatory arbitrage opportunities, and enhancing supervisory convergence and legal clarity. Moreover, the ITS aims to help the colleges function efficiently and effectively and reduce the compliance burden on the supervisory authorities (in their home and host capacities), and on other stakeholders involved or affected (mainly credit institutions).

C. Baseline scenario

Considering the alignment in objectives between the previous and the new mandate, the Baseline scenario entails maintaining the existing framework (current practice) while adjusting the regulatory reference where necessary, such as to accommodate the revised scope of application of internal models in line with CRR III concerning the AMA for operational risk.

D. Options considered

In addition to the option of applying changes driven by the updated regulation (i.e. maintaining the existing practice set out in the current framework - option 1), it was also considered the necessity of implementing targeted amendments based on practical experience with the ITS application by competent authorities (i.e. adding or removing specific elements from the existing framework based on practical experience - option 2). Competent authorities considered the current framework as robust, capable of ensuring adequate cooperation among them, without highlighting the need for

major amendments. Consequently, it was determined that no amendments beyond those reflecting changes in the EU legal framework were necessary (option 1).

E. Cost-Benefit Analysis

Considering the strictly legalistic nature of the changes proposed by the amending ITS (i.e. updating regulatory references), no additional impact is expected from the implementation of the draft ITS.

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 16 October 2024. Three responses were received, of which two 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.

No changes to the draft ITS have been incorporated as a result of the responses received during the public consultation.

Summary of key issues and the EBA's response

Respondents agreed that the scope of the proposed changes to the ITS was clearly defined - specifically, the inclusion of updates from relevant legislation regarding the revised application of internal models and the operational functioning of supervisory colleges.

Respondents also highlighted two broader issues regarding the JD on internal models, that are not directly related to the proposed ITS amendments:

- 1) Timing of the decision by the competent authorities regarding the permission to use internal models (not limited to cases where a JD is required). The process is deemed as excessively lengthy, both at the initial assessment stages and during final joint decision-making. This can result in internal models receiving final approval several years after the initial application submission, by which the underlying data might have become obsolete.
- 2) Clarification of cooperation with third-country authorities. Clearer guidance on the cooperation with third country authorities is needed to better align regulatory requirements between EU and third-country authorities. This is particularly important for maintaining local internal models under the remit of third country supervisors, as it would help limit the increase in compliance workload for institutions.

The EBA acknowledges the complexity of the process to reach a JD for internal model authorisation from both the institutions' and competent authorities' perspectives. This process typically includes multiple steps, such as on-site inspections, off-site communication and follow-ups, and a substantial

coordination effort within and between authorities. However, as outlined in Article 4(10) of the Commission Implementing Regulation (EU) 2016/100, the timeline for reaching a JD is already set out in the primary legislation - specifically, in point (a) of Article 20(2) of Regulation (EU) No 575/2013 - and therefore cannot be addressed within the scope of the ITS.

Regarding the cooperation between EU and third-country authorities, Article 3 of the Commission Implementing Regulation (EU) 2016/100 already recognises its relevance by promoting close cooperation and interaction between them to allow EU authorities to develop a complete assessment of the performance of the model when the applicant operates in a third country and intends to apply the methodologies concerned to exposures in that third country. Ensure alignment of regulatory requirements and supervisory expectations between EU and third-country authorities in assessing internal models falls out of the scope of the ITS.

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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Rationale on the exclusion of AMA models from the internal models' framework and impact assessment	One respondent suggested that the ITS could further clarify the rationale for removing the AMA from the scope of internal models, especially since other international jurisdictions still employ tailored operational risk frameworks. The same respondent recommended a more in-depth cost-benefit analysis, specifically addressing how different types of institutions (large vs. small) will be affected by these changes.	The removal of the AMA stems from of the EU's implementation of the finalised Basel III framework, as established in Regulation (EU) 2024/1623 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor. Therefore, the reasoning behind the removal of the AMA is provided in that Regulation and falls outside the scope of the ITS. Since this change originates from an EU Regulation rather than the ITS, it cannot be included in the impact assessment for this ITS.	No change.
Transmission of the application by the in accordance with Article 4 of the ITS	A respondent suggested considering specific, and more flexible provisions, for the transmission of the application in accordance with Article 4 in case complex, multinational cases where coordination with multiple authorities can introduce delays are involved.	Since the transmission of the application implies forwarding the documentation submitted by institutions from the consolidating supervisor to the to the relevant competent authorities - without yet conducting a preliminary assessment of its completeness or quality - the original timeline (within 10 days) is still deemed appropriate and necessary to ensure timely information sharing among the authorities involved.	No change.
Interpretation and application of prudential permissions	One respondent suggested to ensure consistency across all EU member states regarding how the permissions covered in the ITS are interpreted and applied.	The nature and application of the prudential permissions referred to in the ITS are already clarified in Article 143(1) and Article 151(9), Article 283, and Article 325az of Regulation (EU) 2024/1623 as regards requirements for credit risk, credit valuation adjustment risk, operational risk, market risk and the output floor.	No change.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Timeline for the JD	<p>Respondents deemed the timing for issuing a JD on internal models excessive in both the initial phase of the process and in the finalisation of the JD, as this might lead to cases where internal models are final approved once the data, they are built upon start to become obsolete. It was therefore suggested to include a 6-month time limit in the ITS.</p>	<p>The timeline for reaching a JD (6-month) is set out in point (a) of Article 20(2) of Regulation (EU) No 575/2013 and therefore cannot be addressed within the scope of the ITS.</p>	No change.
Cooperation with third-country authorities	<p>Respondents asked to clarify the cooperation with third country authorities, especially regarding the maintenance of local internal models under the remit of third country supervisors, whose relevant regulatory requirements and expectations might be not fully aligned with the EU's, hence, leading to an increase in compliance workload for institutions.</p>	<p>Article 3 of the Commission Implementing Regulation (EU) 2016/100 already promotes and encourages the close cooperation and interaction between EU and third-country authorities in order to enable EU authorities to develop a complete assessment of the performance of the model where the applicant operates in that third country and intends to apply the methodologies concerned to exposures in that third country. However, aligning regulatory requirements and supervisory expectations across EU and third-country authorities regarding the assessment of internal models is out of the scope of the mandate tasked to the EBA with the ITS.</p>	No change.