

## **Guidelines on supervision of significant branches**

**(EBA/GL/2017/14)**

These Guidelines of the European Banking Authority (EBA) are addressed to competent authorities, as defined in point (i) of Article 4(2) of Regulation (EU) No 1093/2010.

The Guidelines aim to specify how the consolidating supervisor and the home and host competent authorities should, within the framework of colleges of supervisors established either under Article 116 or under Article 51(3) of Directive 2013/36/EU, cooperate to supervise and coordinate the exercise of their powers in relation to the branches of institutions of the European Union established in another Member State.

These guidelines provide the competent authorities with the procedure to assess and determine whether a branch that has been designated significant in accordance with Article 51 of Directive 2013/36/EU also satisfies the intensification test, and should, therefore, be deemed a ‘significant-plus’ branch for the purposes of these guidelines and be subject to an intensified supervision.

On the other hand, the guidelines describe the supervision framework of the “significant-plus” branches as well as the organization and coordination of tasks and responsibilities of the consolidating supervisor and the host and home competent authorities in the ongoing supervision of the branches.

These Guidelines have been developed on the EBA's own initiative in accordance with article 16 of Regulation (EU) No 1093/2010. The EBA published the English version of these Guidelines on 1 November 2017 (the Spanish version was released on 16 February 2018). The Guidelines apply from 1 January 2018.

The Executive Commission of the Banco de España, in its role of competent authority for the direct supervision of the less significant credit institutions, adopted these Guidelines as their own on 17 April 2018.

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EBA/GL/2017/14

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16/02/2018

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# Guidelines

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## on supervision of significant branches

# 1. Compliance and reporting obligations

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## Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010<sup>1</sup>. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set out the EBA's view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

## Reporting requirements

3. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities must notify the EBA that they comply or intend to comply with these guidelines, or otherwise give reasons for non-compliance, by 16/04/2018. In the absence of any notification by this deadline, competent authorities will be considered by the EBA to be non-compliant. Notifications should be sent by submitting the form available on the EBA website to [compliance@eba.europa.eu](mailto:compliance@eba.europa.eu) with the reference 'EBA/GL/2017/14'. Notifications should be submitted by persons with appropriate authority to report compliance on behalf of their competent authorities. Any change in the status of compliance must also be reported to the EBA.
4. Notifications will be published on the EBA website, in line with Article 16(3).

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<sup>1</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p. 12).

## 2. Subject matter, scope and definitions

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### Subject matter

5. These guidelines specify how the consolidating supervisor and the home and host competent authorities should, within the framework of colleges of supervisors established either under Article 116 or under Article 51(3) of Directive 2013/36/EU<sup>2</sup>, cooperate to supervise and coordinate the exercise of their powers referred to in Title V, Chapter 4 and Title VII, Chapters 1 and 3 of the Directive and in Title II, Section 2 of Directive 2014/59/EU<sup>3</sup> in relation to branches of Union institutions established in another Member State.

### Addressees

6. These guidelines are addressed to competent authorities as defined in point (i) of Article 4(2) of Regulation (EU) No 1093/2010<sup>4</sup>.

### Definitions

7. Unless otherwise specified, terms used and defined in Regulation (EU) No 575/2013, Directive 2013/36/EU or Directive 2014/59/EU have the same meaning in these guidelines.

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<sup>2</sup> OJ L 176/338.

<sup>3</sup> OJ L 173/90.

<sup>4</sup> OJ L 176/1.

## 3. Implementation

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### Date of application

8. These guidelines apply from 1 January 2018.

### Assistance in application

9. Where dissenting views arise among competent authorities on issues relating to these guidelines, those authorities should endeavour to file with the EBA a request as referred to in Article 31(c) of Regulation (EU) No 1093/2010. Where a request has been filed, all the competent authorities involved should provide adequate information to the EBA, including arguments supporting their distinct views, to enable the EBA to form an opinion on the disputed issues; all the competent authorities involved should subsequently endeavour to take into account the EBA's opinion.

## 4. Assessment of branch significance and intensification test

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10. Competent authorities should assess and determine, in accordance with the process and criteria specified in this section, whether a branch that has been designated significant in accordance with Article 51 of Directive 2013/36/EU also satisfies the intensification test.
11. Where, in a college of supervisors referred to in Article 116 of Directive 2013/36/EU, the consolidating supervisor and the home competent authority of a given branch are different, they should work in close cooperation on the basis of Section 5.8 to ensure that the branch is supervised in accordance with these guidelines.

### 4.1 Branch significance and mapping: initial assessment and updates

12. Without prejudice to the stipulations of Article 51 of Directive 2013/36/EU, the consolidating supervisor or the home competent authority should, in the context of the mapping of the institution or the group performed in accordance with Articles 2 and 23 of Commission Delegated Regulation (EU) 2016/98 and Articles 2 and 17 of Commission Implementing Regulation (EU) 2016/99, conduct its own assessment of the importance of a given branch for that particular institution or group on the basis of the criteria referred to in paragraphs 28-31.
13. The consolidating supervisor or the home competent authority should note its assessment of the branch's importance to the institution or the group in the relevant field of the mapping template referred to in Articles 2 and 17 and Annex I of Commission Implementing Regulation (EU) 2016/99.
14. Where the consolidating supervisor or the home competent authority has, on the basis of its assessment, determined that a branch is important for the institution or the group, it should communicate its view to the host competent authority, independently or in the process of finalising the mapping of the institution or the group in accordance with Article 2 of Commission Implementing Regulation (EU) 2016/99, and invite that authority to consider applying the process referred to in Article 51 of Directive 2013/36/EU to determine the branch to be significant.
15. Where the consolidating supervisor or the home competent authority has communicated to the host competent authority that it considers the branch important for the institution or for the group, the host competent authority should consider whether to apply the process set out in Article 51 of Directive 2013/36/EU and provide, either independently or in the context of its views or comments on the mapping of the institution or the group referred to in Article 2 of

Commission Implementing Regulation (EU) 2016/99, the consolidating supervisor or the home competent authority with its views.

16. The consolidating supervisor or the home competent authority should assess the importance for the institution or the group of a given branch on a periodic basis and at least during every update of the mapping of the institution or the group referred to in Article 2 of Commission Implementing Regulation (EU) 2016/99. The host competent authority should ensure continuous monitoring of the conditions set out in Article 51 of Directive 2013/36/EC for branches established within its supervisory remit.
17. Where the consolidating supervisor or the home competent authority considers the branch important for the institution or the group, but the host competent authority does not deem it significant within the meaning of Article 51 of Directive 2013/36/EC, the consolidating supervisor or the home competent authority should nevertheless invite the host competent authority to participate in the college of supervisors in accordance with Article 3(2) of Commission Delegated Regulation (EU) 2016/98 and Article 3(1)(b) of Commission Implementing Regulation (EU) 2016/99.
18. After the branch has been designated significant in accordance with Article 51 of Directive 2013/36/EU, the consolidating supervisor and the home competent authority should, without undue delay, update the mapping of the institution or the group. In particular, it should be noted in the mapping of the institution or the group whether the host competent authority participates in the relevant college as a member (significant branch) or as an observer (non-significant branch), as provided for in Article 4 of Commission Delegated Regulation (EU) 2016/98, and the list of the college's members and observers should be updated accordingly.

## 4.2 Supervisory intensification test for significant branches

### 4.2.1 The process of the intensification test

19. The consolidating supervisor and the home and host competent authorities should cooperate on the basis of the following paragraphs and endeavour to make a common assessment and arrive at a common conclusion on whether a branch that has been determined to be significant in accordance with Article 51 of Directive 2013/36/EU also satisfies the intensification test and should therefore be deemed a 'significant-plus' branch for the purposes of these guidelines and be subject to the intensified supervision referred to in Section 5. This common conclusion should be communicated to the institution and the EU parent institution by the consolidating supervisor and the home competent authority.
20. The consolidating supervisor and the home and host competent authorities should agree on the timeline and the process for the performance of the intensification test, and on the preparation of the common conclusion on whether this test is satisfied.

21. The consolidating supervisor and the home and host competent authorities should endeavour to perform their common assessment of whether the conditions of the intensification test are satisfied making use of information already available from COREP and FINREP, as well as other information already collected from the institution, including from the institution's or the group's ICAAP or ILAAP. For that purpose and without prejudice to Article 28 of Commission Delegated Regulation (EU) 2016/98, the consolidating supervisor and the home and host competent authorities should also exchange within the college framework any further information necessary.
22. Where dissenting views on the outcome of the intensification test arise among the authorities and a common conclusion is prevented, the authorities should file with the EBA a request as referred to in Article 31(c) of the EBA Regulation along with all information necessary for the EBA to form an opinion on the disputed issues and assist the authorities in coming to a common conclusion. All the competent authorities involved should take into account the EBA's opinion and settle the issue accordingly.
23. The consolidating supervisor or the home competent authority should ensure that a branch that satisfies the intensification test is duly noted in the mapping of the institution or the group and that information is communicated to the supervisory college as appropriate.
24. The consolidating supervisor and the home and host competent authorities should review their common conclusion on the outcome of the intensification test at least annually and update it. For the review and the update, paragraphs 20-23 and Section 4.2.2 apply.
25. Competent authorities should ensure that a branch no longer satisfying the intensification test remains a significant branch for the purposes of Article 51 of Directive 2013/36/EU unless reassessed otherwise under the provisions of that Article, as the assessment procedures remain separate.

#### **4.2.2 Criteria for the intensification test**

26. The consolidating supervisor and the home and host competent authorities should perform the intensification test having regard to the size, scope, nature and systemic importance of the branch's activities in the host Member State and to its significance for the institution or the group.
27. The consolidating supervisor and the home and host competent authorities should consider that a significant branch should be further assessed only if that branch is providing critical functions within the meaning of Directive 2014/59/EU on the basis of information from the (group) recovery or the (group) resolution plan, in the following areas:
  - (a) retail banking;
  - (b) corporate banking;



- (c) payments, clearing, settlement;
  - (d) custody;
  - (e) intra-financial system borrowing and lending; or
  - (f) investment banking.
28. The consolidating supervisor and the home and host competent authorities should consider whether a significant branch that provides critical functions also satisfies the following conditions:
- (a) the branch is important for the institution or for the group; or
  - (b) the branch is of significant importance to the financial stability of the host Member State.
29. A significant branch providing critical functions should be considered important for the institution or for the group where the branch meets one or more of the conditions referred to in Article 7(2)(a)-(e) of Commission Delegated Regulation (EU) 2016/1075 either for the institution or for the group.
30. Competent authorities should also consider a significant branch important for the institution or the group where, on the basis of any information submitted by the institution or the EU parent undertaking including for the purposes of the ICAAP, ILAAP, recovery plan or any other planning, the branch has been referred to as being important, either for the institution or for the group.
31. For the purposes of the assessment of whether a significant branch providing critical functions should be considered of significant importance to the financial stability of the host Member State, competent authorities should consider if the branch meets any of the following criteria:
- (a) the market share of the branch in terms of deposits exceeds 4% in the host Member State;
  - (b) the branch total assets (assets associated with the branch) form a significant part of the GDP of the host Member State (i.e. are greater than 4% of GDP);
  - (c) the branch total assets (assets associated with the branch) form a significant part of the total assets of the host Member State banking system (i.e. are greater than 4% of total assets of the host Member State banking system); or
  - (d) the branch can be considered systemically important on similar grounds to other systemically important institutions (O-SII) based on the assessment specified in the EBA

guidelines<sup>5</sup> when applied to branch-specific data, where they are available. Given the extent of the integration of branches and the support received from institutions, competent authorities could also consider setting higher thresholds for O-SII scoring for the purpose of identifying branches that satisfy the intensification test.

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<sup>5</sup> EBA Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU in relation to the assessment of other systemically important institutions (EBA/GL/2014/10).

## 5. Ongoing supervision of significant-plus branches

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32. The ongoing supervision of branches that satisfy the intensification test (significant-plus branches) should be organised and performed in accordance with the tasks and responsibilities of the consolidating supervisor and the home and host competent authorities referred to in Directives 2013/36/EU and in Directive 2014/59/EU and having regard to Sections 5.1 to 5.8 of these guidelines.
33. The consolidating supervisor and the home and host competent authorities should endeavour to ensure that the operational context of the college fully enables the supervision of the significant-plus branches in accordance with these guidelines.

### 5.1 Branch risk assessment

34. The consolidating supervisor and the home and host competent authorities should ensure that the significant-plus branch is subject to effective and efficient supervisory assessment under the supervisory review and evaluation process (SREP) applied to the institutions and the group in accordance with Article 97 of Directive 2013/36/EU and the EBA's *Guidelines on common procedures and methodologies for SREP*<sup>6</sup>. In particular, the consolidating supervisor or the home competent authority should ensure that the group risk assessment or the SREP report of an institution referred to in Commission Implementing Regulation (EU) No 710/2014 includes a distinct and noticeable reference to the supervisory assessment of any significant-plus branch, including an assessment of the material risks that the branch is or might be exposed to, the branch's business model and strategy, and the risks that the branch poses to the financial system in the host Member State (the branch risk assessment).
35. This branch risk assessment should be included as an annex to the group risk assessment report or the SREP report for the institution.
36. Institutions or significant-plus branches should not be required to prepare branch-specific ICAAP or ILAAP information. The consolidating supervisor or the home competent authority should ensure that the institution's ICAAP and ILAAP information collected in accordance with the EBA's *Guidelines on ICAAP and ILAAP information collected for SREP purposes*<sup>7</sup> duly covers significant-plus branches and adequately reflects their risks exposures, as well as the capital and liquidity allocated to cover those risks. For that purpose, the consolidating supervisor or the home competent authority should ensure that an institution a branch of which has satisfied

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<sup>6</sup> EBA/GL/2014/13.

<sup>7</sup> EBA/GL/2016/10.

the intensification test is allowed, following the communication of the common conclusion of the authorities, sufficient time to prepare such branch-specific information.

37. The consolidating supervisor or the home competent authority should ensure that the branch risk assessment captures the assessment of all SREP elements that are relevant to the branch. For that purpose, the branch risk assessment should not include an assessment of capital adequacy, as this is not relevant at branch level; however, the assessment should include an assessment of the appropriateness of internal capital and liquidity allocation to the risk exposures taken by the institution through the significant-plus branch prepared on the basis of the group's or the institution's ICAAP and ILAAP information, as this may be deemed relevant to the branch. At a minimum, the branch risk assessment should include the outcomes of an assessment of the following elements:
- (a) branch-specific business model and strategy and its role/position within the business model and strategy of an institution;
  - (b) branch-specific governance, risk management controls, and the extent to which the branch is integrated into the internal governance and institution-wide controls of the institution;
  - (c) material risks to capital, liquidity and funding that the branch is or might be exposed to, as specified in the EBA's *Guidelines on common procedures and methodologies for SREP*, and any risks to the viability of the institution that stem or may stem from the risks taken by the institution through the significant-plus branch;
  - (d) the risk that the branch may pose to the financial system of the host Member State;
  - (e) the macroeconomic environment in which the branch operates.
38. In addition to the above, the branch risk assessment should provide an overview of any findings of on-site inspections and on-the-spot checks performed by the competent authority of the home or host Member State relevant to the risk assessment of the institution or the financial system in the host Member State.
39. In preparing the branch risk assessment, the consolidating supervisor or the home competent authority should ensure that it has obtained and duly considered appropriate input from the host competent authority. The host competent authority should, at a minimum, provide the following input:
- (a) information on and an assessment of the branch-specific business model and strategy in the context of the host Member State operating environment;
  - (b) information on and an assessment of the risks that the branch may pose to the financial stability of the host Member State;

- (c) a description and an assessment of the conduct risk and information on any conduct risk events in relation to the branch operations;
  - (d) a description and an assessment of the macroeconomic environment in which the branch operates.
- 40. The host competent authority should provide the input specified in the above paragraph based on the information that it has available, including from:
  - (a) the statistical and financial stability reporting referred to in Articles 40 and 52 of Directive 2013/36/EU;
  - (b) any on-the spot branch checks and inspections in accordance with Section 5.3;
  - (c) information received from the consolidating supervisor or home competent authority in accordance with Section 5.4;
  - (d) information from any meetings with the branch's management in accordance with Section 5.6; and
  - (e) any other information available to the competent authorities.
- 41. The consolidating supervisor and the home and host competent authorities should coordinate the timing of the development of the branch risk assessment to reflect the timing of the preparation of the group risk assessment or the SREP reports (i.e. the SREP cycle). Where relevant, such coordination should be performed within the framework of the college of supervisors and be reflected in the college supervisory examination programme (college SEP) and timetable for reaching a joint decision on institution-specific prudential requirements in accordance with Commission Implementing Regulation (EU) No 710/2014.

## 5.2 Coordination of activities and supervisory examination programme

- 42. The college SEP referred to in Article 11 and Article 20 of Commission Implementing Regulation (EU) 2016/99 should, in the case of a significant-plus branch, take into account the outcome of that branch's risk assessment performed in accordance with Section 5.1.
- 43. Where the branch risk assessment has identified significant risks to capital, liquidity and funding that the branch is or might be exposed to, and/or risks to the viability of the institution stemming from the branch, including from the branch's governance and risk controls, the conclusions of the assessment should inform the supervisory activities planned by the consolidating supervisor and the home and host authorities to be noted in the college SEP.
- 44. While developing the college SEP, the consolidating supervisor and the home and host competent authorities should discuss the allocation of work and division of tasks for the

performance of the planned supervisory activities concerning the significant-plus branch and they should explore the opportunities for some of these activities to be performed jointly by the home and host competent authorities.

45. In order to avoid duplication of supervisory tasks and duplication of information requests to the supervised institution concerning the significant-plus branch, the home and host competent authorities should consider when developing the college SEP the appropriate allocation of tasks, as specified in Section 5.8.

### 5.3 On-the-spot checks and inspections of significant-plus branches

46. Without prejudice to Article 52 of Directive 2013/36/EU, on-the-spot checks and inspections of branches, to the extent that they are planned in advance, should be included in the college SEP developed in accordance with Articles 16 and 31 of Commission Delegated Regulation (EU) 2016/98.
47. In order to ensure that the consolidating supervisor and the home and host competent authorities have an overview of planned on-the-spot checks and inspections of branches, even those that are not performed on a joint basis, and to avoid unnecessary duplication of supervisory efforts and requests to institutions, the college SEP should, as far as practicable, include information on all such activities organised by either the home or the host competent authority, and their scope, timing and planned resources.
48. When the consolidating supervisor or the home or host competent authority decides on the timing of jointly performed activities, the authority initiating and organising the activities should take due consideration of the participating authorities' needs in terms of resources and supervisory cycles, and in particular the SREP cycle.
49. On-the-spot checks and inspections in a branch that have not been originally planned but are initiated during the year should be communicated from one authority to the other without undue delay, and duly reflected in the updated college SEP.
50. The consolidating supervisor and the home and host competent authorities should ensure that the number of on-the-spot checks and inspections for significant-plus branches on a yearly basis is higher than for other types of branches.
51. A competent authority initiating an on-the-spot check or inspection (the initiator) in a significant-plus branch should apply the following process:
  - (a) The initiator should invite the other authority to participate in the performance of the activity ensuring that the decision about the activity has been made in a reasonable timeframe allowing competent authorities to organise their participation (generally six weeks in advance of the start of the activity in the case of a pre-planned activity, but

shorter notice might be sufficient in the case of an extraordinary activity). When doing so, the initiator should inform the invited authority about the scope of the activity in order to allow it to make an informed decision.

- (b) The authority receiving the invitation should confirm its participation without undue delay, and at the latest within one week of receipt of the invitation referred to in point (a), unless the on-the-spot check or inspection is of an urgent nature, in which case the authority receiving the invitation should confirm its participation within a reasonable timeframe set by the other authority, in light of the particular circumstances warranting an on-the-spot check or inspection.
- (c) Where the authority receiving the invitation decides to participate in the activity:
  - i. the initiator should, to the extent possible, schedule the activity, including the timing of the meetings organised within the performance of the activity, with due consideration to the availability of the participating authority;
  - ii. the initiator should ensure that information relevant to the performance of the activity is made available to the participating authority, subject to the national law of the Member State where the check or inspection is carried out;
  - iii. the initiator should draft a report summarising the findings of the on-the-spot check or inspection and should allow reasonable time for the participating authority to comment within a specified timeline to enable the timely finalisation of the report;
  - iv. the authorities participating in the activity should strive to reach agreement on the report summarising the findings of the on-the-spot check or inspection before communicating the report to the institution and, where appropriate and in line with the administrative procedures, the branch;
  - v. once the authorities participating in the activity finalise the report, the consolidating supervisor or the home competent authority should have it communicated to the institution or the group and, where appropriate and in line with the administrative procedures, the host competent authority should have it communicated to the management of the branch;
  - vi. where the authorities participating in the activity fail to reach agreement on the report summarising the findings of the on-the-spot check or inspection, the authority initiating and organising the activity remains responsible for the finalisation of the report and its communication to the institution or to the management of the branch.
- (d) Where the authority receiving the invitation decides not to participate in the activity, the initiator should draft the report summarising the findings of the on-the-spot check

or inspection and inform the consolidating supervisor and the home or host competent authority about the final findings as communicated to the institution and to the branch. Where an on-the-spot check or inspection of a branch is performed by the host competent authority and the consolidating supervisor or the home competent authority decides not to participate in the activity, the host competent authority should inform the consolidating supervisor and the home competent authority about the findings before communicating them to the branch.

52. The consolidating supervisor or the home competent authority should invite the host competent authority to participate in on-the-spot checks or inspections carried out at an institution when such activities are relevant to significant-plus branches (in particular, this should include meetings with the group's or the institution's management on issues concerning such branches; see also Section 5.6).

## 5.4 Information needed for the supervision of significant-plus branches

53. Without prejudice to the provisions of Commission Delegated Regulation (EU) No 524/2014 and Commission Implementing Regulation (EU) No 620/2014, the consolidating supervisor and the home and host competent authorities involved in the supervision of significant-plus branches should ensure that they share, by means of making available on their own initiative or upon request, all the information pertaining to the group, the institution or the branch that is adequate, accurate and relevant for the branch's effective and efficient supervision as set out in these guidelines.
54. When assessing the relevance of a particular piece or set of information, the consolidating supervisor and the home and host competent authorities should, in a proportionate manner and on a risk basis, endeavour to anticipate the impact of such information on the following:
- (a) the activities of the branch;
  - (b) the governance and organisation of the branch, the institution or the group as a whole;
  - (c) the potential impact on the financial stability of any Member State, including that where the branch operates;
  - (d) the potential relevance of the information for the host competent authority's decision regarding the imposition of the general good conditions in relation to the branch, the activities in the host Member State; and
  - (e) the potential impact of the risks taken by the institution through the significant-plus branch on the institution and its viability.



55. The consolidating supervisor and the home and host competent authorities should, without prejudice to the provisions of Commission Delegated Regulation (EU) No 524/2014 and Commission Implementing Regulation (EU) No 620/2014, ensure that they share at least, in a proportionate and appropriate manner, adequate information on the following items:
- (a) internal and, where available, external audit reports and the institution's internal risk reports focusing on the branch's position within the institution and on the risks taken by the institution through the significant-plus branch;
  - (b) liquidity reports from the institution collected in accordance with Article 415 of Regulation (EU) No 575/2013;
  - (c) any relevant information that either the home or host competent authority obtained from the institution while developing the branch risk assessment in accordance with Section 5.1 of these guidelines;
  - (d) reports summarising the findings of on-the-spot checks and inspections of the branch undertaken either by the consolidating supervisor or the home or host competent authority in accordance with Section 5.3 of these guidelines, focusing on the branch's position within the group and on the risks taken by the institution through the significant-plus branch;
  - (e) information on branch-specific supervisory and other measures taken or planned by the consolidating supervisors or the home competent authority (see also Section 5.5);
  - (f) any precautionary measures taken by the host competent authority based on Article 43 of Directive 2013/36/EU and measures taken based on Article 50(4) of that Directive (see also Section 5.5);
  - (g) information on upcoming major changes affecting the branch, such as changes in the IT system or business model of the institution, and any relevant business continuity and contingency arrangements;
  - (h) information regarding operational events, including any substantial faults or disruptions in services provided to customers, in payment services or in IT systems insofar as relevant to the branch, including cyber or information security attacks and threats, as well as disruptions or faults damaging or jeopardising the capacity of the branch to continue its business activities or fulfil its obligations as a payment systems and payment services provider;
  - (i) information regarding strategies or business plans relating to the future operations of the branch, including but not limited to any offering of significant new products or services not covered by Article 39 of Directive 2013/36/EU;

- (j) documentation emanating from the application of Articles 143, 151(4) and (9), 283, 312 and 363 of Regulation (EU) No 575/2013;
  - (k) information relevant to the assessment of the group recovery plan or the institution's plan.
56. Such information should be exchanged in a timely manner and in written or electronic form, as far as possible making use of secure means of communication, aiming to facilitate the performance of the relevant supervisory tasks in an efficient and effective way.
57. In liquidity stress situations, the competent authorities should notify each other in accordance with the requirements of Article 17 of Commission Delegated Regulation (EU) No 524/2014 and following the procedure set out in Commission Implementing Regulation (EU) No 620/2014, and, in providing the information specified in Article 17(3) of Commission Delegated Regulation (EU) No 524/2014, should explain the expected impact of the stress on the liquidity of the institution and provide the latest available liquidity ratios in the domestic currency of the institution's home Member State and in all other currencies that are material for the institution.

## 5.5 Application of supervisory measures and sanctions

58. The consolidating supervisor or the home competent authority should apply supervisory measures as provided for in Articles 104 and 105 of Directive 2013/36/EU to the institution based on the SREP findings and the specific findings of the branch risk assessment when measures are applied in relation to the risks taken by the institution through a significant-plus branch or deficiencies identified in such a branch.
59. Without prejudice to Article 41 of Directive 2013/36/EU, the consolidating supervisor and the home and host competent authorities should coordinate the application of supervisory measures and precautionary measures taken in relation to the significant-plus branch, within the framework of colleges of supervisors, considering in particular the following:
- (a) the type of the measures to be taken;
  - (b) the timing of the measures and their duration;
  - (c) the scope of the measures in terms of the exposures concerned or governance or any other relevant issues, or individuals, if addressed to individuals; and
  - (d) links to the supervisory findings highlighted in the branch risk assessment.
60. The consolidating supervisor and the home and host competent authorities should regularly inform each other about any macroprudential measures, or any other measures applied to institutions or branches for the purpose of safeguarding financial stability, that might be relevant to the institution or the significant-plus branch.

61. The consolidating supervisor or the home competent authority should consider the information regarding macroprudential measures received in accordance with the previous paragraph for the purpose of deciding whether to extend the measures to the entire institution under the provisions on voluntary reciprocity for macroprudential measures set out by the European Systemic Risk Board (ESRB)<sup>8</sup>.
62. When deciding on reciprocating macroprudential measures applied in a host Member State to an institution operating through a branch, the consolidating supervisor or the home competent authority should also consider the following:
- (a) the type, scope and nature of the macroprudential measures, and whether they are 'Pillar 1 type measures' (e.g. changes to risk weights in accordance with Article 124 of Regulation (EU) No 575/2013) or 'Pillar 2 type measures' (e.g. a risk weight floor applied in accordance with Article 103 of Directive 2013/36/EU);
  - (b) the scope and nature of the operations of the branch, and in particular whether its operations or exposures would have been affected by the macroprudential measure, if operations or exposures were undertaken by an institution when operating in the host Member State through a subsidiary rather than a branch;
  - (c) the macroprudential framework and any existing macroprudential measures in the home Member State that are applicable to the institution (and therefore to its branches), and whether these are aimed at addressing the same risk as the measures applied by the host competent authority;
  - (d) the recommendations of the ESRB setting minimum standards for reciprocity in macroprudential matters<sup>9</sup>.

## 5.6 Communication framework for a significant-plus branch

63. The consolidating supervisor and the home and host competent authorities should strive to ensure that the messages communicated to the institution or the group concerning the branch are consistent. To this end, the consolidating supervisor and the home and host authorities should ensure that they have consulted each other before issuing any form of formal communication to the group or institution pertaining to the branch.
64. When communicating with the significant-plus branch, and in particular requesting information needed for the performance of its tasks in accordance with the applicable legislation, including these guidelines, the host competent authority should duly inform and coordinate with the consolidating supervisor or the home competent authority.

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<sup>8</sup> See the ESRB's Recommendation on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (ESRB/2015/2).

<sup>9</sup> Ibid.

65. At a minimum, the consolidating supervisor and the home and host competent authorities should organise a joint annual meeting with the branch management, where possible attended also by the representatives of the senior management of the institution, to discuss the following:
- (a) the financial performance of the branch at year-end and any forecasts for the branch's performance in the medium term;
  - (b) the business strategy of the branch and how the branch will contribute to and implement the strategy of the institution;
  - (c) the branch's main activities and its relevant risks; and
  - (d) the supervisory findings concerning the operations of the branch and actions taken or to be taken by the institution to remedy the relevant issues.
66. If either the consolidating supervisor or the home or host competent authority is not able to participate in this joint meeting, the relevant authorities should inform the others accordingly, and the authorities should share the conclusions of the meeting and discuss any follow-up actions.
67. The consolidating supervisor and the home and host competent authorities should agree on the form and frequency of joint meetings with the senior management of the institution to discuss issues more specifically relevant to the significant-plus branch or issues that may potentially affect the branch.
68. These joint meetings with the institution and with the branch management should be duly reflected in the college SEP.

## 5.7 Roles and responsibilities of home and host authorities in the assessment of the recovery plan

69. Within the process for the assessment of the recovery plan in accordance with Article 6(2) of Directive 2014/59/EU or the process for the assessment of the group recovery plan in accordance with Article 8(1) of that Directive, and also considering the requirements of the EBA's *Recommendation on the coverage of entities in the group recovery plan*<sup>10</sup>, the consolidating supervisor or the home competent authority should consult with the host competent authority of significant branches in accordance with Articles 6(2) and 8(1) of Directive 2014/59/EU.
70. To facilitate this consultation, the consolidating supervisor or the home competent authority should share the group recovery plan or the institution's plan, respectively, with the host competent authority in accordance with the timeline established in the college of supervisors

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<sup>10</sup> EBA/Rec/2017/02

for the assessment of the recovery plan and a joint decision on the assessment of the group recovery plan. Furthermore, the consolidating supervisor or the home competent authority should seek input from the host competent authority of the significant-plus branch to facilitate the assessment of the group recovery plan or institution's recovery plan.

71. The host competent authority should provide its input to the assessment of the group recovery plan or institution's recovery plan within the timeline established by the college of supervisors. This input could take the form of general comments on the plan. In addition, the host competent authority should provide comments on the parts of the plan related to the significant-plus branch or comments concerning omissions affecting the coverage of the branch taking into account the requirements of the EBA's *Recommendation on the coverage of entities in the group recovery plan*<sup>11</sup>. The host competent authority should also inform the consolidating supervisor and the home competent authority of any aspect of recovery planning relevant to the branch.
72. The input from the host competent authority to the consolidating supervisor or the home competent authority should include the following information, taking into consideration whether the branch has been determined to be significant-plus because of its importance for the group or institution, or because it is systemically important in the host Member State:
  - (a) an assessment of how the institution or the group has performed the analysis of critical functions and core business lines with reference to a description of the significant-plus branch and mapping of critical functions and core business lines to that branch;
  - (b) an opinion on the institution's or the group's strategy on and approach to the significant-plus branch and an analysis of legal and operational interconnectedness, as well as of existing arrangements, in particular resulting from the conditions indicated by the host competent authority in the interest of the general good;
  - (c) a description of the main activities and services provided by the significant-plus branch;
  - (d) an analysis of how and when the significant-plus branch may apply, under the conditions described in the plan, for the use of central bank facilities, as well as of the assets that are expected to qualify as collateral;
  - (e) an assessment of the credibility of recovery options, governance/escalation procedures, scenarios and indicators regarding the significant-plus branch, for example if it is considered to be part of divestment or other recovery options assumed by the institution or the group;
  - (f) information on material risks that the significant-plus branch may cause for the institution or dependencies that the institution may have on the branch, or on risks or dependencies between the branch and local market participants;

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<sup>11</sup> Ibid

- (g) an overall assessment of the degree to which the group recovery plan or institution's plan adequately covers the significant-plus branch;
  - (h) information on any other issues relevant for the assessment of the completeness, quality and overall credibility of the plan.
- 73. The consolidating supervisor and the home competent authority should prepare the overall assessment of the group recovery plan or institution's recovery plan in accordance with the requirements of Commission Delegated Regulation (EU) 2016/1075, reflecting the input received from the host competent authority in accordance with paragraph 72. The consolidating supervisor or home competent authority should further consult on the overall assessment report with the host competent authority.
- 74. The consolidating supervisor and the home and host competent authorities should endeavour to ensure that all discussions, consultations and deliberations concerning the assessment of the (group) recovery plan take full account of the timeline for the assessment of that plan set out within the college context.
- 75. When material deficiencies or impediments identified in the plan relate to the significant-plus branch, such deficiencies and impediments should be duly reflected in the (group) recovery plan's assessment process, including in the pertinent joint decision. Any communication with the (EU parent) institution or the branch on these matters should be duly coordinated between the consolidating supervisor and the home and host competent authorities within the operational framework of the college.

## 5.8 Allocation of tasks among competent authorities

- 76. The consolidating supervisor and the home and host competent authorities should ensure that the operational framework of the college of supervisors not only enables but also achieves an efficient and effective allocation of tasks among all authorities involved in supervising a significant-plus branch in accordance with these guidelines.
- 77. For that purpose, the consolidating supervisor or the home competent authority should regularly assess whether an efficient and effective task allocation that enables supervision of the significant-plus branch in accordance with these guidelines has been achieved and, if not, propose improvements to the college's operational framework by means of an amendment to the written arrangements or to the college SEP.
- 78. The task allocation mechanism established within the college operational framework should be deemed efficient and effective when it achieves the following objectives:
  - (a) it avoids unnecessary duplication of tasks, optimises supervisory resources, employs all available intelligence and expertise, and removes unnecessary burdens on the supervised institutions;

- (b) it reflects supervisory expertise in terms of technical skills or knowledge of the local market, ensuring that each competent authority performs the tasks it is best placed to perform;
  - (c) it reflects the manner in which a supervised entity that operates on a cross-border basis through significant-plus branches is organised and is proportionate to the nature, scale and complexity of the supervised entity concerned;
  - (d) it is well suited to the supervision of an institution considering its management organisation (i.e. centralisation/decentralisation) and in terms of the organisation of its business lines.
79. The consolidating supervisor and the home and host competent authorities should agree on the terms of the task allocation and duly reflect them in the college's written coordination and cooperation arrangements. The college should be duly informed of the existence and, where relevant, the outcome of the allocation arrangements.
80. Where dissenting views on the task allocation mechanism arise among the authorities and agreement is prevented, the authorities should file with the EBA a request as referred to in Article 31(c) of Regulation (EU) No 1093/2010 along with all information necessary for the EBA to form an opinion on the disputed issues and assist the authorities in coming to a common conclusion. All the competent authorities involved should take into account the EBA's opinion and settle the issue accordingly.
81. At a minimum, these terms should detail the following:
- (a) the specific activities to be allocated to each authority;
  - (b) the relevant applicable legal framework;
  - (c) the roles and the responsibilities of the authorities involved, especially where task allocation is different from task allocation under Regulation (EU) No 575/2013 and Directive 2013/36/EU following an agreement on the delegation of tasks;
  - (d) the type of information to be exchanged among supervisors for the performance of the tasks;
  - (e) the language, frequency and means/form of the information to be exchanged;
  - (f) the standards under which tasks should be executed;
  - (g) possible feedback, advice or instructions from one authority to the other;
  - (h) the working methods to be used;

- (i) access to the documentation produced after a task that has been allocated has been accomplished;
  - (j) the timetable for completion of the allocated tasks;
  - (k) the terms under which the authority to which a task has been allocated is to report to the college; and
  - (l) the terms under which early termination of any task allocation may take place.
82. The consolidating supervisor and the home and host competent authorities should inform the institution and the significant-plus branch about the task allocation in accordance with the college's communication framework.
83. For the purpose of putting in place the most efficient task allocation, the consolidating supervisor and the home and host competent authorities should examine the legal and operational feasibility of the delegation of tasks, where it is allowed under EU or national legislation, with a view to establishing this as a task allocation mechanism. The examination of the legal and operational feasibility of delegation should be made on a voluntary and a by-task basis without prejudice to the competences and responsibilities allocated to national authorities or Union institutions.
84. Any delegation of tasks on a voluntary basis should be in line with EU and national legislation and be fully agreed among the authorities involved at least with regard to the elements referred to in paragraph 81 and any other elements required to establish a legally safe and fully operational mechanism for task allocation.
85. The consolidating supervisor and the home and host competent authorities involved in the supervision of a significant-plus branch should work out the best possible allocation of tasks within the college framework in accordance with the previous paragraphs even, and in particular, when delegation proper is not deemed to be legally and operationally feasible.