

EBA/CP/2023/10

30 May 2023

Consultation Paper

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)

and

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)

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1. Responding to this consultation

The EBA invites comments on all proposals put forward in this paper and in particular on the specific questions summarised in 5.2.

Comments are most helpful if they:

- respond to the question stated;
- indicate the specific point to which a comment relates;
- contain a clear rationale;
- provide evidence to support the views expressed/ rationale proposed; and
- describe any alternative regulatory choices the EBA should consider.

Submission of responses

To submit your comments, click on the 'send your comments' button on the consultation page by 30.08.2023. Please note that comments submitted after this deadline, or submitted via other means may not be processed.

Publication of responses

Please clearly indicate in the consultation form if you wish your comments to be disclosed or to be treated as confidential. A confidential response may be requested from us in accordance with the EBA's rules on public access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the EBA's Board of Appeal and the European Ombudsman.

Data protection

The protection of individuals with regard to the processing of personal data by the EBA is based on Regulation (EU) 1725/2018 of the European Parliament and of the Council of 23 October 2018. Further information on data protection can be found under the Legal notice section of the EBA website.

2. Executive Summary

The [Commission Delegated Regulation \(EU\) 2016/98](#) and [the Commission Implementing Regulation \(EU\) 2016/99](#) of 16 October 2015¹ as mandated by the CRD 51(4), 116(4) and respectively 51(5) and 116(5) specifying the functioning of supervisory colleges were published by the European Commission in January 2016. The Commission Delegated Regulation specifies the general conditions for the establishment and functioning of colleges of supervisors based on the regulatory technical standards developed by the EBA (RTS on colleges of supervisors), and the Implementing Regulation establishes important procedures to structure and facilitate the interaction and cooperation between the consolidating supervisor and the relevant competent authorities based on the implementing technical standards submitted by the EBA (ITS on colleges of supervisors).

Since then, the legal framework in relation to banks and investments firms has been further developed in the CRD V² and CRR 2 as well as the IFD/IFR, and these developments necessitate the update of the RTS and ITS on colleges of supervisors. Henceforth, additional competent authorities are involved in supervisory colleges taking into account new direct supervisory powers towards (mixed) financial holding companies and EU parent (mixed) financial holding companies. Supervisory college should be set up where all the cross-border subsidiaries of an EU parent institution have their head offices in third countries in order to ensure effective and efficient supervisory cooperation for cross-border banking groups headquartered in the EU. Changes in the Pillar 2 framework in the CRD V, in the context of Pillar 2 Guidance and risk of excessive leverage, should also be reflected in the information exchange in supervisory colleges as well as with the resolution college.

Furthermore, EBA has gathered valuable information on the functioning of colleges, as part of its ongoing college monitoring activity, including on the implementation of the provisions of the RTS and ITS on colleges of supervisors by competent authorities, as well as in the context of recent economic developments caused by Covid-19 pandemic and the Russian invasion of Ukraine. The intensity of cooperation between supervisory colleges and resolution colleges, as well as the supervisory and AML/CFT colleges has also been monitored. These Regulations incorporate the results of such monitoring in order to enhance the cooperation and information exchange between the supervisory college and the other colleges, in particular between the consolidating supervisor and the group-level resolution authority, being an observer in the supervisory college, including in case of an emergency situation or an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State.

Given the number of changes needed to update the RTS and ITS on colleges of supervisors, the EBA proposes to repeal the current RTS and ITS on colleges of supervisors and replace it with these

¹ The Commission Delegated and Implementing Regulations were based on the draft regulatory technical standards and implementing technical standards submitted by the European Banking Authority (EBA) to the Commission on 19 December 2014.

² It is noted that potential amendments proposed in the context of the CRD VI have not been taken into account, however are to kept in mind to avoid that the updates contain contradictory proposals to the CRD VI.

Regulations. Since the publication of the RTS and ITS on colleges of supervisors in 2016, other types of colleges have been established and therefore the opportunity is also used to clarify in the title of the document that the subject of these Regulations are ‘supervisory’ colleges. Both of the RTS and ITS on supervisory colleges are incorporated into this single consultation paper.

Next steps

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

3. Background and rationale

Cooperation between authorities at both the EU and global level is key to strengthening the supervision of cross-border groups during going concern and emergency situations through the framework of supervisory colleges. As witnessed during the Global Financial Crisis in 2007-2009 but also in the current period with high macroeconomic and geopolitical risks, it is crucial that institutions operating in more than one country are supervised effectively.

Supervisory colleges allow supervisory authorities to cooperate closely, share knowledge and use skills and resources more effectively and efficiently which ultimately should lead to a profound supervision of the cross-border group.

On the basis of the mandates set out by Article 51(4) and Article 116(4) of Directive 2013/36/EU, EBA developed draft Regulations on colleges of supervisors that were adopted by Delegated Regulation (EU) 2016/98 and Implementing Regulation (EU) 2016/99 of 16 October 2015.

With these Regulations the EBA incorporates the amendments of the CRD V and CRR into the functioning of supervisory colleges and channels in lessons learnt from the implementation of Delegated Regulation (EU) 2016/98 and Implementing Regulation (EU) 2016/99 as observed by its continuous monitoring activities in accordance with Article 21 of Regulation (EU) 2010/1093.

3.1. Incorporating the amendments of the CRD V and CRR 2 in these Regulations on supervisory colleges

Enlargement of the application of the framework of supervisory colleges:

- by involving the supervisory authorities of mixed financial holding companies and financial holding companies that take management, operational or financial decisions brought under the direct scope of the CRD and CRR to ensure compliance with the requirements on a consolidated basis (Article 21a CRD) in supervisory colleges;
- by setting up supervisory colleges for third country groups with two or more institutions in the Union previously without a parent undertaking, following the requirement to establish one, or under circumstances laid down in the CRD V, two intermediate holding companies in the Union (Article 21b CRD), and;
- by setting up supervisory colleges where all the cross-border subsidiaries of an EU parent institution, an EU parent financial holding company or an EU parent mixed financial holding company have their head offices in third countries (Article 116(1a) CRD).

Enhancement of the information exchange and cooperation with other authorities, other than those responsible for prudential supervision, using the framework of the colleges, namely between:

- supervisory colleges and resolution colleges (Article 4(8) CRD), and;
- supervisory colleges and colleges of supervisors combating money laundering and terrorism financing (AML/CFT colleges) (Article 117(5) CRD).

3.2. Incorporating the results of EBA's monitoring approach

Improve the information exchange between the members of supervisory college with the aim 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 by clarifying the requirements of the information exchange and introducing a further requirement, such as the information exchange in case of an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State and are deemed important as determined in these Regulations on supervisory colleges.

Furthermore, aiming at a more efficient and effective operational functioning of supervisory colleges by:

- Clarifying the framework of observership, in particular the type of authorities that shall or may be requested to become observers of the supervisory college and the process that the consolidating supervisor should follow when sending requests to authorities;
- Enhancing the process for identifying tasks for voluntary entrustment and potential delegation of responsibilities in the framework of the preparation of the supervisory examination programme;
- Clarifying that supervisory college meetings can also be held in virtual format;
- Clarifying how the consent to a written arrangement can be provided.

3.3. Enhanced information exchange in supervisory colleges

Another element of these draft Regulations is the enhanced information exchange between members and observers of the supervisory college and also with other types of colleges.

Enhanced information exchange between the members of the college

As the joint decision on capital, not only addresses risks other than the risk of excessive leverage, but also the risks of excessive leverage pursuant to Article 113 of Directive 2013/36/EU, this information has to be exchanged in supervisory colleges bringing the provisions of these Regulations on supervisory colleges in line with the CRD V requirements.

As EBA found in the context of its ongoing college monitoring and also in the context of recent events like the Covid-19 pandemic or the Russian invasion of Ukraine, that the information exchange on the early warning signs, potential risks and vulnerabilities, including the consequences of events of adverse material effect on the risk profile of the group and its entities, can be improved. Thus, it is foreseen that supervisory colleges exchange information in case of such event in order to enhance their ability to react quickly to the deterioration in the risk profile of the group or its entities.

Enhanced information exchange and cooperation with observers

In line with the changes in the CRD V, these Regulations on supervisory colleges aim to ensure a consistent and enhanced cooperation and information exchange on a broader scale with the group-level resolution authority, the lead supervisor of the AML/CFT college, the third country supervisory authorities where institutions or branches of the group are established that are deemed important,

and with the coordinator of the financial conglomerate, if that is different from the consolidating supervisor responsible for the sectoral group-wide supervision. These Regulations require the consolidating supervisor to request notably the aforementioned authorities to become observers of the supervisory college subject to agreement of the terms of their participation by all the members of the supervisory college and, in case of third country supervisory authorities, on the assessment of equivalence of the confidentiality and professional secrecy requirements applicable. These Regulations also clarifies the process of the identification of mandatory and non-mandatory observers. Despite having observership status, their participation in a specific college activity or meeting, or meeting agenda item, should always depend on the topics to be addressed, their relevance for each group entity and for the performance of the tasks of the observers, as well as also on the importance of a group entity for the group. Therefore, in preparation for a college activity or meeting, or agenda item of a meeting, the consolidating supervisor should send the invitation to an observer, if it considers that the topic to be addressed or discussed, is relevant for the performance of the task of the observer. However, the group-level resolution authority should always receive the agenda of the supervisory college meeting for information, even if it is not invited for a particular meeting.

[Cooperation with resolution authorities/colleges through the group-level resolution authority](#)

The CRD requires that resolution authorities and supervisory authorities should not only cooperate in relation to the preparation of resolution plans but also in all other instances where cooperation is required, in going concern and in emergency situations. Thereto these Regulations foresee that, when the topics discussed at a meeting concern the recovery planning, or other item that impacts the resolvability of a group, the consolidating supervisor is expected to invite the group-level resolution authority to this meeting or agenda item. The consolidating supervisor has the task to channel information discussed in the supervisory college to the resolution college, through the group-level resolution authority, on aspects that influence the resolvability and resolution planning, in particular the assessment of the group recovery plan and requirements following the joint decision. In case of an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State and are important as determined in accordance with these Regulations, the group-level resolution authority will also be informed if this information is relevant for the performance of its tasks. Finally, it is foreseen that in an emergency situation, the consolidating supervisor when devising a coordinated response shall involve and consider any input provided by the group-level resolution authority.

[Cooperation with AML/CFT colleges through the lead supervisor of the AML/CFT college](#)

In order to enhance the cooperation and information exchange between the prudential and AML/CFT colleges, the lead supervisor of the AML/CFT college shall be requested by the consolidating supervisor to become observer of the supervisory college. This would allow the lead AML/CFT supervisor to channel to the supervisory college any issues or risks, with potential prudential implications, identified in the AML/CFT college. Equally when the lead supervisor of the AML/CFT college, based on an invitation by the consolidating supervisor of the prudential college, attends certain sessions/meetings of the supervisory college it will be informed about prudential risks that might impact ML/FT risks. These TSs do not aim to duplicate the tasks of the consolidating supervisor or the lead supervisor of the AML/CFT college. For example, if the consolidating supervisor considers that an item was discussed in detail in the AML/CFT college, in which it participated, the lead supervisor of the AML/CFT college may not be invited for the meeting of the prudential college. Instead, the information gathered by the



consolidating supervisor will be channelled to the prudential college by the group risk assessment. Similarly, the lead supervisor of the AML/CFT college can refuse the invitation sent by the consolidating supervisor for a college meeting organised in the prudential college, if it considers that it has already sufficient information on the items to be discussed.

[Supervisory colleges involving third country supervisory authorities](#)

When the CRD V requires the establishment of colleges for third-country groups, the third country supervisory authority will also receive important information from the consolidating supervisor on a going concern basis as well as in preparation for or in emergency situations, when the consolidating supervisor deems it relevant for the performance of the tasks of the third country supervisory authority. These Regulations also provide for the framework for the establishment of supervisory colleges in accordance with Article 116(1a) of CRD V. Notably, for their establishment, the consolidating supervisor should invite the supervisors of all the cross-border subsidiaries of a Union entity, while, for the purpose of Article 116(1), only the important subsidiary in third countries should be invited. For their functioning, these 116(1a) colleges have to apply Articles 112(1), 114(1) and 115(1) of CRD V, in the same way as colleges established on the basis of Article 116(1) CRD. Conversely, they do not have to apply any provision based on Article 113 CRD. Therefore, there is no need to establish dedicated provisions or procedures for the functioning of colleges established on Article 116(1a) of that Directive.



4. 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) and 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)

In between the text of the draft RTS-ITS that follows, further explanations on specific aspects of the proposed text are occasionally provided, which either offer examples or provide the rationale behind a provision or set out specific questions for the consultation process. Where this is the case, this explanatory text appears in a framed text box.



COMMISSION DELEGATED REGULATION (EU) 20xx/xx
of date month year
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 supervisory colleges

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of 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/EC³, and in particular to Article 51(4) and Article 116(4) thereof,

Whereas:

- (1) On the basis of the mandates set out by Article 51(4) and Article 116(4) of Directive 2013/36/EU, EBA developed draft regulatory technical standards that were adopted by 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.
- (2) That Delegated Regulation specifies rules and conditions for performing the mapping of a group, setting up a college, establishing written coordination and cooperation arrangements, requesting authorities that are involved in the supervision of a group entity and EBA to become members of the supervisory college and notably third country supervisory authorities, public authorities or bodies which are responsible for supervision of markets in financial instruments, the prevention of the use of the financial system for money laundering and terrorist financing, the resolution or consumer protection to become observers. On an ongoing basis, that Delegated Regulation also provides the mechanisms for interacting and coordinating supervisory actions, including the development of a college supervisory examination programme, between the consolidating supervisor and college members. This cooperation facilitates the identification of early warning signs, potential risks and vulnerabilities for the group and its entities and for the system in which they operate and ensures coordinated supervi-

³ OJ L 176, 27.6.2013, p. 338.



sory activities in going concern and in preparation for and during emergency situations, including for group recovery planning and contingency planning purposes and for providing coordinated input to the resolution college.

- (3) Delegated Regulation (EU) 2016/98 should be amended to take into account Regulation (EU) 2019/876 of the European Parliament and the Council⁴ and Directive (EU) 2019/878 of the European Parliament and the Council⁵, which amended the prudential requirements relevant for supervisory colleges as set out by Directive 2013/36/EU.
- (4) To reflect that compliance with prudential requirements is ensured on a consolidated basis throughout the group, that Delegated Regulation should also be modified to include mixed financial holding companies and financial holding companies approved under Article 21a of Directive 2013/36/EU, as well as intermediate EU parent undertakings established under Article 21b of that Directive, in the framework of the college. In particular, where the relevant competent authority has approved, under Article 21b(2) of Directive 2013/36/EU, the set-up of two intermediate EU parent undertakings belonging to the same third-country group, two supervisory colleges might be set up. Each college, through the participation of the consolidating supervisor or group supervisor, where applicable, as an observer of the other college, should ensure cooperation to achieve efficient and effective supervision of third-country groups operating in the Union.
- (5) To ensure the appropriate involvement of third-country authorities in supervisory colleges, where all the cross-border subsidiaries of an institution are authorised in third countries, a college should be set up pursuant to Article 116(1a) of Directive 2013/36/EU, in order to coordinate information sharing and supervisory activities in going concern and emergency situations, and to establish the written coordination and cooperation arrangements. In this case, notably the supervisory authorities of all third countries where institutions are authorised must be invited to become observer of the supervisory college. On the contrary, colleges established on the basis of Article 116(1) should only invite supervisory authorities of third countries where institutions, that are deemed important for the group, are authorised. In any case, when third-country supervisory authorities are requested to become observers of the supervisory college, they should be subject to confidentiality requirements equivalent to those of the EU.
- (6) Delegated Regulation (EU) 2016/98 should also take into account Regulation (EU) 2019/2033 of the European Parliament and the Council that amended the definition of institution applicable in Directive 2013/36/EU, excluding investment firms from it. Where Article 1(2) or 1(5) of that Regulation applies, investment firms are however supervised for compliance with prudential requirements under Titles VII and VIII of Directive 2013/36/EU. Therefore, reference to “institution” shall be understood as including investment firms to which Article 1(2) or 1(5) of Regulation (EU)

⁴ Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ...)

⁵ Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures (OJ...)



2019/2033 applies.

- (7) Under Article 21 of Regulation (EU) 1093/2010, the EBA monitors the functioning of supervisory colleges to foster convergence and consistency in the application of Regulation (EU) 575/2013 and Directive 2013/36/EU, as well as Delegated Regulation (EU) 2016/98 and Implementing Regulation (EU) 2016/99. The results of the EBA's monitoring concluded that aspects of the operational arrangements of the supervisory college, for example, concerning the regular exchange of the early warning indicators, or the cooperation with the resolution authorities or the AML/CFT authorities, still require further strengthening. Therefore, the results of such monitoring have been taken into account and the role of the supervisory college as a tool for information exchange among members have been enhanced, as well as its cooperation and coordination with observers, including other sectoral colleges.
- (8) It has been specified that, in case of identification of early warning signs, potential risks and vulnerabilities for the group and its entities, including any event of adverse material effect on the risk profile of the group or its entities thereof or the imposition of early intervention measures; or for the system in which they operate, and in case of emergency situations, an enhanced information exchange should be performed in the college.
- (9) To enhance the cooperation and information exchange between the prudential supervisors and other authorities involved in the supervision of a group, and ensure the sharing of information for the fulfilment of each other's tasks, the group-level resolution authority, the lead supervisor of the AML/CFT college, the supervisory authorities of third countries where important institutions or branches are established and the supervisory authority where a second intermediate EU parent undertaking is established, or the coordinator of the financial conglomerate, if that is different from the consolidating supervisor and when they are identified by the consolidating supervisor, notably, should be requested to become observers in the supervisory college. This status of observer opens up the possibility for these authorities to be invited to college meetings, when their presence is deemed relevant considering the agenda of the meeting.
- (10) The attendance of observers at a supervisory college meeting, or participation in a particular agenda item should depend on the topics to be discussed or addressed. The consolidating supervisor should decide what information is relevant for the observers and involve the observers in the relevant college meeting or activity accordingly. When a topic discussed at a meeting is related to the group recovery planning or other item that impacts the resolvability of a group, the group-level resolution authority should be invited. When appropriate, the consolidating supervisor should involve the group-level resolution authority in the information exchange and assessment of the situation.
- (11) The consolidating supervisor may request some authorities, other than members, to become observers of the supervisory college. If they accept the request, their attendance at each supervisory college meetings should be decided by the consolidating supervisor depending on the items to be discussed or addressed at that particular meeting.



- (12) Supervisory college members should discuss and agree on the scope and level of involvement of observers, if any. To enhance the cooperation and information exchange with the observers, including with the group-level resolution authority and the AML/CFT lead supervisor where relevant, the written coordination and cooperation arrangements should describe the framework for cooperation and information to be exchanged with each one of them. The written arrangements should also cover agreements between college members involved in specific college activities, such as those performed through specific substructures of the supervisory college.
- (13) To promote collaboration within the supervisory college and to contribute to increase the effectiveness and efficiency of the group supervision, the consolidating supervisor and the members of the supervisory college shall discuss, and on a voluntary basis, agree on entrustment of tasks and, delegation of responsibilities, where that is relevant.
- (14) Each supervisory college should decide on the exact sets of information to be exchanged and periodically updated, listing them in the written coordination and cooperation agreement. On this basis, supervisory college members and, where relevant, observers should exchange the values of quantitative and qualitative indicators regularly to enhance the supervisory college's capacity to identify increasing risks and vulnerabilities. Furthermore, the written coordination and cooperation arrangements should provide for the processes for coordinating the relevant input, as well as the responsibilities and role of the consolidating supervisor in communicating that input to observers. In addition and in order to ensure that information exchange is triggered between the consolidating supervisors and the members of the supervisory college when the group or its entities are impacted by an event of adverse material effect, it is requested that the consolidating supervisor and the members of the college describe the main characteristics of such event in the written coordination and cooperation arrangement, taking into account the specificities of the group, and agree on the set of information that shall be exchanged, if such event materialises.
- (15) 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, in particular from the relevant group-level resolution authority or from any entity of the group.
- (16) Given the several amendments to be made, Delegated Regulation 2016/98 should be recast in the interest of clarity. Therefore, references to that Delegated Regulation 2016/98 should be construed as references to this Regulation.
- (17) This Regulation is based on the draft regulatory technical standards submitted by the European supervisory authority (European Banking Authority) (EBA) to the Commission.
- (18) The EBA has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010.



HAS ADOPTED THIS REGULATION:

CHAPTER 1
GENERAL PROVISIONS

Article 1

Subject matter

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

Article 1a

Definitions

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

- (1) 'AML/CFT authority' means an authority entrusted with the public duty to ensure compliance with Directive (EU) 2015/849
- (2) 'AML/CFT college' means a college established for the purpose of facilitating co-operation between AML/CFT authorities.

CHAPTER 2
CONDITIONS REGARDING THE FUNCTIONING OF SUPERVISORY COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 116 OF DIRECTIVE 2013/36/EU

SECTION 1

Establishment and functioning of supervisory colleges

Article 2

Establishment of the mapping of a group of institutions

1. For the purpose of identifying the members and potential observers of the supervisory



college, the consolidating supervisor shall establish the mapping of a group of institutions in accordance with Article 2 of Implementing Regulation (EU) 20xx/xx⁶.

2. The mapping of a group of institutions shall result in the identification of the following group entities and branches:
 - (a) institutions and branches established in a Member State, including financial holding companies or mixed financial holding companies approved in accordance with Article 21a of Directive 2013/36/EU;
 - (b) financial sector entities authorised in a Member State;
 - (c) institutions and branches established in a third country.
3. The mapping for each institution or branch established in a Member State shall reflect the following information:
 - (a) the Member State where the institution is authorised or the branch is 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 as well as other financial sector authorities of that Member State, such as competent authorities responsible for the supervision of markets in financial instruments, the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, or consumer protection;
 - (c) information as to whether the institution is subject to prudential supervision on an individual 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 575/2013 of the European Parliament and of the Council⁷ on an individual basis pursuant to Articles 7, 8, or 10 of that Regulation;
 - (d) information relating to the importance of the institution for the Member State where it is authorised and the relevant criteria used by the competent authorities to determine this importance, in particular the size of the institution relative to the local market in terms of total assets and off-balance sheet items, if the market share of the institution in terms of deposits, exceeds 2% of the Member State where it is authorised or the likely impact of a suspension or closure of the operations of the institution on systemic liquidity, the payment, clearing and settlement systems in the Member State where it is authorised and the result of the assessment of systemic importance under Article 131(3) of Directive 2013/36/EU (CRD); as well as information on the importance of that institution for the group, provided that the total amount of assets and off-balance sheet items

⁶ Commission Implementing Regulation (EU) 2016/99 of 16 October 2015 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 (see page 21 of this Official Journal).

⁷ 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 (OJ L 176, 27.6.2013, p. 1).



of that institution exceeds 1 % of the group's total assets and off-balance sheet items on consolidated basis;

- (e) information relating to the importance of the branch for the Member State where it is established, 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 on the importance of that branch for the group, provided that the total amount of assets and off-balance sheet items of that branch exceeds 1 % of the group's total assets and off-balance sheet items on consolidated basis.
4. The mapping for each financial sector entity, institution or branch referred to in paragraph 2, points (b) and (c) shall reflect the following information:
- (a) the Member State where the financial sector entity is established or the third country where the institution or the branch is established;
 - (b) the authority responsible for or involved in the supervision of that financial sector entity, institution or branch;
 - (c) information on the importance of the financial sector entity, of the institution or of the branch for the group, provided that the total amount of assets and off-balance sheet items of that financial sector entity, institution or branch exceeds 1 % of the group's total assets and off-balance sheet items on consolidated basis.
5. The mapping of the group of institutions shall reflect:
- (a) where Article 116(1a) of Directive 2013/36/EU applies, whether the head offices of all the cross-border subsidiaries of an EU parent institution or of an EU parent financial holding company or of an EU parent mixed financial holding company are authorised in third countries;
 - (b) where Article 21b of Directive 2013/36/EU applies, whether one intermediate or two intermediate EU parent undertakings have been established in the Union.

Article 3

Request to become members and observers of a supervisory college

1. The consolidating supervisor shall request the following authorities to become members of the supervisory college:
 - (a) the competent authorities responsible for the supervision of institutions which are subsidiaries of an EU parent institution 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) the 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;
 - (c) the EBA.
2. The consolidating supervisor shall request the following authorities to become observers of the supervisory college in accordance with the process determined in Article 3(1) of Implementing Regulation (EU) 20xx/xx:
- (a) for the purpose of colleges established under Article 116(1), supervisory authorities of third countries where institutions or branches are established, that are deemed important as set out in Article 2(4)(c), provided that the third countries' supervisory authorities are subject to confidentiality requirements laid down in Article 116 of Directive 2013/36/EU;
 - (aa) for the purpose of colleges established under Article 116(1a), supervisory authorities of third countries where institutions are authorised, or branches, that are deemed important, as set out in Article 2(4)(c) are established, provided that the third countries' supervisory authorities are subject to confidentiality requirements laid down in Article 116 of Directive 2013/36/EU.
 - (b) the group-level resolution authority;
 - (c) the lead supervisor of the AML/CFT college;
 - (d) where a second intermediate EU parent undertaking has been established in accordance with Article 21b (3), second subparagraph of the Directive 2013/36/EU, the consolidating supervisor, or the group supervisor as defined in Article 3(1) point 15 of Regulation 2019/2033⁸ of that second college.
 - (e) in the case of a financial conglomerate, the coordinator referred to in Article 11 (1) of Directive 2002/87/EC⁹, when different from the consolidating supervisor.
3. The consolidating supervisor may request the following authorities to become observers of the supervisory college in accordance with the process determined in Article 3(1) of Implementing Regulation (EU) 20xx/xx.
- (a) the competent authorities of host Member States where non-significant branches are established
 - (b) the supervisory authorities of third countries where institutions or branches are

⁸ Regulation (EU) 2019/2033 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU of 27 November 2019m (OJ L 314/64, 5.12.2019)

⁹ Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1)



established, other than the authorities referred to in Article 3(2)(a) and (aa).

- (c) the public authorities or bodies in a Member State, which are responsible for or involved in the supervision of a group entity or branch, including the AML/CFT authority of host Member States, or authorities responsible for the supervision of markets in financial instruments, or consumer protection and authorities responsible for the prudential supervision of the group's financial sector entities, provided that the competent authority of the same host Member State has accepted to become a member or observer of the supervisory college.
- (d) resolution authorities of host Member States, provided that the competent authority of the same host Member State has accepted to become a member or observer of the supervisory college.

Article 4

Communication of the setting up and composition of a supervisory 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 that composition.

Article 5

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 and branches;
- (b) identification of the members and observers of the supervisory college;
- (c) a description of the terms covering the participation of observers in the supervisory college as referred to in Article 3(2) and 3(3) and having regard to Article 17, including their involvement in college meetings and activities, and in emergency situations, and their rights and obligations with regard to the information to be exchanged and the relevant process for information exchange between the consolidating supervisor and the observers; and the dissemination of the information received from the observers towards supervisory college members;
- (d) a description of the arrangements for exchanging information including their scope, frequency and secure channels of communication;



- (e) a description of the arrangements for the treatment of confidential information;
- (f) a description of the arrangements on entrustment of tasks and on delegation of responsibilities, where relevant;
- (g) a description of any substructures of the college;
- (h) a description of the framework for the planning and coordination of supervisory activities in going concern situations;
- (i) a 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) a description of the communication policy of the consolidating supervisor and the members of the supervisory college with the EU parent undertaking and with the group entities or significant branches;
- (k) agreed procedures and deadlines 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;
- (m) a description of the framework for providing input to the consolidating supervisor in accordance with Articles 12, 13, 16, 18, 45h, 91 and 92 of Directive 2014/59/EU, and without restriction for the purposes of the consultation process referred to in these Articles;
- (n) a description of the role of the consolidating supervisor in particular with regard to coordinating the provision of the input referred to in point (m) of this Article through the group-level resolution authority to the relevant resolution college;
- (o) provisions covering arrangements where a member or an observer terminates its participation in the college;
- (p) a description of the characteristics of an event of adverse material effect on the risk profile of the group and its entities, taking into account the specificities of the group, and the set of information that shall be exchanged, as agreed by the consolidating supervisor and the members of the supervisory college, if such event materialises.

Article 6

Participation in supervisory college meetings and activities

1. When deciding which authorities shall participate in a supervisory 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 for the performance of the tasks of the observers;
 - (b) the importance of the group entity for the Member State where the group entity is established, and its importance for the group.
2. The consolidating supervisor may invite the observers of the supervisory college only to specific agenda items of a meeting or activity, that are relevant for the performance of the tasks of the observer.
3. The consolidating supervisor and the members of the supervisory college shall ensure that the most appropriate representatives participate in the supervisory college meetings or activities, based on the topics discussed and objectives pursued. Those representatives shall have the power to commit their authorities as members of the supervisory college, to the maximum extent possible, for the decisions planned to be taken during the meetings or activities.
4. The consolidating supervisor may invite representatives of group entities to participate in a supervisory college meeting or activity, based on the topics and objectives of the meeting or activity.

Article 7

Entrustment of tasks and delegation of responsibilities

1. When developing the examination programme of the supervisory college pursuant to Article 16, and updating it where necessary, the consolidating supervisor and the members of the supervisory college shall exchange views on possible entrustment of tasks and delegation of responsibilities. On this basis they shall consider to conclude an agreement, on a voluntary basis, on entrustment of tasks, including any possible delegation of responsibilities, where that is relevant, pursuant to Article 116(1)(b) of Directive 2013/36/EU, if such entrustment or delegation is expected to lead to more efficient and effective supervision of the group, in particular by removing unnecessary duplication of supervisory requirements, including those 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.



3. If no agreement could be reached between the consolidating supervisor and the members of the supervisory college on the proposed tasks for entrustment or delegation of responsibilities pursuant to paragraph (1) of this Article, the EBA shall be informed accordingly.

Article 8

Exchange of information between the members of the supervisory college and a group of institutions

1. The consolidating supervisor and each member of the supervisory college shall be responsible for communicating to and requesting information from the institutions and branches under their supervisory remit.
2. When, exceptionally, the consolidating supervisor or a member of the college intends to communicate to or request information from an institution or a branch outside its supervisory remit, it shall inform in advance the member of the supervisory college responsible for it.

SECTION 2

Planning and coordination of supervisory activities in going concern situations

Article 9

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

1. The consolidating supervisor and the members of the supervisory college shall exchange 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 Section II of Chapter 1 in Title VII of that Directive, and where applicable, Articles 76 and 81 of Directive 2014/65/EU of the European Parliament and of the Council¹⁰.
2. The consolidating supervisor and the members of the supervisory 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 supervisory college shall exchange the information referred to in paragraphs 1 and 2, whether received from a group entity, a competent or supervisory authority or any other source, and in accordance with Article 7 of the Implementing Regulation (EU) 20xx/xx. That information shall be sufficiently adequate, accurate and timely.

¹⁰ Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC (OJ L 145, 30.4.2004, p. 1).



4. The consolidating supervisor shall communicate to the members of the college:
 - (a) the name of the deposit-guarantee scheme to which the institution, and its branches, belongs in accordance with Article 3(1) of Directive 94/19/EC of the European Parliament and Council;
 - (b) the maximum coverage of the deposit-guarantee scheme per eligible depositor;
 - (c) the scope of coverage and the types of deposits covered;
 - (d) any exclusion from the coverage, including products and types of depositors;
 - (e) funding arrangements of the deposit guarantee scheme, in particular whether the scheme is funded ex-ante or ex-post and the volume of the scheme;
 - (f) contact details of the administrator of the scheme.
5. The college members who supervise significant branches shall provide the consolidating supervisor with information on any obstacles to cash and collateral transfer to or from the branch.
6. Where there is a change in the information provided on the ground of this Article, the consolidating supervisor and the member of the college shall exchange updated information without undue delay.

Article 10

Information exchange on the outcome of the supervisory review and evaluation process 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 supervisory college shall exchange in a timely manner all information necessary, at both individual and consolidated level, to reach a joint decision.
2. In particular, the consolidating supervisor and the members of the supervisory college 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:
 - (a) business model analysis, including the assessment of the viability of current business model and sustainability of institution's forward-looking business strategy;
 - (b) internal governance arrangements and institution-wide controls;
 - (c) individual risks to institution's capital, covering the following elements:
 - (i) inherent individual risks;



- (ii) risk management and controls;
- (d) capital adequacy assessment and the assessment of the risk of excessive leverage, including proposed required own funds pursuant to Article 104(1)(a) of Directive 2013/36/EU;
- (e) risks to institution's liquidity and funding, covering the following elements:
 - (i) liquidity risk and funding risk;
 - (ii) liquidity and funding risk management;
- (f) liquidity adequacy assessment, including proposed quantitative and qualitative liquidity measures pursuant to Article 105 of Directive 2013/36/EU;
- (g) other supervisory measures, including pursuant to Article 102 of Directive 2013/36/EU, 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;
- (h) results of the supervisory stress tests performed pursuant to Article 100 of Directive 2013/36/EU, including capital adequacy in stressed conditions and any proposed guidance on additional own funds in accordance with Article 104b of Directive 2013/36/EU;
- (i) 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 11

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 coordination 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 supervisory college, who supervise 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 information on the outcome of this ongoing review and all other relevant information.
2. Where the consolidating supervisor or any relevant member of the supervisory college referred to in paragraph 1 has identified that an institution established in a Member State, 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 Implementing Regulation (EU) 20xx/xx:



- (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 institution established in a Member State, including information on the timeline for its implementation;
 - (c) information on the intention of the consolidating supervisor or of any relevant member of the supervisory 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;
 - (d) information on any proposed additional own funds requirements pursuant to Article 104(2)(d) of Directive 2013/36/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 supervisory 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 Implementing Regulation (EU) 2016/100¹¹.
 4. Information referred to in paragraphs 1 and 2 shall be discussed and taken into account while developing the group risk assessment and reaching a joint decision in accordance with Article 113(1)(a) of Directive 2013/36/EU.
 5. The consolidating supervisor shall inform the competent authorities of the host Member States where significant branches are established on the information referred to in paragraph 1 and 2, if that is relevant to them.

Article 12

Information exchange on early warning signs, potential risks and vulnerabilities

1. The consolidating supervisor and the members of the supervisory college participating in the development of a group risk assessment report referred to in Article 113(2)(a) of Directive 2013/36/EU or a group liquidity risk assessment report referred to in Article 113(2)(b) of that Directive for the purposes of reaching joint decisions on institution-specific prudential requirements in accordance with that Article 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. For this purpose, the consolidating supervisor and the members of the supervisory college should agree on a list of indicators to be exchanged regularly.
2. The information referred to in paragraph 1 shall be developed based on the information

¹¹ 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 (see page 45 of this Official Journal).



collected by the competent authorities in accordance with Implementing Regulation (EU) No 2021/451¹², in order to ensure consistency and comparability on the data used. This information shall cover at least all group entities established in a Member State, and at least the following areas:

- a) capital and leverage;
 - b) liquidity;
 - c) asset quality;
 - d) funding;
 - e) profitability;
 - f) concentration risk.
3. For the purpose of identifying risks and vulnerabilities for the group or its entities, the consolidating supervisor and the members of the supervisory college shall also exchange qualitative and quantitative information on:
- a) the macroeconomic environment in which the group of institutions and its group entities operate;
 - b) adverse developments in markets, which may have the potential to jeopardise the market liquidity and the stability of the financial system in the Member States where entities of a group or significant branches are established and may adversely impact the entities of the group or its significant branches.
4. When a group entity infringes or, due, inter alia, to a rapidly deteriorating financial condition, is likely in the near future to infringe the requirements of Regulation (EU) No 575/2013 or Directive 2013/36/EU as referred to in Article 27(1) of Directive 2014/59/EU, the consolidating supervisor or the members of the supervisory college shall inform each other whether conditions for application of early intervention measures are met and whether early intervention measures for the group or any of the group entities are taken or planned to be taken in accordance with Article 27 and 30 of Directive 2014/59/EU and the potential consequences.
5. The consolidating supervisor shall inform the competent authorities of the host Member States where significant branches are established on the information referred to in paragraph 1 to 3, if that is relevant to them.

¹² Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014 (Text with EEA relevance)

OJ L 97, 19.3.2021, p. 1–1955



Article 13

Information exchange with regard to non-compliance and sanctions and other corrective measures

1. The consolidating supervisor shall communicate to the members of the supervisory college information regarding any situations in respect of which it has determined that an EU parent institution, on individual or consolidated level, under its supervisory remit has not complied with requirements laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU or have been imposed administrative penalties 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 entities.
2. The members of the supervisory college shall communicate to the consolidating supervisor information regarding any situations in respect of which the members of the supervisory college have determined that an institution or a branch under their supervisory remit has not complied with requirements laid down in Regulation (EU) No 575/2013 and Directive 2013/36/EU or have been imposed administrative penalties 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 consolidating supervisor shall decide to communicate the relevant information to the members of the supervisory college for whom this information is deemed relevant in accordance with Article 7 of Implementing Regulation (EU) 20xx/xx.
3. The consolidating supervisor and the members of the supervisory college shall discuss the possible impact of these issues of non-compliance and sanctions referred to in paragraph 1 and 2 for the group entities or for the group as a whole.

Article 14

Information exchange for the assessment of the group recovery plan

1. The consolidating supervisor and the members of the supervisory college shall exchange all information necessary for those who participate in the process of joint decision on the elements referred to 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 supervisory college following the procedure specified in Article 7 of Implementing Regulation (EU) 20xx/x.
3. The consolidating supervisor shall ensure that all members of the supervisory college are appropriately informed of the outcome of the process referred to in paragraph 1.

Article 15



Information exchange with regard to group financial support agreements

The consolidating supervisor shall ensure that all members of the supervisory 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 16

Establishment and update of the examination programme of the supervisory college

1. For the purposes of establishing the examination programme of the supervisory college in accordance with Article 116(1)(c) of Directive 2013/36/EU, the consolidating supervisor and the members of the supervisory college shall identify the supervisory activities to be undertaken.
2. The examination programme of the supervisory college 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 efforts 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 supervisory college for institutions and branches established in a Member State;
 - (c) the areas of focus of the college work and its planned supervisory activities, including assessment of the implementation of group policies, planned off-site activities and onsite inspections pursuant to Article 99(1)(c) of Directive 2013/36/EU;
 - (d) the members of the supervisory college responsible for undertaking the planned supervisory activities;
 - (e) the allocation of tasks for entrustment and delegation of responsibilities, where relevant;
 - (f) where applicable, the observers of the supervisory college when they are involved in a supervisory activity,
 - (g) the expected timelines, both in terms of timing and duration, for each of the planned supervisory activities.

Article 17



Exchange of information between the consolidating supervisor and observers of the supervisory college

1. The consolidating supervisor shall consider whether the information referred to in Section 2 is relevant for the performance of the tasks of the observers, and communicate such information to the relevant observers.
2. The consolidating supervisor shall provide the group-level resolution authority at least of the following:
 - (a) the required own funds pursuant to Article 104(1), point (a) of Directive 2013/36/EU and any guidance on additional own funds communicated to institutions in accordance with Article 104b of that Directive.
 - (b) relevant information for the purposes of Articles 12, 13, 16, 18, 25, 30, 45h, 91 and 92 of Directive 2014/59/EU;
 - (c) the timetable of the joint decision on the review and assessment of the group recovery plan in accordance with Article 8(2) of Directive 2014/59/EU, including a date for the group-level resolution authority to provide its recommendations, if any, in accordance to Article 6(4) of Directive 2014/59/EU.
 - (d) the timetable of the joint decisions on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU;
 - (e) information referred to in Article 12(4) and in Article 15.

Article 18

Event of adverse material effect on the risk profile of the group or its entities

1. The consolidating supervisor and the relevant members of the supervisory college shall exchange quantitative and qualitative information on adverse developments in institutions or in other entities of a group, which could seriously affect the institutions in accordance with Article 117 (1) (c) of Directive 2013/36/EU.
2. In case of such an event of adverse material effect on the risk profile of the group or its institutions established in a Member State, that are important as determined in accordance with Article 2(3) or its significant branches, competent authorities shall assess the consequences on the group or its entities and determine
 - (a) the nature and severity of the event,
 - (b) the impact or potential impact of the event on the available own funds and liquidity level of the group or its entities and whether they continue to comply with the requirements laid down in Regulation (EU) No 575/2013 or Directive 2013/36/EU in adverse macroeconomic, microeconomic, and geopolitical conditions;



- (c) the ability to operate in severe business disruption
 - (d) risk of cross-border contagion.
3. Upon being alerted of an event of adverse material effect on the risk profile by any member of the supervisory college or having identified such event, the consolidating supervisor shall inform the members of the supervisory college who supervise group entities or significant branches that are affected or likely to be affected by the event, and the EBA. Observers, in particular the group-level resolution authority, shall be informed if the information is relevant for the performance of their tasks.
 4. The consolidating supervisor and the members of the supervisory college who supervise group entities or significant branches that are affected or likely to be affected by the event of adverse material effect shall monitor the situation and update the information referred to in paragraph 1, where applicable, immediately when relevant new information is available.
 5. Depending on the nature, severity, potential systemic impact and likelihood of contagion of the event of adverse material effect and its foreseen evolution, the consolidating supervisor and the relevant members of the supervisory college may coordinate the development of a supervisory response.

SECTION 3

Planning and coordination of supervisory activities in preparation for and during emergency situations

Article 19

Establishment of a college framework for emergency situations

1. The consolidating supervisor and the members of the supervisory college shall establish a college framework in anticipation of possible emergency situations in accordance with Article 112(1)(c) of Directive 2013/36/EU (hereinafter ‘college framework for emergency situations’), taking into account the specificities and structure of the group of institutions.
2. The college framework for emergency situations shall include at least the following:
 - (a) the college-specific procedures that shall apply where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises;
 - (b) the minimum set of information that shall be exchanged where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises.
3. The minimum set of information referred to in paragraph 2, point (b) 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 supervisory college or by the group entities themselves;
- (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 20

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

1. The consolidating supervisor and the members of the supervisory college shall exchange 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 Section II of Chapter 1 of Title VII of that Directive, and where applicable, Articles 76 and 81 of Directive 2014/65/EU.
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 Article 19(2)(b), following the procedures referred to in Article 19(2)(a), to the members of the supervisory college who supervise group entities or significant branches that are 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 supervisory college who supervise group entities or significant branches that are 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 observers, and in particular of the group-level resolution authority and communicate such relevant information to those observers.
5. The information referred to in paragraphs 2 and 3, where applicable, shall be updated immediately when new information is available.
6. When the exchange of information or communication referred to in this Article is made orally, the concerned competent authorities shall follow up it with written communication in a timely manner.



Article 21

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 supervisory college who supervise group entities or significant branches that are affected or likely to be affected by that emergency situation.
2. The coordinated supervisory assessment of the emergency situation, performed in accordance with Article 16 of Implementing Regulation (EU) 20xx/xx, 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 as a whole and on any of its affected or likely to be affected group entities;
 - (c) the risk of cross-border contagion.
3. When assessing paragraph 2, point (c), the consolidating supervisor shall consider the potential systemic consequences in any of the Members States where entities of the group or significant branches are established.

Article 22

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 supervisory college who supervise group entities or significant branches that are affected or likely to be affected by that emergency situation.
2. The coordinated supervisory assessment referred to in Article 21 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 supervisory college who supervise group entities or significant branches that are affected or likely to be affected by the emergency situation and shall take into account input from the resolution college relevant for the management of the emergency situation for the group, provided via the group-level resolution authority.

Article 23



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

1. The consolidating supervisor and the members of the supervisory college who supervise group entities or significant 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 22.
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 22(2), and the need to update or adjust these actions.

Article 24

Coordination of external communication in an emergency situation

1. The consolidating supervisor and the members of the supervisory college who supervise group entities or significant branches that are affected or likely to be affected by the emergency situation shall coordinate to the extent possible their external communications.
2. For the purpose of coordinating external communication, the consolidating supervisor and the members of the supervisory 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 Union;
 - (c) the coordination of public statements, including those made by only one member of the supervisory college, in particular where these are likely to have consequences for group entities or significant branches supervised by other members of the supervisory 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.

CHAPTER 3

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

SECTION 1

Establishment and functioning of supervisory colleges

Article 25

Designation of the members and observers of a supervisory college

1. Following the performance of the mapping of the institution with branches in other Member States pursuant to Article 2 of Implementing Regulation (EU) 20xx/xx, the competent authority of the home Member State shall request the following authorities to become members of the supervisory college:
 - (a) the competent authorities of the host Member States where significant branches are established;
 - (b) the 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;
 - (c) the EBA.
2. The competent authority of the home Member State shall request the following authorities to become observers of the supervisory college in accordance with the process determined in Article 3(1) of Implementing Regulation (EU) 20xx/xx:
 - (a) the supervisory authorities of third countries where institutions are authorised or branches, that are deemed important for the group, as set out in Article 2(4)(c) are established, provided that the third countries' supervisory authorities are subject to confidentiality requirements laid down in Articles 116 of Directive 2013/36/EU;
 - (b) the resolution authority of the home Member State;
 - (c) the AML/CFT authority of the home Member State;
 - (d) where a second intermediate EU parent undertaking has been established in accordance with Article 21b (3), second subparagraph, of Directive 2013/36/EU the consolidating supervisor, or the group supervisor as defined in Article 3(1) point 15 of Regulation 2019/2033¹³ of that second college.

¹³ Regulation (EU) 2019/2033 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU of 27 November 2019 (OJ L 314/64, 5.12.2019)



- (e) in the case of a financial conglomerate, the coordinator referred to in Article 11 (1) of Directive 2002/87/EC¹⁴, when different from the competent authority of the home Member State.
3. The competent authority of the home Member State may request the following authorities to become observers of the supervisory college in accordance with the process determined in Article 3(1) of Implementing Regulation (EU) 20xx/xx:
- (a) the competent authorities of host Member States where non-significant branches are established;
 - (b) the supervisory authorities of third countries, other than the authorities referred to in point (2)(a) of this Article;
 - (c) the public authorities or bodies in a Member State which are responsible for or involved in the supervision of the institution or its branches, including AML/CFT authority in a Member State or competent authorities responsible for the supervision of markets in financial instruments, or consumer protection, provided that the competent authority of the same host Member State has accepted to become a member or observer of the supervisory college;
 - (d) resolution authorities of host Member States, provided that the competent authority of the same host Member State has accepted to become a member or observer of the supervisory college.

Article 26

Communication of the setting up and composition of a supervisory college

The competent authority of the home Member State shall communicate to the institution the establishment of a supervisory college and the identity of its members and observers, as well as any changes in that composition.

Article 27

Establishment of the written coordination and cooperation arrangements

The establishment and functioning of supervisory 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 5.

Article 28

¹⁴ Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of credit institutions, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, p. 1)



Participation in supervisory 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 authority 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 for the performance of the tasks of the observers
 - (b) the importance of the branch in the Member State where it is established and its importance for the institution.
2. The competent authority of the home Member State may invite the observers of the supervisory college only to specific agenda items of a meeting or activity, that are relevant for the performance of the tasks of the observer.
3. The competent authority of the home Member State and the members of the supervisory college shall ensure that the most appropriate representatives participate in the supervisory college meetings or activities, based on the topics discussed and objectives pursued. Those representatives shall have the power to commit their authorities as members of the supervisory college, to the maximum extent possible, for the decisions planned to be taken during the meetings or activities.
4. The competent authority of the home Member State may invite representatives of the institution to participate in a supervisory college meeting or activity, based on the topics and objectives of the meeting or activity.

Article 29

Communication with the institution and its branches

The communication with the institution and its branches shall be organised according to the supervisory responsibilities given to the competent authority of the home Member State and the members of the college by Chapter 4 of Title V and Title VII of Directive 2013/36/EU.

SECTION 2

Planning and coordination of supervisory activities in going concern situations

Article 30

General conditions with regard to exchange of information between the competent authority of the home member state and members of the supervisory college

1. The competent authority of the home Member State and the members of the college shall exchange all information necessary to facilitate the cooperation under Article 50 and



Article 51(2) of Directive 2013/36/EU.

2. The competent authority 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 authority of the home Member State and the members of the supervisory college shall exchange the information referred to in Articles 6 and 15 of the Delegated Regulation (EU) No 524/2014.
4. The competent authority of the home Member State and the members of the supervisory college shall exchange the information referred to in paragraphs 1 to 3, whether received from the institution, a competent or supervisory authority or any other source. This information shall be sufficiently adequate, accurate and timely.

Article 31

Information exchange for the outcome of the supervisory review and evaluation process and on early warning signs, potential risks and vulnerabilities

1. The competent authority of the home Member State shall communicate to the members of the supervisory college the information referred to in Article 3 to 5, Articles 7 to 13 and Article 17 of Delegated Regulation (EU) No 524/2014 and Article 429 of Regulation (EU) No 575/2013 and the required own funds referred to in Article 104(1)(a) of Directive 2013/36/EU and any guidance on additional own funds in accordance with Article 104b of that Directive as a result of the supervisory review and evaluation process performed in accordance with Article 97 of Directive 2013/36/EU.
2. For the purpose of identifying risks and vulnerabilities for the institution and its significant branches, the competent authority of the home Member State and the members of the supervisory college shall also exchange qualitative and quantitative information on:
 - a) the macroeconomic environment in which the institutions and its significant branches operate.
 - b) adverse developments in markets, which may have the potential to jeopardise the market liquidity and the stability of the financial system in the Member States where the institution or its significant branches are established and may adversely impact the institution and its significant branches.
3. When the institution infringes or, due, inter alia, to a rapidly deteriorating financial condition, is likely in the near future to infringe the requirements of Regulation (EU) No 575/2013 or Directive 2013/36/EU as referred to in Article 27(1) of Directive 2014/59/EU, the competent authority of the home Member State shall inform the members of the college whether conditions for application of early intervention measures are met and whether early intervention measures are taken or planned to be taken in accordance with Article 27 and 30 of Directive 2014/59/EU and the potential consequences.



Article 32

Information exchange for the assessment of the recovery plan

1. The competent authority of the home Member State shall consult the members of the supervisory college on the recovery plan in so far as is relevant to that branch, in accordance with Article 6(2) of Directive 2014/59/EU.
2. For the purposes of paragraph 1, the competent authority of the home Member State shall provide the recovery plan of the institution to the members of the supervisory college in accordance with Article 21 of Implementing Regulation (EU) 20xx/xx.
3. The competent authority of the home Member State shall ensure that all members of the supervisory college are appropriately informed of the outcome of the process referred to in paragraph 1.

Article 33

Establishment and update of the examination programme of the supervisory college

1. For the purposes of establishing the examination programme of the supervisory college referred to in Article 99 of Directive 2013/36/EU, the competent authority of the home Member State and the members of the supervisory college shall identify the supervisory activities to be undertaken.
2. The examination programme of the supervisory college 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 supervisory college responsible for undertaking the planned supervisory activities;
 - (d) the allocation of tasks for entrustment and delegation of responsibilities, where relevant;
 - (e) where applicable, the observers of the supervisory college when they are involved in a supervisory activity,
 - (f) the expected timelines, both in terms of timing and duration, for each of the planned supervisory activities.
3. When developing the college supervisory examination programme, and updating it where necessary, 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, if such entrustment or delegation is expected to lead to more efficient and effective supervision of the group, in particular by removing unnecessary duplication of supervisory requirements, including those 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 institution concerned, and by the competent authority, which delegates its powers, to the branch concerned.

Article 34

Exchange of information between the competent authority of the home Member State and observers of the supervisory college

1. The competent authority of the home Member State shall in particular consider whether the information referred to in Articles 31 is relevant for the performance of the tasks, of the observers, as described in the written coordination and cooperation arrangements of the supervisory college and communicate such information to the relevant observers.
2. For the purpose of effective and efficient coordination between the supervisory and resolution college, the resolution authority of the home Member State and the competent authority of the home Member State shall exchange all information required to ensure that colleges fulfil their role set out in Article 51(3) of Directive 2013/36/EU and Article 88 of Directive 2014/59/EU.
3. The competent authority of the home Member State shall provide the resolution authority of the home Member State at least
 - (a) the required own funds pursuant to Article 104(1), point (a) of Directive 2013/36/EU and any guidance on additional own funds communicated to institutions in accordance with Article 104b of that Directive.
 - (b) relevant information for the purposes of Articles 12, 13, 16, 18, 25, 30, 45h, 91 and 92 of Directive 2014/59/EU;
 - (c) information referred to in Article 31(3).

Article 35

Event of adverse material effect on the risk profile of the institution or its significant branches

1. The competent authority of the home Member State and the relevant members of the supervisory college shall exchange quantitative and qualitative information on adverse developments in the institution or its significant branches, which could seriously affect the



institution in accordance with Article 117 (1) (c) of Directive 2013/36/EU.

2. In case of such an event of adverse material effect on the risk profile of the institution or its significant branches established in a Member State, competent authorities shall assess the consequences on the institution and its significant branches and determine
 - (a) the nature and severity of the event,
 - (b) the impact or potential impact of the event on the available own funds and liquidity level of the institution and its significant branches and whether it continues to comply with the requirements laid down in Regulation (EU) No 575/2013 or Directive 2013/36/EU in adverse macroeconomic, microeconomic, and geopolitical conditions;
 - (c) the ability to operate in severe business disruption
 - (d) risk of cross-border contagion.
3. Upon being alerted of an event of adverse material effect on the risk profile by any member of the supervisory college or having identified such event, the competent authority of the home Member State shall inform the members of the supervisory college who supervise significant branches that are affected or likely to be affected by the event, and the EBA. Observers, in particular the resolution authority of the home Member State, shall be informed if the information is relevant for the performance of their tasks.
4. The competent authority of the home Member State and the members of the supervisory college who supervise significant branches that are affected or likely to be affected by the event of adverse material effect shall monitor the situation and update the information referred to in paragraph 1, where applicable, immediately when relevant new information is available.
5. Depending on the nature, severity, potential systemic impact and likelihood of contagion of the event of adverse material effect and its foreseen evolution, the competent authority of the home Member State and the relevant members of the supervisory college may coordinate the development of a supervisory response.

SECTION 3

Planning and coordination of supervisory activities in preparation for and during emergency situations and final provisions

Article 36

Establishment of a college framework for emergency situations

1. The competent authority of the home Member State and the members of the supervisory college shall establish a college framework in anticipation of possible emergency situations in accordance with Article 112(1)(c) of Directive 2013/36/EU (hereinafter 'college



framework for emergency situations’).

2. The college framework for emergency situations shall include at least the following:
 - (a) the college-specific procedures that shall apply where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises;
 - (b) the minimum set of information that shall be exchanged where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises.
3. The minimum set of information referred to in paragraph 2, point (b) 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 supervisory college or by the institution itself;
 - (c) the latest available quantitative information regarding liquidity and capital position of the institution.

Article 37

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

1. The competent authority of the home Member State and the members of the supervisory college shall exchange 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 Section II of Chapter 1 of Title VII of that Directive, and where applicable, Articles 76 and 81 of Directive 2014/65/EU.
2. Upon being alerted of an emergency situation by any member or observer of the college or having identified an emergency situation, the competent authority of the home Member State shall communicate the information referred to in Article 36(2)(b), following the procedures referred to in Article 36(2)(a), to the members of the supervisory college who supervise branches that are 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 supervisory college who supervise significant branches that are affected or likely to be affected by the emergency situation and the competent authority of the home Member State may decide to exchange additional information.



4. The competent authority 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 observers, and in particular of the resolution authority of the home Member State and communicate such information to the relevant observers.
5. The information referred to in paragraphs 2 and 3, where applicable, shall be updated immediately when new information is available.
6. When the exchange of information or communication referred to in this Article is made orally, the concerned competent authorities shall follow up it with written communication in a timely manner.

Article 38

Coordination of the supervisory assessment of an emergency situation

1. Where an emergency situation occurs, the competent authority of the home Member State shall coordinate the assessment of the emergency situation (hereinafter ‘coordinated supervisory assessment’) in cooperation with the members of the supervisory college pursuant to Article 112(3) of Directive 2013/36/EU.
2. The coordinated supervisory assessment of the emergency situation, prepared by the competent authority 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. When assessing paragraph 2, point (c), the competent authority of the home Member State shall consider the potential systemic consequences in any of the Members States where significant branches are established.

Article 39

Coordination of the supervisory response to an emergency situation

1. Where an emergency situation occurs, the competent authority 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 supervisory college pursuant to Article 112(3) of Directive 2013/36/EU.
2. The coordinated supervisory assessment referred to in Article 38 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 competent authority of the home Member State and the members of the supervisory college who supervise significant branches that are affected or likely to be affected by the emergency situation. It shall take into account input from the resolution college relevant for the management of the emergency situation for the institution, provided via the resolution authority of the home Member State.

Article 40

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

1. The competent authority of the home Member State and the members of the college who supervise significant 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 39.
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 39(2), and the need to update or adjust these actions.

Article 41

Coordination of external communication in an emergency situation

The competent authority of the home Member State and the members of the college responsible for the supervision of significant 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 24(2).

Article 42

Repeal

Delegated regulation (EU) No 2016/98 is repealed with effect from XXXXX.

References to the repealed Delegated Regulation shall be construed as references to this Delegated Regulation.

Article 43



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



**COMMISSION IMPLEMENTING REGULATION (EU) 20xx/xx
of date month year**

**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**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC¹⁵, and in particular Articles 51(5) and 116(5) thereof,

Whereas:

- (1) On the basis of the mandates set out by Article 51(4) and Article 116 (4) of the Directive 2013/36/EU, the EBA developed draft implementing technical standards that were adopted by the Commission Implementing Regulation (EU) 2016/99 of 16 October 2015, 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.
- (2) The Implementing Regulation specifies the process of establishing and updating the mapping of the group entities in the Union and third countries, the steps to perform for the establishment of the college, including the invitation to the members and the agreement on the terms of participation of the observers between the consolidating supervisor and the members of the college, before their invitation. The Implementing Regulation also provides the various operational arrangements of the college that allow it to deliver on the tasks as set out by the Directive 2013/36/EU and the Commission Delegated Regulation 2016/98, including the conclusion and amendment of the college written coordination and cooperation arrangement, the organisation of college meetings, the framework for exchanging information between the consolidating supervisor, the college members and observers and the planning and coordination of supervisory activities in going concern as well as in preparation for and during emergency situations.
- (3) As the Commission Implementing Regulation (EU) 2016/99 provides for the operational arrangements of supervisory colleges, it should be amended together with the Delegated

¹⁵ OJ L 176, 27.6.2013, p. 338.



Regulation (EU) 2016/98 in order to take into account Regulation (EU) 2019/876 of the European Parliament and Council and Directive (EU) 2019/878 of the European Parliament and Council, which amended the prudential requirements relevant for supervisory colleges as set out by Directive 2013/36/EU.

- (4) As the mapping of the group of institutions and then the establishment of the supervisory college should ensure cooperation between competent authorities and relevant observers, the mapping template should be amended to consider the set-up of college where a second intermediate EU parent undertaking is established pursuant to Article 21b of Directive 2013/36/EU, the set-up of colleges grounded by other sectoral legislation (e.g. AML/CFT) and open the possibility for them to participate in the supervisory college as observers.
- (5) The steps that the consolidating supervisor should follow when requesting authorities to become observers of the supervisory college should be amended in order to reflect the changes put forward by the Delegated Regulation 20xx/xx, in particular allowing for the differentiation between the mandatory and non-mandatory observers of the supervisory college. In any case, when the consolidating supervisor intends to request relevant authorities to become observers of the supervisory college, it needs to ensure that the members of the college are informed in advance of that intention and are allowed appropriate time in order to assess, agree on, or in case of non-mandatory observers, object to this proposal. For ensuring that the process is managed in an appropriate manner, the consolidating supervisor should first request the authorities eligible for becoming members of the college, and then it should proceed with sending request to observers of the college.
- (6) While the process of concluding and amending the written coordination and cooperation arrangements (WCCA) remains intact, the common template of the WCCA as included in Annex II, that is designed to ensure a consistent approach across supervisory colleges, in terms of structure and provisions covered, should be updated to reflect the terms of participation of the various observers of the supervisory college and the inclusion of the description of the event of adverse material effect on the risk profile of the group and its entities and the agreed set of information that shall be exchanged if such event materialises.
- (7) The Implementing Regulation should also consider lessons learned from recent events when supervisory college meetings had to be transferred to virtual channels. While recognising the various supervisory tasks that the consolidating supervisor and other members of the college need to perform and their complexity, supervisory colleges should be equipped with the flexibility to decide on the format of the college meeting they organise in order to further enhance the efficient and effective functioning. Therefore, supervisory colleges should be allowed to hold meetings in virtual format if that fits with the objectives of the meeting. Physical meetings should be organised when beneficial for reaching the objectives of the meeting, in particular for the purpose of reaching joint decision on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU and on the assessment of the group recovery plan in accordance with Article 8 of Directive 2014/49/EU.
- (8) With the extension of the scope of the supervisory college as a tool for information exchange, cooperation and coordination, with the aim to protect the interests of depositors



and investors in their Member States and to protect the financial stability within the European Union, the information exchange with the observers, in particular with the group-level resolution authority or the resolution authority of the home Member State, has been enhanced. Therefore, the consolidating supervisor should transmit a particular piece of information to the observers of the supervisory college, if the consolidating supervisor deems it relevant for the performance of their tasks, including when a group entity infringes or due to a rapidly deteriorating financial condition, is likely in the near future to infringe the requirements of the Regulation (EU) No 575/2013 or Directive 2013/36/EU, or in emergency situations or in case of an event of adverse material effect on the risk profile of the group or its entities.

- (9) 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, the consolidating supervisor and other college members agree in advance on a set of indicators to be exchanged at least on an annual basis, that are calculated on the basis of the supervisory data that competent authorities collect in accordance with Commission Implementing Regulation (EU) 2021/451 of 17 December 2020¹⁶. In order to ensure the operationalisation of the regular information exchange on the indicators identified for the identification of early warning signs, potential risks and vulnerabilities, the template of the written coordination and cooperation arrangement have been updated with an Annex that should contain the list of agreed indicators.
- (10) The establishment and update of the college framework for emergency situations is led by the consolidating supervisor or by the competent authorities of the home Member State who ensure that college members have the possibility to comment and provide their input to the proposed framework. The college specific operational arrangements for the information exchange and cooperation and coordination between the consolidating supervisor and the members of the supervisory college in an emergency situation are described in the WCCA, which should ensure the efficient and effective cooperation and management of an emergency situation. To ensure that the coordinated supervisory response to an emergency situation considers all relevant information for the best possible management of the situation, the involvement of the group-level resolution authority is crucial. Therefore, input from the resolution college should be shared by the consolidating supervisor with the members of the supervisory college and taken into account in the development of the coordinated supervisory response.
- (11) Given the several amendments to be made, Implementing Regulation 2016/99 should be recast in the interest of clarity. Therefore, references to that Implementing Regulation should be construed as references to this Regulation.
- (12) This Regulation is based on the draft implementing technical standards submitted by the European Supervisory Authority (European Banking Authority) (EBA) to the Commission.

¹⁶ Commission Implementing Regulation (EU) 2021/451 of 17 December 2020 laying down implementing technical standards for the application of Regulation (EU) No 575/2013 of the European Parliament and of the Council with regard to supervisory reporting of institutions and repealing Implementing Regulation (EU) No 680/2014 (Text with EEA relevance)
OJ L 97, 19.3.2021, p. 1–1955



(13) EBA has conducted open public consultations on the draft implementing technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the opinion of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council¹⁷,

HAS ADOPTED THIS REGULATION:

CHAPTER 1

GENERAL PROVISIONS

Article 1

Subject matter

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

Article 1a

Definitions

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

- (1) 'AML/CFT authority' means an authority entrusted with the public duty to ensure compliance with Directive (EU) 2015/849;
- (2) 'AML/CFT college' means a college established for the purpose of facilitating cooperation between AML/CFT authorities.

CHAPTER 2 OPERATIONAL FUNCTIONING OF SUPERVISORY COLLEGES FORMED IN ACCORDANCE WITH ARTICLE 116 OF DIRECTIVE 2013/36/EU

SECTION 1

Establishment and functioning of supervisory colleges

Article 2

¹⁷ 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. 1).



Establishment and update of the mapping of a group of institutions

1. The consolidating supervisor shall submit the draft mapping, prepared in accordance with Article 2 of Delegated Regulation (EU) 20xx/xx¹⁸, to the authorities eligible for becoming members of the supervisory college pursuant to Article 3(1) of that Delegated Regulation (hereinafter ‘potential members of the supervisory college’), inviting them to provide their views and indicating the appropriate 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 supervisory college.
3. Upon finalisation, the consolidating supervisor shall communicate the mapping of the group to all potential members of the supervisory college.
4. The consolidating supervisor shall update the mapping, applying the process defined in paragraphs 1 to 3, 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 3

Establishment of a supervisory college

1. To establish a supervisory college, the consolidating supervisor shall perform the steps set out in paragraphs 2 to 6:
2. The consolidating supervisor shall request the authorities referred to in Article 3(1) of Delegated Regulation (EU) 20xx/xx to become members of the supervisory college.
3. The consolidating supervisor shall notify to the members of the supervisory college who have accepted the request as referred to in paragraph 7 of this Article
 - (a) the list of the authorities that shall be requested to become observers of the supervisory college in accordance with Article 3(2) of Delegated Regulation (EU) 20xx/xx;
 - (b) the list of authorities that the consolidating supervisor intends to request to become observers of the college in accordance with Article 3(3) of Delegated Regulation (EU) 20xx/xx;
 - (c) the proposal of the consolidating supervisor on the terms of the participation of the observers referred to in (a) and (b) in the supervisory college to be included

¹⁸ Commission Delegated Regulation (EU) 20xx of date month year 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 (see page x of this Official Journal).



in the written coordination and cooperation arrangements in accordance with Article 5(c) of Delegated Regulation (EU) 20xx/xx.

- (d) for the third country supervisory authorities referred to in Article 3 (2) and (3) of the Delegated Regulation (EU) 20xx/xx, the opinion of the consolidating supervisor on the assessment of the equivalence of the confidentiality and professional secrecy requirements applicable to the third country supervisory authority.
4. The notification referred to in paragraph 3 shall set an adequate deadline within which any disagreeing college member may express in writing its fully reasoned objection to the proposal or opinion of the consolidating supervisor referred to in that paragraph, points (b) to (d).
 5. The consolidating supervisor shall engage in a dialogue with the disagreeing authority with the involvement of the EBA and with the involvement of the other members of the college, as appropriate, for an agreement to be reached.
 6. 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 request to the authority referred to in Article 3, paragraph 3 to become an observer of the college. The request to become observer shall be accompanied by the terms of the observer participation as agreed by the members of the college and included in the written coordination and cooperation arrangements.
 7. Authorities receiving a request to become members referred to in paragraph 2 shall acquire this status upon acceptance of the request. If no objection has been raised within the deadline, these authorities shall be deemed as having accepted to become members of the college.
 8. The authorities receiving a request to become observers referred to in paragraph 6 shall acquire this status upon acceptance of the request and they shall also accept the terms of observer participation as notified to them by the consolidating supervisor. If no objection has been raised within the deadline, these authorities shall be deemed as having accepted to become observers of the college.
 9. Authorities referred to in paragraph 3, points (b) may request to become observers of a supervisory college. The relevant request shall be addressed to the consolidating supervisor. Where the consolidating supervisor decides to request these authorities to participate in the supervisory college as observers, it shall apply the processes referred to in paragraph 3-6, as applicable.

Article 4

Establishment and update of contact lists

1. The consolidating supervisor shall maintain the contact list and emergency contact list of the supervisory college, including full contact details and out-of-hours contact details to



be used during emergency situations and communicate it to the members and observers of the supervisory 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 5 of Delegated Regulation (EU) 20xx/xx.

2. The members of the supervisory 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 supervisory college without undue delay and on a regular basis.

Article 5

Conclusion and amendment of the 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 5 of Delegated Regulation (EU) 20xx/xx.
2. The consolidating supervisor shall communicate its proposal to the members of the supervisory college inviting them to provide their views and indicating the appropriate 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 supervisory 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 supervisory college.
5. If deemed necessary by the consolidating supervisor and members of the supervisory college, the implementation of the written coordination and cooperation 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 supervisory 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 5 of Delegated Regulation (EU) 20xx/xx.

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

Elements of the written coordination and cooperation arrangements shall be reviewed by the consolidating supervisor and the members of the supervisory college on a regular basis to be determined in these arrangements.



7. The consolidating supervisor and the members of the supervisory college shall amend the written coordination and cooperation arrangements by following 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 6

Operational aspects of supervisory college meetings and activities

1. Supervisory colleges shall convene at least one meeting per year. However, 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 meetings.
2. The consolidating supervisor shall clearly establish the objectives of the supervisory college meetings. The consolidating supervisor shall ensure that those objectives are reflected in the agenda of the meetings.
3. The consolidating supervisor shall decide if the meeting is convened in physical or in virtual format, based on the objectives of the meeting.
4. The consolidating supervisor shall send the proposed agenda of the supervisory college meeting to all the members, the group-level resolution authority, and to those observers of the college that it intends to invite, in accordance with Article 6 (1) of the Delegated Regulation 20xx/xx and shall invite them to propose any additional agenda items. The consolidating supervisor shall take into account any proposals on agenda items made by the members and relevant observers of the supervisory college and shall explain, if requested, the reason for not incorporating them.
5. The consolidating supervisor and the members and observers of the supervisory college who are involved in a particular activity or meeting of the supervisory college, shall exchange documents and contributions to working documents well in advance to enable all participants in the supervisory college meeting to actively contribute to the discussions.

SECTION 2

Planning and coordination of supervisory activities in going concern situations

Article 7

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

1. When received from a member of the supervisory college, the consolidating supervisor shall transmit the information referred to in Article 9(3) of Delegated Regulation (EU) 20xx/xx to the other members of the college.



2. The consolidating supervisor and the members of the supervisory college shall transmit to each other the information referred to in Article 9(4) and (5) of Delegated Regulation (EU) 20xx/xx.
3. If the consolidating supervisor deems that any information referred to in paragraph 1 is not relevant for a particular member of the supervisory college, it shall previously consult that member and provide it with key points of the information to enable that member to determine its actual relevance.
4. The consolidating supervisor shall consider organising the supervisory college in different substructures for the purpose of ensuring the efficient and effective functioning of the supervisory college, where relevant. When the supervisory college is organised in different substructures, the consolidating supervisor shall keep all supervisory college members fully informed, in a timely manner, on the actions taken or the measures carried out in different supervisory college substructures.
5. The consolidating supervisor and the members of the supervisory 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 5 of Delegated Regulation (EU) 20xx/xx.

Article 8

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

1. Once a joint decision has been reached on the institution specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU, the consolidating supervisor shall provide the group-level resolution authority with the information referred to in Article 17 (2)(a) of the Delegated Regulation (EU) 20xx/xx.
2. In case of an event of adverse material effect on the risk profile of the group or its entities the consolidating supervisor shall communicate to the relevant observers the relevant information shared for the purpose of Article 18 of the Delegated Regulation (EU) 20xx/xx.

Article 9

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 institutions established in a Member State, or where weaknesses have been identified in accordance with Article 101 of Directive 2013/36/EU by any relevant member of the supervisory college within the meaning of Article 11(1) of Delegated Regulation (EU) 20xx/xx, the consolidating supervisor



and that member of the supervisory college shall work together, in full consultation, to jointly agree on the revocation of the permission to use the approach, on the imposition of capital add-ons or on the restriction of the use of the internal model as referred to in Article 11(2)(c) and (d) of that Delegated 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 supervisory 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 supervisory college shall follow the process set by the provisions of Commission Implementing Regulation (EU) 2016/100¹⁹.
3. The decision resulting in the imposition of capital add-ons shall be taken through the capital joint decision process in accordance with Article 113(1)(a) of Directive 2013/36/EU.
4. The consolidating supervisor shall inform all other members of the supervisory college on the decisions taken pursuant to paragraph 1, where it considers that such information is likely to affect other activities of the supervisory college or is essential for the exercise of the tasks of other members of the supervisory college.

Article 10

Notification of non-material extensions or changes in internal models

1. For non-material model extensions or changes that affect any of the institutions established in a Member State, the consolidating supervisor shall inform all relevant members of the supervisory college within the meaning of Article 11(1) of Delegated Regulation (EU) 20xx/xx for the purpose of this Article of those extensions or changes without delay.
2. A relevant member of the supervisory college shall inform the consolidating supervisor of any non-material extensions or changes that affect any of the institutions under the supervisory remit of that relevant member of the supervisory college.
3. Where a relevant member of the supervisory college has concerns regarding the classification of an extension or change as non-material, it shall communicate those concerns to the consolidating supervisor who shall disseminate this information to the other relevant members of the supervisory college.

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 supervisory college.

The consolidating supervisor and the relevant members of the supervisory college shall discuss the details of those concerns for the purposes of reaching a common view on the materiality of the extension or change.

¹⁹ 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 (see page 45 of this Official Journal).



4. Where the consolidating supervisor and the relevant members of the supervisory college 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

Exchange of information on early warnings signs, potential risks and vulnerabilities

1. The indicators referred to in Article 12 of Delegated Regulation (EU) 20xx/xx shall be computed based on the information that competent authorities collect from supervised institutions in accordance with Commission Implementing Regulation (EU) No 2021/451.

The agreed indicators shall be set out in the written coordination and cooperation arrangements in accordance with Article 5 of Delegated Regulation (EU) 20xx/xx and based on the list of Annex II C to this Implementing Regulation.

2. Each member of the supervisory college participating in the development of a group risk assessment report referred to in Article 113(2)(a) of Directive 2013/36/EU or a group liquidity risk assessment report referred to in Article 113(2)(b) of that Directive for the purposes of reaching joint decisions on institution-specific prudential requirements in accordance with that Article shall communicate to the consolidating supervisor the values of the agreed indicators for the institutions under its supervisory remit, as relevant.
3. The consolidating supervisor shall disseminate the values referred to in paragraph 1 and the values of the agreed indicators for the EU parent undertaking and at consolidated level, to each member of the supervisory college referred to in paragraph 2.
4. The consolidating supervisor and the members of the supervisory college referred to in paragraph 2 shall exchange the values of the agreed indicators at least on an annual basis, or more frequently if agreed by these competent authorities. In case of an event of adverse material effect on the risk profile of the group or its entities, the values of those indicators referred to in that paragraph, which are impacted by the event, shall be updated and exchanged without undue delay.

Article 12

Establishment and update of the examination programme of the supervisory college and voluntary agreement on entrustment of tasks and delegation of responsibilities

1. Once the joint decisions on institution-specific prudential requirements in accordance with Article 113 of Directive 2013/36/EU have been reached, the members of the supervisory college shall provide their contribution to the consolidating supervisor for the purposes of establishing the examination programme of the supervisory college referred to in Article 116(1)(c) of Directive 2013/36/EU in accordance with Article 16 of Delegated Regulation (EU) 20xx/xx.



2. After receiving the contributions from the members of the supervisory college, the consolidating supervisor shall prepare the draft examination programme of the supervisory college, including proposals, where relevant, for the allocation of tasks for entrustment and delegation of responsibilities.
3. The consolidating supervisor shall circulate the draft examination programme of the supervisory college to the members of the supervisory college inviting them to provide their views on the areas of joint work and the proposals, where relevant, for allocation of tasks for entrustment and delegation of responsibilities in writing, indicating the appropriate deadline for the submission of these views.
4. For the purposes of completing the examination programme of the supervisory college, the consolidating supervisor shall take into account any views and reservations expressed by the members of the supervisory college and explain, if necessary, the reason for not incorporating them.
5. Upon completion, the consolidating supervisor shall communicate the examination programme of the supervisory college to the college members and conclude, on a voluntary basis, an agreement on entrustment of tasks and delegation of responsibilities, where relevant.
6. The examination programme of the supervisory college 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. The consolidating supervisor shall update the examination programme of the supervisory college by following the process defined in paragraphs 1 to 5.

Article 13

Exchange of information in case of an event of adverse material effect on the risk profile of the group or its entities

The consolidating supervisor and the relevant members of the supervisory college shall use the template in Annex II D to communicate the set of information, as agreed by the consolidating supervisor and the members of the supervisory college, in case of an event of adverse material effect on the risk profile of the group or its entities, referred to in Article 18(3) of the Delegated Regulation (EU) 20xx/xx.

SECTION 3

Planning and coordination of supervisory activities in preparation for and during emergency situations



Article 14

Establishment and update of the college framework for emergency situations

1. The consolidating supervisor shall prepare its proposal for establishing a college framework for emergency situations in accordance with Article 19 of Delegated Regulation (EU) 20xx/xx.
2. The consolidating supervisor shall submit its proposal to the members of the supervisory college, inviting them to provide their views and indicating the appropriate deadline for the submission of those views.
3. The consolidating supervisor shall take into account any views and reservations expressed by the members of the supervisory college, and explain, if necessary, the reasons for not incorporating them.
4. The consolidating supervisor shall communicate the final version of the college framework for emergency situations to the members of the supervisory college.
5. The consolidating supervisor and the members of the supervisory college shall consider, at least on an annual basis, the need to update the college framework for emergency situations.
6. The consolidating supervisor and the members of the supervisory college shall update the college framework for emergency situations by following the process set out in paragraphs 1 to 4.

Article 15

Exchange of information during an emergency situation

1. Where the consolidating supervisor becomes aware of an emergency situation which affects or is likely to affect an institution or a branch of the group established in a Member State, the consolidating supervisor shall alert EBA and the member of the supervisory college who supervises the institution or the branch affected or likely to be affected by the emergency situation, without undue delay.
2. Where a member of the supervisory college becomes aware of an emergency situation which affects or is likely to affect an institution or a branch of the group established in a Member State, the member of the supervisory college shall alert the consolidating supervisor without undue delay.
3. The consolidating supervisor shall ensure that all other members of the supervisory 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 16;
 - (b) the coordinated supervisory response as referred to in Article 17, including the



actions taken or planned to be taken, and its monitoring as referred to in Article 18;

- (c) the early intervention measures adopted pursuant to Articles 27, 28 and 29 of Directive 2014/59/EU of the European Parliament and of the Council²⁰, as relevant, taking into account the necessity for the coordination of these measures in accordance with Article 30 of that Directive, or the determination of the conditions for resolution pursuant to Article 32 of that Directive.
4. When responding to an emergency situation as referred to in Article 17, the consolidating supervisor shall involve the group-level resolution authority without undue delay and share, input received from that authority, with the members of the supervisory college.
 5. Where an emergency situation is restricted to a specific group entity, the situation shall be managed by the member of the supervisory college responsible for the supervision of that group entity concerned in liaison with the consolidating supervisor.

Article 16

Coordination of the supervisory assessment of an emergency situation

1. For the purposes of Article 21 of Delegated Regulation (EU) 20xx/xx, 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 supervisory college who 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 supervisory college responsible for the supervision of those group entities, and input as referred to in Article 15 (4) shall be adequately taken into account by the consolidating supervisor.
3. Where the emergency situation is restricted to a specific group entity, the member of the supervisory 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 17

Coordination of the supervisory response to an emergency situation

1. For the purposes of Article 22 of Delegated Regulation (EU) 20xx/xx, the consolidating

²⁰ 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 (OJ L 173, 12.6.2014, p. 190).



supervisor shall lead the development of a coordinated supervisory response to the emergency situation with regard to the group and its affected or likely to be affected group entities. The views and assessments of the members of the supervisory college responsible for the supervision of these group entities shall be adequately taken into account by the consolidating supervisor.

2. Where the emergency situation is restricted to a specific group entity, the member of the supervisory 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 supervisory college shall perform the tasks referred to in paragraphs 1 and 2 without undue delay.
4. The development of the coordinated supervisory assessment of an emergency situation as referred to in Article 16 and the development of the coordinated supervisory response to this emergency situation may be run in parallel.

Article 18

Monitoring and update of the coordinated supervisory response to an emergency situation

1. For the purposes of Article 23 of Delegated Regulation (EU) 20xx/xx, 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 17.
2. The members of the supervisory 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 supervisory college, including 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 supervisory 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.

CHAPTER 3

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

SECTION 1

Establishment and functioning of supervisory colleges

Article 19

Establishment and update of the mapping of an institution, establishment of a supervisory college, establishment and update of contact lists, and conclusion and amendment of the written coordination and cooperation arrangements

For colleges formed in accordance with Article 51(3) of Directive 2013/36/EU, the competent authority of the home Member State shall establish and update the mapping of an institution, establish a supervisory college, establish and update contact lists, and conclude and amend written coordination and cooperation arrangements in accordance with Articles 2 to 5 to the extent appropriate.

Article 20

Operational aspects of supervisory college meetings and activities

1. The competent authority of the home Member State shall establish regular cooperation with supervisory college members that can take the form of meetings or other activities.
2. The organisation of supervisory college meetings and activities, and their objectives shall be communicated by the competent authority of the home Member State to the members of the supervisory college, including EBA.
3. The competent authority of the home Member State shall clearly establish the objectives of the supervisory college meetings. The competent authority of the home Member State shall ensure that those objectives are reflected in the agenda items of the meetings.
4. The competent authority of the home Member State shall send the proposed agenda of the supervisory college meeting to all the members, the resolution authority of the home Member State, and those observers of the college, that it intends to invite in accordance with Article 28(1) of the Delegated Regulation 20xx/xx and shall invite them to propose any additional agenda items. The competent authority of the home Member State shall take into account any proposals on agenda items made by the members and relevant observers of the supervisory college and shall explain, if requested, the reason for not incorporating them.
5. The competent authority of the home Member State and the members and observers of the supervisory college, who are involved in a particular activity or meeting of the supervisory college, shall circulate documents and contributions to working documents well in advance to enable all participants in the supervisory college to actively contribute to the discussions.

SECTION 2



Planning and coordination of supervisory activities in going concern situations

Article 21

General framework for the exchange of information between the competent authorities of the home member state and supervisory college members

1. For the purpose of Article 30(4) of Delegated Regulation (EU) 20xx/xx, the members of the supervisory college shall transmit the information to the competent authorities of the home Member State.
2. The competent authority of the home Member State shall transmit the information referred to in paragraph 1 to the member of the supervisory college.
3. If the competent authority of the home Member State deems that any information referred to in paragraph 1 is not relevant for a particular member of the supervisory college, it shall previously consult that member and provide it with key points of the information to enable that member to determine its actual relevance.
4. When the supervisory college is organised in different substructures, the competent authority of the home Member State shall keep all supervisory college members fully informed, in a timely manner, on the actions taken or the measures carried out in different college substructures.
5. The competent authority of the home Member State and the members of the supervisory 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 5 of Delegated Regulation (EU) 20xx/xx.

Article 22

General framework for the exchange of information between the competent authority of the home Member State and observers of the supervisory college

1. Once the supervisory review and evaluation process in accordance with Article 97 of Directive 2013/36/EU has been completed for the institution, the competent authority of the home Member State shall provide the resolution authority of the home Member State the information referred to in Article 34, (3)(a) of the Delegated Regulation (EU) 20xx/xx.
2. In case of an event of adverse material effect on the risk profile of the institution or its significant branches, the competent authority of the home Member State shall communicate to the relevant observers the relevant information shared for the purpose of Article 35 of the Delegated Regulation (EU) 20xx/xx.



Article 23

Establishment and update of the examination programme of the supervisory college

1. For the purposes of establishing the examination programme of the supervisory college referred to in Article 99 of Directive 2013/36/EU in accordance with Article 33 of Delegated Regulation (EU) 20xx/xx, the members of the supervisory college shall provide their contribution to the competent authority of the home Member State.
2. After receiving the contributions from the members of the supervisory college, the competent authority of the home Member State shall prepare a draft examination programme of the supervisory college.
3. The competent authority of the home Member State shall circulate the draft examination programme of the supervisory college to the members of the supervisory college inviting them to provide their views on the areas of joint work and indicating the appropriate deadline for the submission of those views.
4. For the purposes of completing the examination programme of the supervisory college, the competent authority of the home Member State shall take into account any views and reservations expressed by the members of the supervisory college and explain, if necessary, the reasons for not incorporating them.
5. Upon completion, the competent authority of the home Member State shall communicate the examination programme of the supervisory college to the members of the supervisory college.
6. The examination programme of the supervisory college 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. The competent authority of the home Member State shall update the examination programme of the supervisory college by following the process defined in paragraphs 1 to 5.

Article 24

Exchange of information in case of an event of adverse material effect on the risk profile of the institution or its significant branches

The competent authority of the home Member State and the relevant members of the supervisory college shall use the template in Annex II D, to communicate the set of information, as agreed by the competent authority of the home Member State and the members of the supervisory college, in case of an event of adverse material effect on the risk profile of the institution or its significant branches referred to in Article 35 (2) of the Delegated Regulation (EU) 20xx/xx.

SECTION 3

Planning and coordination of supervisory activities in preparation for and during emergency situations and final provisions



Article 25

Establishment and update of the college framework for emergency situations

1. For the purposes of establishing the college framework for emergency situations, the competent authorities of the home Member State shall prepare a proposal pursuant to Article 36 of Delegated Regulation (EU) 20xx/xx.
2. The competent authority of the home Member State shall submit its proposal to the members of the supervisory college, inviting them to provide their views and indicating the appropriate deadline for the submission of those views.
3. The competent authority of the home Member State shall take into account any views and reservations expressed by the members of the supervisory college, and explain, if necessary, the reasons for not incorporating them.
4. The competent authority of the home Member State shall communicate the final version of the college framework for emergency situations to the members of the supervisory college.
5. The competent authority of the home Member State and the members of the supervisory college shall consider, at least on an annual basis, the need to update the college framework for emergency situations.
6. The competent authority of the home Member State and the members of the supervisory college shall update the college framework for emergency situations by following the process set out in paragraphs 1 to 4.

Article 26

Exchange of information during an emergency situation

1. Where the competent authority of the home Member State becomes aware of an emergency situation which affects or is likely to affect the institution, they shall alert EBA and the members of the supervisory college without undue delay.
2. Where a member of the supervisory college becomes aware of an emergency situation which affects or is likely to affect a branch in its jurisdiction, it shall alert the competent authority of the home Member State without undue delay.
3. When responding to an emergency situation, the competent authority of the home Member State shall involve the resolution authority of the home Member State and share, without undue delay, input from that authority with the members of the supervisory college.

Article 27



Coordination of the supervisory assessment of an emergency situation

For the purposes of Article 38 of Delegated Regulation (EU) 20xx/xx, the competent authority of the home Member State shall circulate the supervisory assessment of the emergency situation, that takes into account the input from the resolution college as referred to in Article 26 (3), to the members of the supervisory college who supervise branches affected or likely to be affected by the emergency situation.

Article 28

Coordination and monitoring of the supervisory response to an emergency situation

1. For the purposes of Article 39 of Delegated Regulation (EU) 20xx/xx, the competent authority of the home Member State shall develop a coordinated supervisory response to an emergency situation. The views of the members of the supervisory college who supervise branches affected or likely to be affected by this emergency situation shall be adequately taken into account by the competent authority of the home Member State.
2. The competent authority of the home Member State shall, where relevant, coordinate the monitoring of the implementation of any actions set out in the supervisory response.
3. The members of the supervisory college shall inform the competent authority of the home Member State about the evolution of the emergency situation and the implementation of any agreed actions related to the branches in their jurisdiction.
4. Any updates on the monitoring of the supervisory response shall be provided by the competent authority of the home Member State to the members of the supervisory college, including EBA.
5. The development of the supervisory assessment of an emergency situation as referred to in Article 27 and the development of the supervisory response to this situation may be run in parallel.

Article 29

Repeal

Implementing Regulation (EU) 2016/99 is repealed with effect from XXXXX.

References to the repealed Implementing Regulation shall be construed as references to this Implementing Regulation.

Article 30

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

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

These Regulations on supervisory colleges replace the existing technical standards on supervisory colleges the EBA has been mandated to deliver based on Article 51 and 116 of Directive 2013/36/EU.

Proportionality was considered during the drafting of the current impact assessment analysis. The intensity of the supervisory college work mainly depends on the nature, size and risk-profile of the institutions. Nonetheless, the supervisory colleges are invited to take proportional decisions, when it comes to the participation of observers in supervisory colleges, and exchange of information with observers of the supervisory colleges. The preferred option allows supervisory colleges to take proportionality into account taking those decisions.

As per Articles 10(1) and 15(1) of Regulation (EU) No 1093/2010 (EBA Regulation), regulatory and implementing technical standards developed by the EBA shall be accompanied by an analysis of ‘the potential related costs and benefits’. This section presents the cost-benefit analysis of the provisions included in the Regulations as described in this Consultation Paper. The analysis provides an overview of problems identified, the two main decisions to be taken, proposed and the potential impact of these options. Given the nature and the scope of the Regulations, the analysis is qualitative in nature.

A. Problem identification

The main problem to be addressed by the EBA is to achieve the maximum possible level of harmonisation by implementing the binding technical standards (BTS) as a means of establishing a high level of cooperation between supervisory authorities across borders, ensuring a high-quality group supervision while also supporting supervisory colleges to operate efficiently and effectively.

Another problem is the imbalance of participation of other than prudential authorities, as resolution authorities, AML/CFT authorities and third country supervisory authorities, in the supervisory colleges as observers. In relation to that, the consolidating supervisor has to ensure that just the relevant information is exchanged with these authorities, and they are informed and involved for the performance of their tasks while striving to an efficient and effective functioning of the supervisory colleges.

B. Policy objectives

For the first problem mentioned under point A (problem identification), the EBA aims to achieve the maximum possible level of harmonisation in supervisory cooperation, avoiding a difference in the level and costs of cooperation across the banking sector in the Union and regulatory arbitrage. The aim is also to enhance supervisory convergence and ensure legal clarity for the authorities in the supervisory colleges. Thereto, supervisory authorities in the different Member States are expected to exchange information in going concern and emergency situations, e.g. to establish the



supervisory examination programme and prepare the joint decisions. Overall, the supervision achieved through the collaboration in the supervisory college should lead to a better supervision of the cross-border group and more consistent supervisory outcomes, compared to a situation in which competent authorities are acting in silo.

The solution to the second problem mentioned under point A (problem identification) should equally support the operational functioning of the college by ensuring that information exchange with resolution and AML/CFT colleges, where relevant, takes place.

C. Baseline scenario

The EBA has already delivered on its mandate with its Regulations on supervisory colleges in 2014. Since then, general practices in the operational functioning of supervisory colleges have been developed and are meanwhile established. The CRD V has come into force in 2019 and the changes in the general functioning of colleges as the setting up of specific supervisory colleges with the involvement of third countries are underway. The EBA baseline scenario is therefore abiding with the existing rules and practices as described in the Regulations on supervisory colleges published in 2015.

An important characteristic of the baseline scenario relevant for the options considered below, is the power of the consolidating supervisor to decide whether to invite observers to the college of supervisors. Furthermore, the resolution authorities are not listed as potential observer of the supervisory college in the current Regulations. Lastly, information exchange and cooperation are foreseen for situations in going concern and during emergency²¹ situations. It is however not foreseen in case of an event of adverse material effect on the risk profile of the group or its entities, e.g. the COVID-19 pandemic, that are established in a Member State and are deemed important as determined in the Regulations on supervisory colleges.

D. Options considered

As there are Regulations on supervisory colleges in place there is no high-level assessment of the overall costs and benefits of implementing the new Regulations needed.

The EBA has, through its experience in monitoring supervisory colleges established a clear view on further improvements needed as well as the way those could be implemented.²² The cost-benefit

²¹ The definition of an “emergency situation” is provided in Article 114(1) CRD which is applicable for the supervisory college. It includes a situation as described in Article 18 of the EBA Regulation 1093/2010 as adopted by the Council (system wide crisis, in the case of adverse developments which may seriously jeopardise the orderly functioning and integrity of financial markets or the stability of the whole or part of the financial system in the Union) or a situation of adverse development in markets, which potentially jeopardises the market liquidity and the stability of the financial system in any of the Member States where the group is active through subsidiaries or significant branches.

²² In 2020, before the UK’s withdrawal from the EU, 56 colleges were reported as active and included in the list of supervisory colleges. Additionally, three active colleges were reported for third-country banking groups at the EEA sub-consolidated level, raising the total number of active supervisory colleges to 59. In 2021, 45 colleges were reported as active and were included in the 2021 list of supervisory colleges. Additionally, three active colleges were reported for third-country banking groups at the EEA sub-consolidated level, raising the total number of active supervisory colleges to 48. In 2022, there were 43 supervisory colleges for EU cross-border banking groups. Additionally, 2 colleges were reported for third-country banking groups at the EEA sub-consolidated level, raising the total number of supervisory colleges to 45. [Report on convergence of supervisory practices in 2021.pdf \(europa.eu\)](#).



analysis focuses on two specific topics on which a decision is needed and for which several technical options have been considered. The decisions to be taken concern i) the participation in the colleges and ii) the information exchange in situations, where there is no emergency situation yet, but an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State and are deemed important as determined in the Regulations on supervisory colleges, e.g. the COVID-19 pandemic and invasion of the Ukraine by Russia, occurs.

Decision 1: Mandatory observership in the supervisory college

The decision is whether to make the observership of certain authorities mandatory in the supervisory college and if yes, to which observers?

Option 1: Retain the status quo whereby the consolidating supervisor is required to send an invitation only to members to participate in the supervisory college. In this option the consolidating supervisor decides whether to invite resolution authorities, AML/CFT authorities as observers to the supervisory college. This option equals to the baseline scenario.

Option 2: To demand the consolidating supervisor to request the group-level resolution authority (or the resolution authority of the home Member State in case of Article 51(4) of Directive 2013/36/EU supervisory colleges) and lead supervisor of the AML/CFT college to become observer of the supervisory college.

Option 3: To demand the consolidating supervisor to request all resolution authorities and AML/CFT authorities in a Member State to become observers of the supervisory college.

Decision 2: Exchange of information in certain events

The decision is whether to introduce a situation in which information must be exchanged and define the relevant recipients of this information. Whether only members or also observers are involved, in particular the group-level resolution authority or the resolution authority of the home Member State, when the information is relevant for them.

Option 1: Retain the status quo in which members of a supervisory college are not required to exchange information in situations amongst themselves nor with observers in case of an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State and are deemed important as determined in the Regulations on supervisory colleges. This situation equals to the baseline scenario. It is assumed in this option as well as in the options 2 and 3 below that there is not an emergency situation declared.

Option 2: To require information exchange in case of an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State and are deemed important as determined in the Regulations on supervisory colleges. It is required to exchange information amongst members of the supervisory college and also with observers, in particular to the group-level resolution authority or resolution authority of the home Member State, where it is relevant for the performance of the tasks of the observer.

Option 3: To require members of a supervisory college to exchange information amongst themselves in case of an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State and are deemed important as determined in the Regulations on supervisory colleges. However, it is not required to communicate and exchange



information with observers, i.e. nor between the supervisory college and the resolution college through the group-level resolution authority or resolution authority of the home Member State.

E. Assessment of the options for the combination of the two decisions

Decision 1 (option 1) and Decision 2 (option 1): The status quo (option 1) under both decisions is not further considered as they would not result in an enhancement of the information exchange and cooperation through the framework of supervisory colleges and, therefore, are not in line with the EBA's policy objectives.

Option 1 of Decision 1 would not ensure the reinforced cooperation between resolution authorities and supervisory authorities as well as AML/CFT supervisors and their prudential supervisor counterparts as required by the CRD V, nor it would bring any improvement to the shortcomings identified in EBA's convergence report regarding the participation, rights and responsibilities of the different types of observers in the college and the arrangements on the cooperation between supervisory colleges with resolution colleges and authorities.²³ It would neither support the consistent functioning of supervisory colleges across the Union as each individual consolidating supervisor would decide whether to request the group-level resolution authority, or resolution authority of the home Member State and the lead-supervisor of the AML/CFT college to become observer or not of the supervisory college and regulate this in their written coordination and cooperation arrangements.

Option 1 of Decision 2 is not viable either because it would not bring improvement in information sharing in case the group or its entities face with events that cause material adverse impact on their risk profile. By not including a requirement regarding the exchange of information in an event of adverse material effect on the risk profile of the group or its entities, colleges cannot effectively address a potential situation, which is not yet an emergency situation, but ultimately may turn to that. Precisely by the exchange of the relevant information, including indicators, supervisors can depict the trend in the risk profile of the group and its entities and thus facilitate the early identification of potential risks as required by the regulation.

Decision 1 (option 2), Decision 2 (option 2): In this combination of options, the extension of the request to become observer to the supervisory college is addressed only to specific observers and the exchange of information in certain events is mandatory, also in relation to observers if the information is relevant for their tasks. Option 2 for Decision 1 allows for a distinction between authorities that have to be requested (e.g. the group-level resolution authority or the resolution authority of the home Member State and the lead supervisor of the AML/CFT college) and may be requested (e.g. the other resolution and AML/CFT authorities in a Member State) to become observer of a supervisory college. This option considers the arrangement of cooperation with the resolution authorities through the group-level resolution authority or the resolution authority of the home Member State and with the AML/CFT authorities through the lead supervisor of the AML/CFT college; it requires the consolidating supervisor to request those to become observers in the supervisory college. Even if these authorities shall be requested to become observers in the supervisory college, this does not entail mandatory invitation to participate in all meetings and activities, but only when specific circumstances specified in the Regulations on supervisory colleges are met.

²³ [Report on convergence of supervisory practices in 2021.pdf \(europa.eu\)](#).



In relation to option 2 for Decision 2 information is required to be exchanged when an event adversely and materially affect the risk profile of the group or its entities and could give rise to a potential emergency situation. Information exchange and cooperation between supervisory authorities can take place timelier which can improve the management of such situation. The consolidating supervisor and the authorities will encounter some costs for the effort to collect and exchange the relevant information, as potential ad hoc information requests have to be launched by the consolidating supervisor or the members of the college, as was experienced in relation to COVID-19 pandemic and the Russian invasion of Ukraine. However, by exchanging information for a more comprehensive risk analysis also improves the common understanding of the situation and helps achieving synergies in the resources of such work in supervisory authorities and limiting unnecessary additional strain on the institutions by eliminating the need for duplicate information requests towards the group and its entities. Confidential information in the event of adverse material effect can be safely exchanged with observers, in particular with the group-level resolution authority or resolution authority of the home Member State but also with the lead supervisor of AML/CFT colleges within the college structure as set out in option 2 for Decision 1, as far as the information is relevant for the performance of their tasks.

Decision 1 (option 2), Decision 2 (option 3): In this combination of options the national resolution authorities are not requested to become observers by default, however the consolidating supervisor may decide to request them to become observer of the prudential college if their involvement is deemed necessary. In these options, compared to the combination presented just above, the costs could be potentially high, in particular for the group-level resolution authorities or the resolution authority of the home Member State as in the case of an event of an adverse material effect the timely receipt of information is not ensured. Observers would be excluded receiving relevant information in an event of adverse material effect on the risk profile of the group or its entities which is crucial in the preparation for an effective resolution.

Decision 1 (option 3), Decision 2 (option 2): In option 3 for Decision 1 all resolution and AML/CFT authorities in a Member State shall be requested to become observer of the supervisory college. Prescribing that the consolidating supervisor shall request all resolution and AML/CFT authorities in a Member State to the supervisory college as observers, would be in administrative terms burdensome for both the consolidating supervisors and the authorities requested to become observers and it would hamper the efficient functioning of the college. However, in this combination of options, the exchange of information with observers using the college structure as foreseen in option 2 for Decision 2 is possible.

F. Preferred options for each decision

Having assessed several combinations of options, Option 2 is the preferred option for both decisions. Option 2 for Decision 1 strikes a good balance because the group-level resolution authority or resolution authority of the home Member State and the lead supervisor of the AML/CFT college are well placed to convey group-wide messages. It can improve the timely cooperation which has been identified as a relatively weak area of the college arrangements regarding recovery and resolution plans and enhances coordination and cooperation.

Though in option 2 for Decision 2 the consolidating supervisor, the members of the supervisory college as well as observers, in particular resolution authorities, will have some burden handling the information flow in events of adverse material effect, they will receive a high reward in terms of handling a situation which has material adverse effect on the risk profile of the group and it



entities and could give rise to a potential emergency situation, which seems also proportionate to the risk. Information exchange and cooperation between supervisory authorities can take place timelier which can improve the management of such situation. The consolidating supervisor and the observers receiving information will encounter some costs for the effort to collect and exchange the relevant information. However, by exchanging information for a more comprehensive risk analysis also improves the common understanding of the situation and helps achieving synergies in the resources of such work in supervisory authorities. To support the authorities, an indicative template for information sharing has been developed as proposed in Annex II to the implementing regulation on supervisory colleges.

5.2 Overview of questions for consultation

Q1: Do you agree with the preferred option for the combination of the two decisions that have been proposed in section 5.1? Do you have any concerns regarding the preferred option for the combined two decisions?

Q2: Do you have any other suggestions with regard to the information items to be exchanged in an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State and are important as determined in accordance with the Regulations on supervisory colleges other than the ones mentioned in the Annex II of the new Implementing Regulations on supervisory colleges?

Q3: What kind of information would you expect to be exchanged from the prudential college to the resolution college in an event of adverse material effect on the risk profile of the group or its entities, that are established in a Member State and are important as determined in accordance with the Regulations on supervisory colleges? One could consider situations as the Covid-19 pandemic and the Russian invasion of Ukraine. Please note that it is assumed that in this situation there is not an emergency situation declared.

Q4: Do you have any suggestions how the consolidating supervisor or the member of the college can prepare for identifying tasks for entrustment and potential delegation of responsibilities in the context of the college supervisory examination programme?