

EBA/CP/2025/16

11 July 2025

Consultation Paper

Draft Regulatory Technical Standards

specifying the booking arrangements that third-country branches are to apply for the purposes of Article 48h of Directive 2013/36/EU

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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 13.10.2025. 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 regulatory framework introduced by the Directive 2013/36/EU (CRD) for branches established by undertakings in a third country (TCBs) that provide banking services in a Member State envisages a minimum set of harmonised requirements. More in particular, Chapter 1 of Title VI of Directive 2013/36/EU lays down the minimum requirements applicable to TCBs carrying out in a Member State the activities mentioned in Article 47(1) of the CRD. These includes, among others, the requirement to maintain a registry book that enables third-country branches to track and keep a comprehensive record of all the assets and liabilities booked or originated by the third-country branch in the Member State and to manage those assets and liabilities autonomously within the third-country branch.

Article 48h of the CRD requires the EBA to develop draft regulatory technical standards (RTS) to specify the booking arrangements that third-country branches are to apply for the purposes of that Article. In particular, the EBA is required to specify (a) the methodology to identify and keep a comprehensive and precise track record of the assets and liabilities booked by the third-country branch in the Member State; and (b) the methodology to identify and keep a record of off-balance sheet items and of the assets and liabilities originated by the third-country branch and booked or held remotely in other branches or subsidiaries of the same group on behalf of or for the benefit of the originating third-country branch. The EBA is required to submit those draft RTS to the Commission by 10 January 2026. These draft RTS elaborate on the methodology that third-country branches should follow to track and keep a precise and comprehensive record of all assets, liabilities and off-balance sheet items that arise from the activities of third-country branches. To this end, these draft RTS specify the bookkeeping system that third-country branches should have in place to timely and accurately identify their transactions and record any assets and liabilities booked or originated, as well as off-balance sheet items. The minimum set of information to be maintained in the registry book with reference to such assets, liabilities and off-balance sheet items is also specified, as well as the information to be provided related to their associated risk.

Considering the differentiation made within the requirement set out in paragraph 1 of Article 48h of the CRD between assets and liabilities originated and booked, these RTS provide clarity on the concepts that should be applied by third-country branches. Those concepts have been aligned and based on the general principles of recognition and derecognition, as envisaged by accounting frameworks used by the TCBs, which should also prevent any room for different interpretations that could undermine the harmonised application of the booking requirement provisions introduced by these draft RTS.

Next steps

The draft regulatory technical standards will be submitted to the Commission for endorsement following which they will be subject to scrutiny by the European Parliament and

the Council before being published in the Official Journal of the European Union. The technical standards will apply from [].]

3. Background and rationale

1. The EBA has developed this Consultation Paper (CP) for these draft Regulatory Technical Standards (RTS) in accordance with the mandate in Article 48h(4) of the Capital Requirements Directive 2013/36/EU (CRD)¹ pursuant to which the ‘EBA shall develop draft regulatory technical standards to specify the booking arrangements that third-country branches are to apply for the purposes of this Article, in particular as regards:
 - a. the methodology to identify and keep a comprehensive and precise track record of the assets and liabilities booked by the third-country branch in the Member State; and
 - b. the methodology to identify and keep a record of off-balance-sheet items and of the assets and liabilities originated by the third-country branch and booked or held remotely in other branches or subsidiaries of the same group on behalf of or for the benefit of the originating third-country branch’.

3.1 Background and regulatory approach followed in the draft RTS

3.1.1 Overview of the CRD provisions

2. The new EU banking package envisages the implementation of a minimum harmonisation regime for the regulation of branches established by undertakings in a third country. Under this new regime, undertakings established in a third country which seek to provide core banking services in the Union will be required to establish, at least, a branch in a Member State.
3. According to the new framework, third-country branches (‘TCBs’) are subject, as a minimum, to specific prudential requirements, including capital endowment, liquidity, internal governance and risk management, and reporting. Moreover, TCBs are required to apply booking requirements for the purposes of maintaining a registry book in accordance with Article 48h of the CRD.
4. More in particular, Article 48h of the CRD provides the following:
 - a. under paragraph 1, TCBs are required to maintain a registry book to track and keep a comprehensive and precise record of all the assets and liabilities booked or originated

¹ 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, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC.

by the TCBs in the Member State and to manage those assets and liabilities autonomously within the TCBs;

- b. under paragraph 2, TCBs are required to develop and regularly review and update a policy on booking arrangements for the management of the registry book referred to in paragraph 1. Such a policy must be documented and approved by the relevant governing body of the head undertaking and must provide a clear rationale for the booking arrangements and set out how those arrangements align with the third-country branch's business strategy;
 - c. under paragraph 3, TCBs are required to provide to the competent authority an independent written and reasoned opinion - with the findings and conclusions - on the implementation of and ongoing compliance with the requirements laid down in Article 48h of the CRD.
5. It is worth highlighting the importance of the booking arrangements laid down in Article 48h of the CRD to the whole TCBs prudential framework. In fact, the classification of TCBs in different classes is determined on the basis of, among others, the total value of the assets booked or originated by the TCBs in the Member State in accordance with Article 48a of the CRD. Such classification is determinant for setting the intensity of the supervisory regime envisaged for TCBs, as the different classes correspond to different minimum requirements imposed on TCBs.
6. Moreover, the obligation for TCBs to track and keep a record of all the assets and liabilities which are either booked or originated by TCBs is also essential for a sound management of the risks that TCB pose to financial stability and market integrity in the Union and Member States. In absence of such requirement, assets and liabilities would be recognised only at the level of the head undertaking, thereby preventing the monitoring of the risks associated to the assets and liabilities booked or originated by the TCBs or the application of the CRD requirements.
7. The booking requirements introduced by Article 48h of the CRD relate to both assets and liabilities which are booked or originated by the TCBs as well as off-balance sheet items. The reference and distinction in Article 48h between assets and liabilities booked or originated by the TCB is intended to prevent possible circumvention of the rules. This ensures that relevant prudential requirements are applied based on the total volume of operations carried out by TCBs which provides a more accurate representation of the risk and complexity associated with the activities of TCBs.

3.1.2 Approach used for the RTS and overview of the main provision introduced

8. The EBA has developed these draft RTS to specify the procedures that TCBs are to apply for the purposes of maintaining a registry book in accordance with Article 48h of the CRD. The

primary objective of the draft RTS is to specify the process and methodology that TCBs should follow for identifying the transactions and activities and for recording all the related assets and liabilities booked or originated, as well as to harmonise the content of the registry book.

9. In a nutshell, the draft RTS provide the methodology to track and keep a precise and comprehensive track record of all assets, liabilities and off-balance sheet items associated with the activities of the TCBs in a Member State. For this purpose, TCBs are required to have a bookkeeping system in place to timely and accurately identify all their transactions and to record all their associated assets and liabilities booked or originated, as well as off-balance sheet items. Moreover, the draft RTS specify the minimum set of data to be maintained with regard to the assets and liabilities, including off-balance sheet items, recorded in the registry book, as well as on the associated risk information to be kept by the TCB.
10. The draft RTS are structured in four different articles, which specify the following:
 - i. the definition of the accounting framework used by the TCBs ('accounting framework') for the purposes of these draft RTS;
 - ii. the accounting-like process (i.e. bookkeeping requirement) that TCBs should have in place to identify and keep a track record of all assets and liabilities booked or originated and of off-balance sheet items;
 - iii. the minimum set of information to be recorded in the registry book in order to provide a comprehensive overview of those assets and liabilities; and
 - iv. the information to be maintained regarding the risks stemming from the activities of the TCB and the way they are managed.
11. Under the new framework, TCBs may only conduct authorised activities within the Member State where they are established and are explicitly excluded from offering or conducting those activities in other Member States on a cross-border basis, except for intragroup funding transactions with other TCBs of the same head undertaking, for transactions entered into on the basis of reverse solicitation of services or for transactions concerning activities not requiring authorisation. To further clarify the scope of activities that should be recorded in the registry book, the RTS specify that any transactions carried out by the TCB should be documented. This should also include transactions that do not require authorisation or concern intragroup transactions or transactions entered into on the basis of reverse solicitation of services.
12. The obligation to record all assets and liabilities that arise from the transactions conducted by the TCB ensures that intragroup transactions are adequately accounted for. This requirement is needed, in particular, to ensure an adequate monitoring of intragroup funding transactions, including those with the head undertaking and any other TCBs, as the draft RTS are developed considering TCBs as separate operational units from their head undertaking.

For this reason, the draft RTS require TCBs to track and keep a comprehensive record of those intragroup transactions as if they were carried out with external counterparties.

13. While Article 48h of the CRD is based on the general assumption that TCBs are not subject to accounting requirements separate from their head undertaking under Union law, the draft RTS acknowledge the existence of requirements for some TCBs to prepare financial statements in accordance with the applicable national law of the Member State in which they operate. Furthermore, TCBs are required to apply the international accounting standards² or the applicable generally accepted accounting principles in the Member State, for reporting purposes, in accordance with the first subparagraph of Article 48k(1) of the CRD.
14. Based on these considerations, the draft RTS have been developed leveraging, to the extent possible, on existing accounting standards across Member States. This aims to align the process of maintaining a precise and comprehensive registry book set forth in these draft RTS, with any pre-existing accounting processes, thereby ensuring consistency in definitions and procedures, especially in those cases where the application of accounting standards by TCBs is already in place.
15. With regard to the concepts of ‘booked’ and ‘originated’, the RTS acknowledge the utmost importance of these concepts for the proper implementation of the TCBs framework, as envisaged by the CRD. In order to prevent any room for different interpretations that could undermine its harmonised application, these draft RTS specify those terms leveraging, to the extent possible, on the one followed under the accounting framework.
16. The two concepts provided by the draft RTS are based on the assumption that assets and liabilities arise as a result of transactions that create rights or obligations for the parties that are involved. Additionally, the concepts provided follow the accounting concepts of ‘recognition’ and ‘derecognition’ which, in general, focus on the risks, rewards and obligations that arise from a specific transaction creating rights or obligations to the parties involved.
17. In this regard, the following specifications have been made within the draft RTS:
 - a. assets and liabilities should be considered ‘booked’ when activities carried out by the TCB in a Member State create rights or obligations that would give rise to the recognition of an asset or liability according to the accounting framework, as clarified within the draft RTS;
 - b. assets and liabilities should be regarded as ‘originated’, and not booked, when the rights or obligations, that arise from transactions initiated by TCBs, are initially or subsequently, in full or partially, transferred to another entity.

² As applied in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council.

18. Article 48h of the CRD also requires TCBs to identify and keep a record of off-balance sheet items. A specification of such concept has been provided accordingly, to ensure that all financial rights or obligations that do not result in the recognition of an asset or liability, but that would constitute a contingent asset or liability in accordance with the accounting framework, are recorded in the registry book. In this regard, the non-exhaustive list of off-balance sheet items laid down in Annex I to the CRR should be considered, to ensure clear and homogenous approaches for TCBs operating within Member States.
19. In the case of derivatives instruments, the draft RTS specify that they should be tracked and recorded in the registry book, regardless of the accounting framework used. This is because, while undertakings following IFRS would recognise derivative instruments on the balance sheet in accordance with IFRS 9, certain national GAAPs might not allow for the recognition of those instruments on the balance sheet. For this reason, the concept of off-balance sheet items referred in the draft RTS should also encompass all types of derivative instruments that are not recognised by TCBs under the accounting framework, but that would need to be recorded for the purpose of evaluating the risks to which they are exposed.
20. For the purposes of maintaining a registry book, the draft RTS are developed considering TCBs as operational units that are separate from their head undertaking. This is because while certain Member States require TCBs to prepare financial statements, TCBs are not separate legal entities and are therefore under EU law not required to apply such requirements unless otherwise specified.
21. Therefore, a bookkeeping process has been included in the RTS to track and keep a record of all assets, liabilities and off-balance sheet items which are booked or originated by the TCB, separately from its head undertaking. Its main objective is to ensure an accurate and timely tracking of all assets and liabilities associated with the activities performed by TCBs in Member States. Within that process, TCBs are also requested to classify, measure and periodically assess the value of all the assets and liabilities 'booked'. Conversely, different requirements are requested for assets and liabilities 'originated', given that for those items the risks associated have been transferred to another entity.
22. Assets and liabilities that are 'originated' should be tracked and recorded until all associated risks, rewards or obligations transferred have expired, been discharged, cancelled or fulfilled and TCBs should measure those assets and liabilities at their outstanding nominal amount. Tracking and keeping a record of those assets and liabilities, even if they have been transferred to another undertaking, is necessary as the classification under Article 48a of the CRD, as well as other requirements of the TCBs framework, are calibrated on the basis of the total volume of assets and liabilities booked or originated. Thus, having a registry of those assets and liabilities, even when transferred, and until they have expired, been discharged, cancelled or fulfilled ensures an accurate representation of the activity generated by the TCB, including information on the associated risks. Moreover, TCBs are required to record other relevant information such as the transferee entity or the type of risk transfer.

23. The draft RTS also specify the set of information to be maintained in the registry book for all assets, liabilities and off-balance sheet items, in line with the size and complexity of the TCB's activities and their associated risks. A list of minimum information that should be considered by TCBs has been included, differentiating between assets and liabilities booked, those originated, and off-balance sheet items. The list of information aims at harmonising TCBs practices while ensuring that a common set of information is maintained by TCBs, on a minimum basis. This ensures that all information that might be relevant from a supervisory perspective is captured, also taking into account the reporting requirements in accordance with Article 48k of the CRD.
24. Finally, the draft RTS introduce complementary provisions with regard to the obligation set out in the first paragraph of Article 48h of the CRD for the registry book to provide all necessary and sufficient information on the risks generated by the TCB and on how they are managed. In this regard, the draft RTS set out an obligation to keep a record of all the risks generated by the TCB that is proportional to its size and internal organisation, taking into consideration the nature, scale and complexity of its activities and their associated risks. The type of information to be provided should also be specific to the different categories of risks, providing information on the risk management objectives and actions undertaken to mitigate the overall risk position of the TCB that would allow to obtain an overview of the requirement as laid down in Article 48h(1) of the CRD.

4. Draft regulatory technical standards

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article xx of Regulation (EU) No xxx ('the Regulation')/Directive (EU) No xxx ('the Directive') empowers the Commission to adopt, following submission of draft standards by the European Banking Authority (EBA), and in accordance with Articles 10 to 14 of Regulation No (EU) 1093/2010, delegated acts specifying ... [insert relevant topic].

In accordance with Article 10(1) of Regulation No (EU) 1093/2010 establishing the EBA, the Commission shall decide within three months of receipt of the draft standards whether to endorse the drafts submitted. The Commission may also endorse the draft standards in part only, or with amendments, where the Union's interests so require, having regard to the specific procedure laid down in those Articles.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

In accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has carried out a public consultation on the draft technical standards submitted to the Commission in accordance with Article xx of Regulation (EU) No xxx ('the Regulation')/Directive (EU) No xxx ('the Directive') [refer to the same legal basis as at the beginning of paragraph 1 above]. A consultation paper was published on the EBA internet site on xx [month in letters] 20xx, and the consultation closed on xx [month in letters] 20xx. Moreover, the EBA [worked in close cooperation with the ..., consulted- use this part of the phrase only if there is requirement to e.g. work in cooperation with the ECB or consult another ESA etc- otherwise use only the rest of the phrase referring to the BSG] requested the Banking Stakeholder Group set up in accordance with Article 37 of Regulation No (EU) 1093/2010 to provide advice on them. Together with the draft technical standards, the EBA has submitted an explanation on how the outcome of these consultations has been taken into account in the development of the final draft technical standards submitted to the Commission.

Together with the draft technical standards, and in accordance with the third subparagraph of Article 10(1) of Regulation No (EU) 1093/2010, the EBA has submitted its impact assessment, including its analysis of the costs and benefits, related to the draft technical standards submitted to the Commission. This analysis is available at... [insert here the link to the 'regulatory activity page' of the relevant RTS- to be provided by Communications colleagues], pages [xx-xx] of the Final Report on the technical draft technical standards.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

[Provide a summary of the main provisions of the draft TS].

COMMISSION DELEGATED REGULATION (EU) .../...

of XXX

**supplementing Directive 2013/36/EU of the European Parliament and of the Council
with regard to regulatory technical standards specifying the methodology to identify and
keep a record of the assets and liabilities booked or originated and of off-balance sheet
items by third-country branches**

(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, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC and in particular Article 48h(4), third subparagraph thereof,

Whereas:

- (1) When determining the scope of activities to be recorded in the registry book referred to in Article 48h(1) of Directive 2013/36/EU, it should be considered that third-country branches may only conduct the authorised activities within the Member State where they are established, except for those situations specified in Article 48c(4)(d) of Directive 2013/36/EU. Against this backdrop, there is a need to clarify that the activities of third-country branches that should be recorded in the registry book are any transactions carried out by the third-country branch, including those on the basis of their authorised activities, those that do not require authorisation or concern intragroup transactions or transactions entered into on the basis of reverse solicitation of services.
- (2) To maintain the registry book, a precise methodology, developed in line with the accounting framework, should be followed to ensure an accurate recording of all assets and liabilities booked or originated and of off-balance sheet items which arise as a result of the activities of the third-country branch established in a Member State.
- (3) For the identification of assets and liabilities booked or originated to be recorded in the registry book, the principles of recognition and derecognition laid down in the accounting framework applied by third-country branches for the purposes of Article 48k of Directive 2013/36/EU should be followed. In the case of off-balance sheet items, their determination should be made on the basis of contingent assets or liabilities, as those items do not represent a present right or obligation that should be recognised on the balance sheet. A separate recording obligation should be established with regard to derivative instruments that are not recognised under the accounting framework. Those derivatives should be tracked and recorded as well, to ensure that the same treatment is applied across third-country branches despite the application of different accounting frameworks.
- (4) To adequately monitor the financial and risk situation of the third-country branch, the registry book should ensure that all assets and liabilities, as well as off-balance sheet items,

are comprehensively recorded. The registry book should capture any rights, obligations or commitments, either present or contingent, and record all the assets, liabilities and off-balance sheet items that arise accordingly. Re-assessment of the value of assets and liabilities booked, including those related to their impairment, depreciation or amortisation, should be performed to ensure the accuracy of the registry book.

- (5) For providing a comprehensive picture, intragroup transactions between the third-country branch and its head undertaking or other entities, including funding transactions with other third-country branches of the same head undertaking in accordance with Article 48c(4)(d) of Directive 2013/36/EU, should be treated as if they were carried out with external counterparties and, as such, duly recorded in the registry book. Assets and liabilities originated by the third-country branch should be tracked and recorded as long as any of the associated risks, rewards or obligations transferred are still present.
- (6) In order to ensure an adequate and autonomous management of the risks generated by the activities of the third-country branch, the registry book should contain all necessary information on its assets, liabilities, derivative instruments and off-balance sheet items. To promote consistency and safeguard proportionality, this regulation should provide a minimum set of information for the registry book.
- (7) To provide the necessary information on the risks generated and the methods used to manage them, third-country branches should include all relevant risks in their registry book, with a level of detail proportionate to the size and complexity of their operations. This risk information should encompass qualitative and quantitative data, ensuring a comprehensive overview and effective monitoring of the risks generated by the third-country branch.
- (8) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (9) The European Banking Authority has conducted open public consultations on the draft regulatory technical standards on which this Regulation is based, analysed the potential related costs and benefits and requested the advice of the Banking Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1093/2010 of the European Parliament and of the Council³.

HAS ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the following definition shall apply:

- (a) ‘accounting framework’ means the accounting framework used by the third-country branch for the purposes of reporting the information on the assets and liabilities held on their books, referred to in Article 48k paragraph 1 of Directive (EU) No 2013/36/EU;

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

Article 2

Methodology for identification and keeping a track record of assets, liabilities and off-balance sheet items

1. Third-country branches shall record in the registry book referred in Article 48h(1) of Directive 2013/36/EU, separately from their head undertaking, all of the following items:
 - (a) assets and liabilities recognised in accordance with the accounting framework (“assets and liabilities booked”);
 - (b) assets and liabilities not recognised in accordance with the accounting framework due to the initial or subsequent full or partial transfer of risks and rewards or obligations to other entities (“assets and liabilities originated”);
 - (c) items representing a contingent asset or liability, as well as derivative instruments not recognised under the accounting framework, including those listed in Annexes I and II to Regulation (EU) No 575/2013 (“off-balance-sheet items”)
2. Third-country branches shall apply paragraph 1 to the following transactions:
 - (a) transactions carried out on the basis of their authorised activities;
 - (b) transactions carried out on the basis of services or activities for which no authorisation is required;
 - (c) intragroup transactions, including funding transactions carried out with their head undertaking and other third-country branches of the same head undertaking;
 - (d) transactions entered into on the basis of reverse solicitation.
3. To identify and keep a comprehensive and precise track record of the assets, liabilities and off-balance sheet items referred to in points (a) to (c) of paragraph 1, third-country branches shall:
 - (a) establish, separately from their head undertaking, processes, systems, and procedures to ensure an accurate and timely tracking and recording of their activities;
 - (b) assess and track all rights, obligations and commitments, that are present or contingent, arising from their activities;
 - (c) record all the assets, liabilities and off-balance sheet items referred to in points (a) to (c) of paragraph 1;
 - (d) classify and measure all assets and liabilities referred to in point (a) of paragraph 1 in accordance with the accounting framework;
 - (e) assess the value of assets and liabilities referred to in point (a) of paragraph 1 for impairment, depreciation and amortisation in accordance with the accounting framework;
 - (f) assess and track any provision on off-balance sheet items referred to in point (c) of paragraph 1 recognised in accordance with the accounting framework.
4. For the purposes of paragraphs 1 and 3:
 - (a) Assets and liabilities referred to in point (b) of paragraph 1 shall be tracked and recorded until all associated risks, rewards or obligations transferred have expired, been

discharged, cancelled or fulfilled. They shall be measured at their outstanding nominal amount;

- (b) off-balance sheet items referred to in point (c) of paragraph 1 shall be tracked and recorded, until all associated risks, rewards or obligations have expired, been discharged, cancelled or fulfilled.

Question for consultation

Q1: Is the proposed distinction between the concepts of “assets and liabilities booked” and “assets and liabilities originated” sufficiently clear?

Q2: Is the proposed concept of “off-balance sheet items” sufficiently clear?

Q3: Do you have any comments on the proposed bookkeeping requirements under paragraph 3?

Q4: Do you agree with the proposed treatment of intragroup exposures, including intragroup funding from the head undertaking? Is the treatment of these exposures sufficiently clear?

Q5: Do you agree with the proposed treatment and measurement of assets and liabilities originated?

Article 3

Minimum content of the registry book

1. The registry book referred to in Article 48h(1) of Directive 2013/36/EU shall contain all the information necessary to provide a comprehensive and precise track record of all the assets and liabilities booked or originated, and off-balance sheet items, recorded in accordance with Article 2 of this Regulation.
2. For the purposes of paragraph 1, third-country branches shall determine, having regard to their size, internal organization and the nature, scale and complexity of their activities and risks, the content, type and level of granularity of the information to be recorded in registry book. At a minimum, the following information shall be recorded for all assets and liabilities booked or originated, where appropriate, taking into account the nature of the instrument and availability of the relevant data:
 - (a) information related to counterparty, including name, geographical area, economic activity and default status;
 - (b) information related to the instrument, including principal or notional amount, outstanding nominal amount, instrument type, inception date, maturity date, interest rate, amortisation type, payment frequency and currency denomination;
 - (c) information relevant for accounting purposes, including accounting classification of instrument, carrying amount, accumulated impairment amount and amortisation type;

- (d) information related to the protection received, including type of protection and protection value;
 - (e) identification of the instruments kept in an escrow account to meet the capital endowment requirement under Article 48e of Directive 2013/36/EU.
3. In addition to paragraph 2, for assets and liabilities originated, the following information shall be recorded where appropriate:
- (a) information related to transferee or booking entity information, including name, geographical area and LEI code;
 - (b) information related to type of transfer or derecognition.
4. In addition to paragraph 2, for off-balance-sheet items, the following information shall be recorded where appropriate:
- (a) information related to counterparty, including name geographical area, economic activity and default status;
 - (b) information related to the instrument, including nominal or notional amount, instrument type, inception date, maturity date, payment frequency, trigger events and currency denomination;

Question for consultation

Q6: Do you have any comments on the minimum content of the registry book proposed in Article 3?

Article 4

Information on risks

1. For the purposes of paragraph 1 of Article 48h of Directive 2013/36/EU, third-country branches shall provide in the registry book referred to in Article 48h(1) of Directive 2013/36/EU sufficient information on the risks associated to the assets, liabilities and off-balance sheet items, and how they are managed. The type of information and level of granularity to be recorded in the registry book shall be commensurate to the size and internal organization of the third country branch and the nature, scale and complexity of its activities and associated risks. At a minimum, third country branches shall provide in the registry book the following information:
- (a) qualitative information on the risks associated to the assets and liabilities booked or originated, and off-balance sheet items, recorded in accordance with Article 2 of this Regulation ;
 - (b) qualitative information on risk management framework, methods and metrics used to measure risks and strategies undertaken for hedging or mitigating risk;
 - (c) quantitative information on the risks generated by risk type for all the assets and liabilities booked or originated, and off-balance sheet items, recorded in accordance with Article 2 of this Regulation, measured according to the relevant internal risk management metrics, including information on concentration of risk.

Question for consultation

Q7: Do you have any comments on the approach proposed to provide information in the registry book on the risks associated to the assets, liabilities and off-balance sheet items, and how they are managed?

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

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

Done at Brussels,

For the Commission

The President

[For the Commission

On behalf of the President

[Position]

ANNEX

[Annexes are used to set out the technical aspects of rights or obligations that have already been laid down in the Articles. Annexes should not include any autonomous rights or obligations.]

[Add a title where necessary. Especially where there is more than one annex, it is recommended to add a title. The title must accurately reflect the content of the annex and provide a link to the provision in the articles that introduce the annex. Where there are more than one annex, the annexes should be numbered with Roman numerals (I, II, III...)].

5. Accompanying documents

5.1 Draft cost-benefit analysis / impact assessment

Article 48h of the CRD requires the EBA to develop draft regulatory technical standards (RTS) to specify the booking arrangements that third-country branches (TCBs) are to apply for the purposes of that Article. In particular, the EBA is required to specify (a) the methodology to identify and keep a comprehensive and precise track record of the assets and liabilities booked by the third-country branch in the Member State; and (b) the methodology to identify and keep a record of off-balance sheet items and of the assets and liabilities originated by the third-country branch and booked or held remotely in other branches or subsidiaries of the same group on behalf of or for the benefit of the originating third-country branch.

These draft RTS provide the methodology that TCBs should follow to track and keep a precise and comprehensive record of all assets, liabilities and off-balance sheet items that arise from the activities of TCBs.

The sound and consistent implementation of booking arrangement requirements by TCBs is of paramount importance for the application of the TCB framework. In fact, booking arrangements have a direct impact on the classification of TCBs envisaged by Article 48a of the CRD, which is determinant for setting the intensity of the applicable TCB supervisory regime. Moreover, they are also essential for a sound management of the risks generated by TCBs, as in absence of such requirement the effective monitoring and management of the risks associated to the assets and liabilities booked or originated by the TCBs would not be guaranteed.

Article 10(1) of the EBA Regulation provides that any submission of regulatory technical standards (RTS) from the EBA to the Commission for adoption should be accompanied by an impact assessment which, inter alia, includes the analysis of ‘the related potential costs and benefits’. To this end, the present section provides an impact assessment (IA) of the draft RTS. It includes an overview of the existing problem which the draft RTS deals with, the options proposed for resolving the problem as well as the potential impact of these options.

A. Problem identification

Article 48h of the CRD introduced the obligation for TCBs to maintain a registry book to track and keep a comprehensive and precise record of all the assets and liabilities booked or originated by the TCBs in the Member State and to manage those assets and liabilities autonomously within the TCBs. Therefore, the primary issue these draft RTS aim to address is to specify the process and methodology that TCBs should follow to identify and keep track of all the assets and liabilities booked or originated, the main contents that the registry book

should include in that regard and the information on their associated risks and how they are managed within the TCB.

Lack of common and consistent application of the booking arrangements by TCBs across Member States may lead to different practices, not ensuring that all the activities and risks of the TCBs are duly recorded in the registry book and impairing the effective monitoring of the TCBs' business and activities conducted in a Member State, the management of the associated risks within the TCB and the effective supervision which TCBs are subject to in accordance with the CRD 6 framework.

B. Policy objectives

The objective of the draft RTS is to ensure convergence of TCBs' practices regarding the implementation of booking arrangements and the maintenance of the registry book. Harmonisation of practices followed to identify and keep track of all the assets and liabilities booked or originated by TCBs are expected to enhance the effective functioning of the TCB framework and to reduce the burden for cross border undertakings in complying with different regulatory frameworks.

To this end, these draft RTS aim to specify the bookkeeping system that TCBs should have in place to timely and accurately identify their transactions and record any assets and liabilities booked or originated, as well as off-balance sheet items. Moreover, the draft RTS aim to establish and harmonise the minimum set of information that TCBs should maintain in the registry book with reference to such assets, liabilities and off-balance sheet items, as well as the information to be provided related to their associated risks.

C. Baseline scenario

The current EU legislative framework (i.e. status quo without the proposed regulatory intervention) does not provide per se guidance to ensure harmonisation of the processes and methodologies that TCBs would have to put in place to comply with the requirement to maintain a registry book laid down in Article 48h of the CRD. In such scenario, TCBs would develop their own process, methodologies, and would provide information on the assets and liabilities booked or originated based on either own assumptions or on existing national laws that may differ across Member States. Inconsistent practices may ultimately lead to (i) a different identification of the assets and liabilities booked or originated among TCBs, (ii) a different identification of off-balance sheet items, and (iii) diverse information provided regarding those items. This may ultimately lead to divergences in the implementation of the new TCB regime envisaged by the CRD, hampering the monitoring of TCBs operations and the risks posed by TCBs' activities to the EU market as well as supervisory convergence.

D. Options considered, Cost-Benefit Analysis and Preferred option

In drafting these draft RTS several policy options were considered with regard to different dimensions to be addressed when specifying the booking arrangements that TCBs should apply for the purposes of Article 48h of the CRD.

Policy issue 1: Bookkeeping system requirements

Option 1.a: Leveraging on the concepts and definitions provided by the accounting framework.

Option 1.b: Establishing a new process and define new requirements to specify which assets and liabilities are to be considered booked or originated by TCBs, and under which circumstances they are required to be recorded in the registry book.

For assessing the policy issue, it was considered that, despite the lack of specific EU requirements to draw-up separate financial statements, many TCBs are - de facto – subject to certain national accounting requirements, as well as subject to apply the international accounting standards or the applicable generally accepted accounting principles in their Member State, for reporting purposes, in accordance with the first subparagraph of Article 48k(1) of the CRD.

For these reasons, it was assessed that specifying the process to identify and record the assets, liabilities and off-balance sheet exposures leveraging on existing accounting standards across Member States should, in general, reduce the implementation burden and costs for TCBs. This approach should also align the bookkeeping process set forth in these draft RTS, with any pre-existing accounting processes already put in place by TCBs. Moreover, it was also considered that anchoring the bookkeeping process to the relevant definitions and concepts already embedded within the accounting frameworks ensures consistency on the processes and procedures that TCB are to put in place.

In the light of this, the preferred policy option has been to leverage on existing accounting standards (option 1.a).

Option 1.b has been disregarded as it would have required the definition of a fully-fledged process and further specification of relevant definitions. This would have required further investments for TCBs and brought additional burdens to keep different processes for accounting (where accounting requirements are already in place), reporting and booking arrangements purposes.

Policy issue 2: Contents of the registry book

Option 2.a: Providing a detailed list of information to be reported in the registry book, differentiated for any type of instruments booked, originated, and for off-balance sheet items.

Option 2.b: Requiring TCBs to determine the type of information to report and provide a list of minimum information that should be considered by TCBs.

For assessing this policy issue, due considerations have been given to the need to ensure proportionality and reduce implementation burden for TCBs.

It was considered that implementing option 2.a would have resulted, in practice, in not differentiating the requirements among TCBs which may vary significantly in terms of size, scale and complexity of the activity performed in the Member State. Moreover, this approach would have been rigid in terms of nature, granularity and quantity of the information to be provided for assets, liabilities and off-balance sheet items, disregarding the magnitude of TCBs' operations and the volume, nature and risks of the items booked or originated.

On the contrary, it was deemed that option 2.b ensures a more balanced approach, as the calibration of the information requirements would fall under the TCB's remit, allowing them to determine the requirements based on their size, internal organization and the scale, complexity and risks of their activities. In the meantime, this approach ensures a minimum harmonisation of the type of information to be provided in the registry book, as the draft RTS provide a minimum list of information TCBs need to assess in order determine its contents.

Considering the considerations above, the preferred policy option has been to require TCBs to determine the type of information to report and provide a list of minimum information that should be considered by TCBs (option 2.b).

Option 2.a has been disregarded as this approach would have required the definition of a rigid set of information to be provided by TCB, not differentiated for the different size, scale and complexity of the TCB activity, which would not be consistent with the proportionality principle and would result in unjustified burden for TCBs.

Policy issue 3: Information on risks

Option 3.a: introducing detailed information requirements differentiated for each type of risk, in line with the disclosure requirements envisaged by the accounting standards.

Option 3.b: Requiring TCBs to determine the type of information to report and provides a list of minimum information that should be considered by TCBs.

For assessing this policy issue, due considerations have been given to the need to ensure proportionality and reduce implementation burden for TCBs.

It was considered that with option 3.a, all TCBs would have been required to record in the registry book detailed information on the relevant risks arising from assets and liabilities booked or originated, as well as off-balance sheet items. Under this approach, TCBs of different size, scale and complexity would have been subject to the same requirements, not ensuring proportionality. Moreover, this approach would have required the definition of

relevant risk metrics to be used by TCBs to monitor and measure the risks of the TCB, not discriminating among different business models and complexity of TCBs and different risk management practices developed by different TCBs and, ultimately, going beyond the remit of the RTS since it is Article 48g of the CRD that deals with the internal governance and risk management arrangement, processes and mechanisms that TCBs should have in place. Therefore, it was considered that this approach would have resulted in not warranted additional burden for TCBs, which would have been required to develop ad-hoc risk management tools and indicators only to comply with the obligations set forth by the draft RTS.

On the contrary, it was deemed that option 3.b ensures to follow a more proportional approach, where the level of complexity and granularity of the information to be recorded in the registry book would fall under the remit of the TCBs, ensuring that the final requirements are commensurate to the scale, complexity of the activities of the TCBs and the risks associated to the assets, liabilities and off-balance sheet items of the TCB. Moreover, it was also considered that this approach ensures a minimum harmonization of the type of information to be provided in the registry book, as the draft RTS require TCBs to report quantitative and qualitative information on the risks the TCBs are exposed to, as well as on the risk management practices put in place by the TCB to monitor, manage, mitigate and reduce those risks. It was also considered that specific supervisory reporting needs were already addressed under Article 48k of the CRD. Therefore, it was evaluated that adopting a more flexible approach would better fulfil the objective for the registry book to effectively provide TCBs all necessary and relevant information regarding their generated risks.

In light of the above considerations, the preferred policy option has been to require TCBs to determine the type of information to report and provide a list of minimum information that should be considered by TCBs (option 3.b).

Option 3.a has been disregarded as this approach would have resulted in imposing the same requirements to the whole universe of TCBs, not differentiating for the different size, scale and complexity of the TCBs, which would have been not consistent with the objective to ensure a proportional approach and limiting undue burden.

5.2 Overview of questions for consultation

1. Is the proposed distinction between the concepts of “assets and liabilities booked” and “assets and liabilities originated” sufficiently clear?
2. Is the proposed concept of “off-balance sheet items” sufficiently clear?
3. Do you have any comments on the proposed bookkeeping requirements under paragraph 3?
4. Do you agree with the proposed treatment of intragroup exposures, including intragroup funding from the head undertaking? Is the treatment of these exposures sufficiently clear?
5. Do you agree with the proposed treatment and measurement of assets and liabilities originated?
6. Do you have any comments on the minimum content of the registry book proposed in Article 3?
7. Do you have any comments on the approach proposed to provide information in the registry book on the risks associated to the assets, liabilities and off-balance sheet items, and how they are managed?