

EBA/CP/2025/15

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# Consultation Paper

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Draft Regulatory Technical Standards

on cooperation and colleges of supervisors for third-country  
branches under Article 48p(7) of Directive 2013/36/EU

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# 1. Responding to this consultation

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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

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The draft regulatory technical standards (RTS) developed in accordance with the mandate from Article 48p(7) of Directive 2013/36/EU specify the mechanisms of cooperation and the conditions for the functioning of colleges of supervisors for competent authorities supervising third-country branches and subsidiary institutions of the same third-country group with a view of ensuring a more efficient and effective comprehensive supervision of third-country groups within the Union.

The draft RTS are built on the experience obtained over the years in the colleges of supervisors of credit institutions that have been established in accordance with Directive 2013/36/EU whilst recognising the specificities of the supervision of branches and subsidiaries of a third-country group.

The draft RTS are structured around two main chapters: (1) establishment and functioning of colleges of supervisors, and (2) requirements for cooperation and information exchange in cases where no college of supervisors needs to be established. The first chapter contains four sections: (i) establishment of colleges of supervisors, (ii) functioning of colleges of supervisors, (iii) planning and coordination of supervisory activities in going concern situations, and (iv) planning and coordination of supervisory activities in preparation for and during emergency situations, where:

- a. Section 1 helps to ensure a level playing field across the Member States (MS) in establishing the colleges of supervisors. In particular, it aims to ensure clarity and consistency in the process of mapping the structure of the third-country group in the Union to help competent authorities to determine if the criteria for the establishment of a college of supervisors under Directive 2013/36/EU have been met, and assists the lead competent authority in establishing the college of supervisors;
- b. Section 2 provides the set of requirements for the written coordination and cooperation arrangements for the efficient functioning of the college of supervisors and deals with practical details around the meetings and activities of the college of supervisors, the communication between the college, and the exchange of information with the subsidiary institutions and third-country branches;
- c. Section 3 specifies the information to be exchanged and cooperation between the competent authorities to be organised for the purpose of their supervisory tasks, such as the performance of the supervisory review and evaluation process (SREP), and the assessment of the systemic importance of a third-country branch. This section also introduces the requirements for exchanging information on early warning signs, potential risks and vulnerabilities, and the use of sanctions and other corrective measures;
- d. Section 4 sets out the requirements for the planning and coordination of supervisory activities in preparation for and during emergency situations. These provisions aim to

ensure that colleges establish an appropriate framework for information sharing and put their efforts into developing a coordinated supervisory assessment of emergency situations, agreeing on coordinated supervisory actions to address these situations, and monitoring the implementation of these actions in a coordinated way.

The second chapter is devoted to the requirements for the general cooperation and information exchange in cases where no college of supervisors needs to be established. This chapter aims to ensure clarity and consistency in the process of mapping the structure of the third-country group, establishing the written coordination and cooperation arrangements, and organising the cooperation and information exchange to facilitate the supervisory tasks for subsidiaries and third-country branches in going concern and during emergency situations.

## Next steps

The final draft RTS will be published after consultation and submitted to the European Commission.

## 3. Background and rationale

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### 3.1 Background

1. Title VI of Directive 2013/36/EU establishes a common prudential framework for third-country branches. The regulation of third-country branches to provide banking services in the EU has been subject to national law and only harmonized to a very limited extent previously while third-country branches have a significant and increasing presence in the Union banking markets. The purpose of the establishment of a harmonized regulatory framework for third-country branches is to address the fragmented regulatory landscape. The framework comprises minimum common requirements on authorisation, prudential standards, internal governance, supervision and reporting and sets out a framework for supervisory cooperation.
2. Article 48p of Directive 2013/36/EU requires competent authorities supervising third-country branches of the same third-country group to effectively exchange information and cooperate with each other to ensure third-country branches are subject to comprehensive supervision in the Union. The comprehensive supervision should allow to prevent the requirements applicable to third-country groups from being circumvented and to prevent any detrimental impact on the financial stability of the Union. In line with the proportionate approach, such cooperation is to be organized in the context of colleges of supervisors for third-country branches classified as class 1 under the criteria set out in Article 48p(2) of Directive 2013/36/EU. Where no college of supervisors needs to be established, the competent authorities supervising third-country branches and subsidiary institutions shall establish written arrangements to facilitate their cooperation and information exchange in accordance with Article 48p(1) of Directive 2013/36/EU.
3. Article 48p(7) of Directive 2013/36/EU requires the EBA to develop draft regulatory standards to specify the conditions for the functioning of colleges of supervisors for third-country branches, and the mechanisms of cooperation and the draft model arrangements between competent authorities for the general cooperation outside of the college context.
4. The EBA is required to submit these draft RTS to the European Commission by 10 January 2026.

## 3.2 Rationale

5. In terms of scope the draft RTS focus in line with the mandate on the colleges for the supervision of colleges that need to be established under Article 48p(2) points (b) and (c) of Directive 2013/36/EU for third-country branches classified as class 1 under Article 48a of Directive 2013/36/EU, and on the general cooperation between competent authorities supervising third-country branches and subsidiary institutions of the same third-country group under Article 48p(1) where no such college needs to be established.
6. In line with the direction set out in Directive 2013/36/EU, the EBA has taken a proportionate approach to the draft RTS on colleges of supervisors and cooperation for third-country branches. The aim is to provide clear common requirements for cooperation and information exchange both in the college context, and outside of the college context that are adapted to the specific nature, size, activities and context of third-country branches and subsidiaries. Whilst the draft RTS build on the experience gained by the EBA with the colleges of supervisors for credit institutions under Article 116 of 2013/36/EU, the approach is simplified and adapted to the context of third-country branches and subsidiaries. The proportionate approach has been taken in particularly with regards to the following elements:
  - a. a simple standard template is provided in Annex to the draft RTS for the mapping of the subsidiaries and third-country branches of the third-country group in the EU. The template focuses on the information items that are necessary for determining the need to establish a college of supervisors and is based on the data that should be available to competent authorities;
  - b. a simple college set-up is proposed in the draft RTS without the use of college substructures and with a focused membership for competent authorities of class 1 third-country branches and competent authorities of subsidiaries<sup>1</sup> in line with the Level 1 supplemented with flexibility for the lead competent authority to invite other authorities as observers to college meetings and activities. Competent authorities that are invited to become observers to the college have the possibility to opt out of becoming observers informing the competent authority of their decision and the underlying reasoning;
  - c. the minimum frequency for the update of the mapping of the subsidiaries and third-country branches of the third-country group in the EU has been set to at

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<sup>1</sup> Subsidiaries that are not subject to the set-up of a college under Article 116 of Directive 2013/36/EU.

least every three years. The mapping shall be updated more frequently where there are significant changes in the presence of the third-country group in the EU. The mapping can serve as the basis for the report the college of supervisors needs to prepare and update on an annual basis under Article 48p(4) of Directive 2013/36/EU on the structure and activities of the third-country group in the Union. It was opted not to align the frequency of the mapping update to the frequency of the update of the report as the requirement to perform ad hoc updates of the mapping should allow competent authorities to have an up-to-date mapping available at all times.

- d. the elements to be included in the written coordination and cooperation arrangements as set out in the draft RTS are focused and adapted to the specific context of the supervision of third-country branches. These items are aligned with the reporting items under Article 48k of Directive 2013/36/EU, and to the information needed to perform the tasks of the college of supervisors under Article 48p(4) of Directive 2013/36/EU. For the general cooperation outside of the college context the draft RTS provide for a more limited set of elements to be included in the written coordination and cooperation arrangements.

7. Whereas Article 48p of Directive 2013/36/EU is silent on the membership of the EBA to the college of supervisors, it does refer in point (6) to the role of the EBA in promoting and monitoring the efficient functioning of colleges in accordance with Article 21 of Regulation (EU) No 1093/2010. To facilitate this role of the EBA in the context of the colleges of supervisors for third-country branches, the draft RTS include the EBA among the members of the college of supervisors.
8. Under Article 48p(3) of Directive 2013/36/EU the lead competent authority, which is the competent authority of the Member State with the largest third-country branch in terms of total value of booked assets, has a role similar to the consolidating supervisor in the context of supervisory colleges under Article 116 of Directive 2013/36/EU. To ensure clarity and continuity throughout the process of the mapping, the set-up of the college of supervisors and the establishment of the written arrangements for the cooperation and coordination in case no college needs to be set up, the draft RTS assign a role to the 'lead competent authority' both within the context of the college of supervisors and for the general cooperation outside of the college context. In assigning tasks to the lead competent authority, the draft RTS aim to balance making the process and interactions as clear and efficient as possible without overburdening the lead competent authority.
9. The draft RTS have been prepared with the objective of fostering a more coordinated and efficient approach to cooperation between authorities involved in the supervision of



subsidiaries and branches of third-country group parent undertakings in the Union both in going concern and during emergency situations. The aim is to facilitate a more effective, efficient comprehensive supervision of the activities of these groups in the EU.

## 4. Draft regulatory technical standards

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## 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 mechanisms of cooperation and conditions for the functioning of colleges of supervisors**

**(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 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<sup>2</sup> and in particular to Article 48p(7) third subparagraph thereof,

Whereas:

- (1) The performance of the mapping of subsidiaries and third-country branches of a third-country group in the Union, their respective competent authorities, and their importance for the group and for the country in which they are authorised or established, is considered a vital element for the purposes of establishing the colleges of supervisors and identifying the members of the college of supervisors and potential observers.
- (2) The lead competent authority is to establish a college of supervisors in accordance with Article 48p(2), points (b) or (c) of Directive 2013/36/EU. For colleges of supervisors established under that Article, there is a need to ensure that the consolidating supervisor invites the competent authorities responsible for the supervision of subsidiary institutions of the third-country group, the competent authorities responsible for the supervision of class 1 third-country branches of the third-country group and the EBA as members of the college of supervisors. To enhance the cooperation and the exchange of information between the competent authorities responsible for the supervision of subsidiary institutions of the third-country group, the competent authorities responsible for the supervision of class 1 third-country branches of the third-country group, and other public authorities or bodies involved in the supervision of the third-country group, and to ensure the sharing of information for the fulfilment of their respective tasks, the lead competent authority could request the supervisory authority responsible for the supervision of the head undertaking of the third-country group, the competent authorities responsible for the supervision of class 2 third-country branches of the third-country group, the ECB for less significant institutions under Article 6(4) of Regulation (EU) No 1024/2013, the public authorities or bodies that are responsible for or involved in the supervision of subsidiaries and third-country branches of the third-

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<sup>2</sup> OJ L 176 27.6.2013, p. 338

country group in the Union, including 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 or terrorism financing, and the resolution authorities responsible for the subsidiaries and third-country branches as observers to the college of supervisors. To ensure that the professional secrecy requirements set out in Union law are met, third-country authorities should only be allowed to become observers of colleges of supervisors if they are subject to confidentiality requirements that are at least equivalent to those applicable in the Union.

- (3) Colleges of supervisors are a key tool for exchanging information, anticipating and dealing with emergency situations and facilitating an effective and efficient cooperation between competent authorities. To ensure consistency and enable the EBA to perform its tasks as provided for in Regulation (EU) No 1093/2010, it is appropriate for the EBA to be a member of the college of supervisors.
- (4) The written coordination and cooperation arrangements should provide a practical tool to facilitate the interaction between competent authorities and strengthen the efficiency of their cooperation in going concern and during emergency situations. The written coordination and cooperation arrangements should provide an adequate and appropriate basis for the competent authorities to exchange all information that is necessary to discharge their relevant functions and duties. The written coordination and cooperation arrangements should also clearly set out the framework for participation of the members and observers in the college.
- (5) The meetings of the college of supervisors are organised and chaired by the lead competent authority. The attendance of observers at a supervisory college meeting should depend, where relevant, on the topics to be discussed or addressed at that particular meeting.
- (6) To facilitate the collection and sharing of the relevant information within the college of supervisors, members of the college of supervisors should exchange all information necessary to facilitate the exercise of the tasks of the college of supervisors referred to in Article 48p(4) of Directive 2013/36/EU and of the members of the college of supervisors, in particular for the authorisation of third-country branches under Article 48c of Directive 2013/36/EU, the classification of third-country branches as class 1 under Article 48a(3) of Directive 2013/36/EU, the withdrawal of the authorisation of third-country branches under Article 48d of Directive 2013/36/EU, when competent authorities intend to use their powers to require a third-country branch to apply for authorisation as a subsidiary in accordance with Article 48i of Directive 2013/36/EU, for the assessment of the systemic importance of a third-country branch in accordance with Article 48j of Directive 2013/36/EU, and in the context of the supervisory review and evaluation process in accordance with Article 48p, paragraph 4, point (b) of Directive 2013/36/EU.
- (7) Members of the college should coordinate their activities in preparation for and during emergency situations, such as adverse developments which may seriously

jeopardise the orderly functioning and the integrity of the financial markets or the stability of the whole or part of the financial system of the Union, or other situations that affect or might explicitly affect the financial and economic situation of a third-country group or any of its subsidiaries and third-country branches in the EU. Therefore, the planning and coordination of the competent authorities' activities in preparation for and during emergency situations should include the exchange of quantitative information to identify early warning signs, potential risks and vulnerabilities, and early intervention measures.

- (8) When dealing with an emergency situation, college members, under the coordination of the lead competent authority, should aim to develop a coordinated supervisory assessment of the situation, agree on a coordinated supervisory response and monitor the implementation of their response, to ensure that the emergency situation is properly assessed and addressed.
- (9) In cases where no college of supervisors needs to be established in accordance with Article 48p(2) of Directive 2013/36/EU, the competent authorities supervising third-country branches and subsidiary institutions of the same third-country group need to have written coordination and cooperation arrangements in place to facilitate their cooperation and information exchange in accordance with Article 48p(1) in going concern, in preparation for and during emergency situations. The written coordination and cooperation arrangements need to set out the exchange of all information necessary to facilitate the exercise of the tasks of the competent authorities supervising third-country branches and subsidiary institutions of the same third-country group including for the authorisation of third-country branches under Article 48c of Directive 2013/36/EU, the classification of third-country branches as class 1 under Article 48a(3) of Directive 2013/36/EU, the withdrawal of the authorisation of third-country branches under Article 48d of Directive 2013/36/EU, when competent authorities intend to use their powers to require a third-country branch to apply for authorisation as a subsidiary in accordance with Article 48i of Directive 2013/36/EU, for the assessment of the systemic importance of a third-country branch in accordance with Article 48j of Directive 2013/36/EU, and in the context of the supervisory review and evaluation process in accordance with Article 48p, paragraph 4, point (b) of Directive 2013/36/EU.
- (10) To facilitate the collection and sharing of the relevant information within the college of supervisors, members of the college of supervisors should exchange all information necessary to facilitate the exercise of the tasks of the college of supervisors referred to in Article 48p(4) of Directive 2013/36/EU and of the members of the college of supervisors, in particular for the authorisation of third-country branches under Article 48c of Directive 2013/36/EU, the classification of third-country branches as class 1 under Article 48a(3) of Directive 2013/36/EU, the withdrawal of the authorisation of third-country branches under Article 48d of Directive 2013/36/EU, when competent authorities intend to use their powers to require a third-country branch to apply for authorisation as a subsidiary in accordance with Article 48i of Directive 2013/36/EU, for the assessment of the systemic importance of a third-country branch in accordance with Article 48j of Directive 2013/36/EU, and in the context of the supervisory review and evaluation

process in accordance with Article 48p, paragraph 4, point (b) of Directive 2013/36/EU.

- (11) This Regulation is based on the draft regulatory technical standards submitted to the Commission by the European Banking Authority.
- (12) 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 109x/2010 of the European Parliament and of the Council,<sup>3</sup>

HAS ADOPTED THIS REGULATION:

## **Chapter 1**

### **Establishment and functioning of colleges of supervisors referred to in Article 48p(2) points (b) and (c) of Directive 2013/36/EU**

## **SECTION 1**

### **ESTABLISHMENT AND FUNCTIONING OF COLLEGES OF SUPERVISORS**

#### *Article 1*

#### **Mapping of the third-country group in the EU**

1. The lead competent authority referred to in Article 48p(3) of Directive 2013/36/EU shall map the presence of the third-country group in EU Member States to identify:
  - (a) the subsidiary institutions; and
  - (b) the third-country branches
 of that third-country group.
2. For the purposes of paragraph 1, the following information shall be reflected in the mapping, as relevant:
  - (a) the Member States where subsidiary institutions and third-country branches of the same third-country group are established;
  - (b) the competent authority responsible for the supervision of the subsidiary institution or of the third-country branch;
  - (c) the importance of the subsidiary institution for the Member State where it is authorised and the criteria used by the competent authority to determine that importance, including but not limited to:

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<sup>3</sup> Regulation (EU) No 109x/2010 of the European Parliament and of the Council ...[+full title] (OJ L [number], [date dd.mm.yyyy], [p. ].).

- (i) the size of the subsidiary institution relative to the local market in terms of total assets and off-balance sheet items;
  - (ii) whether the market share of the subsidiary institution in terms of deposits exceeds 2 % in the Member State where it is authorised;
  - (iii) the likely impact of a suspension or closure of the operations of the subsidiary institution on systemic liquidity and the payment, clearing and settlement systems in the Member State where it is authorised;
  - (iv) the result of the assessment of systemic importance under Article 131(3) of Directive 2013/36/EU;
  - (d) the importance of the third-country branch for the Member State where that branch is authorised pursuant to Article 48c(1) of Directive 2013/36/EU and its classification pursuant to Article 48a of that Directive;
  - (e) whether the third-country branch has been assessed as being of systemic importance in accordance with Article 48j of Directive 2013/36/EU;
  - (f) the importance of the subsidiary institution and the third-country branch for the third-country group.
3. The mapping shall also identify the third-country where the head undertaking of the group is established and the supervisory authority responsible for the supervision of that head undertaking.
  4. The lead competent authority shall submit the draft mapping to the competent authorities referred to in Article 4(1) of this Regulation ('potential members of the college of supervisors') and shall invite those authorities to provide their views on the draft mapping, and indicate a deadline for the submission of those views.
  5. The lead competent authority shall consider any views expressed by the potential members of the college of supervisors.
  6. Upon finalisation, the lead competent authority shall communicate the mapping to all potential members of the college of supervisors.
  7. The lead competent authority shall update the mapping, in accordance with the procedure set out in paragraphs (4) to (6), at least every three years. The mapping shall be updated more frequently where there are significant changes in the presence of the third-country group in EU Member States.
  8. The lead competent authority shall use the template set out in Annex for the establishment and update of the mapping.
  9. Where a college of supervisors is established in accordance with Article 2 of this Regulation, the college of supervisors shall use the mapping as a basis to prepare the report in Article 48p, paragraph 4, point (a), and update it on an annual basis.

## *Article 2*

### **Establishment of college of supervisors**

1. When determining whether the establishment of a college of supervisors is needed, the lead competent authority shall take into account the mapping of the third-country group in the EU referred to in Article 1 and verify whether the

conditions set out in paragraph 48p(2), points (b) or (c) of Directive 2013/36/EU have been met.

2. Where any of the conditions set out in paragraph 48(p)(2), points (b) or (c) of Directive 2013/36/EU have been met, the establishment of a college shall be deemed appropriate.

### *Article 3*

#### **Members and observers of a college of supervisors**

1. The lead competent authority shall notify the following authorities of their membership in the college of supervisors:
  - (a) the competent authorities responsible for the supervision of subsidiary institutions of the third-country group;
  - (b) the competent authorities responsible for the supervision of class 1 third-country branches of the third-country group;
  - (c) EBA.
2. The lead competent authority shall, where appropriate and in addition to the members of the college of supervisors, invite the following authorities to participate in the meetings and activities of the college of supervisors as observers:
  - (a) the supervisory authority responsible for the supervision of the head undertaking of the third-country group, provided that it is subject to confidentiality requirements laid down in Article 116 of Directive 2013/36/EU;
  - (b) the competent authorities responsible for the supervision of class 2 third-country branches of the third-country group in accordance with Article 48a(1) of Directive 2013/36/EU;
  - (c) the ECB in the case of subsidiaries that are less significant institutions under Article 6(4) of Regulation (EU) No 1024/2013;
  - (d) the public authorities or bodies that are responsible for or involved in the supervision of a group entity or branch, including:
    - (i) the AML/CFT authority of host Member States;
    - (ii) authorities responsible for the supervision of markets in financial instruments;
  - (e) the designated authorities referred to in Article 48i(2) second sub-paragraph of Directive 2013/36, where appropriate;
  - (f) the resolution authorities responsible for the subsidiaries and third-country branches of the third-country group.
3. The lead competent authority shall provide a proposal to the members of the college of supervisors. That proposal shall contain the following:
  - (a) the authorities that the lead competent authority proposes to request to become observers of the college of supervisors ('the proposed observers');



- (b) a proposal for the terms of the participation of the observers;
  - (c) with regard to the supervisory authority responsible for the supervision of the head undertaking of the third-country group, the opinion of the lead competent authority on the assessment of the equivalence of the confidentiality requirements applicable to that supervisory authority.
4. In the proposal referred to in paragraph 3, the lead competent authority shall set an adequate deadline within which any disagreeing member of the college of supervisors may express in writing its fully reasoned objection to any of the elements of that proposal. If no objection has been expressed within that deadline, the members of the college of supervisors shall be deemed to have agreed on the proposal.
  5. Upon agreement of all members of the college of supervisors on the proposal referred in paragraph 3, the lead competent authority shall send the request to the proposed observers and shall set a deadline for its acceptance. The request shall be accompanied by the terms of the observer's participation.

The authority receiving a request shall acquire status as observer of the college of supervisors upon acceptance of the request and the terms of observer's participation or, if no objection has been raised within the deadline for the acceptance, upon the expiry of that deadline. Authorities receiving the request in the first sub paragraph may decide to decline becoming observers of the college and inform the lead competent authority of their decision providing information on its reasons by the deadline set by the lead competent authority.

#### *Article 4*

#### **Communication about the establishment and composition of a college of supervisors**

1. Where a college of supervisors has been established, the lead competent authority shall, without undue delay inform:
  - a) the members and observers of the college of supervisors, and
  - b) the head undertaking of the third-country group and the supervisory authority responsible for the supervision of that undertaking, if it is not an observer of the college

about the establishment of the college of supervisors, about the identity of its members and observers, as well as about any changes in the composition of that college.

## **SECTION 2**

### **FUNCTIONING OF COLLEGES OF SUPERVISORS**

#### *Article 5*

#### **Written coordination and cooperation arrangements**

1. The lead competent authority shall prepare a proposal for the conclusion of written coordination and cooperation arrangements referred to in Article 115 of Directive 2013/36/EU which shall include the following elements:

- (a) information on the overall structure of the group concerned, covering all group entities and branches in the Union;
  - (b) identification of the members and observers of the college of supervisors;
  - (c) the terms of the participation of observers in the college of supervisors having regard to Article 17 of this Regulation, including:
    - (i) involvement of the observers in meetings and activities of the college of supervisors, and in emergency situations;
    - (ii) rights and obligations of observers with regard to the information to be exchanged and the relevant procedure for the exchange of information between the lead competent authority and the observers;
    - (iii) the provision of the information received from the observers towards members of the college of supervisors;
  - (d) the arrangements for the exchange of information including the scope of the information, the frequency of the exchange and secure channels of communication in accordance with Article 26 of this Regulation;
  - (e) the arrangements for the treatment of confidential information in accordance with Article 27 of this Regulation;
  - (f) the arrangements for the planning and coordination of supervisory activities in going concern situations;
  - (g) the arrangements for the planning and coordination of supervisory activities in preparation for and during emergency situations, including contingency planning, communication tools and procedures;
  - (h) agreed procedures and timeframes for circulating the documents for meetings of the college of supervisors;
  - (i) any other agreement between the members of the college of supervisors, including agreed indicators for identifying the early warning signs, potential risks and vulnerabilities;
2. The lead competent authority shall communicate the proposed written coordination and cooperation arrangements to the members of the college of supervisors and shall invite them to provide their views, and indicate a deadline for the submission of those views.
  3. For the purposes of finalising the written coordination and cooperation arrangements, the lead competent authority shall take into account any views expressed by the members of the college of supervisors and explain, if necessary, the reason for not incorporating those views.
  4. Upon finalisation, the lead competent authority shall communicate the written coordination and cooperation arrangements to the members of the college of supervisors.
  5. The lead competent authority and the members of the college of supervisors shall, where necessary, amend the written coordination and cooperation arrangements.

*Article 6***Contact lists of a college of supervisors**

1. The lead competent authority shall establish and maintain:
  - a) a contact list containing full contact details of the members and observers of the college of supervisors, and
  - b) an emergency contact list containing full contact details and out-of-hours contact details of the members and observers of the college of supervisors, to be used during emergency situations.

The lead competent authority shall communicate those contact lists to the members and observers of the college of supervisors.

The contact list and emergency contact list shall be annexed to the written coordination and cooperation arrangements referred to in Article 5 of this Regulation.

2. For the purposes of paragraph 1, the members and observers of the college of supervisors shall provide their contact details and out-of-hours contact details to the lead competent authority and shall inform the lead competent authority of any changes in those details without undue delay.

*Article 7***Meetings and activities of a college of supervisors**

1. The lead competent authority shall organise and chair the meetings of the college of supervisors. The lead competent authority shall set the frequency for the meetings of the college of supervisors with a minimum frequency of one meeting every year.
2. The lead competent authority shall decide whether the meeting is convened in physical or in virtual format, based on the objectives of the meeting.
3. When deciding which authorities shall participate in a meeting or in an activity of the college of supervisors, in accordance with Article 3, the lead competent authority shall take into account the following:
  - (a) the topics to be discussed, the activities to be undertaken, and the objectives of the meeting or activity, in particular with regard to their relevance for each subsidiary institution or third-country branch and for the performance of the tasks of the observers;
  - (b) the importance of the subsidiary institution, third-country branch or third-country group for the Member State where a subsidiary or a third-country branch of the third-country group is established, and its relevance for the third-country group.
4. The lead competent authority may invite the observers of the college of supervisors only to those specific agenda items of a meeting or activity that are relevant for the performance of the tasks of the observers, taking into account Article 3.

5. The lead competent authority shall send the proposed agenda of the meeting to all the members of the college of supervisors and to those observers participating in the meeting, and shall invite them to propose any additional agenda items.
6. The lead competent authority shall take into account any proposals on agenda items made by the members and observers referred to in the first subparagraph and where those proposals are not incorporated, it shall explain the reason on request.
7. The lead competent authority and the members and observers of the college of supervisors that are involved in a particular meeting or activity shall exchange documents and contributions to working documents well in advance of the meeting or activity.
8. The lead competent authority and the members of the college of supervisors shall, based on the topics discussed and objectives pursued, ensure that the most appropriate representatives of the relevant competent authorities participate in meetings or activities of the college of supervisors. Those representatives shall have the power to commit their authorities as members of the college of supervisors, to the maximum extent possible, for the decisions planned for the meetings or activities.
9. The lead competent authority may, based on the topics and objectives of the meeting or activity, invite representatives of third-country group subsidiary institutions or third-country branches to participate in a meeting or an activity of the college of supervisors.

#### *Article 8*

#### **Exchange of information with the subsidiary institutions and third-country branches**

1. The lead competent authority and each member of the college of supervisors shall be responsible for communicating to and requesting information from the subsidiary institutions and third-country branches under their supervisory remit.
2. The lead competent authority or a member of the college of supervisors that exceptionally intends to communicate information to, or request information from, a subsidiary institution or a third-country branch outside its supervisory remit, shall inform the competent authority responsible for supervising that institution or branch thereof in advance.

### **SECTION 3**

#### **PLANNING AND COORDINATION OF SUPERVISORY ACTIVITIES IN GOING CONCERN SITUATIONS**

#### *Article 9*

#### **General principles for the exchange of information within the college of supervisors**

1. The lead competent authority and the members of the college of supervisors shall exchange all information that is necessary to facilitate the exercise of their functions and duties.
2. The information referred to in paragraph 1 shall include all relevant information, whether received from a group entity or a branch, a competent or supervisory authority, or any other source and shall be exchanged in an adequate, accurate and timely manner.
3. In case a request for information is submitted by the lead competent authority or any member of the college, that request shall include at least the following:
  - (a) the purpose of the request, and a description of the facts underlying it;
  - (b) any information known to, or in the possession of the authority requesting the information that might assist the authority receiving the request in fulfilling the request;
  - (c) the supervisory competences that are relevant to the subject matter of the request.
4. The lead competent authority and the members of the college of supervisors shall agree on the means for the exchange of information and shall specify that agreement in the written coordination and cooperation arrangements referred to in Article 5.

#### *Article 10*

#### **Information to be exchanged between the lead competent authority and the members of the college of supervisors**

1. The lead competent authority and the members of the college of supervisors shall exchange information, at least on the following elements, as relevant:
  - a) financial information of the subsidiary institutions and third-country branches, in particular:
    - i. Total assets and liabilities booked or originated in the respective Member States;
    - ii. Profit and loss statements;
    - iii. Off-balance sheet commitments.
  - b) information on the key components of solvency and liquidity prudential ratios of the subsidiary institutions and third-country branches;
  - c) the risk management arrangements of the subsidiary institutions and third-country branches;
  - d) the governance arrangements of the subsidiary institutions and third-country branches, including information on board members, branch managers and key function holders, and the outcome of the fit and proper assessment, as applicable.

At any point in time, the lead competent authority or any member of the college may also, based on the information available in the ESAs

Information System on persons who are subject to a fitness and propriety assessment, reach out to the relevant member of the college that has assessed the suitability of a given person in the past.

- e) information on deposit protection arrangements available to depositors of the subsidiary institutions and third-country branches, as applicable;
- f) information on the third-country group and its head undertaking, in particular:
  - i. aggregated information on the assets and liabilities held or booked, respectively, by the subsidiaries and third-country branches of that third-country group in the Union;
  - ii. the head undertaking's compliance with the applicable prudential requirements on an individual and consolidated basis;
  - iii. significant supervisory reviews and assessments, when those are conducted on the head undertaking, and the consequent supervisory decisions;
  - iv. the specific measures that could be taken on the third-country branches in accordance with the recovery plans of the head undertaking, as applicable;
  - v. the head undertaking's business strategy in relation to the third-country branches and any subsequent changes to that strategy;
  - vi. the services provided by the head undertaking to clients established or situated in the Union on the basis of reverse solicitation of services in accordance with Article 21c where available;
  - vii. Information on the structure and activities of the third-country group in Member States, including its booking models and arrangements;
  - viii. Information of the strategy of the third-country group, with a focus on its presence in the EU and how this strategy fit with the overall one;
  - ix. Information on whether any critical or important functions of the subsidiary institutions or third-country branches are carried out by the head undertaking of the third-country group;
  - x. The size of eligible deposits covered by the host deposit guarantee scheme of the third-country branch relative to the total capacity of the deposit guarantee scheme.
2. Where there is a change in the information provided in accordance with this Article, the lead competent authority and the members of the college of supervisors shall exchange updated information in a timely manner.

### *Article 11*

#### **Exchange of information on the authorisation and classification of a third-country branch in a Member State**

1. Where a third-country branch has been authorised in a Member State, or where any member of the college of supervisors plans to withdraw the authorisation of a

- third-country branch, the relevant competent authority shall notify the lead competent authority without undue delay.
2. The lead competent authority shall immediately forward this notification to the other members of the college of supervisors.
  3. The relevant competent authority shall notify the outcome of the withdrawal procedure to the lead competent authority that shall forward this information to the other members of the college of supervisors.
  4. Where a competent authority has classified a third-country branch as class 1 in accordance with Article 48a(1) of Directive 2013/36/EU or has updated the classification of a third-country branch in accordance with Article 48a(3) of that Directive, the relevant competent authority shall notify the lead competent authority without undue delay.
  5. The lead competent authority shall update the mapping referred to in Article 1 of this Regulation to add the new class 1 third-country branch or to update the classification of the third-country branch. The lead competent authority shall revise the membership of the college of supervisors to include the relevant competent authority of the class 1 third-country branch in accordance with Article 3 of this Regulation.

#### *Article 12*

##### **Exchange of information in the context of requiring a third-country branch to apply for authorisation as a subsidiary**

1. Where a member of the college of supervisors plans to use its power to require a third-country branch to apply for authorisation as a subsidiary in accordance with Article 48i of Directive 2013/36/EU, the relevant competent authority shall notify the lead competent authority and provide the reasoning for planning to require the establishment of a subsidiary.
2. The lead competent authority shall immediately forward this notification with the reasoning to the other members of the college of supervisors.
3. The lead competent authority and the members of the supervisory college shall express, without undue delay, views and possible concerns related to the plan to require the establishment of a subsidiary.
4. The relevant competent authority shall adopt its decision taking into account views and possible concerns expressed under paragraph 3.
5. The relevant competent authority shall notify its decision to the lead competent authority that shall forward this information to the other members of the college of supervisors.

#### *Article 13*

##### **Exchange of information for the assessment of the systemic importance of a third-country branch**

1. When a competent authority participating in the college of supervisors assesses the systemic importance of a third-country branch in accordance with Article 48j



of Directive 2013/36/EU, it shall consult the college of supervisors for its assessment.

2. The relevant competent authority shall share its reasoned assessment of the systemic importance of the third-country branch with the members of the college in accordance with Article 48j, paragraph 3 of Directive 2013/36/EU.
3. Where the relevant competent authority considers that a third-country branch has systemic importance, the relevant competent authority shall inform the college members of any targeted requirements imposed on the third-country branch in accordance with Article 48j, paragraph 4 of Directive 2013/36/EU. Where the relevant competent authority decides not to exercise those powers, the relevant competent authority shall provide a reasoned notification to the members of the college in accordance with Article 48j, paragraph 4 of Directive 2013/36/EU.

#### *Article 14*

#### **Exchange of information on the supervisory review and evaluation process**

1. In accordance with Article 48p, paragraph 4, point (b) of Directive 2013/36/EU, the lead competent authority and the members of the college of supervisors shall exchange information on the results of the supervisory review and evaluation carried out in accordance with Article 97 and Article 48n of Directive 2013/36/EU. That information shall include the following:
  - (a) the results of the business model analysis, including the assessment of the viability of current business model and sustainability of institution's forward-looking business strategy;
  - (b) the results of the assessment of the internal governance arrangements and institution-wide controls;
  - (c) the results of the assessment of individual risks to institution's capital, covering the following:
    - (i) inherent individual risks;
    - (ii) risk management and controls;
  - (d) the capital adequacy assessment and the assessment of the risk of excessive leverage, including proposed additional own funds required pursuant to Article 104(1), point (a) of Directive 2013/36/EU, and additional capital endowment amount pursuant to Article 48o, paragraph 2, point (a) of Directive 2013/36/EU;
  - (e) the results of the assessment of the risks to institution's liquidity and funding, covering the following:
    - (i) liquidity risk and funding risk;
    - (ii) liquidity and funding risk management;
  - (f) the liquidity adequacy assessment, including proposed quantitative and qualitative liquidity measures pursuant to Article 105 and Article 48o, paragraph 2, point b of Directive 2013/36/EU and in view of Article 48p, paragraph 4, point c of Directive 2013/36/EU;



- (g) other supervisory measures, including supervisory measures pursuant to Article 102 of Directive 2013/36/EU and Article 48o of Directive 2013/36/EU, or early intervention measures taken or planned to address the inefficiencies identified as a result of the supervisory review and evaluation in view of Article 48p, paragraph 4, point c of Directive 2013/36/EU;
- (h) results of the supervisory stress tests carried out in accordance with 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 subsidiaries and third-country branches in the Union.

#### *Article 15*

#### **Exchange of information on early warning signs, potential risks and vulnerabilities**

1. The lead competent authority and the members of the college of supervisors shall exchange quantitative information to identify early warning signs, potential risks and vulnerabilities. The information shall be based on the information collected by the competent authorities in accordance with Article 48k and 48l of Directive 2013/36/EU.
2. In addition to the information referred to in paragraph 1, the lead competent authority and the members of the college of supervisors shall identify risks and vulnerabilities for the group and its entities by exchanging 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 that may have the potential to jeopardise the market liquidity and the stability of the financial system in the Member States where subsidiaries of a group or significant branches are established and that may adversely impact the subsidiaries of the group or its significant branches.
3. Where a subsidiary or third-country branch of the third-country group 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 lead competent authority and the members of the college of supervisors shall provide each other with the following information:
  - (a) whether conditions for application of early intervention measures are met;
  - (b) whether early intervention measures for the group or any of the group entities are taken or planned in accordance with Articles 27 and 30 of Directive 2014/59/EU;
  - (c) an indication of the potential consequences of those early intervention measures.

*Article 16***Exchange of information with regard to non-compliance, sanctions and other corrective measures**

1. The members of the college of supervisors shall inform the lead competent authority about any situation in respect of which those members have determined that a subsidiary or a third-country branch of the third-country group under their supervisory remit:
  - (a) has not complied with Regulation (EU) No 575/2013 and Directive 2013/36/EU;
  - (b) is subject to administrative penalties or other administrative measures that have been imposed in accordance with Articles 64 to 67 of Directive 2013/36/EU.

The lead competent authority shall communicate the relevant information as received from the members of the college of supervisors or, as applicable, from the branch under its own supervisory remit, to the members of the college of supervisors for whom that information is relevant.
2. Based on the information exchanged in accordance with paragraph 1, the lead competent authority and the members of the college of supervisors shall discuss the possible impact of the issues of non-compliance and sanctions referred to in paragraph 1 for the subsidiaries and third-country branches of the third-country group concerned or for the group as a whole.

*Article 17***Exchange of information between the lead competent authority and the observers of the college of supervisors**

1. Where the information referred to in Articles 11 to 17 is relevant for the performance of the tasks of the observers, the lead competent authority shall communicate that information to the relevant observers.

*Article 18***Event of adverse material effect on the risk profile of the group or its entities**

1. The lead competent authority, the relevant members of the college of supervisors, shall exchange quantitative and qualitative information on any event of adverse material effect in institutions or in other entities of a group that could seriously affect the institutions as referred to in Article 117(1), point (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 subsidiaries in the Union that are important in accordance with Article 2(2) or its significant branches, competent authorities shall assess the consequences of such event on the group and 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 subsidiaries and third-country branches in the Union and whether the subsidiaries and third-country branches in the

Union continue to comply with 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 and the potential systemic impact.
3. Upon being alerted of an event of adverse material effect on the risk profile by any member of the college of supervisors, or after having identified such event, the lead competent authority shall inform the members of the college of supervisors that supervise group entities or significant branches that are affected or likely to be affected by that event, and EBA. Observers, in particular the resolution authorities of the subsidiaries and third-country branches of the third-country group in the Union, shall be informed if the information is relevant for the performance of their tasks.
  4. The lead competent authority and the members of the college of supervisors that 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. Based on the outcome of the assessment of the event of adverse material effect referred to in paragraph 2 and the foreseen evolution of that event, the lead competent authority and the relevant members of the college of supervisors may coordinate the development of a coordinated supervisory response.

## **SECTION 4**

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

#### *Article 19*

#### **College framework for emergency situations**

1. The lead competent authority and the members of the college of supervisors shall establish a college framework in anticipation of possible emergency situations in accordance with Article 112(1), point (c), of Directive 2013/36/EU ('college framework for emergency situations'), taking into account the specific features and structure of the group of institutions.
2. The college framework for emergency situations shall include the following:
  - (a) the college-specific procedures that are to apply where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises;
  - (b) the minimum information that is to be exchanged where an emergency situation as referred to in Article 114(1) of Directive 2013/36/EU arises.
3. The minimum information referred to in paragraph 2, point (b), shall include the following:
  - (a) an outline of the emergency 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 of the Union;

- (b) an explanation of the measures and actions that have been taken or are planned, by the consolidation supervisor or any of the members of the college of supervisors or by the group entities themselves in response to the emergency situation;
- (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*

##### **Exchange of information during an emergency situation**

1. The lead competent authority and the members and observers of the college of supervisors 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. When alerted of an emergency situation by any member or observer of the college of supervisors, or after having identified an emergency situation, the lead competent authority shall communicate the information referred to in Article 19(2), point (b) of this Regulation, following the procedures established in accordance with point (a) of that paragraph, to the members of the college of supervisors that supervise group entities or branches affected or likely to be affected by the emergency situation, and to EBA.
3. Depending on the nature, severity, potential systemic impact or other impact, and on the likelihood of contagion of the emergency situation, the members of the college of supervisors that supervise group entities or branches affected or likely to be affected by that emergency situation and the lead competent authority may exchange additional information.
4. Where the information referred to in paragraphs 2 and 3 is relevant for the performance of the tasks of observers, the lead competent authority shall communicate that information to those observers.

#### *Article 21*

##### **Coordination of the supervisory assessment of an emergency situation**

1. Where an emergency situation occurs, the lead competent authority shall coordinate and prepare the assessment of the emergency situation ('coordinated supervisory assessment') in cooperation with the members of the college of supervisors that supervise group entities or branches affected or likely to be affected by that emergency situation.
2. The coordinated supervisory assessment of the emergency situation, shall cover the following:
  - (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. For the purposes of paragraph 2, point (c), the lead competent authority shall consider the potential systemic consequences in any of the Members States where entities of the group or branches are established.

#### *Article 22*

##### **Coordination of the supervisory response to an emergency situation**

1. Where an emergency situation occurs, the lead competent authority shall coordinate the development of a supervisory response to the emergency situation ('coordinated supervisory response') in cooperation with the members of the college of supervisors that supervise group entities or branches affected or likely to be affected by that emergency situation.
2. The coordinated supervisory response shall be based on the coordinated supervisory assessment referred to in Article 21 and shall specify the supervisory actions needed, their scope, and the timetable for their implementation.
3. The coordinated supervisory response shall take into account any input provided by the resolution authorities of the subsidiaries and third-country branches of the third-country group.
4. The lead competent authority and the members of the college of supervisors that supervise group entities or branches affected or likely to be affected by the emergency situation shall monitor and exchange information on how the coordinated supervisory response is to be implemented.

#### *Article 23*

##### **Coordination of external communication in an emergency situation**

1. The lead competent authority and the members of the college of supervisors that supervise group entities or branches affected or likely to be affected by the emergency situation shall coordinate to the extent possible their external communications.

### **Chapter 2**

**Requirements for cooperation and information exchange between competent authorities supervising third-country branches and subsidiary institutions of a third-country group referred to in Article 48p(1) of Directive 2013/36/EU where no college of supervisors is in place under Article 48p(2) and Article 116 of Directive 2013/36/EU**

#### *Article 24*

##### **Establishment of written coordination and cooperation arrangements**

1. Where the lead competent authority determines that no college of supervisors needs to be established in accordance with paragraph 48p(2), points (b) or (c) of

Directive 2013/36/EU, following the mapping under Article 1 of this Regulation, the lead competent authority as defined in Article 48p(3) of Directive 2013/36 shall prepare a proposal for the conclusion of written coordination and cooperation arrangements referred to in Article 115 of Directive 2013/36/EU to facilitate the cooperation between the competent authorities responsible for the supervision of subsidiaries and third-country branches of the third-country group in the Union.

2. The lead competent authority shall include the following competent authorities in the scope of the written coordination and cooperation arrangements:
  - (a) the competent authorities responsible for the supervision of subsidiary institutions of the third-country group;
  - (b) the competent authorities responsible for the supervision of third-country branches of the third-country group;
3. The lead competent authority shall prepare a proposal for the conclusion of written coordination and cooperation arrangements referred to in Article 115 of Directive 2013/36/EU which shall include the elements as laid out in Article 25 of this Regulation.
4. The lead competent authority shall communicate the proposed written coordination and cooperation arrangements to the authorities in paragraph 2 and shall invite them to provide their views, and indicate a deadline for the submission of those views.
5. For the purposes of finalising the written coordination and cooperation arrangements, the lead competent authority shall take into account any views expressed by the members of the college of supervisors and explain, if necessary, the reason for not incorporating those views.
6. Upon finalisation, the lead competent authority shall communicate the written coordination and cooperation arrangements to the authorities in paragraph 2.
7. The lead competent authority and the authorities in paragraph 2 shall, where necessary, amend the written coordination and cooperation arrangements.

#### *Article 25*

##### **Written coordination and cooperation arrangements**

1. The lead competent authority shall include the following elements in the written coordination and cooperation arrangements referred to in Article 115 of Directive 2013/36/EU and Article 25 of this Regulation:
  - (a) information on the overall structure of the group concerned, covering all group entities and branches in the Union;
  - (b) the authorities referred to in Article 24, paragraph 2 of this Regulation that conclude the written coordination and cooperation arrangements;
  - (c) the arrangements for the exchange of information including the scope of the information, the frequency of the exchange and secure channels of communication in accordance with Article 26 of this Regulation;

- (d) the arrangements for the treatment of confidential information in accordance with Article 27 of this Regulation;
  - (e) the arrangements for the planning and coordination of supervisory activities in going concern situations;
  - (f) the arrangements for the planning and coordination of supervisory activities in preparation for and during emergency situations, including contingency planning, communication tools and procedures;
  - (g) any other agreement between the members of the college of supervisors, including agreed indicators for identifying the early warning signs, potential risks and vulnerabilities;
2. The authorities referred to in Article 25, paragraph 2 of this Regulation shall inform the lead competent authority of their contact persons and contact information and of any changes without undue delay. These authorities shall inform the lead competent authority of the emergency contact details of persons within the competent authorities who are responsible for handling emergency situations and of any changes without undue delay.
  3. The lead competent authority shall add the contact details and emergency contact details of the authorities referred to in Article 24, paragraph 2 of this Regulation in annex to the written coordination and cooperation arrangements.

#### *Article 26*

##### **Exchange of information**

1. Competent authorities shall organise the cooperation and information exchange under Article 115 of Directive 2013/36/EU in an efficient and timely manner and competent authorities shall avoid unnecessary duplication of efforts.
2. Competent authorities shall exchange on request and on own initiative information gathered or created in the exercise of their tasks that is relevant for the exercise of the other competent authorities' tasks.
3. Competent authorities shall exchange information in written or electronic form and shall address the information to the relevant contact persons identified in the contact list referred to in Article 25, paragraph 2 of this Regulation unless specified otherwise by the competent authority requesting information.

#### *Article 27*

##### **Treatment of confidential information**

1. In accordance with the confidentiality requirements laid down in Title VII, Chapter 1, Section II, of Directive 2013/36/EU, competent authorities shall treat the information exchanged under the cooperation in accordance with Article 115 of Directive 2013/36/EU as confidential and in compliance with the applicable laws governing data protection.
2. Competent authorities shall use the information received in the context of the cooperation in accordance with Article 115 of Directive 2013/36/EU only for the performance of their duties and tasks.



3. Competent authorities shall disclose the confidential information received in the context of the cooperation in accordance with Article 115 of Directive 2013/36/EU only as permitted under Union law and after obtaining prior consent from the competent authority from which the confidential information originated.

#### *Article 28*

#### **Exchange of information on subsidiary institutions and third-country branches**

1. Competent authorities shall exchange information under Article 115 of Directive 2013/36/EU on the following elements, as relevant:
  - a) financial information of the subsidiary institutions and third-country branches, in particular:
    - i. Total assets and liabilities booked or originated in the respective Member States;
    - ii. Profit and loss statements;
    - iii. Off-balance sheet commitments.
  - b) information on the key components of solvency and liquidity prudential ratios of the subsidiary institutions and third-country branches;
  - c) the risk management arrangements of the subsidiary institutions and third-country branches;
  - d) the governance arrangements of the subsidiary institutions and third-country branches, including information on board members, branch managers and key function holders, and the outcome of the fit and proper assessment, as applicable.
 

At any point in time, the lead competent authority or any member of the college may also, based on the information available in the ESAs Information System on persons who are subject to a fitness and propriety assessment, reach out to the relevant member of the college that has assessed the suitability of a given person in the past.
  - e) the specific measures that could be taken on the third-country branches in accordance with the recovery plans of the head undertaking, as applicable;
  - f) information on deposit protection arrangements available to depositors of the subsidiary institutions and third-country branches, as applicable;
  - g) information on the third-country group and its head undertaking, in particular:
    - i. aggregated information on the assets and liabilities held or booked, respectively, by the subsidiaries and other third-country branches of that head undertaking's group in the Union;
    - ii. the head undertaking's compliance with the applicable prudential requirements on an individual and consolidated basis;



- iii. significant supervisory reviews and assessments, when those are conducted on the head undertaking, and the consequent supervisory decisions;
- iv. the specific measures that could be taken on the third-country branches in accordance with the recovery plans of the head undertaking, as applicable;
- v. the head undertaking's business strategy in relation to the third-country branches and any subsequent changes to that strategy;
- vi. the services provided by the head undertaking to clients established or situated in the Union on the basis of reverse solicitation of services in accordance with Article 21c where available;
- vii. Information on the structure and activities of the third-country group in Member States, including its booking models and arrangements;
- viii. Information of the strategy of the third-country group, with a focus on its presence in the EU and how this strategy fit with the overall one;
- ix. Information on whether any critical or important functions of the subsidiary institutions or third-country branches are carried out by head undertaking of the third-country group.

#### *Article 29*

#### **Exchange of information on the authorisation and classification of a third-country branch in a Member State**

1. Where a third-country branch has been authorised in a Member State, or where any member of the college of supervisors plans to withdraw the authorisation of a third-country branch, the relevant competent authority shall notify the lead competent authority without undue delay.
2. The relevant competent authority shall notify the outcome of the withdrawal procedure to the lead competent authority without undue delay.
3. Where a competent authority has classified a third-country branch as class 1 in accordance with Article 48a(1) of Directive 2013/36/EU or has updated the classification of a third-country branch in accordance with Article 48a(3) of that Directive, the relevant competent authority shall notify the lead competent authority without undue delay.
4. The lead competent authority shall update the mapping under Article 1 of this Regulation to add the new class 1 third-country branch or to update the classification of the third-country branch. The lead competent authority shall revise whether a college of supervisors needs to be established in accordance with Article 2 of this Regulation.

*Article 30***Exchange of information in the context of requiring a third-country branch to apply for authorisation as a subsidiary**

1. Where a competent authority plans to use its power to require a third-country branch to apply for authorisation as a subsidiary in accordance with Article 48i of Directive 2013/36/EU, the relevant competent authority shall notify the lead competent authority and provide the reasoning for planning to require the establishment of a subsidiary.
2. Where no college of supervisors is established in accordance with Article 2 of this Regulation, the lead competent authority shall immediately forward this notification with the reasoning to the competent authorities in Article 24, paragraph 2 of this Regulation.
3. The lead competent authority and the competent authorities shall express, without undue delay, views and possible concerns related to the plan to require the establishment of a subsidiary.
4. The relevant competent authority shall adopt its decision taking into account views and possible concerns expressed under paragraph 3.
5. The relevant competent authority shall notify its decision to the lead competent authority that shall forward this information to the competent authorities referred to in Article 24 paragraph 2 of this Regulation.
6. The lead competent authority and the competent authorities shall consult each other for the assessment of the systemic importance of a third-country branch in accordance with Article 48j of Directive 2013/36/EU.

*Article 31***Exchange of information for the assessment of the systemic importance of a third-country branch**

1. Where no college of supervisors is established in accordance with Article 2 of this Regulation, for the assessment of systemic importance of a third-country branch in accordance with Article 48j of Directive 2013/36/EU, the competent authority shall consult the EBA and the competent authorities of the Member States where the relevant third-country group has established other third-country branches or subsidiary institutions in accordance with paragraph 3 of Article 48j of Directive 2013/36/EU.
2. The relevant competent authority shall share its reasoned assessment of the systemic importance of the third-country branch with the EBA and the competent authorities of the Member States where the relevant third-country group has established other third-country branches or subsidiary institutions in accordance with Article 48j, paragraph 3 of Directive 2013/36/EU.
3. The relevant competent authority shall share inform the EBA and the competent authorities of the Member States where the relevant third-country group has established other third-country branches or subsidiary institutions the college members of any targeted requirements imposed on the third-country branch in accordance with Article 48j, paragraph 4 of Directive 2013/36/EU. Where the

relevant competent authority decides not to exercise its powers under Article 48j of Directive 2013/36/EU, the relevant competent authority shall provide a reasoned notification to the EBA and the competent authorities of the Member States where the relevant third-country group has established other third-country branches or subsidiary institutions in accordance with Article 48j, paragraph 4 of Directive 2013/36/EU.

#### *Article 32*

##### **Exchange of information on the supervisory review and evaluation process (SREP)**

1. The competent authorities referred to in Article 24, paragraph 2 of this Regulation shall exchange information on the results of the supervisory review and evaluation process (SREP) performed in accordance with Article 97 and Article 48n of Directive 2013/36/EU.

#### *Article 33*

##### **Exchange of information with regard to non-compliance, sanctions and other corrective measures**

1. The competent authorities referred to in Article 24, paragraph 2 of this Regulation shall inform each other where they have determined that an institution or a branch under their supervisory remit:
  - (a) has not complied with Regulation (EU) No 575/2013 and Directive 2013/36/EU;
  - (b) is subject to administrative penalties or other administrative measures that have been imposed in accordance with Articles 64 to 67 of Directive 2013/36/EU.

#### *Article 34*

##### **Cooperation in emergency situations**

1. The competent authorities in Article 24, paragraph 2 of this Regulation shall cooperate closely with each other in emergency situations.

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**

Mapping template

## 5. Accompanying documents

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### 5.1 Draft cost-benefit analysis / impact

#### Introduction

Article 48p of Directive (EU) 2013/36/EU provides the legal requirements for the cooperation and information exchange between competent authorities supervising third-country branches and subsidiary institutions of the same third-country group. Paragraph 7 of this Article mandates the EBA with the development of draft regulatory technical standards to specify:

- (a) the mechanisms of cooperation and information exchange between competent authorities supervising subsidiaries and third-country branches of the same third-country group; and
- (b) the conditions for the functioning of colleges of supervisors for class 1 third-country branches.

As per Article 10(1) of Regulation (EU) No 1093/2010 (EBA Regulation), any RTS developed by the EBA shall be accompanied by an Impact Assessment (IA), which analyses ‘the potential related costs and benefits’. This analysis should provide an overview of the findings regarding the problem to be dealt with, the solutions proposed and the potential impact of these options.

#### A. Problem identification

Title VI of Directive 2013/36/EU establishes a common prudential framework for third-country branches. The regulation of third-country branches to provide banking services in the EU has been subject to national law and only harmonized to a very limited extent previously while third-country branches have a significant and increasing presence in the Union banking markets. The purpose of the establishment of a harmonized regulatory framework for third-country branches is to address the fragmented regulatory landscape.

Article 48p of Directive 2013/36/EU requires competent authorities supervising third-country branches of the same third-country group to effectively exchange information and cooperate with each other to ensure third-country branches are subject to comprehensive supervision in the Union. The comprehensive supervision should allow to prevent the requirements applicable to third-country groups from being circumvented

and to prevent any detrimental impact on the financial stability of the Union. Such cooperation is to be organized in the context of colleges of supervisors for third-country branches classified as class 1 under the criteria set out in Article 48p(2) of Directive 2013/36/EU. Where no college of supervisors needs to be established, the competent authorities supervising third-country branches and subsidiary institutions shall establish written arrangements to facilitate their cooperation and information exchange in accordance with Article 48p(1) of Directive 2013/36/EU.

Effective and efficient cooperation and information exchange, inside and outside of the college context, plays a crucial role to ensure information flows and coordination between competent authorities involved in supervising entities of the same third-country group. It also assists in achieving convergence of supervisory practices and ensuring a level playing field for third-country branches across the Union.

## B. Policy objectives

The draft RTS provide competent authorities with practical details for the organisation of an effective and efficient cooperation and information exchange in the context of colleges of supervisors set up in accordance with Article 48p(2) of Directive 2013/36/EU, and through the general cooperation organised in accordance with Article 48p(1) of that Directive.

The aim is to achieve effective supervision of third-country branches across the Union, by ensuring close cooperation and sharing of information between competent authorities supervising branches and subsidiaries of the same third-country group in different Member States.

The draft RTS provide practical details about the establishment of supervisory colleges for class 1 third-country branches, and the organisation of its meetings and activities as well as the communication within the college.

For the general cooperation, the draft RTS provide clear guidance for the establishment of written cooperation and coordination arrangements as a tool to organise efficient cooperation and information exchange between competent authorities supervising branches and subsidiaries of the same third-country group for which no college of supervisors needs to be established under Article 48p(2) or Article 116 of Directive 2013/36/EU.

The draft RTS aim to foster efficient and effective coordination of supervisory activities and information exchange in going concern and emergency situations both in the context of colleges of supervisors, and through the general cooperation. Providing a clear

structure for the cooperation and information exchange assists competent authorities to develop a good understanding of the risk profile and vulnerabilities of the individual third-country branches and subsidiaries under their supervision as well as the interconnectedness with the third-country group and its activities in the Union.

The requirements provided in the draft RTS are expected to contribute to a harmonised implementation of the prudential framework for third-country branches, and to promote a more coherent approach to the consistent and effective implementation of policy tools across the Union.

### C. Baseline scenario

Without the establishment of colleges of supervisors, or general cooperation through written cooperation and coordination arrangements, it is more complicated for competent authorities to develop a good understanding of the risk profile and vulnerabilities of the third-country branch or subsidiary under their supervision, and their interconnectedness with the third-country group and its activities in the Union. Moreover, without a clear structure for cooperation and information exchange between competent authorities, it is more difficult for them to supervise each individual component of the group. Such structure, whether established through colleges of supervisors, or through general cooperation based on written cooperation and coordination arrangements allows to increase the efficiency of supervision by sharing information relevant to the respective tasks of the competent authorities, removing unnecessary duplications of information requests, and facilitating the consultation of other competent authorities in exercising supervisory tasks such as for the assessment of the systemic importance of a third-country branch in accordance with Article 48j of Directive 2013/36/EU.

### D. Options considered

In the process of developing the draft RTS, the EBA considered whether to address the mandate through detailed and highly prescriptive technical standards providing an extensive framework for supervisory cooperation, or through the provision of focused technical standards providing an effective and proportionate framework for supervisory cooperation.

### E. Cost-Benefit Analysis

#### Option 1: Detailed, highly prescriptive and extensive framework for cooperation



Under this option, a detailed and extensive framework would be put in place for the supervisory cooperation for third-country branches, including extensive requirements for the functioning of the college of supervisors and for the information exchange. This option could be disruptive with the current practices of cooperation and information exchange for third-country branches and could represent an excessive burden to the lead competent authority and to the other competent authorities involved in the supervisory cooperation.

### Option 2: Focused and proportionate framework for cooperation

This option ensures the provision of a focused and proportionate framework for supervisory cooperation while taking into account the specific context of third-country branches. The draft RTS aim at ensuring the effectiveness of the cooperation and information exchange between competent authorities in a focused and proportionate manner without prescribing the modalities for such cooperation in an overly detailed or extensive manner.

Thus, for the colleges of supervisors to be established under Article 48p(2) of Directive 2013/36/EU, the draft RTS provide a simple college structure focused on class 1 third-country branches in line with Article 48p with the flexibility for the lead competent authority to invite competent authorities of class 2 third-country branches as observers to the college.

Potential observers to the college of supervisors are provided with the possibility to opt out of participating as observers providing the reasoning for their decision. Having regard to the less significant role observers are expected to play, the possibility for observers to opt-out of the college participation can be justified for proportionality reasons.

The elements included in the information exchange both in colleges of supervisors and in the context of the general cooperation are aligned to items third-country branches are required to report periodically under CRD Article 48k and to information available to supervisors through their supervisory tasks allowing for a focused exchange of available information without being an excessive burden for competent authorities.

### Overall impact assessment

Overall, the implementation of the draft RTS entails one-off costs for competent authorities, mainly driven by strengthening the current modalities of cooperation and information exchange and establishing the college of supervisors or the general cooperation through the written coordination and cooperation arrangements.

On the benefit side, increased cooperation and information exchange will achieve a more effective supervisory activity based on a broader set of information and increase the knowledge of the risks faced by the third-country branch and by the third-country group as a whole.

The following sections tackle the cost-benefit analysis of the specific areas covered in the draft RTS.

### Mapping exercise

In annex to the draft RTS a simplified template is provided to facilitate the task of mapping the structure of the third-country group in the Union, allowing competent authorities to focus on the entities relevant for the cooperation and colleges of supervisors for third-country branches under Article 48p of Directive 2013/36/EU.

For proportionality reasons, the frequency for updating the mapping has been set to at least every three years and in case of relevant changes, allowing to alleviate the burden on the lead competent authority while still allowing the college to have an updated mapping available.

The cost of the mapping exercise is expected to mainly arise from compiling the information from the competent authorities involved in the supervision of the third-country group within the Union, in particular for the first iteration of the mapping. The option to update the mapping on an ad hoc basis where needed and at least every three years rather than on an annual basis should costs and efforts for the lead competent authority and the college members for keeping the mapping up-to-date.

College members would benefit from an up-to-date mapping that ensures all relevant authorities can be invited to the college of supervisors or to be part of the general cooperation. The mapping can also be used by the college of supervisors as a basis to prepare the annual report on the structure and activities of the third-country group in the Union in accordance with Article 48p(4) of Directive 2013/36/EU.

### Establishment and functioning of colleges

The draft RTS set out a simple process and structure for the establishment of colleges of supervisors for third-country branches under Article 48p(2) of Directive 2013/36/EU. The draft RTS focus the scope of the college of supervisors on the class 1 third-country branches in line with Article 48p with the flexibility for the lead competent authority to invite competent authorities of class 2 third-country branches as observers to the college.

A minimum frequency of one college meeting per year has been set in the draft RTS although the lead competent authority has the flexibility to organize the meeting in a virtual or physical format.

The cost related to establishing a college of supervisors for third-country branches is expected to arise mainly at the time of the establishment and the development of the written coordination and cooperation arrangements. The draft RTS provide a clear list of elements to be included in the written coordination and cooperation arrangements, and do not provide a fixed schedule for updating these arrangements which would incur additional costs and efforts for the lead competent authorities and the college members and observers.

The benefits of the guidance provided by the draft RTS to establish a college of supervisors for third-country branches with a standardized set of elements to be included in its written coordination and cooperation arrangements will facilitate the efficient set up and functioning of the college of supervisors in going concern and emergency situations. It will also allow for a consistent approach to the college functioning across the Union.

#### Information exchange and coordination in going concern situations

The draft RTS provide a focused list of information items to be exchanged in going concern situations, tailored to the specific situation of third-country branches. The elements to be included in the written coordination and cooperation arrangements are aligned with the reporting items under Article 48k of Directive 2013/36/EU, and to the information needed to perform the tasks of the college of supervisors under Article 48p(4) of Directive 2013/36/EU. For the general cooperation outside of the college context, the draft RTS provide for a more limited set of elements to be included in the written coordination and cooperation arrangements.

It is expected for additional costs to arise from the preparation, communication and analysis of information in relation to the exchange of information which might previously not have been shared between competent authorities.

The benefits of exchanging targeted information as set out in the written coordination and cooperation arrangements will be that competent authorities will now receive relevant information specifically for the third-country branches. This is expected to facilitate the performance of their tasks, reduce the number of information requests to the supervised entities, the third-country group and other authorities, and support competent authorities in developing a common risk profile of the group.

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

The draft RTS require competent authorities to inform each other, both in the colleges of supervisors, and in the context of the general cooperation, on cases of non-compliance by a third-country branch or subsidiary under their supervisory remit or if they have imposed administrative penalties or other administrative measures.

The costs related to this information exchange are expected to be limited in view of its ad hoc, non-recurring nature.

The benefits of this information exchange is that it allows other competent authorities involved in supervising entities of the same third-country group to assess the possible impact of the issues of non-compliance and the use of administrative penalties or other administrative measures on the third-country branches and subsidiaries under their respective supervision and on the third-country group as a whole.

### Information exchange and coordination in emergency situations

The draft RTS set out a list of elements to be included in the written coordination and cooperation arrangements for colleges of supervisors and in the context of the general cooperation in terms of arrangements for cooperation and information exchange in preparation for and during emergency situations. The written coordination and cooperation arrangements shall also contain an emergency contact list with out-of-hours contact details of the persons within the competent authorities who are responsible for handling emergency situations.

The costs related to the information exchange and coordination in emergency situations would arise from establishing the written coordination and cooperation arrangements, in particular start-up costs and aligning internal procedures to the written coordination and cooperation arrangements. Also costs are expected to incur for the cooperation requirements during emergency situations where supervisory cooperation needs to be conducted in a timely and secure manner.

The benefits would arise from agreeing on a framework for cooperation and information exchange in emergency situations in an ex ante manner which will aid the identification of emergency situations and enable the response to be conducted and coordinated in a more efficient and timely manner while enhancing the cooperation between authorities.

## F. Preferred option

Option 2 is the preferred option.

## 5.2 Overview of questions for consultation

Question 1: Do you consider that the provisions on the establishment and functioning of colleges of supervisors for third-country branches set out in Chapter 1 are appropriate and sufficiently clear?

Question 2: Do you consider that the provisions on the general cooperation and information exchange for the supervision of third-country branches (outside of the college context) set out in Chapter 2 are appropriate and sufficiently clear?

Question 3: Do you consider that the draft RTS provide an appropriate level of proportionality adapted to specific context and nature of third-country branches?