

EBA/GL/2017/14

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Final report on

Guidelines on supervision of significant branches

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Executive summary

These guidelines are adopted with a view to specifying how the consolidating supervisor, the home and host competent authorities should, within the framework of supervisory colleges established either under Article 116 or under Article 51(3) of Directive 2013/36/EU (Capital Requirements Directive – CRD), cooperate to prudentially supervise and coordinate monitoring, including the assessment of recovery planning, of certain significant branches requiring intensified supervision ('significant-plus' branches).

To assess whether a branch should be classified as 'significant-plus', an 'intensification test' is put in place: the consolidating supervisor and the home and host competent authorities should perform a common assessment and arrive at a common conclusion on the basis of certain parameters whether a branch that has been determined to be significant in accordance with Article 51 of Directive 2013/36/EU and that performs critical functions within the meaning of Directive 2014/59/EU, is also important for the group or institution or is of importance for the financial stability of the host Member State where the branch operates.

Essentially, a branch that is significant under Article 51 of Directive 2013/36/EU and that performs critical functions that is assessed either as important for the institution or the group or as important for the financial stability of the host Member State should be deemed 'significant-plus', which would entail a coordinated approach to its prudential supervision. The organisation of prudential supervision and the assessment of recovery planning for such significant-plus branches should be performed in accordance with these guidelines.

These guidelines apply to the prudential supervision of significant-plus branches of Union institutions established in another Member State. The guidelines do not apply in relation to branches of institutions having their head offices in a third country, with their supervision being covered by Articles 47 and 48 of Directive 2013/36/EU.

These guidelines do not interfere with the tasks and responsibilities conferred on the consolidating supervisor and the home and host competent authorities by Directives 2013/36/EU and 2014/59/EU but merely aim to establish a framework for effective and efficient cooperation within colleges of supervisors for exercising those tasks and discharging those responsibilities.

Furthermore, these guidelines do not limit in any form the freedom of institutions to establish branches in other Member States, nor do they introduce an additional burden on those branches that are deemed significant-plus within the meaning of these guidelines.

Therefore, the guidelines elaborate on the existing legal frameworks on the operation of colleges of supervisors, on information exchange between home and host competent authorities, and on concluding joint decisions as set out in the pertinent Commission Regulations: in this regard, the guidelines endeavour to achieve the best possible outcomes of the supervision and recovery planning of those significant-plus branches.

Where a branch is determined to be significant-plus, the approach to supervision introduced by these guidelines entails that:

- (a) the branch should be adequately reflected in the institution's supervisory review and evaluation process (SREP);
- (b) the college's supervisory and examination programme (SEP) should make specific reference thereto;
- (c) regular on-the-spot checks and inspections should be organised by the consolidating supervisor and the home and host competent authorities, as should meetings with the branch management;
- (d) supervisory intelligence should be extensively shared within the college framework among the consolidating supervisor and the home and host authorities to ensure that properly intensified supervision and recovery planning is achieved;
- (e) the application of supervisory and precautionary measures taken in relation to that branch should be coordinated within the college framework, including macroprudential measures the voluntary reciprocal application of which should be considered;
- (f) consistency of communication across the group, institution and branch should be ensured;
- (g) the institution's or group's recovery planning should endeavour to properly reflect the significant-plus branch; and
- (h) to achieve all this, an efficient task allocation mechanism should be employed within the supervisory college and the possibility of delegation of tasks should also be examined.

Where dissenting views arise among competent authorities on issues relating to these guidelines, the authorities involved should endeavour to seek the EBA's opinion.

Next steps

The guidelines will be translated into the official EU languages and published on the EBA website. The deadline for competent authorities to report whether they comply with the guidelines will be two months after the publication of the translations. The guidelines will apply from 1 January 2018.

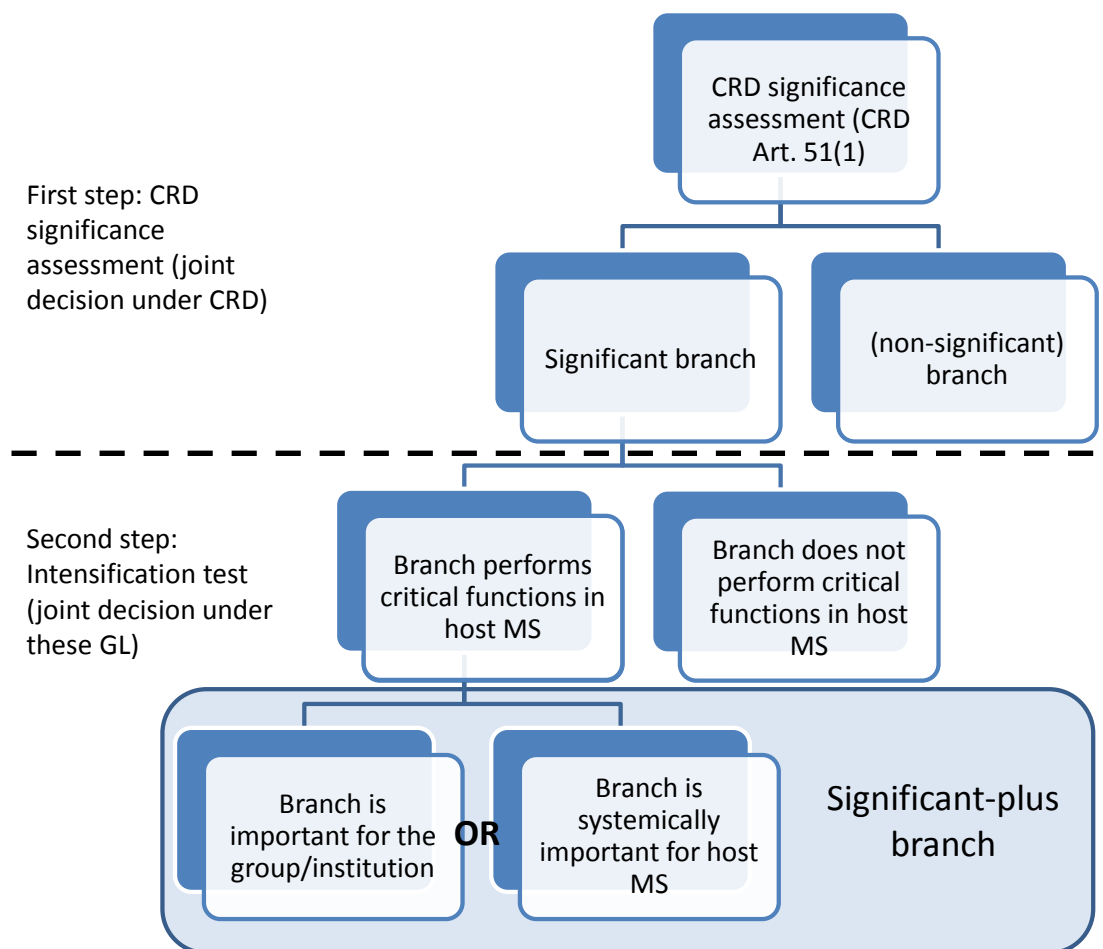
Background and rationale

1. The relevant legal framework for the prudential supervision of branches, including the assessment of recovery planning, is set out, primarily, in Directives 2013/36/EU¹ and 2014/59/EU².
2. According to the relevant legislation, the ultimate responsibility for the prudential supervision of a branch, including the assessment of recovery planning, lies with the competent authority of the home Member State. However, the competent authority of the host Member State and the consolidating supervisor of the pertinent group have tasks and competences that are relevant in this respect. The competent authority of the host Member State has, to the extent set forth in Directive 2013/36/EU, the responsibility for the supervision of a branch in relation to financial stability and market conduct, including anti-money laundering and counter-terrorist financing, as well as protection of consumers.
3. There is therefore a need to issue guidelines, on the basis of Articles 16 and 21 of the EBA Regulation³, to harmonise the prudential supervisory framework and achieve consistency by specifying how the consolidating supervisor and the home and host competent authorities should, within the framework of supervisory colleges established either under Article 116 or under Article 51(3) of Directive 2013/36/EU, cooperate to carry out prudential supervision and coordinate monitoring, including the assessment of recovery planning, of certain branches requiring intensified supervision ('significant-plus' branches, for the purposes of these guidelines).
4. These guidelines do not address aspects other than prudential supervision, although the EBA notes that the consolidating supervisor and the home and host competent authorities should cooperate and coordinate their activities in all aspects of supervision in accordance with sectoral legislation.
5. To assess whether a branch that has been designated significant in accordance with Article 51 of Directive 2013/36/EU should also be classified as 'significant-plus' for the purposes of these guidelines, competent authorities should carry out a common assessment and endeavour to reach a common conclusion on its outcomes. In this common assessment, or 'intensification test', competent authorities need to establish, for branches that have been designated significant in accordance with Article 51 and that perform critical functions within the meaning of Directive 2014/59/EU, the branch's importance for the group or the institution and its importance for the financial stability of the host Member State (see chart below).

¹ OJ L 176/338.

² OJ L 173/90.

³ OJ L 331/12.



6. These guidelines have been developed on the basis of the collegiate structure, having regard to the fact that supervision of branches that are significant under Article 51 of Directive 2013/36/EU already presupposes such a structure as is clear from paragraph 3 of that Article, in accordance with which, where a college of supervisors under Article 116 of Directive 2013/36/EU has not been established, the competent authorities supervising an institution with significant branches in other Member States ‘shall establish and chair a college of supervisors’.
7. Therefore, the scope of these guidelines is limited to those significant branches, in terms of Article 51 of Directive 2013/36/EU, whose intensification test has resulted in their being identified as ‘significant-plus’. Only Section 4.1 of these guidelines applies to all institutions’ branches, which should be assessed with regard to their importance for the institution and the group and whether they perform critical functions by the consolidating supervisor or the home competent authority independently of the assessment made by the host competent authority in accordance with Article 51 of Directive 2013/36/EU.
8. These guidelines apply to the prudential supervision of significant-plus branches of Union institutions established in another Member State. The guidelines do not apply in relation to branches of institutions having their head offices in a third country, with their supervision being covered by Articles 47 and 48 of Directive 2013/36/EU.

9. Furthermore, these guidelines do not address situations where both the institution and its branch are located in a Member State participating in the Single Supervisory Mechanism (SSM). Within the SSM, the respective supervisory responsibilities of the European Central Bank (ECB) and the national competent authorities are allocated on the basis of Council Regulation (EU) No 1024/2013 (the SSM Regulation). In accordance with the SSM Regulation, notably Article 17, the provisions set out in these guidelines in relation to the cooperation between competent authorities from different Member States for conducting supervision on a consolidated basis do not apply to the extent that the ECB is the only competent authority involved.
10. These guidelines do not interfere with the tasks and responsibilities conferred on the consolidating supervisor and the home and host competent authorities by the relevant legislation, but aim to establish a framework for effective and efficient cooperation within colleges of supervisors for exercising those tasks and discharging those responsibilities.
11. Furthermore, these guidelines do not limit in any form the freedom of institutions to establish branches in other Member States, nor do they introduce an additional burden on those branches that are deemed significant-plus within the meaning of these guidelines.
12. The guidelines elaborate on the existing framework on the operation of college of supervisors as set out in the relevant Commission Delegated and Implementing Regulations⁴ to provide further guidance on how colleges should work to achieve the best possible outcomes of the supervision and recovery planning of significant-plus branches.
13. The guidelines also have regard to the Commission Delegated and Implementing Regulations on information exchange⁵ and the Commission Implementing Regulations on Joint Decisions⁶. It is on the basis of those Regulations and under the general college framework that guidance is provided on how supervision and the assessment of the recovery planning of significant-plus branches should be organised to ensure best practice.
14. The consolidating supervisor and the home and host competent authorities should agree on the timeline and the process for the performance of the intensification test, and on the preparation of the common conclusion on whether this test is satisfied.
15. As part of the intensification test, the consolidating supervisor or the home competent authority is expected to be primarily responsible for checking whether the branch is important for the group or institution, whereas the host competent authority is expected to be primarily responsible for determining how important the branch is for the financial stability of the host Member State. Where the consolidating supervisor or the home competent authority judges that the branch satisfies the intensification test criteria but the host competent authority does not apply the process set out in Article 51 of Directive 2013/36/EU, the branch cannot be

⁴ Commission Delegated Regulation (EU) 2016/98, OJ L 21/2 and Commission Implementing Regulation (EU) 2016/99, OJ L 21/21.

⁵ Commission Delegated Regulation (EU) No 524/2014, OJ L 148/6, and Commission Implementing Regulation (EU) No 620/2014, OJ L 172/1.

⁶ Commission Implementing Regulation (EU) No 2016/100, OJ L 21/45, and Commission Implementing Regulation (EU) No 710/2014, OJ L 188/19.

determined to be significant-plus. However, the consolidating supervisor or the home competent authority should endeavour to communicate its views to the host competent authority.

16. Where, on the other hand, a branch that has been determined to be significant in accordance with Article 51 of Directive 2013/36/EU and that performs critical functions is regarded either by the consolidating supervisor or by the home competent authority as important for the group or the institution, or by the host competent authority as important for the financial stability of the host Member State, this branch should be deemed to be significant-plus and these guidelines should be fully applied for its supervision and the assessment of recovery planning.
17. In terms of the application of SREP, the group risk assessment or the SREP report of an institution should provide a distinct and noticeable reference to the supervisory assessment of any significant-plus branch, including an assessment of the material risks that the branch is or might be exposed to, the branch's business model and strategy, and the risks that the branch poses to the financial system in the host Member State (the branch risk assessment). This branch risk assessment should be included as an annex to the group risk assessment report or to the SREP report in a similar fashion to that in which SREP reports for subsidiaries of the group are included. The introduction of such branch risk assessments reflects established practices on the part of the supervisors of systemically important branches, and does not lead to any new obligations for institutions vis-à-vis the internal capital adequacy assessment process (ICAAP) or the internal liquidity adequacy assessment process (ILAAP). It should be noted, however, that, although institutions are not expected to produce individual ICAAP or ILAAP information covering such significant-plus branches and their risks, the institutions' ICAAP and ILAAP should duly cover significant-plus branches and adequately reflect their risk exposures, as well as the capital and liquidity allocated to cover such exposures.
18. The consolidating supervisor or the home competent authority should ensure that the branch risk assessment captures the assessment of all SREP elements that are relevant to the significant-plus branch and provide an overview of any findings of on-site inspections and on-the-spot checks performed by the competent authorities of the home and host Member States relevant for the risk assessment of the institution or the financial system in the host Member State. Furthermore, the college SEP should, in the case of a significant-plus branch, take into account the outcome of that branch's risk assessment.
19. With regard to on-the-spot checks and inspection of branches, to the extent that they are planned in advance, they should be included in the college SEP. In order to ensure that the consolidating supervisor and the home and host competent authorities have an overview of planned on-the-spot checks and inspections of branches, even those that are not performed on a joint basis, and to avoid duplication of supervisory efforts and requests to institutions, the college SEP should, as far as practicable, include information on all such activities organised by either the home or the host competent authority, and their scope, timing and planned resources.
20. As regards information exchange, the consolidating supervisor and the home and host competent authorities involved in the supervision of significant-plus branches should ensure

that they share all the information pertaining to the group, the institution or the branch that is adequate, accurate and relevant for the branch's effective and efficient supervision. Competent authorities should also coordinate the application of supervisory measures and precautionary measures taken in relation to the branch, within the framework of colleges of supervisors. Furthermore, the consolidating supervisor and the home competent authority should consider the information regarding macroprudential measures received from the host competent authority for the purposes of deciding whether to extend the measures to the entire institution under the provisions of voluntary reciprocity of macroprudential measures.

21. In terms of communication with institutions and branches, the consolidating supervisor and the home and host competent authorities should strive to ensure that the messages communicated to the institution or the group concerning the branch are consistent. When communicating with the significant-plus branch, and, in particular, requesting information needed for the performance of its tasks in accordance with the applicable legislation, including these guidelines, the host competent authority should inform and coordinate with the consolidating supervisor or the home competent authority.
22. In terms of recovery planning, the consolidating supervisor or the home competent authority should prepare the overall assessment of the group recovery plan or the institution's recovery plan reflecting the input received from host competent authorities of significant-plus branches into this assessment, and should consult on the overall assessment with host authorities within the timeline established in the college for the joint decision on the assessment of recovery plans.
23. Moreover, these guidelines provide that a task allocation mechanism should be established within the college's operational framework. The mechanism should avoid duplication of tasks, optimise supervisory resources, employ all available intelligence and expertise, succeed in removing unnecessary burdens on the supervised institutions and reflect supervisory expertise in terms of technical skills and knowledge of the local market. The consolidating supervisor and the home and host competent authorities should agree on the terms of the task allocation and duly reflect them in the college's written coordination and cooperation arrangements. They should also examine the legal and operational feasibility of delegating tasks with a view to establishing this as an appropriate task allocation mechanism.
24. Where dissenting views arise among competent authorities on issues relating to these guidelines, those authorities should endeavour to file with the EBA a request as referred to in Article 31(c) of Regulation (EU) No 1093/2010. Where a request has been filed, all the competent authorities involved should provide adequate information to the EBA, including arguments supporting their distinct views, to enable the EBA to form an opinion on the disputed issues; all the competent authorities involved should subsequently endeavour to take into account the EBA's opinion.

Guidelines

EBA/GL/2017/14

Guidelines

on supervision of significant branches

1. Compliance and reporting obligations

Status of these guidelines

1. This document contains guidelines issued pursuant to Article 16 of Regulation (EU) No 1093/2010⁷. In accordance with Article 16(3) of Regulation (EU) No 1093/2010, competent authorities and financial institutions must make every effort to comply with the guidelines.
2. Guidelines set out the EBA's view of appropriate supervisory practices within the European System of Financial Supervision or of how Union law should be applied in a particular area. Competent authorities as defined in Article 4(2) of Regulation (EU) No 1093/2010 to whom guidelines apply should comply by incorporating them into their practices as appropriate (e.g. by amending their legal framework or their supervisory processes), including where guidelines are directed primarily at institutions.

Reporting requirements

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

⁷ Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC, (OJ L 331, 15.12.2010, p. 12).

2. Subject matter, scope and definitions

Subject matter

5. These guidelines specify how the consolidating supervisor and the home and host competent authorities should, within the framework of colleges of supervisors established either under Article 116 or under Article 51(3) of Directive 2013/36/EU⁸, cooperate to supervise and coordinate the exercise of their powers referred to in Title V, Chapter 4 and Title VI, Chapters 1 and 3 of the Directive and in Title II, Section 2 of Directive 2014/59/EU⁹ in relation to branches of Union institutions established in another Member State.

Addressees

6. These guidelines are addressed to competent authorities as defined in point (i) of Article 4(2) of Regulation (EU) No 1093/2010¹⁰.

Definitions

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

⁸ OJ L 176/338.

⁹ OJ L 173/90.

¹⁰ OJ L 176/1.

3. Implementation

Date of application

8. These guidelines apply from 1 January 2018.

Assistance in application

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

4. Assessment of branch significance and intensification test

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

4.1 Branch significance and mapping: initial assessment and updates

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

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

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

4.2 Supervisory intensification test for significant branches

4.2.1 The process of the intensification test

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

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

4.2.2 Criteria for the intensification test

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

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

guidelines¹¹ when applied to branch-specific data, where they are available. Given the extent of the integration of branches and the support received from institutions, competent authorities could also consider setting higher thresholds for O-SII scoring for the purpose of identifying branches that satisfy the intensification test.

¹¹ EBA Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU in relation to the assessment of other systemically important institutions (EBA/GL/2014/10).

5. Ongoing supervision of significant-plus branches

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

5.1 Branch risk assessment

34. The consolidating supervisor and the home and host competent authorities should ensure that the significant-plus branch is subject to effective and efficient supervisory assessment under the supervisory review and evaluation process (SREP) applied to the institutions and the group in accordance with Article 97 of Directive 2013/36/EU and the EBA's *Guidelines on common procedures and methodologies for SREP*¹². In particular, the consolidating supervisor or the home competent authority should ensure that the group risk assessment or the SREP report of an institution referred to in Commission Implementing Regulation (EU) No 710/2014 includes a distinct and noticeable reference to the supervisory assessment of any significant-plus branch, including an assessment of the material risks that the branch is or might be exposed to, the branch's business model and strategy, and the risks that the branch poses to the financial system in the host Member State (the branch risk assessment).
35. This branch risk assessment should be included as an annex to the group risk assessment report or the SREP report for the institution.
36. Institutions or significant-plus branches should not be required to prepare branch-specific ICAAP or ILAAP information. The consolidating supervisor or the home competent authority should ensure that the institution's ICAAP and ILAAP information collected in accordance with the EBA's *Guidelines on ICAAP and ILAAP information collected for SREP purposes*¹³ duly covers significant-plus branches and adequately reflects their risks exposures, as well as the capital and liquidity allocated to cover those risks. For that purpose, the consolidating supervisor or the home competent authority should ensure that an institution a branch of which has satisfied

¹² EBA/GL/2014/13.

¹³ EBA/GL/2016/10.

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

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

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

5.2 Coordination of activities and supervisory examination programme

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

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

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

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

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

so, the initiator should inform the invited authority about the scope of the activity in order to allow it to make an informed decision.

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

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

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

5.4 Information needed for the supervision of significant-plus branches

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

Commission Implementing Regulation (EU) No 620/2014, ensure that they share at least, in a proportionate and appropriate manner, adequate information on the following items:

- (a) internal and, where available, external audit reports and the institution's internal risk reports focusing on the branch's position within the institution and on the risks taken by the institution through the significant-plus branch;
- (b) liquidity reports from the institution collected in accordance with Article 415 of Regulation (EU) No 575/2013;
- (c) any relevant information that either the home or host competent authority obtained from the institution while developing the branch risk assessment in accordance with Section 5.1 of these guidelines;
- (d) reports summarising the findings of on-the-spot checks and inspections of the branch undertaken either by the consolidating supervisor or the home or host competent authority in accordance with Section 5.3 of these guidelines, focusing on the branch's position within the group and on the risks taken by the institution through the significant-plus branch;
- (e) information on branch-specific supervisory and other measures taken or planned by the consolidating supervisors or the home competent authority (see also Section 5.5);
- (f) any precautionary measures taken by the host competent authority based on Article 43 of Directive 2013/36/EU and measures taken based on Article 50(4) of that Directive (see also Section 5.5);
- (g) information on upcoming major changes affecting the branch, such as changes in the IT system or business model of the institution, and any relevant business continuity and contingency arrangements;
- (h) information regarding operational events, including any substantial faults or disruptions in services provided to customers, in payment services or in IT systems insofar as relevant to the branch, including cyber or information security attacks and threats, as well as disruptions or faults damaging or jeopardising the capacity of the branch to continue its business activities or fulfil its obligations as a payment systems and payment services provider;
- (i) information regarding strategies or business plans relating to the future operations of the branch, including but not limited to any offering of significant new products or services not covered by Article 39 of Directive 2013/36/EU;
- (j) documentation emanating from the application of Articles 143, 151(4) and (9), 283, 312 and 363 of Regulation (EU) No 575/2013;

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

5.5 Application of supervisory measures and sanctions

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

provisions on voluntary reciprocity for macroprudential measures set out by the European Systemic Risk Board (ESRB)¹⁴.

62. When deciding on reciprocating macroprudential measures applied in a host Member State to an institution operating through a branch, the consolidating supervisor or the home competent authority should also consider the following:
- (a) the type, scope and nature of the macroprudential measures, and whether they are 'Pillar 1 type measures' (e.g. changes to risk weights in accordance with Article 124 of Regulation (EU) No 575/2013) or 'Pillar 2 type measures' (e.g. a risk weight floor applied in accordance with Article 103 of Directive 2013/36/EU);
 - (b) the scope and nature of the operations of the branch, and in particular whether its operations or exposures would have been affected by the macroprudential measure, if operations or exposures were undertaken by an institution when operating in the host Member State through a subsidiary rather than a branch;
 - (c) the macroprudential framework and any existing macroprudential measures in the home Member State that are applicable to the institution (and therefore to its branches), and whether these are aimed at addressing the same risk as the measures applied by the host competent authority;
 - (d) the recommendations of the ESRB setting minimum standards for reciprocity in macroprudential matters¹⁵.

5.6 Communication framework for a significant-plus branch

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

¹⁴ See the ESRB's Recommendation on the assessment of cross-border effects of and voluntary reciprocity for macroprudential policy measures (ESRB/2015/2).

¹⁵ *Ibid.*

also by the representatives of the senior management of the institution, to discuss the following:

- (a) the financial performance of the branch at year-end and any forecasts for the branch's performance in the medium term;
- (b) the business strategy of the branch and how the branch will contribute to and implement the strategy of the institution;
- (c) the branch's main activities and its relevant risks; and
- (d) the supervisory findings concerning the operations of the branch and actions taken or to be taken by the institution to remedy the relevant issues.

66. If either the consolidating supervisor or the home or host competent authority is not able to participate in this joint meeting, the relevant authorities should inform the others accordingly, and the authorities should share the conclusions of the meeting and discuss any follow-up actions.

67. The consolidating supervisor and the home and host competent authorities should agree on the form and frequency of joint meetings with the senior management of the institution to discuss issues more specifically relevant to the significant-plus branch or issues that may potentially affect the branch.

68. These joint meetings with the institution and with the branch management should be duly reflected in the college SEP.

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

69. Within the process for the assessment of the recovery plan in accordance with Article 6(2) of Directive 2014/59/EU or the process for the assessment of the group recovery plan in accordance with Article 8(1) of that Directive, and also considering the requirements of the EBA's *Recommendation on the coverage of entities in the group recovery plan*¹⁶, the consolidating supervisor or the home competent authority should consult with the host competent authority of significant branches in accordance with Articles 6(2) and 8(1) of Directive 2014/59/EU.

70. To facilitate this consultation, the consolidating supervisor or the home competent authority should share the group recovery plan or the institution's plan, respectively, with the host competent authority in accordance with the timeline established in the college of supervisors for the assessment of the recovery plan and a joint decision on the assessment of the group recovery plan. Furthermore, the consolidating supervisor or the home competent authority

¹⁶ EBA/Rec/2017/02

should seek input from the host competent authority of the significant-plus branch to facilitate the assessment of the group recovery plan or institution's recovery plan.

71. The host competent authority should provide its input to the assessment of the group recovery plan or institution's recovery plan within the timeline established by the college of supervisors. This input could take the form of general comments on the plan. In addition, the host competent authority should provide comments on the parts of the plan related to the significant-plus branch or comments concerning omissions affecting the coverage of the branch taking into account the requirements of the EBA's *Recommendation on the coverage of entities in the group recovery plan*¹⁷. The host competent authority should also inform the consolidating supervisor and the home competent authority of any aspect of recovery planning relevant to the branch.
72. The input from the host competent authority to the consolidating supervisor or the home competent authority should include the following information, taking into consideration whether the branch has been determined to be significant-plus because of its importance for the group or institution, or because it is systemically important in the host Member State:
 - (a) an assessment of how the institution or the group has performed the analysis of critical functions and core business lines with reference to a description of the significant-plus branch and mapping of critical functions and core business lines to that branch;
 - (b) an opinion on the institution's or the group's strategy on and approach to the significant-plus branch and an analysis of legal and operational interconnectedness, as well as of existing arrangements, in particular resulting from the conditions indicated by the host competent authority in the interest of the general good;
 - (c) a description of the main activities and services provided by the significant-plus branch;
 - (d) an analysis of how and when the significant-plus branch may apply, under the conditions described in the plan, for the use of central bank facilities, as well as of the assets that are expected to qualify as collateral;
 - (e) an assessment of the credibility of recovery options, governance/escalation procedures, scenarios and indicators regarding the significant-plus branch, for example if it is considered to be part of divestment or other recovery options assumed by the institution or the group;
 - (f) information on material risks that the significant-plus branch may cause for the institution or dependencies that the institution may have on the branch, or on risks or dependencies between the branch and local market participants;

¹⁷ Ibid

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

5.8 Allocation of tasks among competent authorities

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

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

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

Accompanying documents

Impact assessment

1. Articles 50-52 of Directive 2013/36/EU (the CRD) set out the competences and duties of home and host Member States in relation to prudential supervision. These include collaboration between home and host competent authorities concerning the supervision and assessment of significant branches and on-the-spot checking and inspection of branches in other Member States. The current draft guidelines are based on the EBA's own initiative and elaborate on the already existing legal frameworks on the operation of colleges of supervisors, on information exchange between home and host competent authorities, and on concluding joint decisions, as set out in the pertinent Commission Regulations.
2. As per Article 16(2) of the EBA Regulation (Regulation (EU) No 1093/2010 of the European Parliament and of the Council), any guidelines developed by the EBA must be accompanied by an impact assessment (IA) that analyses 'the potential related costs and benefits'. This IA should provide the reader with an overview of the findings as regards the problem identified, the options identified to solve the problem and their potential impacts.
3. For the purposes of the IA section of the Consultation Paper, the EBA prepared a short qualitative questionnaire to collect information on the baseline, i.e. the practices currently in place in Member States in relation to the provisions set out in these draft guidelines. The questionnaire targeted national competent authorities. This section presents the IA with a cost-benefit analysis of the policy options included in the Consultation Paper. Given the nature of the topic, the IA is high-level and qualitative in nature.

A. Problem identification

4. The primary problem that the current guidelines aim to address is potential gaps in the collaboration in colleges and a lack of efficiency and effectiveness that may arise in the supervision of significant branches as outlined under Articles 50-52 of the CRD.
5. Article 51 of the CRD specifies the minimum criteria that home competent authorities should account for in the identification and supervision of significant branches. However, financial institutions with significant cross-border elements may require more diligent treatment and closer cooperation between home and host competent authorities depending on the level of their significance.
6. For instance, given the size and interconnectedness of some financial institutions and accordingly the significance of their branches, competent authorities may need to specify tasks that are not explicitly covered by the CRD. Firstly, the current criteria under Article 51(1) of the CRD do not consider differing levels of significance among (significant) branches. However, it

is reasonable to argue that a significant branch with a higher risk profile should be subject to supervision that is different from a significant branch with a relatively low risk profile. In other words, the current framework is not sufficiently explicitly risk-sensitive with regard to significant branches. In practice, the competent authorities of home Member States apply, if necessary, further criteria in their significance assessments of branches to achieve further differentiation. This unharmonised treatment creates differences in the supervision of cross-border branches across EU Member States. For example, the EU (significant) branches of two systemically important institutions may be subject to different supervisory treatments although they have similar risk profiles.

7. Secondly, more structured and closer cooperation between home and host competent authorities may be required in the supervision of significant branches with cross-border elements. In theory, the supervision of a significant branch with a larger volume of activities, a greater level of interconnectedness and a higher risk profile is expected to require closer cooperation between home and host competent authorities than that of a significant institution with a relatively low risk profile and fewer cross-border elements.

B. Policy objectives

8. The main objective of the guidelines, within the mandate of Articles 50-52 of the CRD, is to provide competent authorities with a set of criteria and procedures for precise, duly diligent and prudent supervision of significant branches. By establishing a common framework for the competent authorities, these guidelines are further expected to reinforce cooperation between home and host competent authorities when necessary and harmonise practices across the Member States.
9. As a result, the specific objectives of the guidelines are to:
 - extend the regulatory assessment criteria to further differentiate significant cross-border branches by their level of significance, e.g. 'significant-plus';
 - identify common procedures for the supervision of (significant-plus) branches; and
 - identify common procedures for and strengthen cooperation between home and host competent authorities in the supervision of the significant branches depending on their level of significance.
10. The general objectives of the guidelines are to:
 - ensure accurate significance assessment and risk assessment of cross-border branches; and
 - provide prudent and risk-based supervision of significant branches to avoid the potential impact of financial dysfunction in branches with a significant cross-border element.

C. Baseline scenario

11. Currently, there are more than 800 branches of institutions headquartered in EEA countries that are located in a Member State other than that in which their head offices are located. Approximately 4% of these branches, or 29 branches, are considered significant in accordance with the CRD criteria and therefore are expected to fall within the scope of these guidelines¹⁸.
12. Article 51(1) of the CRD sets the minimum three criteria that the competent authorities must consider in identifying significant branches. Some competent authorities apply additional criteria for the identification of significant branches and/or for further classification of significant branches according to their level of significance. Furthermore, some competent authorities have introduced additional criteria for the determination of the significance of branches for the purposes of the CRD.
13. Current practices indicate (i) the extent to which competent authorities rely on further criteria for the significance assessment of branches in addition to the criteria indicated under Article 51(1), (ii) variation in the implementation of Article 51(1) of the CRD across Member States, i.e. some competent authorities use additional indicators, and (iii) that competent authorities and financial institutions may need to make further efforts to comply with the current guidelines¹⁹.
14. Furthermore, some Member States currently follow additional procedures and carry out further risk assessments on significant branches when they deem it necessary. The situation differs significantly across Member States, so such procedures and methods may or may not be implemented and, where they are, they may vary significantly, i.e. an EU branch of a significantly important financial institution may be subject to strict additional risk assessment while another with the same risk profile is not subject to additional risk assessment at all.

D. Options considered

15. This subsection presents the major points discussed during the preparation of the draft guidelines. The next subsection discusses the advantages and disadvantages, as well as the potential costs and benefits, of the options.

Scope of the intensification test

Option 1a: the intensification test covers all branches.

¹⁸ All branches of institutions headquartered in EU Member States that are located in Member States other than that in which their head offices are situated fall within the scope of the initial significance assessment under Article 51 of the CRD; however, only a subset of these branches, i.e. those that are assessed to be significant, fall within the scope of the current guidelines.

¹⁹ Here the following reasoning applies: if the current practice of a competent authority already incorporates all of the criteria indicated in the current guidelines, the additional cost of compliance with the guidelines for the intensification test will be negligible. On the other hand, if the current practice of the competent authority is limited to the minimum criteria under Article 51(1), the cost of compliance with the guidelines is expected to be higher.

Option 1b: the intensification test covers significant branches only.

Assessment of the intensification test

Option 2a: list the assessment criteria in order of importance.

Option 2b: list the assessment criteria subject to the agreement of home and host competent authorities.

Branch risk assessment

Option 3a: separate risk assessment for significant-plus branches.

Option 3b: no separate risk assessment for significant-plus branches.

On-the-spot checks and inspections

Option 4a: explicit requirement for cooperation between home and host competent authorities.

Option 4b: leave to the discretion of competent authorities.

Communication with the institution

Option 5a: explicit requirement on the frequency of joint meetings with the branch management.

Option 5b: no explicit requirement on the frequency of joint meetings with the branch management.

E. Assessment of the options and the preferred option(s)

Scope of the intensification test

16. One of the key elements of the current guidelines is the intensification test (see Section 4.2). The drafting team needed to assess the scope of the test, in other words, whether all branches should be subject to the intensification test regardless of the outcome of the significance assessment under Article 51(1) of the CRD (Option 1a) or the competent authorities should apply the intensification test only if branches were judged to be significant under Article 51(1), i.e. to a subset of significant branches.
17. Under Option 1a, as a starting point all competent authorities would apply the intensification test to all branches with the aim of identifying not only the significant-plus branches but also the non-significant branches that were nonetheless important for the group. In this case, if a branch were considered significant following the assessment under Article 5(1) and then assessed as significant-plus after the intensification test, that branch would be subject to more intensive supervision requiring closer cooperation on the part of the home and host competent authorities. Yet, if the branch is not significant following the assessment under

Article 51(1) but may be well considered under the intensification test due to its importance to the group or institution then this branch is considered to be non-significant but important for the group. In this case, the supervision will not necessarily require a joint supervision.

18. Under Option 1b, the competent authorities would apply the intensification test to branches classified as significant under Article 51(1) and exclude non-significant branches.
19. The options are expected to generate further costs for competent authorities. More precisely, authorities that do not currently apply the criteria that are proposed under the guidelines for the intensification test would need to carry out additional assessments of branches (see 'Baseline scenario' above). Under Option 1a, the expected costs for the authorities would be higher, as the scope of the intensification test is broader. The additional benefit of the intensification test on non-significant institutions would not justify these higher costs.
20. Furthermore, if the intensification test were to cover all branches, the guidelines would also need to define categories of branches other than significant-plus²⁰. This might add complexity to the supervisory framework.
21. From the institutions' perspective, when a branch is categorised as significant-plus it will be subject to further risk assessment that will require more intense cooperation between the home and host competent authorities and may eventually lead to the introduction of more granularity in reporting. The costs associated with reporting due to the classification of a branch as significant-plus are expected to increase the administrative burden for the branch. However, Option 1b limits this increase in costs to a subset of significant branches only. This marginal increase in costs is justified, as the expected benefits in terms of prudential regulation are expected to exceed the costs.
22. Therefore, following this reasoning, the preferred option is Option 1b.

Assessment of the intensification test

23. The choice of an option in this regard affects the scope of and the criteria for the assessment, as well as the structure of the coordination between home and host competent authorities. Option 2a proposes that the criteria to be considered by the competent authorities when performing the intensification test be listed in order of importance, i.e. starting from the most important criteria (e.g. critical functions), and also categorised based on the competences of the supervisory authorities. For example, the home competent authority could be expected to be in a better position to assess criteria that relate to the importance of the branch for the institution or the group (e.g. critical functions, branch's assets as a percentage share of total assets, branch's total risk exposure amount (TREA) as a percentage share of the institution's TREA), while the host competent authority should be in a better position to assess criteria that

²⁰ For example 'significant', 'significant-plus', 'non-significant but important for the group', 'non-significant and non-important for the group'.

touch upon the significance of the branch for the host Member State (e.g. CEFs, branch's assets as a percentage share of GDP in the host Member State, O-SII indicators/scores).

24. Option 2b would involve both home and host competent authorities assessing and agreeing on a set of criteria for the intensification test. This option was dropped as it would potentially give rise to cases of disagreement or might not reflect the respective responsibilities and competences of the authorities, e.g. the home competent authority knows the supervised institution and is responsible for its prudential supervision, while the host competent authority knows the local market and can assess the possible impact of the branch locally.
25. Neither option would have an impact on the institutions.
26. Option 2a has been chosen as the preferred option, as it is expected to introduce a more structured platform for the coordination of the competent authorities and to reduce the costs of coordination on prudential supervision.

Branch risk assessment

27. The current regulatory framework is silent on risk assessment of branches. In practice, under colleges the host supervisors prepare a branch risk assessment within the SREP report.
28. In terms of branch risk assessment, the drafting team considered two main policy options: Option 3a introduces the idea of a branch risk assessment, which until now was not referred to in the Level 1 or Level 2 text, and proposes the continuation of the current practices; Option 3b requires the development of a branch risk assessment under the responsibility of the home supervisor with input from the host competent authority.
29. Option 3a is the status quo. Option 3b in practice introduces for significant-plus branches a separate branch risk assessment, which will be annexed to the SREP report of the institution, and specifies that the branch risk assessment will be developed by the home competent authority with a contribution from the host competent authority, unless the former decides to delegate the task to the latter.
30. Option 3a does not accurately reflect the competences and responsibilities of the home and host Member States by recognising and exploiting the specific knowledge of the home and host supervisors. Option 3b, on the other hand, explicitly clarifies the allocation of resources and competence-based inputs for the risk assessment, e.g. risks that the branch poses to the financial stability of the host Member State, conduct risk, etc. The marginal cost of Option 3b is expected to be negligible and the marginal benefit is expected to be positive. As a result, the preferred option is Option 3b. Note that neither option would have an impact on the institutions, as they would be subject to the 'same' supervisory treatment under either option.

On-the-spot checks and inspections

31. One of the main policy points that the guidelines include relates to the structure of the cooperation between home and host competent authorities on spot checks and inspections, and specifically to the initiation of the activity and the exchange of information for the activity.
32. Option 4a introduces an explicit requirement for cooperation between home and host competent authorities. Under this option, either authority can initiate the process and take on the obligation to invite the other supervisor to participate. Furthermore, in the invitation the authority should inform the other authority about the planned activity. In particular, the current draft guidelines further indicate that the invitation needs to be sent in advance, i.e. at least six weeks before the start of the activity, that it needs to include information on the scope of the activity so that the invited authority can make an informed decision on its participation, and that the initiator needs to consult the participating authority on the outcome of the activity, i.e. report the findings of an on-the-spot check or inspection before sending the report to the institution.
33. Option 4b did not go into the same level of detail as Option 4a and left the competent authorities to make arrangements on a case-by-case basis. This option was dropped, since it did not address the organisations' concerns and potential gaps in cooperation as identified under 'Problem identification' above. More precisely, it failed to structure and appropriately facilitate cooperation between the home and host competent authorities, leaving room for potential disagreements and conflicts and diminishing the likelihood that joint on-the-spot checks or inspections would take place. Neither policy option would have a cost impact on the institutions. The competent authorities would need to dedicate time and resources to further cooperation, but this further cost is expected to be small. The net benefit of Option 4a is expected to be positive, and therefore it has been chosen as the preferred option.

Communication with the institution

34. Option 5a introduces provisions on joint meetings with the branch management and the minimum frequency of these joint meetings, i.e. at least annually. Option 5b proposes that these meetings should be under the control of the host competent authority, which may invite the home competent authority. This option was supported by most of the host competent authorities; however, the EBA believes that explicit provisions on joint meetings will result in a more balanced and more transparent process, as well as reflecting more accurately the supervisory competences and responsibilities of the home and host authorities. Option 5a is the preferred option.

Feedback on the public consultation and on the opinion of the BSG

The EBA publicly consulted on the draft proposal contained in this paper. The consultation period lasted three months, from 20 December 2016 to 20 March 2017. Altogether the EBA received eleven responses to the consultation, with seven responses published on the EBA website and four responses that were treated as confidential. The EBA Banking Stakeholders Group (BSG) also provided its opinion, which was published on the website.

This section presents a summary of the key points and other comments arising from the consultation, the analysis and discussion triggered by these comments, and the actions taken to address them if deemed necessary.

In many cases, several industry bodies made similar comments. In such cases, the comments, and the EBA's analysis, are included in the section of this paper where the EBA considers them most appropriate.

Changes to the guidelines have been incorporated as a result of the responses received during the public consultation.

Summary of the BSG opinion

The BSG was largely supportive of the EBA developing the guidelines and introducing supervisory convergence, and thus addressing the desire of some host competent authorities to exercise closer supervision of systemically important branches in their jurisdictions. While understanding the rationale for developing the guidelines, the BSG mentioned the need to recognise the legal nature of branches and the fact that they are parts of institutions, without independent legal personality and fully integrated into those institutions and their supervisory frameworks. In particular, the BSG requested that this be fully reflected in, for example, the approach to branch risk assessments and the assessment of recovery plans.

The BSG also requested that the EBA be cautious and clearly explain the scope and level of application of the guidelines, especially in relation to branches of SSM-supervised institutions in other SSM Member States.

Furthermore, the BSG sounded a note of caution with respect to changing the powers and responsibilities of the consolidating supervisors and the home and host competent authorities through the framework of the allocation and delegation of tasks, as well as introducing elements of the joint work performed through the framework of the colleges of supervisors, especially where current legislation clearly assigns tasks and responsibilities to one or another authority.

The BSG also requested that the EBA develop more precise and quantifiable criteria to be applied by the authorities for the identification of significant-plus branches, noting that these could be based to some extent on the approach to the identification of O-SII institutions.

Summary of key issues and the EBA's response

Overall, respondents welcomed the draft guidelines, noting that the proposed approach allows better coordination of supervision of significant branches, as it offers a coordinated approach to managing the supervision of systemically important significant branches and structures the cooperation between all the competent authorities involved. The respondents also noted that the draft guidelines help to clarify the roles and responsibilities of the authorities, avoid duplication of work and minimise the risk of conflicting requirements or actions by the authorities.

However, many respondents requested greater clarity on the scope of the guidelines with respect to branches of non-EEA institutions and branches of SSM-headquartered institutions within SSM countries. Furthermore, respondents requested more detail on the roles and responsibilities of the home and host competent authorities in various areas covered by these guidelines.

With respect to the process of identification of significant-plus branches, respondents were in favour of a more transparent joint decision-type process, with the outcome being notified to the institution. Furthermore, many respondents stressed the need for ongoing dialogue between the competent authorities and institutions/branches, and feared that additional reporting needs would stem from the intensification test. Most of the respondents supported the approach of using an O-SII-type analysis for the determination of significant-plus branches, while suggesting that the higher level of scoring threshold should be applied to branches than to subsidiaries, given the extent of their integration and the support they receive from institutions.

There was significant opposition to the introduction of branch risk assessments, which, despite being a current best practice, gave rise to concerns among the respondents, who felt that it might result in the introduction of ICAAP/ILAAP requirements for branches.

Many comments were raised in relation to the information burden, with respondents fearing that the guidelines might lead to additional reporting on/from significant-plus branches and additional, and sometimes duplicate information requests from the home and host competent authorities. To this end, many suggested that the consolidating supervisor or the home competent authority should act as a hub for information sharing.

Many comments concerned the cooperation of competent authorities in the process of assessing recovery plans; respondents stressed that all observations from the assessments should be raised as part of the joint decision between authorities, and stressed that the assessment should not lead to branch-specific recovery plans.

Furthermore, many respondents commented on the section on sharing information and coordinating macroprudential measures; in addition to welcoming greater coordination and reciprocity, respondents offered some ideas such as making reciprocity mandatory and giving a right to veto the application of macroprudential measures to host competent authorities.

The EBA carefully examined all of the comments received (see the table below) and amended the text of the guidelines accordingly. In particular, the EBA clarified the scope and level of application

of these guidelines in relation to SSM and third-country authorities, as well as to make clear that they cover prudential supervision only. Furthermore, the EBA reviewed the concept of and process for the intensification test to identify significant-plus branches, which should be based on a common assessment leading to a common conclusion by the consolidating supervisor and the home and host competent authorities. Furthermore, the EBA clarified the practices around the branch risk assessment and the roles and responsibilities of the competent authorities in its preparation. The EBA also substantially reviewed the section on the assessment of recovery plans to make it better aligned with the joint assessment and decision process established for the assessment of group recovery plans, and also with the EBA's *Recommendation on the coverage of entities in the group recovery plans*. The rest of the sections were not substantially changed but were subject to minor amendments based on the feedback received. The EBA did not introduce any changes to the provisions on coordination on macroprudential measures, as the comments received went beyond the mandate of the microprudential supervisors (which are the addressees of these guidelines) and the scope of the guidelines.

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

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
General comments			
Scope and level of application	A number of respondents requested greater clarity on whether the guidelines apply to the EEA branches of third-country institutions, as well as an explanation of how the guidelines will apply in situations where both branch and institution are within the SSM.	<p>The EBA acknowledges the comments. The scope of application of these guidelines is limited to prudential supervision of significant-plus branches of EEA domiciled institutions operating in EEA host jurisdictions; they do not cover branches of institutions having their head offices in a third country. Supervision of such third-country branches is covered by Articles 47 and 48 of the CRD.</p> <p>Furthermore, these guidelines do not address situations where both the institution and its branch are located in a Member State participating in the SSM. Within the SSM, the ECB's and national competent authorities' respective supervisory responsibilities are allocated on the basis of Council Regulation (EU) No 1024/2013 (the SSM Regulation). In accordance with the SSM Regulation, notably Article 17, the provisions set out in these guidelines in relation to the cooperation between competent authorities from different Member States for conducting supervision on a consolidated basis do not apply to the extent that the ECB is the only competent authority involved.</p>	The scope of application of the guidelines has been clarified in relation to both third countries and SSM branches.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Allocation of roles and responsibilities	<p>A number of respondents requested greater clarity on the allocation of roles and responsibilities of the home and host competent authorities in relation to the supervision of significant-plus branches. Without such explicit boundaries, there may be scope for the duplication of supervisory activities, information requests, senior management meetings, remedial action requests, etc., and adverse impacts on group-wide SREP scores. The unintended provision of a supervisory mandate to national competent authorities could also give rise to a risk of undermining the effective use of and the rationale for the EU passport for branches of banks.</p> <p>Furthermore, respondents suggested ensuring the leading role of the home supervisor, since branches are an integral part of parent companies. In any case, the home supervisor must always have the final say, or at least there is an appropriate framework for joint decisions between the home and host authorities</p> <p>Some respondents also suggested that under the current CRR/CRD framework there is an imbalance between the supervision of cross-border branches and the supervision of cross-border subsidiaries, and that to redress this the supervision of large systemically important branches should be entrusted to the host competent authorities (thus</p>	<p>The roles and responsibilities of the authorities in relation to the prudential supervision of branches, which is the focus of these guidelines, are set out in the CRR/CRD. By means of these guidelines, the EBA is not changing these roles but clarifying how competent authorities should cooperate and coordinate activities in order to effectively and efficiently supervise systemically important branches, including through the framework of colleges of supervisors. Colleges of supervisors are a platform to facilitate the performance of consolidated supervision and to enable authorities to cooperate and, subject to agreement, perform some tasks jointly. These ideas have been embedded into the guidelines.</p> <p>In particular, under the CRR/CRD framework the responsibility for the prudential supervision of branches lies with the home competent authorities, whereas host competent authorities have responsibility for the supervision of a branch in relation to financial stability and market conduct, including anti-money laundering and counter-terrorist financing, as well as protection of consumers.</p> <p>The CRD also introduces a framework for joint decisions between authorities, which, in relation to branches, means that the home and host authorities would need to reach a joint decision on the significance of a branch in accordance with Article 51. By virtue of these guidelines, the EBA proposes to extend this joint decision framework to include the</p>	The background and introduction have been clarified regarding the responsibilities of the authorities and the applicable framework.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	effectively suggesting changing the CRR/CRD framework).	decision on designating a branch ‘significant-plus’ and thus including that branch in the scope of these guidelines.	
Supervisory focus on significant-plus branches	<p>While understanding the intentions of the EBA, to clarify the boundaries, roles and responsibilities with regard to the supervision of significant branches, respondents expressed some concerns that assessing a branch from a stand-alone perspective could result in a risk assessment that was not fully reflective of the true risk. For example, where there are centralised funding models or credit management processes organised by business lines, the branch must be assessed as a part of the whole entity in order to avoid imposing additional burdens on the group score (which should be captured in the SREP), infringing on the operation of a branch network and restricting the free movement of funds within banking groups. There is a risk that, with such a focus on individual branches, the larger view of the firm will be missed, with risks/issues double-counted by home and host supervisors leading to an unclear picture of risk management, governance and controls that could result in a lower SREP score without justification. It should be noted that branches do not have a separate legal personality or status and instead form an integral part of their firms as a whole, and that recovery and resolution issues cannot therefore be considered in isolation for branches.</p>	<p>The EBA acknowledges that branches do not have a legal personality and are generally integrated into the institution management framework. However, it is also important that competent authorities adequately assess the risks of institutions, taking into account also risks associated with branch activities, especially considering that branches may run different business models and be exposed to different risks from institutions. Therefore, competent authorities need to make in their SREP analyses distinct and noticeable reference to the supervisory assessment of any significant-plus branch and perform various other supervisory tasks including on-the-spot checks and inspections.</p> <p>In these guidelines, the EBA explains the framework within which competent authorities would carry out such tasks in a coordinated manner.</p> <p>The guidelines do not limit in any form the freedom of institutions to establish branches in other Member States, nor do they introduce an additional burden on those branches that are deemed significant-plus within the meaning of these guidelines.</p>	No changes needed.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Supervisory intensity	Respondents noted that it is important that supervisory intensity is aligned with the risk profile of an entity and its operations, rather than determined mainly with reference to the legal nature of its operations, i.e. whether it operates through a branch or subsidiary structure.	These guidelines do not suggest that the intensity of supervision should be linked to legal nature. The ‘intensification test’ is introduced to identify a subset of CRD-significant branches that have systemic importance in their host Members State and therefore may pose systemic risk. For such branches, the guidelines introduce a more structured and coordinated approach to supervisory cooperation, which, inter alia, includes a more detailed assessment of the risk profile of an institution and its systemically important branches, which would drive the degree of the supervisory engagement with such institution.	No changes needed.
Dialogue with institutions	Several respondents stressed the need to enhance the dialogue with institutions and achieve greater coordination between home and host authorities in their interactions with institutions and branches. In particular, dialogue could be vital in determining if a branch is to be considered significant-plus within the meaning of these guidelines.	The EBA acknowledges the comments and has reinforced the text of the guidelines in relation to the interaction between competent authorities and institutions; in particular, the EBA has introduced a provision requiring competent authorities to communicate to the institution the outcome of the ‘intensification test’ and the joint decision on the designation of a branch as ‘significant-plus’.	Section 4.2 has been amended to include the requirement to provide the joint decision on the designation of the branch as ‘significant-plus’ to the institution.
Question 2: What are the respondents’ views on the approach to and the criteria used for the identification of significant-plus branches (intensification test)?			
CRD criteria for significant determination of significant branches	Many respondents pointed out that Article 51 of the CRD provides criteria for the determination of the significance of branches and noted that the set of criteria is quite ambiguous, with only one quantitative benchmark — 2% of deposits. Reliance on the use of ambiguous qualitative criteria could lead to different applications of the framework and	The EBA acknowledges the concerns over the ambiguity of the qualitative criteria for the designation of branches as significant, but stresses that the guidelines are not intended to change the existing CRR/CRD framework. Furthermore, the	No changes needed.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	different approaches to the designation of branches as significant in different Member States.	<p>specification of the CRD Article 51 significance criteria is outside the scope of these guidelines.</p> <p>Furthermore, the EBA notes that the significance of branches can depend on the Member State and the size, complexity and business model of the branch, and in addition to quantitative criteria it is important to apply supervisory judgement.</p>	
Greater harmonisation of criteria for the intensification test	<p>Many respondents noted that the intensification test proposed in the draft guidelines is built on (1) the determination of the CRD significance of a branch, which is based on relatively ambiguous criteria, and (2) a decision tree for further supervisory analysis considering the relevance of the branch for the institution and its importance for the economy/financial stability in the host Member State. As the latter is largely based on qualitative criteria and is based on supervisory judgement, there might be differences in implementation leading to different treatment of similar branches across Member States. Furthermore, the guidelines propose focusing the assessment on, inter alia, corporate banking (payments/clearing/settlement), custody, intra-bank borrowing/lending and investment banking, without further clarifying what constitutes a 'significant' or 'material' role (similar to the CRD), opening the assessment up to individual supervisor interpretation and potentially opening up the supervisory approach to divergent treatment of branches of the same firm by different national supervisors. Against this background, respondents have requested considering</p>	<p>The EBA acknowledges the concerns expressed, and has redesigned the intensification test, so that the authorities would need to (1) ascertain whether the branch is CRD-significant in accordance with the criteria and process set out in Article 51 of the CRD. Then (2) for CRD-significant branches, authorities would need to identify those that perform critical functions (according to the Bank Recovery and Resolution Directive (BRRD) definition and based on the information from recovery and resolution plans), and finally (3) perform the intensification test considering whether the branch is important for the group or systemically important for the host Member State. Furthermore, the EBA has reinforced the process for the intensification test by introducing a common assessment by the home and host competent authorities and a common conclusion on its outcome, with the possibility of reverting to the EBA for mediation in case of disagreement.</p>	<p>Section 4.2 has been substantially amended to reflect the new intensification test process and reinforce the concept of a common assessment and a common conclusion on the outcome of the intensification test.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>introducing more stringent and well-defined criteria for the determination of ‘significant-plus’ branches, aimed at removing ambiguity and subjectivity from the process as much as possible.</p>		
<p>Greater harmonisation of criteria for the intensification test</p>	<p>Some respondents suggest introducing more quantitative criteria to be considered in the intensification test (e.g. level of retail/SME accounts or deposits, percentage share of lending in the market, percentage share of payment systems, balance sheet size (banking book) on a net or risk-adjusted basis, etc.).</p>	<p>The EBA acknowledges the need to have a common starting point for the performance of the intensification test, and has analysed possible quantitative criteria and their thresholds to be considered by the competent authorities when assessing the branch’s importance for the financial stability of the host Member State. These criteria are considered a starting point for the discussion between authorities and their common assessment and conclusion.</p>	<p>Section 4.2 has been revised and common quantitative criteria for the assessment of importance to the financial stability of the host Member State have been introduced.</p>
<p>Greater harmonisation of criteria for the intensification test</p>	<p>Some respondents suggested narrowing down the scope of critical functions considered for the intensification test, focusing the definition of critical functions on services (lending, deposit taking, payments, etc.) provided to the retail and SME segments, including others only if exceeding a clear benchmark of materiality (e.g. in terms of the percentage of overall payments/custody assets, interbank/corporate services, etc.), on a net (after collateral, mitigation and netting) basis.</p> <p>Furthermore, respondents stressed that only a precise and quantifiable list of criteria would allow credit institutions to have some visibility and predictability with respect to the status of their branches for supervision purposes.</p>	<p>The EBA notes that, pursuant to the definition of critical functions, their presence in the products/functions/services offered by the branch is already an indication that such a branch might be important for the economy/financial system in the host Member State.</p> <p>The intensification test itself does not mean that there is a separate analysis of critical functions, as supervisors, for this purpose, should rely on the information from the recovery plans prepared by the groups/institutions or on the resolution plans prepared by the resolution authorities.</p>	<p>No changes needed.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Process for the designation of the branch as significant-plus and the roles of the authorities	Some members suggested that, following the greater clarification/harmonisation of the significance test criteria, the decision on the designation of the branch as significant-plus should be the responsibility of the home competent authority, but until this is achieved the decision should be joint (by mutual agreement) between the home and host supervisors, ensuring that subjectivity and/or ambiguity is removed.	The EBA disagrees with the comment and believes that the decision on the outcome of the intensification test and the designation of the branch as significant-plus should be a common conclusion between the relevant home and host competent authorities. This is because the two authorities have different perspectives (group importance and local importance), and the greater cooperation and coordination obligations introduced by these guidelines affect both authorities.	Section 4.2 has been substantially amended to reflect the new intensification test process and reinforce the concept of a joint decision on its outcomes.
Information needs for the intensification tests	Some respondents requested clarification regarding the sources of information for requirements stated in the consultation paper that do not specifically mention if the host competent authority would expect the information to come from the bank, or if it would undertake an independent assessment, i.e. paragraph 39. Respondents requested clarification as to whether this would be determined by the host competent authority or requested by the institution.	The intensification test should generally not lead to any additional data collection from the institutions, and competent authorities should rely for this test on the information already collected from the institution, including from the institution's or the group's ICAAP, ILAAP, recovery and resolution plans, statistical reporting and reporting for financial stability purposes. Competent authorities should also exchange such information for the performance of intensification tests through colleges of supervisors.	Section 4.2 has been amended to clarify the information sources for the intensification test.
Dialogue with institutions	Respondents noted that, in the interest of transparency, branches should be notified in a timely way as to the reasons driving any assessment as significant-plus and there should be an opportunity for management and supervisors to engage in constructive dialogue concerning the assessment.	The EBA agrees with the comments.	Section 4.2. has been revised to reinforce the joint decision procedure and ensure that the institution is informed of the outcome and receives the joint decision document.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Question 3: What are the respondents' views on the determination of significance-plus of the branch using the methodology for the identification of O-SII and whether such an assessment can be meaningfully performed based on the data available to the host competent authorities?			
O-SII approach to intensification test	Most of the respondents supported the approach of using an O-SII-type analysis for the determination of significant-plus branches, while suggesting that a higher level of scoring threshold should be applied to branches than subsidiaries, given the extent of their integration and the support they receive from institutions.	The EBA agrees with the comments.	Section 4.2 has been amended to clarify the use of O-SII scores.
Question 4: What are the respondents' views on the proposed approach to introducing branch risk assessment to be performed for significant-plus branches as part of SREP (Section 5.1)?			
Branch risk assessment	Many respondents do not support the introduction of the branch-specific risk assessment on a stand-alone basis, noting that SREP applies not to branches but, according to the CRD, only to institutions. Furthermore, respondents noted that assessing a branch on a stand-alone basis could result in a risk assessment that was not fully reflective of the true risk picture. For example, where there are centralised funding models or credit management processes organised by business lines, the branch must be assessed as a part of the entity as a whole in order to avoid imposing additional burdens on the group score (which should be captured in the SREP), infringing on the operation of a branch network and restricting the free movement of funds within banking groups. There is a risk that, with such a	<p>The EBA agrees with the position that, as branches do not have a legal personality and are effectively integrated into institutions, their risk exposures and management should also be effectively integrated into the risk management of institutions. This, however, does not contradict the fact that institutions take risk exposures through their branches, and that in the case of significant-plus branches these exposures are likely to be material.</p> <p>It is also the duty of the competent authorities under SREP to assess all material risks that institutions are or might be exposed to, as well as how those risks are managed and covered with capital and liquidity resources.</p> <p>Under these guidelines, the EBA expects competent authorities to make sure that they identify and assess</p>	No changes needed.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>focus on individual branches, the view of the firm as a whole will be missed, with risks/issues double-counted by home and host supervisors, leading to an unclear picture of risk management, governance and controls that could result in a lower SREP score without justification. It should also be noted that branches do not have a separate legal personality or status and instead form an integral part of their firms as a whole, and that recovery and resolution issues cannot therefore be considered in isolation for branches.</p> <p>In addition, for recovery or resolution issues, branches cannot be dealt with in isolation from their parent company.</p>	<p>the risks that institutions take through their significant-plus branches, and ensure that there is distinct and noticeable reference to the supervisory assessment of any significant-plus branch, including an assessment of the material risks that the branch is or might be exposed to, the branch's business model and strategy, and the risks that the branch poses to the financial system in the host Member State. The EBA also notes that such a distinct and noticeable reference in the risk assessment may be of particular importance should the branch's risk profile or business model be different from that of the institution.</p>	
<p>Branch risk assessment and ICAAP and ILAAP</p>	<p>Many respondents stated that branch risk assessment should not be seen as the introduction of branch-specific ICAAP or ILAAP, noting that if capital and liquidity information is not available at branch level these sections will not exist within a group ICAAP or ILAAP.</p> <p>Furthermore, it is important that the EBA ensures that the branch risk assessment does not interfere with the principle of free location of capital and liquidity between the parent company and branches.</p>	<p>The introduction of such branch risk assessments reflects already established practices among the supervisors of systemically important branches, and does not lead to any obligations for institutions vis-à-vis ICAAP or ILAAP. It should be noted, however, that, although institutions are not expected to produce individual ICAAP or ILAAP information covering only such branches and their risks, institutions' ICAAP and ILAAP should duly cover significant-plus branches and adequately reflect their risk exposures, as well as the capital and liquidity allocated to cover their risk.</p>	<p>The background section, introduction and Section 5.1 of the guidelines have been clarified in this regard.</p>
<p>Branch risk assessment and other requirements</p>	<p>Some respondents noted that any approach that introduced branch risk assessment as part of SREP</p>	<p>Branch risk assessment would be performed by the competent authorities as part of the institution's SREP in accordance with the requirements of the EBA's <i>Guidelines on common procedures and</i></p>	<p>No changes needed.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	would also risk a duplication of the information that is required for recovery and resolution purposes.	<i>methodologies for SREP</i> , which also recognise the link between SREP and other supervisory activities, including assessment of the institutions' recovery plans.	
Operational aspects of branch risk assessment	Some respondents stressed that institutions' ICAAP and ILAAP, in order to provide the required information to perform the risk assessment, would include information such as business model and strategy, governance, risk control and material risks to capital, liquidity and funding that the branch may be exposed to. It is important to note that, as this information would only be specifically required from the moment when a branch had been identified as significant-plus, this information will probably not be included until this determination date.	The EBA acknowledges the concerns and agrees that institutions should be given sufficient time from the joint decision on the significant-plus status of the branch to allow this to be reflected in its ICAAP/ILAAP information.	Section 5.1 has been amended to clarify the link between a joint decision on the outcome of the intensification test and covering significant-plus branches in institutions' ICAAP/ILAAP.
Allocation of tasks for branch risk assessment	Branch risk assessments would be performed by the home and host supervisors. Therefore, there could be multiple models/methodologies employed within a single banking group. A harmonised approach would be necessary in order to consistently assess branches.	The branch risk assessment should be performed by the consolidating supervisor or the home competent authority with input from the host competent authority. The assessment should be performed in accordance with the EBA's <i>Guidelines on common procedures and methodologies for SREP</i> .	Section 5.1 has been amended with references to the EBA's <i>Guidelines on common procedures and methodologies for SREP</i> .
Branch risk assessment and SREP reports	According to paragraphs 35-37, the draft guidelines require that a branch risk assessment be performed for significant-plus branches and that the risk assessment always be included as an annex to the group risk assessment or to the SREP report. It is important to ensure that the risks of the branch are included and assessed in the group risk assessment,	The branch risk assessment is an integral part of an institution's risk assessment that should make distinct and noticeable reference to the supervisory assessment of any significant-plus branch. Having such assessments clearly signposted and separated into annexes allows a better understanding of the	No changes needed.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Branch risk assessment and information requirements	<p>while the branch risk assessment should operationally be a subsequent assessment reflecting specific and residual risk not already captured in the group assessment. Thus all risks would be captured, while not operationally penalising the institution unnecessarily.</p> <p>From a practical perspective, paragraph 37 tasks the consolidating supervisor with obtaining certain information, while paragraph 39 ambiguously implies that the host competent authority should obtain the same information directly from the significant-plus branches. This potentially contradicts the intention of the authorities as described under paragraph 44, where it is stated that duplication of information requests to the supervised institution should be avoided. This should be remedied by clarifying that the consolidating supervisor manages bank information-gathering, while the host supervisor bases its analysis on information received from the consolidating supervisor.</p>	<p>specific risk exposures and risk or control deficiencies linked to the branch.</p> <p>The introduction of such branch risk assessments reflects already established practices among the supervisors of systemically important branches</p> <p>Paragraph 37 outlines the minimum elements that competent authorities should consider and include in the branch risk assessment and does not refer to any data/info collection or reporting. Although the responsibility for the branch risk assessment lies with the consolidating supervisor or the home competent authority, it is encouraged to cooperate with the host competent authority and seek its contributions to the work, given its proximity to the branch and specific knowledge of its local operating environment. To this end, paragraph 39 explains what such a contribution from the host competent authority might include. It should be noted that this contribution does not hint that there is a need for any additional data/info collection, as the information can be easily obtained from dialogue with the branch, including in the context of regular meetings with branch management (see Section 5.6) and given the statutory supervisory responsibilities of the host authorities for financial stability and market conduct.</p>	No changes needed.
Branch risk assessment and information requirements	<p>One respondent proposed redrafting paragraph 39 as follows:</p> <p><i>39. To prepare the branch risk assessment referred to in the previous paragraphs,</i></p>	<p>The EBA acknowledges the proposed drafting suggestions; however, it stresses that the host competent authorities have wider sources of information, including financial stability reporting in</p>	Section 5.1 has been amended accordingly

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p><i>the consolidating supervisor or the home competent authority should ensure that they have obtained and duly considered appropriate input from the host competent authority. Based on bank specific information obtained by and received from the consolidating supervisor, the host competent authorities should, at a minimum, provide the following input [in respect to the host Member State]:</i></p> <ul style="list-style-type: none"> <i>(a) the context of the host Member State operating environment of the branch-specific business model and strategy;</i> <i>(b) description and assessment of risks that the branch may pose to the financial stability of the host Member State;</i> <i>(c) description and assessment of conduct risk and information on any conduct risk events in relation to the branch operations;</i> <i>(d) description of the macroeconomic environment in which the branch operates.</i> 	<p>accordance with the CRD, information from on-the-spot checks and inspections of branches in accordance with Section 5.3, information received from the consolidating supervisor or the home competent authority in accordance with Section 5.4, and information from the annual joint meetings with the branch management in accordance with Section 5.6.</p>	

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Question 5: What are the respondents' views on the proposed approach to the collection and exchange of information needed for the supervision of significant-plus branches (Section 5.4)?			
Burden from collection of information	<p>Many respondents feared that the guidelines would introduce an additional burden on institutions as there would be a need to produce additional information regarding the branches. Some respondents suggested that information sharing should cover only already existing information and that there should be no additional burden.</p> <p>Furthermore, respondents requested further clarification of information sharing and coordination of actions to remove the risk of unnecessary and unwarranted additional burdens on firms operating significant branches, which might have to take action on separate visits by home, consolidating and host supervisors.</p>	<p>The EBA disagrees that the implementation of the guidelines would lead to additional information needs, as the information concerning systemically important branches should already exist in the institutions, and institutions are already expected to duly reflect all material risks, including those linked with significant-plus branches, in their internal risk management practices and documentation, as well as to adequately cover material entities and branches in their recovery plans.</p> <p>As regards collection of information by competent authorities, it should be noted that significant-plus branches are already covered by statistical and financial stability reporting in accordance with the CRD, and all other information is to be collected and shared by the consolidating supervisor or the home competent authority in accordance with Section 5.4 of these guidelines.</p>	No changes needed.
Channels for information collection	<p>Some respondents noted that any information requests regarding significant-plus branches should be channelled to the institutions through their consolidating/home supervisors and there should be no direct information requests from the host competent authorities to branches. In particular, it was noted that all requests regarding risk controls, risk management practices and governance framework-related information, in the course of</p>	<p>The EBA notes that, in accordance with Directive 2013/36/EU, host competent authorities retain responsibility for collecting statistical information, as well as information needed for the purposes of financial stability monitoring, which entails the possibility that the host authority might request and receive information from the significant-plus branch. The EBA notes, however, that, under the collegiate framework, consolidating supervisors or</p>	Section 5.6 has been revised accordingly.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>ongoing supervision of branches, should be channelled through the home competent authority, as the home competent authority should take responsibility for facilitating coordination with the host competent authority and manage the assessment of the objectives of those requests before executing them. To the extent that any of the requests are not coordinated through the home competent authority, it is important that the supervised entity is always kept fully informed by the consolidating supervisor of any relevant agreements on cooperation and coordination between supervisors to enable the supervised entity to understand the mandate used by the host supervisor for the individual supervisory activities (including ad hoc requests) related to the branch.</p>	<p>home competent authorities should be informed of such information requests and they should be appropriately coordinated.</p>	
<p>Role of home competent authority as a hub</p>	<p>One respondent proposed redrafting paragraph 61 as follows:</p> <p><i>The consolidating supervisor and the home and host competent authorities should strive to ensure that the messages communicated to the institution or the group concerning the branch are consistent. To this end, the consolidating supervisor and the home and host authorities should ensure that they have consulted each other before issuing any forms of formal communication to the group or institution pertaining to the branch. The principal communicator towards the branch should be the home competent authority.</i></p>	<p>When communicating with the significant-plus branch, and in particular requesting information needed for the performance of its tasks in accordance with the applicable legislation, including these guidelines, the host competent authority should duly inform and coordinate with the consolidating supervisor or the home competent authority.</p>	<p>Section 5.6 has been revised accordingly.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Specific items of information exchange	<p>With regard to paragraph 54, it is noteworthy that, for many branches, there is no internal/external audit and there are no internal risk reports focusing on the branch. The EBA should define what would happen in this situation.</p>	<p>The EBA is of the view that, given the systemic importance of significant-plus branches and the potential materiality of the risks taken by an institution through such branches, under good risk management practices they should be covered by the internal audit function, as well as included in internal risk management and reporting, and there should be distinct and noticeable reference to their risk assessment. However, the EBA agrees that such branches may not be always included in the scope of engagement of an external audit.</p>	<p>Section 5.4 has been revised with respect to the availability of external audit reports.</p>
Sharing liquidity reporting	<p>From a liquidity perspective, it is not relevant to require additional reports at the branch level. As per Article 415 of Regulation (EU) No 575/2013, there are no obligations to perform stand-alone liquidity reporting on branches, significant or otherwise, but only to produce a separate report at the institution level in a currency different from the reporting currency when the institution has a significant branch in a host Member State using this currency. Under paragraph 56, home authorities would share with host authorities the impact of the stress on the liquidity in the currency in which the branch operates. However, as stated in Article 415, this would not be calculated at the individual branch level and therefore the respondent requests clarification on what information would be shared and how this would be determined.</p>	<p>Paragraph 54(b) refers to the liquidity reports from the institutions collected in accordance with Article 415 of Regulation (EU) No 575/2013 and does not suggest these reports should be prepared for the branches.</p> <p>Information exchange regarding liquidity stress situations is addressed in Commission Delegated Regulation (EU) No 524/2014 and Implementing Regulation (EU) No 620/2014, which envisage that, as part of the liquidity stress information exchange, competent authorities will share all available quantitative information regarding liquidity, including an institution's ratios indicating its liquidity and stable funding position at the national or Union level in the domestic currency of the institution's home Member State and in all other currencies that are material for the institution. The latter is likely to include the currency or currencies in which the branch operates, given its systemic importance.</p>	<p>Section 5.4 has been revised to be better aligned with Commission Delegated Regulation (EU) No 524/2014 and Implementing Regulation (EU) No 620/2014.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Sharing regulatory reports with institutions	The EBA must clarify whether the regulatory reports listed in paragraph 54 would be shared with firms.	Competent authorities receive reports from institutions, and there are no practices involving sharing them again with institutions, and no need to do so.	No changes needed.
Burden from on-the-spot checks and inspections	Some respondents feared that additional work would be required due to the intensified supervisory activities in relation to a significant-plus branch and the additional specific on-the-spot checks and inspections. Therefore, they propose that the frequency of on-the-spot checks and inspections for significant-plus branches on a yearly basis should not in principle be higher than for other branches. The need for such types of investigation should be decided in accordance with the SEP depending on the nature of the activities and the risks associated with the branch.	The guidelines do not specify the minimum or additional supervisory engagement for significant-plus branches, which will be decided by the relevant competent authorities on a case-by-case basis and reflected in the SEP in accordance with Section 5.2 of the guidelines.	No changes needed.
Concept of the ‘risks borne by the branch’	The guidelines introduce a new risk reporting level — ‘risks borne by the branch’ — under paragraph 54(a). In no circumstances should the banks be led to change the articulation of their existing internal risk reports to accommodate specific branch-level requests. This leaves room for different interpretations and should therefore be limited to a more detailed level to ensure harmonised reporting levels in supervisory activities. The risks borne by the branch should always be considered in the institutional-level context and be limited exclusively to the risks that the significant-plus branch is liable for.	The EBA agrees that the concept of ‘risks borne by the branch’ might be somewhat misleading, but in essence it refers to the risk exposures taken and managed through the branch, which might be different from those of the institution, especially where the branch’s business model differs from the institution’s.	The term ‘risks borne by the branch’ has been replaced throughout the guidelines

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Use of legal entity identifier (LEI) in information exchange	<p>With the important objective of enhancing transparency in the financial industry, there should ultimately be an LEI for every legal entity. Use of the LEI and its reference data will improve risk management and compliance, and will result in higher data quality and accuracy of financial data.</p> <p>The LEI could be used as the entity identifier of the significant and significant-plus branches, as well to identify entities in their groups or institutions in the documents, reports, assessments and plans. The LEI can be leveraged for all aspects of minimum requirements for sharing information among the supervisors and authorities.</p>	<p>The EBA appreciates the comment and will consider it in the further work on the reporting framework. No changes, however, need to be introduced to these guidelines, as they cover supervisory exchange of information and already reported data.</p>	No changes needed.
<p>Question 6: What are the respondents' views on the proposed approach to the communication framework for a significant-plus branch, including communication with an institution and the branch (Section 5.6)?</p>			
Participation of senior management of an institution at branch meetings	<p>Some respondents noted that is important to ensure that the messages to the institution are consistent. Therefore, it should also be considered whether the senior management of the institution (not only the branch) should be invited to the annual joint meeting.</p>	The EBA agrees with the comments.	Section 5.6 has been amended to include participation of the senior management of the institution in the annual branch meetings.
<p>Question 7: What are the respondents' views on the proposed approach to the cooperation between the consolidating supervisors, home and host competent authorities for the purposes of the assessment of recovery plans (Section 5.7)?</p>			
Framework of the joint decisions	<p>It is important that the current framework for home and host authorities' coordination for the assessment of recovery plans for cross-border</p>	<p>The EBA agrees with the comments and stresses that the draft guidelines follow the BRRD requirements as regards the joint assessment and decision on the</p>	<p>Section 5.7 has been amended to ensure consistency with the BRRD</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>groups be respected. This framework, established by Articles 6 and 8 of the BRRD, requires that any decision concerning the assessment of recovery plans and the identification of material deficiencies be duly reflected in a joint decision.</p>	<p>group recovery plan. The EBA notes, however, that the host competent authority of the branch is not part of the joint decision but is consulted on issues relevant for the branch.</p>	<p>notion of consultation between the home and host authorities of significant branches.</p>
<p>Framework of the joint decisions</p>	<p>One respondent recommends that the guidelines be amended to ensure that elements of a firm's group recovery/resolution plan that concern a significant-plus branch (including provision of any shared services in a sustainable manner) be subject to joint approval by the home and host supervisors.</p>	<p>The EBA agrees with the comments and stresses that the draft guidelines follow the BRRD requirements as regards the joint assessment and decision on the group recovery plan. The EBA notes however, that the host competent authority of the branch is not part of the joint decision but is consulted on issues relevant for the branch.</p> <p>The process of consultation between the consolidating supervisor/home competent authority and the host competent authority in the process of assessing the recovery plan has two steps: (1) receiving input into the assessment as provided for in paragraph 69 and then (2) consulting on the final assessment that reflects the input received in the first stage.</p>	<p>Section 5.7 has been amended to ensure consistency with the BRRD notion of consultation between the home and host authorities of significant branches.</p>
<p>Coverage of branches in the group recovery plans</p>	<p>While one of the triggers for being classified as a significant-plus branch by a host supervisor is the systemic importance of a branch to the national financial system/market, the proposed guidelines instruct the home/consolidating supervisor to only reflect (paragraph 70 of proposed guidelines) the inputs of the host supervisor in the overall firm's recovery and resolution plan(s) assessment. Similarly, the input of the host supervisor is highly detailed (paragraph 69) but the inverse, the need</p>	<p>The process of consultation between the consolidating supervisor/home competent authority and the host competent authority in the process of assessing the recovery plan has two steps: (1) receiving input into the assessment as provided for in paragraph 69 and then (2) consulting on the final assessment that reflects the input received in the first stage.</p>	<p>Section 5.7 has been amended to clarify the steps of the consultation between the authorities in the process for the assessment of recovery plans.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>for the home/consolidating supervisor to consult the host supervisor, is not in place. Considering that a branch would be classed as significant-plus only if it had systemic importance for the host supervisors' national financial system/market and/or economy, the respondent sees this as a shortfall that may lead to recovery/resolution plan(s) that, while appropriate at a firm's group level, may not be desired (or needed) for the national market in which the significant branch operates.</p>		
<p>Coverage of branches in the group recovery plans</p>	<p>One respondent noted that the perimeter of this supervision must be framed in order to not interfere with the group recovery plans defined for the parent credit institutions (including the branches), which are discussed by home and host supervisors within recovery colleges.</p>	<p>The EBA agrees with the comments and stresses that the draft guidelines follow the BRRD requirements as regards the joint assessment and decision on the group recovery plan. The EBA notes however, that the host competent authority of the branch is not part of the joint decision but is consulted on issues relevant for the branch.</p> <p>The process of consultation between the consolidating supervisor/home competent authority and the host competent authorities in the process of assessing the recovery plan has two steps: (1) receiving input into the assessment as provided for in paragraph 69 and then (2) consulting on the final assessment that reflects the input received in the first stage.</p>	<p>Section 5.7 has been amended to ensure consistency with the BRRD notion of consultation between the home and host authorities of significant branches.</p>
<p>Individual recovery plans for branches</p>	<p>It should be clearly specified that, whenever the home and the host authorities convene, new arrangements are required to ensure coordination of measures at the level of the home institution and at branch level; in no cases can recovery plans be</p>	<p>The EBA acknowledges the comments and stresses that, according to the BRRD, recovery plans can be required of groups, institutions not belonging to groups, or subsidiaries of groups following the joint assessment and decision of the relevant competent</p>	<p>No changes needed.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	claimed by the host authorities at the level of local branches, as the latter have no separate legal status.	authorities. There are no provisions for requesting recovery plans from branches.	
Sharing of information in recovery plan assessment	It is worth noting that Article 98 of Directive 2014/59/EU already sets out the framework for confidential information sharing. This article establishes that 'the consolidating supervisor shall, together with the competent authorities of subsidiaries, after consulting the competent authorities referred to in Article 116 of Directive 2013/36/EU and with the competent authorities of significant branches insofar as is relevant to the significant branch, review the group recovery plan and assess the extent to which it satisfies the requirements and criteria laid down in Articles 6 and 7.' This article must be strictly respected.	As these guidelines focus on significant-plus branches, assuming that there is a college of supervisors established to facilitate the supervision of institutions with such branches, all information sharing takes place within the framework of the college of supervisors, respecting the confidentiality arrangements established in the college.	No changes needed.
Involvement of host authorities	The current drafting of paragraph 68 refers to the host competent authority contributing to recovery planning. As recovery planning is the responsibility of the bank, this must refer to the host supervisor inputting to the home supervisors' assessment of the recovery plan.	The host competent authority provides its input to the assessment done by the consolidating supervisor or the home competent authority.	Section 5.7 has been amended to ensure that the host competent authority provides its input into the assessment done by the consolidating supervisor or the home competent authority.
Involvement of host authorities	The concept of 'home competent authority of branch' is introduced in paragraph 16 and paragraph 70 in relation to recovery planning. The respondent believes that this concept should not be	The EBA agrees with the comments and stresses that the draft guidelines follow the BRRD requirements as regards the joint assessment and decision on the group recovery plan. The EBA notes, however, that	Section 5.7 has been amended to ensure consistency with the BRRD notion of consultation

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>retained. The responsibility for the overall assessment of the group recovery plan or institution's recovery plan should be maintained under the responsibility of the consolidating/home authority, while the host authority should be consulted and its input taken into account, and, if agreement is achieved in the recovery college, this must be reflected in the joint decision.</p> <p>In addition, transparency on the division of tasks between supervisors must be ensured in order to ensure efficiency in the communication and interactions between authorities, parent company and branches.</p> <p>Proposed redrafting of paragraph 70:</p> <p><i>The consolidating supervisor or the home competent authority of branch [home competent authority] should prepare the overall assessment of the group recovery plan or institution's recovery plan in accordance with the requirements of Commission Delegated Regulation (EU) 2016/1075, and reflect the input received from the host competent authorities in accordance with paragraph 69 of these guidelines. The consolidating supervisor or home competent authority should consult on the overall assessment report with host competent authorities in accordance with Articles 6(2) and 8(1) of Directive 2014/59/EU.</i></p> <p>Proposed redrafting of paragraph 16:</p> <p><i>In terms of communication with the institutions and branches, the consolidating supervisor and the</i></p>	<p>the host competent authority of the branch is not part of the joint decision but is consulted on issues relevant for the branch.</p> <p>The process of consultation between the consolidating supervisor/home competent authority and the host competent authority in the process of assessing the recovery plan has two steps: (1) receiving input into the assessment as provided for in paragraph 69 and then (2) consulting on the final assessment that reflects the input received in the first stage.</p>	<p>between the home and host authorities of significant branches.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p><i>home and host competent authorities should strive to ensure that the messages communicated to the institution or the group concerning the branch are consistent. In terms of recovery planning, the consolidating supervisor, the home authority of branch [home competent authority] should prepare the overall assessment of the group recovery plan or institution's recovery plan, and reflect the input received from the host competent authorities.</i></p>		
<p>Involvement of institutions in the recovery plan assessment</p>	<p>These supervisory activities will necessarily be performed in cooperation (information requests, interviews, etc.) with the institution. The same goes for the input from the host competent authority in relation to the recovery plan, as set out in paragraph 69 of the draft guidelines. The respondent expects that this would also result in additional information requests to the branch/institution.</p>	<p>The focus of the guidelines is on the cooperation between the competent authorities in the process of assessing the recovery plan. The guidelines do not address the technical aspects of such assessments or interaction with institutions within such assessments.</p>	<p>No changes needed.</p>
<p>Additional comments</p>			
<p>Allocation of tasks among authorities</p>	<p>In the draft guidelines, the EBA proposes that the home authorities, host authorities and those responsible for supervision on a consolidated basis should be able to divide the tasks of the supervisory programme of the college and even jointly carry out such supervision.</p> <p>We understand that the objective is to organise the monitoring work so as to enable the best-placed authorities to carry out the relevant tasks, but this should be done without changing the distribution of</p>	<p>The roles and responsibilities of the authorities in relation to the prudential supervision of branches, which is the focus of these guidelines, are set out in the CRR/CRD. By means of these guidelines, the EBA is not changing these roles but clarifying how competent authorities should cooperate and coordinate activities in order to effectively and efficiently supervise systemically important branches, including through the framework of colleges of supervisors. Colleges of supervisors are a platform for</p>	<p>The background and introduction have been clarified regarding the responsibilities of the authorities and the applicable framework.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>powers and responsibilities between the authorities.</p> <p>Responsibility for the supervision of the significant-plus branch (which lies with the home competent authority) should not shift largely to the college of supervisors. Certain powers proposed to be conferred on the college (in particular the coordination of the application of sanctions (Section 5.5, paragraph 58) and an annual meeting with the general management of the branch (Section 5.6 paragraph 62)) move in this direction.</p> <p>Finally, it is proposed that, when the home or host competent authority carries out on-the-spot checks of the significant-plus branch, the host or home competent authority, respectively, should be invited to participate. This creates a blurring of roles in the field of on-the-spot checks and inspections. Article 52 of CRD IV only recommends that information is provided at the conclusion of these checks.</p>	<p>facilitating the performance of consolidated supervision; they enable authorities to cooperate and, subject to agreement, perform some tasks jointly. These ideas have been embedded into the guidelines.</p> <p>In particular, under the CRR/CRD framework, the responsibility for the prudential supervision of branches lies with the home competent authorities, whereas the host competent authorities have responsibility for the supervision of branches in relation to financial stability and market conduct, including anti-money laundering and counter-terrorist financing, as well as the protection of consumers. The guidelines do not change these responsibilities.</p>	
Allocation of tasks among authorities	<p>For the parent and branch to interact efficiently with supervisors, it must be a basic condition that there is transparency in the division of labour between supervisors, both to support the institution and to allow the institution to support supervisors to the greatest extent possible.</p> <p>Proposed redrafting of paragraph 79:</p> <p><i>The consolidating supervisors, the home and host competent authorities should inform, only where</i></p>	<p>The EBA agrees with the comment that any task allocation arrangements should be communicated to the institution and branch within the college communication framework.</p>	<p>Section 5.8 has been amended accordingly.</p>

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Macroprudential measures	<p>appropriate and in accordance with the college's communication framework, the (EU parent) institution and the branch as to the task allocation.</p> <p>The proposed approach for macroprudential measures can be interpreted as stating that home, consolidating and host supervisors should coordinate any macroprudential implementation (paragraph 58 of the proposed guidelines) and that any action undertaken specifically by the host supervisor should be communicated to the home/consolidating supervisor for consideration of voluntary reciprocity (paragraph 59-60 of the proposed guidelines).</p> <p>While this is an improvement of coordination between supervisors, it appears to:</p> <ul style="list-style-type: none"> - fall short of stipulating a clear decision prioritisation between the supervisors (when is the priority that of a host supervisor, when that of the home/consolidating supervisors) - open up the possibility of an inappropriate macroprudential effects, as it: <ul style="list-style-type: none"> o considers only voluntary reciprocity by home/consolidating supervisors for host supervisor decisions (e.g. capital conservation buffer, systemic risk buffer or other buffer/measure application), opening up the possibility of the measure being cancelled out by business being moved from the 	<p>The guidelines are addressed to the competent authorities and focus on microprudential supervision of significant-plus branches. The design and application of macroprudential measures are within the remit of the designated (macroprudential) authorities, which are not necessarily the same as the addressees of these guidelines. Therefore, by these guidelines the EBA cannot impose any obligation on the designated (macroprudential) authorities, or introduce any (new) rules regarding the coordination of macroprudential measures and reciprocity arrangements. The comments and proposed changes cannot be addressed, given the scope and addressees of the guidelines.</p>	No changes needed.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>host-supervisor-overseen branch to another entity overseen by another host or home/consolidating supervisor.</p> <p>o does not give the ability to the host supervisor to have a right to veto (for the supervised branch) any macroprudential measures applied by the home/consolidating supervisor (e.g. group-wide buffer for a firm) to the activities of the specific branch, as they may not be appropriate for the relevant national market (and may have a counterproductive/unwarranted/adverse impact on it)</p> <p>o does not appear to follow the framework proposed by the European Commission under its 01/08/2016 Consultation on the Review of the EU Macroprudential Policy Framework</p> <p>In light of the above, and in line with recommendations made in the respondent's response to the aforementioned EC consultation of August 2016, we recommend that the guidelines are amended to enhance the powers of host supervisors, thus making the approach more transparent for impacted branches/firms by:</p> <ul style="list-style-type: none"> - making any sector- or product-related macroprudential actions of a host supervisor subject to mandatory reciprocity by home/consolidating/other host supervisor for a firm's activities in the initiating host's 		

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
	<p>market/country</p> <p>- allowing the host supervisor to not apply any blanket macroprudential measures that are deemed inappropriate for the activities of the branch in the relevant host supervisor's national market under an 'apply or explain' approach, ensuring that the decision of a home/consolidating/other host supervisor does not create unwarranted adverse effects on the impacted host supervisor's national market.</p>		
Consultation on macroprudential measures	Some respondents noted the need to ensure that macroprudential measures and information influencing significant-plus branches should be forwarded between regulators (as per paragraph 59). Similarly, this requirement should be extended to cover significant branches and the institution.	The EBA shares the view that the consolidating supervisor and the home and host competent authorities should regularly inform each other about any macroprudential measures that may affect the institution or its significant-plus branch.	Section 5.5 has been amended to state that all competent authorities should regularly exchange information on macroprudential measures.
Supervisory burden	While the guidelines propose close coordination of visits and allocation of responsibilities (paragraphs 45-51 and 73-77 of the proposed guidelines), they do not appear to give sufficient clarity on removal of potential duplication of requests (e.g. a group-level request for information/visit necessitating activity at significant-plus branch level and vice versa), which could result in a further increase in regulatory, compliance and reporting burdens for firms operating significant-plus branches.	These guidelines clarify the framework for the execution of prudential supervision of significant-plus branches under the existing CRR/CRD legal framework. The actual supervision should be facilitated through the college of supervisors, which would enable the operationalisation of the framework in a way that best suits the circumstances of individual institutions, thus reducing the burden on institutions.	No changes needed.

Comments	Summary of responses received	EBA analysis	Amendments to the proposals
Additional reporting burden	One respondent requests that the final rules reflect the stated aims of the EBA explicitly, by confirming that only existing reporting/data formats should be requested by the supervisor where a branch is identified as significant-plus.	These guidelines do not introduce any new reporting, as significant-plus branches are already covered by statistical and financial stability reporting in accordance with the CRD, and all other reporting mentioned in the guidelines should already take place as part of good risk management practices; the information is to be collected and shared by the consolidating supervisor or the home competent authority in accordance with Section 5.4 of these guidelines.	No changes needed.