



BANKING STAKEHOLDER GROUP

**EBA CONSULTATION PAPER ON SUPERVISION OF
SIGNIFICANT BRANCHES (EBA-CP-2016-24)**

**General Comments
and Replies to Questions**

BY THE EBA BANKING STAKEHOLDER GROUP

London, 20 March 2017

The BSG understands that current economic and political uncertainties may lead some "host" Member States to claim closer supervision of significant branches within European Union. Existing cases of identification of significant branches by host authorities are moreover quite opaque, and must be more framed. This EBA initiative to improve the convergence of supervisory practices between home and host supervisors is therefore welcome.

It should however be stressed that branches have no independent legal personality or separate legal status and they form integrally part of their mother company, on the contrary to subsidiaries. They are fully integrated within the supervisory framework of the credit institution of which they are a part and they should continue to be subject to a specific (and if any low) supervision as such.

The rules should therefore on the one hand clearly determine the scope of the branches subject to host supervision and, when this is the case, aim at minimizing the burden that host authorities may impose on branches.

Should this guideline be implemented, some points are essential:

1. Define clearly the scope of the paper:

The perimeter of the draft guidelines does not allow to understand to what extent significant branches and by extension significant-plus would be supervised if these guidelines were to be adopted :

1. Cases where both the significant branch and its mother company are located within SSM participating Member States

Under the SSM home and host supervision is harmonised and under the ultimate responsibility of the same supervisor, ie the European Central Bank (ECB). In the SSM framework and between SSM countries, the concept of home authority and host authority are not relevant as the ECB ultimately plays both roles.

It should be stated that the guidelines do not apply to significant branches of European banks that operate in a euro-zone Member State different than the one where their parent company operate, ie that they do not apply to NCA being part of the SSM. In this situation no national prerogatives are justified while the SSM framework is applicable under ECB's responsibility.

2. Cases where either the significant branch or its mother company or both are not located within SSM participating Member States

Even for significant-plus branches, the home authority must remain the leading supervisory authority which must continue to define and coordinate supervisory actions including those that are carried out by host authorities.

It is here important to recognize that assessing a branch on a stand-alone perspective could result in a risk assessment that is not fully reflective of the true risks. The branch must be assessed as a part of the whole entity in order to avoid imposing additional constraints for example where there are centralised funding models. Also for recovery or resolution issues, branches cannot be dealt with in isolation from their mother company.

A heavy supervision would be redundant and contrary to the purpose of the SSM. In cases either the significant branch or the mother company are in an SSM participating Member State, the role of the ECB in its quality of host or home competent authority, should be clear as opposed to the NCA

2. Link between home and host

EBA proposes that the authorities of the home state, those of the host state and the authorities responsible for supervision on a consolidated basis, be able to divide up the tasks of the supervisory program of the college ; that, where appropriate, the authorities of the home state and the host state shall jointly carry out such supervision (see Section 5.2.43); and, in general, that the authorities represented in the college of supervisors share the tasks in an efficient manner, using delegation where possible, with the provision that such a mechanism does not call into question the competences and responsibilities of each authority (Section 5.8 §73 to 82). The objective of this proposal is to organize the monitoring work so

as to enable the best placed authorities to carry out the tasks, but without changing the distribution of powers and responsibilities between the authorities. This may lead in practice to the replacement for the significant-plus branches of the supervisory authority of the home Member State by the college of supervisors, a collegiate body. The other powers proposed to be conferred to the college (in particular the coordination of the application of sanctions, see section 5.5 § 58, the annual meeting with the general management of the branch see section 5.6 § 62) are in the same direction.

EBA also proposes that the competent authority of the home or host Member which carries out an on-the-spot check of the significant-plus branch should invite the competent authority of the other Member State to take part. This proposal blurs the division of roles in the field of on-the-spot checks and inspections between the authorities of the home Member State and those of the host Member State by organizing operations carried out almost jointly: article 52 of CRD4 only provides for information on the conclusions of these checks.

3. Quantitative criteria should be more precise

CRD IV article 51 lists vague criteria for identifying significant branches and the proposed guidelines unfortunately do not improve this clarity, on the contrary they increase complexity by adding new criteria for identifying so-called significant-plus branches.

Table 1 of EBA consultation paper typically shows how heterogeneous the current practices are across Member States on the criteria for the identification of significant branches.

Lack of transparency on objective and measurable quantitative criteria for determining significant branches and by extension significant-plus could foster host authorities to abusively consider some branches as significant branches against qualitative considerations. The EBA should define more precise and quantifiable list of criteria of identification in order to allow credit institutions to have visibility and predictability with respect to the status of their branches for supervision purpose.

4. The difference between subsidiaries and branches where the mother company absorbs all losses should be fully recognized

When setting these quantitative criteria, the methodology for the identification of O-SII could be a sensible approach to identify significant branches, provided that the approach is used for the sole purpose of determination of the significance plus category. However the difference between subsidiaries and branches should be recognized: as branches are integrated within the supervisory framework of the credit institution of which they are a part the criteria should in principle be less strict. Particular regard should however be paid to branches that are systemically important in the host country, but whose mother bank is not systemic in the home country.

Introducing a SREP approach at branch level would for example override the CRR objectives. Also rules should not interfere with the group recovery plans defined for the parent credit institutions (including their respective branches), and which are being discussed between home and host supervisors within Recovery Colleges.

5. It should finally be stressed that the dialogue with banks is core.

In addition to quantitative criteria, a contradictory discussion between banks and their competent authorities is essential to determine if the branch should be considered a significant one (or not). This should be included in the final paper.

I. Answer to questions related to the consultation

What are the respondents' views on the overall approach to the organisation of supervision of the subset of significant branches with particular importance to the group or institution

See general comments, point 1

What are the respondents' views on the approach to and the criteria used for the identification

See general comments, point 3

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What are the respondents' views on the proposed approach to introducing branch risk assessment

See general comments, point 4

What are the respondents' views to 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)?

See general comments, point 2