

# ANNUAL REPORT



# 2016

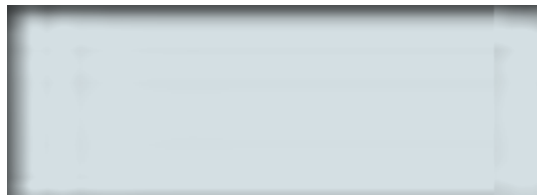


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# Abbreviations

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<b>AMC</b>	Asset management company	<b>EC</b>	European Commission
<b>AML/CFT</b>	Anti-Money Laundering/ Countering the Financing of Terrorism	<b>ECAIs</b>	External Credit Assessment Institutions
<b>4AMLD</b>	Anti-Money Laundering Directive	<b>ECB</b>	European Central Bank
<b>APR</b>	All price risk	<b>EDPS</b>	European Data Protection Supervisor
<b>AT1</b>	Additional Tier 1	<b>EEA</b>	European Economic Area
<b>BCBS</b>	Basel Committee on Banking Supervision	<b>EFC-FST</b>	Economic and Financial Committee of the Council
<b>BoS</b>	Board of Supervisors	<b>EIOPA</b>	European Insurance and Occupational Pensions Authority
<b>BRRD</b>	Bank Recovery and Resolution Directive	<b>EMIR</b>	European Market Infrastructure Regulation
<b>BSG</b>	Banking Stakeholder Group	<b>ESAs</b>	European Supervisory Authorities
<b>CA</b>	Competent authority	<b>ESMA</b>	European Securities and Markets Authority
<b>CBCM</b>	Cross-Border Crisis Management Group	<b>ESP</b>	European Supervisory Platform
<b>CCP</b>	Central counterparty	<b>ESRB</b>	European Systemic Risk Board
<b>CCR</b>	Counterparty credit risk	<b>EU</b>	European Union
<b>CEBS</b>	Committee of European Banking Supervisors	<b>EUI</b>	European University Institute
<b>CET1</b>	Common Equity Tier 1	<b>FID</b>	Fee information document
<b>CfA</b>	Call for Advice	<b>FINREP</b>	Financial Reporting
<b>CFR</b>	Core funding ratio	<b>FINTECH</b>	Financial Technology
<b>COREP</b>	Common reporting	<b>FRTB</b>	Fundamental Review of the Trading Book
<b>CRA</b>	Credit Risk Adjustment	<b>FSB</b>	Financial Stability Board
<b>CRA Regulation</b>	Credit Rating Agencies Regulation	<b>GAAP</b>	Generally Accepted Accounting Practices
<b>CRD</b>	Capital Requirements Directive	<b>G-SIB</b>	Global Systemically Important Banks
<b>CRM</b>	Credit Risk Mitigation	<b>G-SII</b>	Global systemically important institution
<b>CRR</b>	Capital Requirements Regulation	<b>ICAAP</b>	Internal Capital Adequacy Assessment Process
<b>CVA</b>	Credit Valuation Adjustment	<b>ICT</b>	Information and communication technology
<b>DG FISMA</b>	Directorate-General for Financial Stability, Financial Services and Capital Markets Union	<b>IFR</b>	Interchange Fee Regulation
<b>DGS</b>	Deposit guarantee scheme	<b>IFRS</b>	International Financial Reporting Standards
<b>DGSD</b>	Deposit Guarantee Schemes Directive	<b>ILAAP</b>	Internal Liquidity Adequacy Assessment Process
<b>DGS DAs</b>	DGS Designated Authorities		
<b>DPM</b>	Data Point Model		
<b>EBA</b>	European Banking Authority		

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<b>IMA</b>	Internal Model Approach	<b>RAQ</b>	Risk assessment questionnaire
<b>IOSCO</b>	International Organization of Securities Commissions	<b>RAR</b>	Risk assessment report
<b>IQD</b>	Inter-quantile Dispersion	<b>RAAs</b>	Resolution Authorities
<b>IRB</b>	Internal Ratings Based	<b>REL</b>	Risk of excessive leverage
<b>IRC</b>	Incremental risk charge	<b>ResCo</b>	Resolution Committee
<b>IRRBB</b>	Interest Rate Risk in the Banking Book	<b>ResG</b>	Resolution Steering Group
<b>ISRB</b>	Interactive Single Rulebook	<b>RPF</b>	Pillar 3 Framework
<b>ITS</b>	Implementing Technical Standards	<b>RTS</b>	Regulatory Technical Standards
<b>KID</b>	Key information document	<b>RWA</b>	Risk-weighted asset
<b>LCR</b>	Liquidity Coverage Ratio	<b>SACCR</b>	Counterparty frameworks
<b>LGD</b>	Loss given default	<b>SCA</b>	Sectoral Competent Authority
<b>LR</b>	Leverage ratio	<b>SFT</b>	Securities financing transaction
<b>MCD</b>	Mortgage Credit Directive	<b>SME</b>	Small and medium-sized enterprise
<b>MDA</b>	Maximum Distributable Amount	<b>SoF</b>	Statement of fees
<b>MiFID II</b>	Directive on Markets in Financial Instruments repealing Directive 2004/39/EC	<b>SRB</b>	Single Resolution Board
<b>MoU</b>	Memorandum of Understanding	<b>SREP</b>	Supervisory Review and Evaluation Process
<b>MREL</b>	Minimum requirement for own funds and eligible liabilities	<b>SRMR</b>	Single Resolution Mechanism and Single Resolution Fund
<b>NCA</b>	National competent authority	<b>SSM</b>	Single Supervisory Mechanism
<b>NSFR</b>	Net stable funding ratio	<b>TLAC</b>	Total loss absorption capacity
<b>O-SII</b>	Other systemically important institution	<b>WGMR</b>	Working Group on Margin Requirements
<b>OTC</b>	Over-the-counter		
<b>P2G</b>	Pillar 2 Capital Guidance		
<b>P2R</b>	Pillar 2 Requirements		
<b>PAD</b>	Payment Accounts Directive		
<b>PD</b>	Probability of Default		
<b>PII</b>	Professional Indemnity Insurance		
<b>PRIIPs</b>	Packaged Retail and Insurance-based Investment Products		
<b>PSD2</b>	Revised Payment Services Directive		
<b>PSPs</b>	Payment service provider		
<b>Q&amp;A</b>	Question and answer		
<b>QIS</b>	Quantitative Impact Study		

## Foreword by the Chairperson

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ANDREA ENRIA

In the summer of 2017, we will have the 10th anniversary of the start of the financial crisis. Eight years have elapsed since the G20 leaders met in Pittsburgh, in September 2009, and defined a broad reform agenda to repair the international regulatory framework. We are now in the final stages of implementation of that agenda. It has been a daunting task but we are now close to the finishing line.

In November last year, the Commission submitted legislative proposals for the implementation of the last elements of the reform package: the leverage ratio, the net stable funding ratio, the fundamental review of the trading book and the requirements for loss absorbing capacity for global systemically important banks. These proposals largely incorporated the advice provided by the EBA, which conducted extensive analysis on the impact of the proposed requirements on banks of different size and on various business models, as well as on the financing of the economy at large and, in particular, the small and medium enterprises. Sometimes, we hear voices in the industry arguing that we should put these regulatory changes in stand-by, as there seems to be a discussion in the United States about a possible watering down of the requirements. I am confident the US and other G20 jurisdictions will respect the commitments taken at the Basel Committee's table. But even if this were not the case, the fact that other jurisdictions decide to deviate from international standards should not lead us to drop or water down requirements that according to our own analysis are appropriate and necessary for European banks. Prudential rules should not be defined having in mind the competitive position of our industry, but the safety and soundness of our system.

At the same time, the Basel Committee is close to finalising the last changes to international standards, aimed at addressing the excessive and unjustified variability in risk weighted assets (RWAs) calculated via banks' internal models. The EBA has been amongst the first to identify the need for regulatory repair in this area. We published five reports assessing the problem and identifying the main drivers of RWAs variability and we defined a roadmap to address the main issues. We also started to conduct regular benchmarking exercises, aimed at identifying outliers in the calculations of RWAs via internal models and triggering supervisory follow-up actions. We are now close to completing this repair action and keen that the Basel Committee finalises its package addressing the remaining issues that we have not directly tackled. The original proposals contained in the Consultation Paper published by the Basel Committee last year were putting excessive constraints on the use of internal models, driving to an excessive reduction in the risk sensitivity of the regulatory framework and to unwarranted increases in capital requirements. Since then, significant adjustments have been made and we are now close to an agreement, although some very sensitive issues, such as the definition and calibration of an output floor, are still being debated.

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I believe the priority now is to close the reform process and eliminate the regulatory uncertainty as soon as possible.

The reform process has provided a unique opportunity to move to a true Single Rulebook for the European banking sector. Notwithstanding the limited resources and the sometimes insufficient degree of harmonisation achieved in the Level 1 legislation, the EBA has been up to the task and has delivered a set of truly common rules to support the stability and integration of the Single Market in banking. We completed 146 technical standards and 64 Guidelines in a wide range of areas. The good technical quality of our products, the extensive engagement with stakeholders during the consultation process and via other informal channels, the development of new instruments, such as a well-structured Q&A process, have contributed to a proper, common understanding of how the rules should be applied in practice. This is key for the reputation of the Authority: it is not sufficient that the rules are prepared in a timely fashion, they must also be recognised by market participants as strong, clear and legitimate. Sometimes, I hear proposals to limit the possibility for the European Supervisory Authorities (ESAs) to issue own initiative guidelines. On the basis of our experience, I think this would be a serious mistake, which would dent the technical independence of the authorities and their capacity to deal with emerging risks and ensure convergence in supervisory practices. Own initiative products should be used sparingly and clearly within the set up provided by Level 1 legislation; but they are essential to achieve the objectives that the founding Regulation attributes to the ESAs.

In the course of last year, the process of repair of EU banks' balance sheets has progressed further. Capital strengthening has continued, with the average Common Equity Tier 1 (CET1) ratio growing to 14.2% at the end of 2016, 70

basis points higher than at the end of 2015. In 2011, when the EBA started operating, the ratio was at 9.2%, based on a less strict definition of capital. While capital levels raised and asset quality issues have been identified, also following the enhanced supervisory pressure and a series of recommendation from the EBA, the third stage in the repair process, the cleansing of bank balance sheets, is yet to be completed. It is now imperative to effectively address the issue of asset quality: the size of non-performing loans (NPLs) remains extremely high (just below EUR 1 trn gross NPLs) and is decreasing at a very slow pace; the average ratio of NPLs to total loans is 5.1%, but the ratio is above 10% in 10 Member States; the adverse impact on the economic recovery remains significant, as capital is trapped in non-performing investments rather than financing the economy; finally, legacy assets drag down bank profitability and cast doubts on the medium-term sustainability of business models.

I recently suggested that the most effective way to achieve swift progress throughout the Single Market would be to take policy action at the EU level to remove legacy assets from the banks' balance sheets and transfer them to an asset management company (AMC), ideally established at the EU level. Some form of public intervention seems warranted given the scale of the issue and the inefficient functioning of the secondary market for non-performing assets. This could and should occur within the boundaries set by current legislation and State aid rules. If EU-wide solutions are not politically viable, the development of common blueprints for national AMCs could be an important step forward to facilitate the fast cleansing of banks' balance sheets. The EBA staff has conducted extensive work in this area. We have also been recently asked by the European Commission to investigate the possibility of issuing guidelines on NPL data standardisation, thus specifying the set of in-

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formation required from banks and helping to remove information asymmetries that are currently one of the key obstacles to an efficient functioning of the secondary market for NPLs.

Another important driver for change in EU banks' structures and balance sheets is the need to complete the preparation for possible crises, via recovery and resolution planning, and to establish appropriate amounts of loss absorbing capacity, in line with the new regulatory requirements on the minimum own funds and eligible liabilities (MREL). The EBA has almost finalised the production of technical standards and guidelines in this area. Once this regulatory production is completed, we will have to closely monitor the adjustment to the new framework, which has the ambition to ensure the smooth resolvability of all banks and to avoid future needs to extensively rely on government-led bail-outs.

The reorganisation of European banking is increasingly affected by technological change. FinTech can be an important driver to expand access to financial services for consumers, investors and firms. The entrance in the market of new players, new products and new distribution channels may bring about greater choice for final users and more user-friendly services, possibly at lower prices. It may also raise challenges for consumer protection and the fight to financial crime. The EBA, often jointly with our sister organisations, ESMA and EIOPA, has conducted extensive work to monitor innovation and assess risks and benefits for consumers and the stability of the financial system. Amongst others, we focused on issues such as virtual currencies, robo-advice, big data, crowd-funding. The EBA is particularly focused on the challenges raised by the revised Directive on Payments Services (PSD2), which significantly opens the market opportunities for new entrants and enhances competition, while also aiming at strengthening the security for consumers. In general, we

never jumped the gun suggesting a new wave of regulations for innovative products and their providers. Financial regulation should not be a tool for protecting incumbents from competition. But we have also identified areas in which the regulatory framework needs to adapt. This area of work is bound to increase in relevance in our work in the months and years to come.

Finally, this is an important year for the EBA also because the European Commission recently initiated a public consultation to evaluate the operations of the three European Supervisory Authorities and to identify areas where their effectiveness and efficiency can be improved. This review is very timely: the UK's decision to leave the EU calls for a strategic rebooting of the ESAs, which for the EBA will also coincide with the need to relocate to another Member State within the Union. The EBA is not seeking additional powers: the current set up is working well and we should remain focused on the need to ensure the success of the Banking Union and the integrity of the Single Market. Some fine tuning of existing powers might however be considered. For instance, in recent opinions the EBA highlighted areas in which a better formulation of our responsibilities could be extremely helpful – e.g., in the area of supervisory reporting, in the monitoring of eligible capital instruments and in the conduct of reviews on the implementation of common rules and practices. We would also welcome a greater involvement as observers in the process of finalisation of Level 1 legislation, as it is difficult to develop proper technical rules without knowing the background for the choices made by the co-legislators. We recognise that our governance is fairly complex, but it has not prevented the timely and successful delivery of a number of good quality products. If changes are introduced, it would be reasonable to focus just on those areas in which the EBA is called to exercise an independent judgment on the choices of competent authorities, such as breach of

Union law or mediation. Finally, the Commission's consultation correctly focuses on the funding of the ESAs. Since our establishment, we have been experiencing excessively tight budget constraints, especially compared to other EU authorities operating in the same field and financed by the industry. These constraints have often hampered the timely delivery of our mandates, also in important areas. Strategic priorities, such as the provision of integrated European training for examiners, with common curricula and certification, have been put on the shelves because of unreasonable budgetary constraints, even when the competent authorities were willing to pay for the service. Therefore, it would be important that the funding structure of the EBA is reviewed either by creating an independent budget line in the EU budget, or by introducing direct funding from the industry.

The EBA has been established as part of a major project to reshuffle the institutional set up for financial regulation and supervision at the EU level. Change is part of our DNA. The establishment of the Banking Union led us to refocus our mission, emphasising the integrity of the Single Market and the balance between 'ins' and 'outs'. The decision of the UK to leave the EU calls for a further reconsideration of this mission. The work in the areas I mentioned will remain essential for the future of banking regulation and supervision in the EU. It is important that decisions on the functioning of the ESAs and on the relocation of the EBA are taken swiftly, so as to give certainty to the staff and ensure a smooth continuation of our work. The quality and commitment of our staff is the main asset we have. Any change that is introduced should be mindful of the need to preserve and further strengthen this asset, in the interest of the whole EU.



EBA staff in April 2017

## Interview with the Executive Director

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ADAM FARKAS

**1.** Last year you celebrated the EBA's first 5 years of activity but later external developments down the road have posed new challenges for the Authority. Has the UK decision to leave the EU had any major impact on your work so far? What are the key challenges you see ahead of you in the coming years?

The end of the UK's membership of the EU will have substantial implications for the European economy in general, not least in the area of financial services. As one of the key objectives of the EBA is to "protect the public interest by contributing to the short, medium and long-term stability and effectiveness of the financial system, for the Union economy, its citizens and businesses", it is crucial we are prepared to cope with such a major development. Uncertainty around the Brexit negotiations is having, and will have, an impact on both financial institutions and supervisors for some time to come.

Given its mandate, we, as EBA, will be expected to contribute in shaping the changing regulatory landscape as institutions respond to the challenges and opportunities presented by Brexit. With our technical expertise and supervisory coordination function we are well-placed to contribute constructively in a number of different areas related to Brexit. Many issues and challenges have been raised by the UK's decision, including in relation to financial stability, the relocation of financial services activity, and future relations with the UK – across its functional areas. The EBA is actively participating in addressing these challenges.

From a more operational point of view, one of the most immediate consequences of Brexit will be a relocation of the Authority to another EU Member State. Also there, in order to contain the uncertainty as to the future location of the EBA and to ensure a smooth transition for the staff and their families, it would be important that a decision is taken within a relatively short time frame, while leaving sufficient time for the final move. It is also important to note that Brexit is likely to influence the ongoing review of the three EU Supervisory Authorities, which aims at building a clearer overview of areas where, going forward, the effectiveness and efficiency of the ESAs can be strengthened and improved.



**2.** You have made significant progress in contributing to a unified regulatory framework for the EU banking sector. What is your assessment of the current state of progress at European but also global level in policy development and implementation of financial regulatory reforms?

In the EU, the ongoing implementation of global reforms has been representing a unique opportunity for developing the Single Rulebook and for enhancing supervisory consistency across the whole European banking sector. In this respect, the European System of Financial Supervision, and the EBA within that institutional architecture, have played a key role in developing truly common rules for EU banks, as well as in ensuring their consistent application across jurisdictions, two preconditions for the smooth functioning of the Single Market in banking.

I would like to provide a few examples that illustrate our contribution in overhauling the EU financial regulatory framework. We have specified the definition of bank capital, one of the weak points of the regulatory framework in the run up to the crisis; developed for the first time a common definition of non-performing and forborne loans, thus allowing to assess and compare banks' asset quality according to a common metric; specified the criteria to identify systemically important banks at both the global and domestic level; clarified the contents of recovery and resolution plans and the criteria for identifying banks that are failing or likely to fail; established a common supervisory reporting framework, setting out common templates, procedures and IT platforms; defined the methodology and processes for the supervisory review and evaluation process that underpins the joint decisions on additional capital and liquidity requirements for cross-border groups.

Now that the bulk of the Single Rulebook has been completed – although we still have several mandates to fulfil in the coming months and possibly years – our efforts are more geared towards assessing and understanding the intended and unintended consequences of regulation. This is precisely the reason why we stand ready to support the Commission in its review of the banking package, which will include measures that will strengthen the resilience of the banking sector by introducing more risk-sensitive capital requirements, more proportionate and less burdensome rules for smaller financial institutions and will improve banks' lending capacity to support the EU economy.

**3.** What does the European Commission's proposed amendments to the capital requirement directive and regulation as well as to the bank recovery and resolution directive mean in terms of new mandates for the EBA? Do you have enough resources to cope with the additional tasks?

The European Commission's banking reform package, launched at the end of last year, aims at completing the reforms agreed with international partners at the G20 in the wake of the financial crisis and implemented in the EU. Despite the progress made so far to ensure a more stable and resilient financial system, some remaining weaknesses need to be addressed and some outstanding elements, which have only recently been finalised by the Basel Committee on Banking Supervision (BCBS) and the Financial Stability Board (FSB) need to be implemented in the EU. Therefore, further progress in completing the Banking Union is crucial to further reduce risks in the financial sector, strengthen the resilience of the European banking system and increase market confidence. The reform package is also intended to make the new regula-

tory framework more proportionate to banks' complexity, size and business profile.

The proposals include the following key elements: (i) a binding 3% leverage ratio (LR) which will prevent institutions from excessively increasing lending when they do not have enough capital; (ii) a binding detailed net stable funding ratio (NSFR), which will require credit institutions and systemic investment firms to finance their long-term activities (assets and off-balance sheet items) with stable sources of funding (liabilities). This will increase banks' resilience to funding constraints; (iii) a requirement to have more risk-sensitive own funds (i.e. capital requirements) for institutions that trade in securities and derivatives, following Basel's work on the 'fundamental review of the trading book' (FRTB); (iv) the implementation of new standards on the total loss-absorbing capacity (TLAC) of global systemically important institutions (G-SIIs), which will strengthen the EU's ability to resolve failing G-SIIs while minimising risks for taxpayers; (v) making EU rules more proportionate and to ease burden for smaller and non-complex banks without compromising their stability; (vi) making it easier for banks to lend to SMEs and fund infrastructure projects and thereby to support investments.

The EBA contributed to the Commission's proposals with a series of reports – on the leverage ratio, the net stable funding ratio, the fundamental review of the trading book, the minimum requirements of eligible liabilities. We also conducted thorough analyses of the effects of the implementation of international standards on European banking markets, assessing the impact on banks of different size and business model, as well as on lending to small and medium enterprises and to the European economy as a whole. We are pleased that the Commission's proposals have broadly

accepted our conclusions. There are a few areas in which the Commission's proposals depart from the international standards and from the EBA's recommendations. If these proposals are maintained in the final legislative text, it would be important to introduce mandates for the EBA to monitor the effects and to ensure a consistent, conservative application of the exemptions across the Single Market.

I already mentioned that one of the objectives of this package is to make the rules of the Capital Requirements Directive and Regulation (CRD/CRR) more proportionate and less burdensome for small and less complex institutions. I would like to clarify that proportionality in banking regulation has evolved beyond a call for less requirements, or for a repatriation of requirements for local banks at the national level. Rather, the aim should be to simplify the application of the Single Rulebook and reduce undue regulatory burdens, without compromising prudential objectives. The banking reform package is expected to have a significant impact in terms of workload for the EBA, with new mandates stemming from the new CRD/CRR and the revised resolution framework to develop technical standards, guidelines reports and other tools. However, based on our past experience and the technical expertise accumulated by the EBA in the past years, I'm confident that with the current and new ones, which have already been included in our establishment plan, we will be able to deliver on these new tasks.

#### 4. What progress has the EBA made in enhancing convergence of supervisory practices across the EU?

Achieving supervisory convergence across the EU is one of our key objectives as it should ensure that together with the common rules

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set out in the Single Rulebook we would have comparable supervisory approaches and methodologies, consistent supervisory outcomes, and ultimately a true level playing field across the EU. In practice, our aim in the supervisory convergence work is to achieve a situation where institutions running broadly similar business models and with broadly similar risk profiles should be subject to consistent supervisory responses, regardless of the jurisdiction in which they operate.

The EBA has done a lot of progress in ensuring consistency of regulation, but now our focus is gradually shifting towards the convergence of supervisory practices, where inconsistencies still persist. These inconsistencies create obstacles to the efficient functioning of the Single Market, especially when dealing with cross-border banking. The inconsistent and uncoordinated actions of supervisory authorities in the past have often been perceived as a factor trapping capital and liquidity resources within jurisdictions, at the expense of their efficient allocation within a cross-border group and with a subsequent impact on pricing.

The three European Supervisory Authorities have contributed significantly to developing the EU's Single Rulebook for financial services and to applying it in practice but more work on supervisory convergence is needed to ensure institutions are subject to consistent supervision and enforcement of common rules, no matter where in the EU they operate. And this call becomes even more urgent after the UK's decision to leave the EU. Here, at the EBA, we are actively involved in ensuring supervisory convergence through our policy work, active engagement in the colleges of supervisors, and we do this also by monitoring and assessing the actual degree of convergence of supervisory practices on an ongoing basis as well as the way competent authorities across the

EU are implementing our guidelines in their actual supervisory practices.

In this respect, our focus is on the assessment of how the EBA Guidelines on common procedures and methodologies for the supervisory review and evaluation process (SREP Guidelines) have been implemented by authorities in practice. The main themes of our supervisory convergence work in 2016 were indeed the consistent application of automatic restrictions on distributions and the convergence in the use of the supervisory stress testing as a supervisory tool to help in assessing institutions' capital adequacy and determine the need for additional non-legally binding capital guidance on top of Pillar 2 and the combined buffer requirements.

In the past, we have witnessed that divergences in supervisory approaches towards setting additional capital requirements and their nature, as well as in the application of automatic restrictions on distributable amounts, have generated uncertainty among institutions and investors and, in some cases, also temporarily affected capital planning and investment decisions. This is the reason why already in 2016, we reacted to this important challenge with our opinion on Maximum Distributable Amount (MDA), thus addressing some of the most urgent concerns related to the stacking order of and the role of Pillar 2 capital requirements in the MDA framework. We are also looking at further clarifying the practical implementation of the SREP framework, which, despite its robustness and its crucial role in ensuring convergence of supervisory practice, needs to be further reinforced, especially in light of the recent developments in the EU and international fora. In particular, as explained in our new Pillar 2 Roadmap, in 2017 we will be formally introducing Pillar 2 capital guidance into the SREP Guidelines.

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Finally, the EBA's new training strategy adopted in 2016 set the foundations for a common approach, which will contribute to the building of a common supervisory culture. In line with the training strategy, we have been expanding our offering and reach to line supervisors across the EU also by means of online training courses that proved to be very successful with the supervisors. In 2016 we organised 26 training courses, including a number of on-line courses, which focused on regulatory priorities in 2016, such as recovery planning and SREP implementation.

**5.** Another area within your scope of activity which has come to the forefront is payments. Which are the key challenges the EBA will have to face in terms of mandates under the PSD2 to ensure the EU Single Market is fit for the digital age?

The revised Payments Services Directive (PSD2), which will apply from January 2018, is a significant evolution of existing legislation for the payments industry. It aims to increase competition in an already competitive payments industry, bring into scope new types of payment services, enhance customer protection and security. PSD2 is an important step towards an EU digital Single Market.

In this area, the EBA has been explicitly mandated to develop 11 technical standards and guidelines, many of which are about the security requirements incumbent banks and

market challengers will have to comply with when accessing payment accounts. We have already delivered on some of these mandates and one of the key challenges we had to face – and will be facing in the future – was how to optimally strike difficult trade-offs between competing objectives of the PSD2, such as enhancing competition, and therefore allowing new firms to enter the market and to challenge incumbent banks, and at the same time, strengthening payments security and protecting consumers. Similarly, the objective of facilitating innovation and ensuring technology and business model neutrality was another major challenge as it had to be balanced with our overarching goal of contributing to a single EU payments market, which might call for greater standardisation of some requirements and, therefore, potentially narrow down the room for innovation.

From a regulatory point of view, I believe this Directive creates both significant challenges and a wealth of opportunities for all parties involved. There are indeed opportunities in moving towards a more integrated payments market and a new digital ecosystem. But our key challenge in this fast developing environment will be to understand and closely monitor the changes and ensure we contribute to a solid framework, which while favouring the development of user-friendly, accessible and innovative means of payment, should have all safeguards in place to ensure an appropriate level of payments security and protection of customers.

# Key publications and decisions

Figure 1: Comprehensive list of EBA publications and decisions in 2016

JANUARY	
NO	Bank of Greece notifies the EBA in relation to the resolution of Cooperative Bank of Peloponnese Coop Ltd
NO	EBA acknowledges additional notification from the Central Bank of Hungary on the ongoing resolution of MKB Bank Zrt.
NO	EBA acknowledges notification from the Banco de Portugal in relation to Novo Banco
CP	EBA consults on draft guidelines on implicit support for securitisation transactions
	EBA launches an impact assessment of IFRS 9 on banks in the EU
GL RTS ITS	EBA publishes revised final draft technical standards and Guidelines on methodology and disclosure for global systemically important institutions
PH	EBA to hold a public hearing on draft technical standards under the Interchange Fee Regulation
OP	ESAs submit a joint letter to the European Commission on cross-selling of financial products in the EU
	The Joint Board of Appeal of the ESAs decides on Kluge, Belyaev, Radio Elektroniks OU and Dyakov appeal against the EBA
FEBRUARY	
	EBA 5th anniversary conference to discuss achievements and future work of the agency
NO	EBA acknowledges notification from the Bank of Italy on the resolution of four banks
OP	EBA expresses dissent over EU Commission proposed amendments to the MREL technical standards
	EBA launches 2016 EU-wide stress test exercise
ITS	EBA publishes final draft ITS on the mapping of ECAs credit assessments for securitisation positions
GL	EBA publishes Guidelines on cooperation agreements between deposit guarantee schemes
OP	EBA publishes Opinion on macroprudential policy measures notified by the National Bank of Belgium
OP REP	EBA sets out roadmap for the implementation of the regulatory review of internal models
	EBA updates its Risk Dashboard for EU banking sector
	Opening remarks at the EBA 5th Anniversary Conference by Andrea Enria
MARCH	
NO	EBA acknowledges notification from Finansiell Stabilitet in respect of the sale of Andelskassen J.A.K. Slagelse
	EBA amends DPM and XBRL taxonomy 2.4 for remittance of supervisory reporting
CP	EBA consults on draft Guidelines on corrections to modified duration for debt instruments
ITS	EBA issues amended standards on supervisory reporting for institutions
	EBA issues revised list of ITS validation rules
DE	EBA publishes Decision specifying the benchmark rate under the Mortgage Credit Directive
REP	EBA publishes its annual assessment of EU colleges of supervisors
	EBA publishes new DPM and XBRL taxonomy 2.5 for remittance of supervisory reporting

CP	Consultation Paper
DE	Decision
GL	Guidelines
ITS	Implementing Technical Standards
NO	Notification
OP	Opinion
PH	Public Hearing
REP	Report
RTS	Regulatory Technical Standards

<b>REP</b>	EBA publishes results of the CRDIV-CRR/Basel III monitoring exercise as of 30 June 2015
<b>OP</b>	EBA publishes the report on SMEs and the SME Supporting Factor
<b>OP</b>	EBA reports on high earners and the effects of the bonus cap
	EBA responds to the European Commission's Green Paper on Retail Financial Services
<b>CP</b>	EBA seeks comments on reporting of prudent valuation information
<b>CP</b>	EBA seeks input at national level on FINREP and GAAP
<b>PH</b>	EBA to hold a public hearing on upcoming report on the calibration of the leverage ratio
<b>RTS</b>	ESAs publish final draft technical standards on margin requirements for non-centrally cleared OTC derivatives
<b>APRIL</b>	
	Call for papers for the 5th Annual EBA Research Workshop
<b>NO</b>	EBA acknowledges additional notification from the Central Bank of Hungary on the ongoing resolution of MKB Bank Zrt.
<b>NO</b>	EBA acknowledges notification from the Austrian Financial Market Authority
	EBA and EIB Group to promote discussion on synthetic securitisation and credit guarantees
	EBA appoints 23 new members of its Stakeholder Group
<b>CP</b>	EBA consults on disclosure of encumbered and unencumbered assets
<b>CP</b>	EBA consults on draft amending standards on CVA proxy spread
	EBA discloses first list of O-SIIs in the EU
	EBA publishes end of term report of its Banking Stakeholder Group (BSG)
<b>GL</b>	EBA publishes final Guidelines for disclosing confidential information under the BRRD
<b>OP</b>	EBA publishes Opinion on the application of customer due diligence measures to customers who are asylum seekers from higher-risk third countries or territories
<b>OP</b>	EBA publishes Report and recommends supervisory best practices on securitisation risk retention, due diligence and disclosure
	EBA updated Risk Dashboard shows EU banks have further increased their capital ratios in Q4 2015
<b>RTS</b>	ESAs finalise Key Information Documents for retail investors in the EU
<b>REP</b>	ESAs identify vulnerabilities affecting the EU financial system and suggest actions to address the main risks
<b>MAY</b>	
<b>NO</b>	EBA acknowledges another notification from the Central Bank of Hungary on the ongoing resolution of MKB Bank Zrt.
<b>OP</b>	EBA agrees with the Commission on changes to the amended technical standards on benchmarking of internal approaches
<b>OP</b>	EBA amends historical look-back approach (HLBA) method for calculating additional collateral outflows
	EBA and EIB discuss opportunities and challenges of synthetic securitisation in the banking sector
<b>REP</b>	EBA confirms the use of unsolicited credit ratings for determining institutions capital requirements
<b>CP</b>	EBA consults on LCR disclosure
	EBA provides guidance for computing Financial Soundness Indicators (FSIs)
	EBA publishes corrections to XBRL reporting taxonomies and confirms reference dates
<b>GL</b>	EBA publishes final Guidelines on stress tests for deposit guarantee schemes
<b>CP</b>	EBA seeks views on the use of consumer data by financial institutions
	EBA welcomes the publication of the May 2016 update of the FX Global Code
<b>OP</b>	ESAs clarify their position on technical standards on the credit quality steps for ECAIs credit assessments

## JUNE

<b>NO</b>	Bank of Greece notifies the EBA in relation to the resolution of Cooperative Bank of Peloponnese Coop Ltd
	EBA appoints Chairperson and Vice-Chairperson of its Banking Stakeholder Group
<b>CP</b>	EBA launches consultation on Guidelines on disclosure requirements for the EU banking sector
<b>DE</b>	EBA publishes decision on data for supervisory benchmarking
<b>RTS</b>	EBA publishes final draft technical standards on specialised lending exposures
	EBA publishes its 2015 Annual Report
<b>REP</b>	EBA publishes its consumer trends report 2016
	Joint Committee of ESAs launches website

## JULY

<b>NO</b>	EBA acknowledges notification from the Central Bank of Hungary in relation to the termination of the resolution of MKB Bank Zrt
	EBA announces details of its 2016 transparency exercise
	EBA announces timing for publication of 2016 EU-wide stress test results
	EBA clarifies use of 2016 EU-wide stress test results in the SREP process
<b>CP</b>	EBA consults on Guidelines on credit risk management practices and accounting for expected credit losses
<b>CP</b>	EBA consults on the appropriate basis for the target level of resolution financing arrangements
<b>CP</b>	EBA consults on the treatment of connected clients for large exposures
<b>CP</b>	EBA consults public on the minimum requirement for own funds and eligible liabilities (MREL)
	EBA discloses example of templates for stress test results
<b>REP</b>	EBA finds no significant increase in asset encumbrance in 2015
	EBA launches data collection to support the new prudential framework for investment firms
<b>OP</b>	EBA notes progress in convergence of supervisory practices across the EU
<b>REP</b>	EBA provides updates on NPLs in EU banking sector
	EBA publishes 2016 EU-wide stress test results
<b>OP</b>	EBA publishes a report on the benchmarking of diversity practices at European Union Level
<b>REP</b>	EBA publishes analysis on governance arrangements and indicators for recovery plans
<b>RTS</b>	EBA publishes final draft technical standards on assessment methodology for the validation of credit risk models
<b>RTS</b>	EBA publishes final draft technical standards on separation of payment card schemes and processing entities under the IFR
<b>GL</b>	EBA publishes guidelines on communication between supervisors and statutory auditors
<b>RTS</b>	EBA publishes RTS on preferential treatment in cross-border intragroup financial support
	EBA updated Risk Dashboard shows stable capital levels amidst efforts to further improve asset quality
	EBA updates on monitoring of Additional Tier 1 instruments

## AUGUST

<b>RTS   ITS</b>	EBA amends technical standards on benchmarking of internal approaches
<b>CP</b>	EBA consults on strong customer authentication and secure communications under PSD2
	EBA provides input based on the Single Rulebook Q&As to the European Commission's CRR-CRD review
<b>OP</b>	EBA publishes an Opinion on the Commission's proposal to bring virtual currency entities in the scope of the Anti-Money Laundering Directive

<b>CP</b>	Consultation Paper
<b>DE</b>	Decision
<b>GL</b>	Guidelines
<b>ITS</b>	Implementing Technical Standards
<b>NO</b>	Notification
<b>OP</b>	Opinion
<b>PH</b>	Public Hearing
<b>REP</b>	Report
<b>RTS</b>	Regulatory Technical Standards

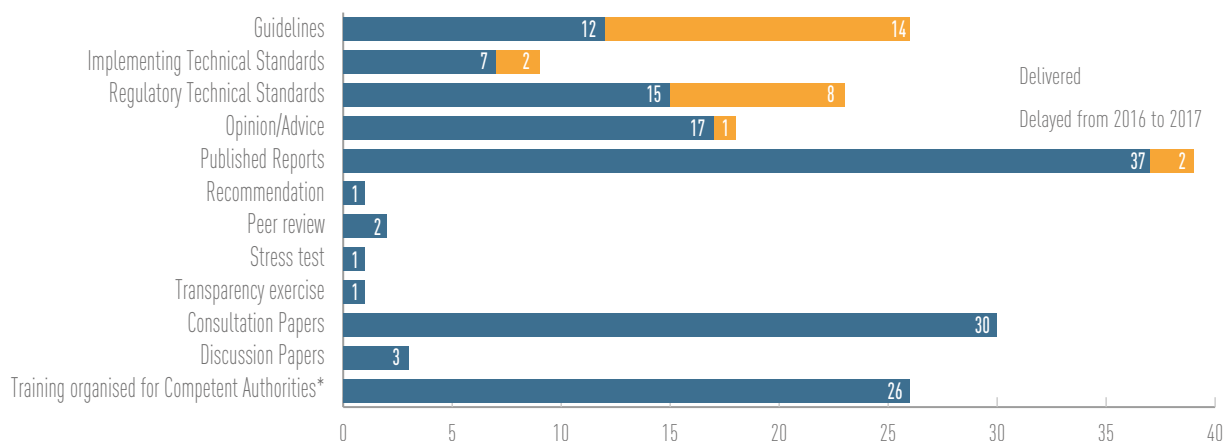
	EBA publishes indicators from 36 global systemically important institutions (G-SIIs)
	EBA publishes list of designated Resolution Authorities
<b>OP</b>	EBA recommends introducing the Leverage Ratio in the EU
<b>SEPTEMBER</b>	
<b>CP</b>	EBA consults on Guidelines on professional indemnity insurance or comparable guarantee for payment initiation and account information services providers
<b>CP</b>	EBA consults on technical standards on fee terminology and disclosure documents under the Payment Accounts Directive
<b>GL RTS REP</b>	EBA harmonises the definition of default across the EU
<b>ITS</b>	EBA publishes final draft technical standards on information exchange between authorities regarding qualifying holdings
<b>GL</b>	EBA publishes final guidelines on the remuneration of sales staff
<b>REP</b>	EBA publishes results of the CRDIV-CRR/Basel III monitoring exercise as of 31 December 2015
<b>OP</b>	EBA says that core funding ratio cannot replace NSFR when assessing funding risk
	EBA updated Risk Dashboard shows that low profitability and the high level of NPLs remain a concern for EU banks
	EBA updates its CET1 list
<b>REP</b>	ESAs highlight main risks for the EU financial system
<b>OP</b>	ESAs reject proposed amendments from the European Commission to technical standards on non-centrally cleared OTC derivatives
	Watch ESAs 2016 Consumer Protection Day Live
<b>OCTOBER</b>	
<b>CP</b>	EBA and ESMA consult on assessing the suitability of banks and investment firms members of the management body and key function holders
<b>OP</b>	EBA calls for a simplified and more harmonised large exposures regime
<b>CP</b>	EBA consults on ICT risk
<b>CP</b>	EBA consults on technical standards on MREL reporting by Resolution Authorities
<b>PH</b>	EBA holds a public hearing on Covered Bonds
<b>GL</b>	EBA publishes final guidelines on corrections to modified duration for debt instruments
<b>GL</b>	EBA publishes final Guidelines on implicit support for securitisation transactions
	EBA publishes work programme for 2017
	EBA recalls key deadlines for data submission for the 2017 benchmarking exercise of internal approaches
<b>OP</b>	EBA recommends a measure based on total liabilities as the target level of resolution financing arrangements
<b>OP</b>	EBA recommends that only investment firms identified as GSIs and OSIs be subject to the full CRDIV/CRR
<b>CP</b>	EBA reviews its guidelines on internal governance
<b>ITS</b>	EBA updates list of correlated currencies
<b>REP</b>	EBA updates on monitoring of Additional Tier 1 instruments
<b>NOVEMBER</b>	
<b>ITS</b>	EBA amends supervisory reporting standards due to the new IFRS 9
	EBA announces timing for publication of 2016 EU-wide transparency exercise data
<b>CP</b>	EBA consults on guidelines for the application of the IRB approach
<b>CP</b>	EBA consults on Guidelines on authorisation and registration under PSD2
<b>CP</b>	EBA consults on revised standards on supervisory reporting
<b>CP</b>	EBA consults on standards specifying information requirements for the authorisation of credit institutions
<b>OP</b>	EBA issues recommendations on the implementation of new counterparty and market risk frameworks



	EBA launches second impact assessment of IFRS 9 on EU banks
<b>REP</b>	EBA provides its views on the implementation of IFRS 9 and its impact on banks across the EU
<b>OP</b>	EBA provides overview on the proportionate application of remuneration requirements across the EU
<b>GL</b>	EBA publishes final guidelines on ICAAP and ILAAP information
<b>RTS</b>	EBA publishes final standards on assessment methodology to validate market risk models
	EBA publishes list of public sector entities for the calculation of capital requirements
<b>CP</b>	EBA seeks views on how to review the maturity ladder for liquidity reporting
<b>CP</b>	EBA seeks views on new prudential regime for investment firms
<b>GL</b>	ESAs provide guidance on anti-money laundering and counter-terrorist financing supervision
<b>DECEMBER</b>	
<b>CP</b>	EBA consults on Guidelines on the reporting of operational or security incidents under the PSD2
<b>CP</b>	EBA consults on supervision of significant branches
	EBA issues revised list of ITS validation rules
	EBA launches data collection addressed to commodity derivatives firms to review the prudential framework for investment firms
	EBA launches qualitative survey on internal models
<b>OP</b>	EBA makes final recommendations for strengthening loss-absorbing capacity of banks in Europe
<b>RTS</b>	EBA publishes final draft technical standards on cooperation and exchange of information for passporting under PSD2
<b>GL</b>	EBA publishes final guidelines on revised Pillar 3 disclosures requirements
<b>OP</b>	EBA recommends a harmonised EU-wide framework for covered bonds
<b>OP</b>	EBA recommends retaining risk-sensitive framework for banks regulatory capital
<b>OP</b>	EBA sees considerable improvement in the average LCR across EU banks
<b>REP</b>	EBA sees high NPL levels and low profitability as the main risks for EU banks
	EBA to run its next EU-wide stress test in 2018
	EBA updates list of CET1 instruments
<b>CP</b>	European Supervisory Authorities consult on Big Data
	European Supervisory Authorities respond to European Commission on amendments to PRIIPs rules
	Two new studies highlight the significant contribution of EU Agencies to citizens and administrations

- CP** Consultation Paper
- DE** Decision
- GL** Guidelines
- ITS** Implementing Technical Standards
- NO** Notification
- OP** Opinion
- PH** Public Hearing
- REP** Report
- RTS** Regulatory Technical Standards

**Figure 2:** Overview of regulatory products delivered against the EBA Work Programme



\* Including cross-sectoral trainings.

# Achievements in 2016

## Playing a central role in the development and maintenance of the Single Rulebook for banking

### Completing the G20 package and implementing Basel III in the EU

In 2016 the Single Rulebook applicable to the EU banking sector was largely completed. The EBA continued to engage actively at the EU and international levels to support the finalisation of the so-called Basel III package and the completion of the implementation of the Basel package in the EU, for instance by responding to calls for advice on the leverage ratio (LR) and net stable funding ratio (NSFR).

The year was also a period for reflection on the regulatory reforms that immediately followed the financial crisis, to better understand the effects of the reforms on bank structures, business models and risk-taking, and to minimise complexity where possible. The EBA also continued to enhance its monitoring of different aspects of the Single Rulebook, including on own funds, remuneration practices and significant risk transfers in securitisations.

**Figure 3:** Summary of key regulatory products in 2016

Topic	Key regulatory products completed in 2016
Own funds	Standardised templates for Additional Tier 1 (AT1) instruments <sup>(1)</sup>
	Report on monitoring AT1 instruments <sup>(2)</sup>
Internal Ratings Based (IRB) Approach	3 Regulatory Technical Standards (RTS) on assessment methodology for IRB Approach <sup>(3)</sup>
	Opinion on the Implementation of the regulatory review of the IRB Approach <sup>(4)</sup>
Credit risk	Guidelines on the application of the definition of default <sup>(5)</sup>
	RTS on the materiality threshold for credit obligations past due <sup>(6)</sup>
	Quantitative Impact Survey (QIS) Report on default definition <sup>(7)</sup>
Market risk	Report on standardised approach for counterparty credit risk and own funds requirements <sup>(8)</sup>
	RTS on internal model approach for assessment methodology <sup>(9)</sup>
Leverage ratio	Report on leverage ratio calibration <sup>(10)</sup>
Liquidity risk	Report on core funding ratio <sup>(11)</sup>
	Report on liquidity measures and the review of the phase-in of the liquidity coverage requirement <sup>(12)</sup>
Large exposures	Report on the review of the large exposures regime <sup>(13)</sup>
	Report on covered bonds <sup>(14)</sup>
Securitisation and covered bonds	Report on covered bonds <sup>(14)</sup>
	Guidelines on implicit support for securitisation transactions <sup>(15)</sup>

Topic	Key regulatory products completed in 2016
Investment firms	Opinion on the first part of the CfA on investment firms <sup>(14)</sup>
Authorisations and qualifying holdings	ITS on the procedures and forms for proposed acquisitions and increases of qualifying holdings <sup>(17)</sup>
Remuneration	Report on the benchmarking of remuneration practices and high earners <sup>(18)</sup>  Opinion on the application of the principle of proportionality to the remuneration provisions in the CRD <sup>(19)</sup>
International Financial Reporting Standards (IFRS) 9	Report on impact assessment of implementation of IFRS 9 <sup>(20)</sup>
Capital Requirements Regulation (CRR)/Capital Requirements Directive (CRD) (general)	Review of questions and answers (Q&As) for Commission's CRD/CRR review and responses to various Commission calls for advice

<sup>(1)</sup> <https://www.eba.europa.eu/documents/10180/1360107/Final+AT1+standard+templates+.pdf>

<sup>(2)</sup> <https://www.eba.europa.eu/documents/10180/1360107/AT1+Report+October+2016.pdf>

<sup>(3)</sup> <https://www.eba.europa.eu/regulation-and-policy/credit-risk/regulatory-technical-standards-on-assessment-methodology-for-irb-approach>

<sup>(4)</sup> <https://www.eba.europa.eu/documents/10180/1359456/EBA-Op-2016-01+Opinion+on+IRB+implementation.pdf>

<sup>(5)</sup> <https://www.eba.europa.eu/documents/10180/1597103/Final+Report+on+Guidelines+on+default+definition+%28EBA-GL-2016-07%29.pdf>

<sup>(6)</sup> <https://www.eba.europa.eu/documents/10180/1597002/Final+draft+RTS+on+the+materiality+threshold+for+credit+obligations+%28EBA-RTS-2016-06%29.pdf>

<sup>(7)</sup> <https://www.eba.europa.eu/documents/10180/1360107/QIS+report+on+default+definition+October+2016.pdf>

<sup>(8)</sup> <https://www.eba.europa.eu/documents/10180/1648752/Report+on+SA+CCR+and+FRTB+implementation+%28EBA-Op-2016-19%29.pdf>

<sup>(9)</sup> <https://www.eba.europa.eu/regulation-and-policy/market-risk/rts-on-assessment-methodology-for-market-risk-internal-models>

<sup>(10)</sup> <https://www.eba.europa.eu/documents/10180/1360107/EBA-Op-2016-13+%28Leverage+ratio+report%29.pdf>

<sup>(11)</sup> <https://www.eba.europa.eu/documents/10180/1568410/EBA+Report+on+Core+Funding+Ratio+%28EBA-2016-Op-15%29>

<sup>(12)</sup> <https://www.eba.europa.eu/documents/10180/1700800/EBA+report+on+liquidity+measures+and+the+review+of+the+phase-in+of+the+liquidity+coverage+requirement+%28EBA-Op-2016-22%29.pdf>

<sup>(13)</sup> <https://www.eba.europa.eu/documents/10180/1632518/EBA+report+on+the+review+of+the+large+exposures+regime+%28EBA-Op-2016-17%29.pdf>

<sup>(14)</sup> <https://www.eba.europa.eu/documents/10180/1699643/EBA+Report+on+Covered+Bonds+%28EBA-Op-2016-23%29.pdf>

<sup>(15)</sup> <https://www.eba.europa.eu/documents/10180/1603711/Final+report+on+Guidelines+on+implicit+support+for+securitisation+transactions+%28EBA-GL-2016-08%29.pdf/b2f467dd-569e-4024-ae1d-8cafc2fe32f1>

<sup>(16)</sup> <https://www.eba.europa.eu/documents/10180/1639033/Opinion+of+the+European+Banking+Authority+on+the+First+Part+of+the+Call+for+Advice+on+Investment+Firms+%28EBA-Op-2016-16%29.pdf>

<sup>(17)</sup> <https://www.eba.europa.eu/regulation-and-policy/other-topics/its-on-the-procedures-and-forms-in-respect-of-acquisitions-and-increases-of-qualifying-holdings>

<sup>(18)</sup> <https://www.eba.europa.eu/documents/10180/1359456/EBA+Op-2016-05+%28Report+on+Benchmarking+of+Remuneration+and+High+Earners+2014%29.pdf>

<sup>(19)</sup> <https://www.eba.europa.eu/documents/10180/1667706/EBA+Opinion+on+the+application+of+the+principle+of+proportionality+to+the+remuneration+provisions+in+Dir+2013+36+EU+%28EBA-2016-Op-20%29.pdf>

<sup>(20)</sup> <https://www.eba.europa.eu/documents/10180/1360107/EBA+Report+on+impact+assessment+of+IFRS9>



### The EBA recommends introducing the leverage ratio in the EU

In August 2016, the EBA reported to the Commission on a number of aspects related to the LR, in line with its mandate laid down in the Capital Requirements Regulation (CRR). One of the key questions addressed by the report is the Pillar 1 migration of the LR and its minimum level, namely with regard to business models and risk profiles. The analysis, carried out in close cooperation with competent authorities (CAs), suggests that the potential impact of introducing an LR requirement of 3% on the provision of financing by credit institutions would be relatively moderate, while overall it should lead to more stable credit institutions.

Given the broad variety of aspects to be covered by the report, the EBA combined a high degree of data analysis with other, more qualitative, approaches such as literature review, stylised balance sheet examples, case studies and expert review.

The report informed the work of the Commission, which in its comprehensive package <sup>(21)</sup> of reforms, published on 23 November 2016, also included provisions to introduce a binding LR requirement.

<sup>(21)</sup> [http://europa.eu/rapid/press-release\\_IP-16-3731\\_en.htm](http://europa.eu/rapid/press-release_IP-16-3731_en.htm)

### Quantitative results for the banking system as a whole

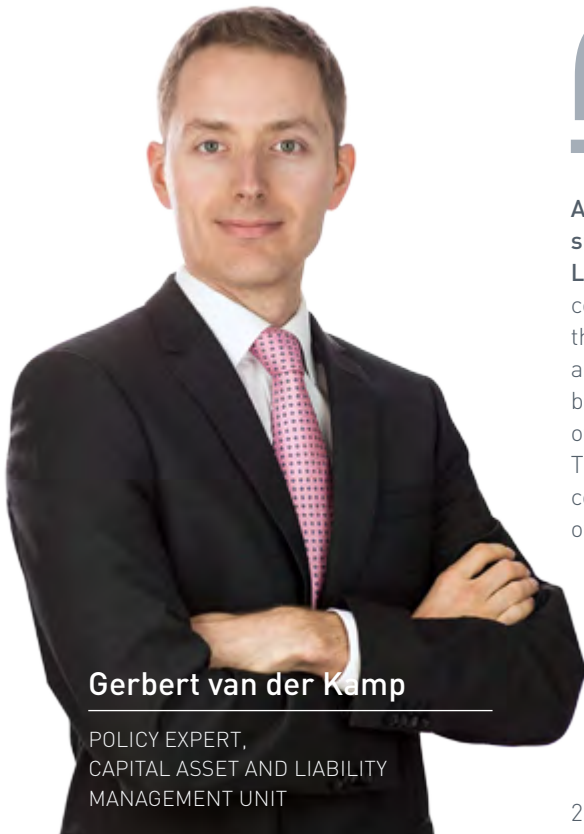
Data collected via the EU voluntary quantitative impact survey (QIS) exercise and the common reporting (COREP) framework, including 246 credit institutions, was instrumental for the assessment of the quantitative impact. Specifically, on the basis of this data sample representing approximately 75% of total banking assets in the EU countries, the EBA estimated that, as at June 2015, a 3% LR requirement would have implied an aggregate Tier 1 capital shortfall of EUR 6.4 billion, assuming fully phased-in capital rules. In practice, the credit institutions involved in the exercise would still have some time to take any necessary adjustment action. The aggregate balance sheet of the institutions in the sample totalled EUR 32 878 billion.

The results of the quantitative analyses performed suggested that a 3% level of calibration for the LR is generally consistent with the objective of a backstop measure which supplements risk-based capital requirements. In particular, a 3% LR requirement would constitute a higher capital requirement than a risk-based Tier 1 capital requirement of 8.5% for around 33% of the analysed credit institutions.

### Business models and risk of excessive leverage

Another key aspect covered in the report was that of business models and their riskiness, to inform the levels of the LR appropriate to safeguard the resilience of the respective business models. In order to assess this risk, a quantitative methodology was developed.

The quantitative analysis was complemented by a qualitative assessment, which relied on extensive interaction with the CAs in the EU as well as with the industry. This was particularly relevant to those business models where the coverage in the data set was less profound.



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POLICY EXPERT,  
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## LEVERAGE RATIO

**A concrete understanding of the risk that the leverage ratio (LR) is supposed to address, while taking into consideration the fact that the LR in itself is not meant to be risk sensitive, was necessary.** In this context, it is relevant to note that Article 511(3)(i) of the CRR indicates that the risk profile of business models and the 'risk of excessive leverage' (REL) had to be examined. As it was not clear how this risk should be measured, the EBA developed a set of risk dimensions on the basis of the definition of this risk in the CRR and the objective of the LR. These risk dimensions were developed in close coordination with the competent authorities, and consist of the following: (i) level and stability of profitability, (ii) stability of funding, (iii) stability of the business activity and (iv) degree of concentration.

With regard to business models, 12 categories were defined and each of the 246 credit institutions which provided data was allocated to one of these categories.

The performance of the 12 business model categories on the risk dimensions is computed over a time period of 11 years, starting in 2004, which by way of statistical tests led to an assessment of REL in relative terms. This resulted in a ranked categorisation (referred to as 'benchmarking') according to business model, size and systemic relevance, which informed the recommendations on LR requirements above or below the baseline calibration level of 3%.

The benchmarking results at the level of the four risk dimensions are displayed in Figure 4 for each business model category, as well as size bucket and global systemic importance. Cross-cutting the results of the benchmarking along these three categorisations led to the observation that an elevated level of REL is present for the 14 globally systemically important institutions (G-SIIs), which operate the business model of a 'cross-border universal bank' and fall into the size bucket of 'very large' entities. **This finding has provided support to the conclusion that a higher LR level requirement, above the general minimum of 3%, in the specific case of G-SIIs, may be warranted.**



**Figure 4:** Benchmarking results by business model, size and systemic relevance

Business Models	Size buckets					G-SII/Non G-SII		
	Small	Medium	Large	Very large	TOTAL	G-SII	Non G-SII	TOTAL
Cross-border universal banks	5	15	3	11*	34	14*	20	34
Local universal banks	17	32	8	14	71	0	71	71
Automotive, consumer banks	2	3	1	2	8	0	8	8
Building societies	1	4	0	2	7	0	7	7
Locally active savings and loan associations, cooperative banks	51	14	1	2	68	0	68**	68
Private banks	3	0	0	0	3	0	3	3
Custody banks	1	3	1	0	5	0	5	6
Merchant banks	0	3	0	0	3	0	3	3
Leasing and factoring banks	2	1	0	1	4	0	4	4
Public development banks	7	4	1	0	12	0	12	12
Mortgage banks including passthrough financing mortgage banks	3	7	1	1	12	0	12	12
Other specialised banks	4	9	3	3	19	0	19	19
<b>TOTAL</b>	<b>98</b>	<b>95</b>	<b>19</b>	<b>38</b>	<b>246</b>	<b>14</b>	<b>232</b>	<b>246</b>

\* Benchmarking result indicates higher exposure to risk of excessive leverage (REL)

\*\* Benchmarking result indicates lower exposure to risk of excessive leverage (REL)

Source: EBA QIS data (June 2015)

### Potential impact of the leverage ratio

The EBA is also mandated to assess several other impact-related aspects of the LR. In particular, pursuant to Article 511(4)(b) of the CRR, the interaction of the LR with the risk-based own funds requirements as well as the liquidity requirements had to be assessed. In particular, in the case of institutions that are bound by a certain minimum level of the LR while already meeting the requirements for the risk-based ratio, it could be considered that, besides building up capital, there may be an incentive to shed assets of particularly low risk weight. For this purpose, the EBA developed an approach to estimate the potential for institutions to reach compliance under these different capital constraints, as well as the constraint of the liquidity coverage ratio (LCR).

The approach consists of a scenario-based simulation of institutions' paths to compliance

with potential LR requirements. The simulation results were rough, indicative estimates of the potential marginal impact of imposing an LR requirement. In particular, the impact was measured and quantified in terms of estimated potential reductions of exposures. The baseline scenario, one of the four scenarios taken into account, assumed that a reduction in potential shortfall would take place through a 50% increase in capital and a 50% reduction of exposures, thus being slightly more pessimistic than what the experience on LR improvements between 2010 and 2014 indicates.

The simulations assumed that non-compliant institutions reduce their exposures from the lowest to highest risk weights, provided that they met minimum LCR constraints, and assuming that they reduced exposures in their non-core business activities before they decreased the exposures in their core business.

The results of the simulations-based analysis suggested that the potential impact of introducing an LR requirement of 3% on the provision of financing by credit institutions would be relatively moderate when put into the context of the overall size of the banking sector, with an estimated potential reduction of exposures in the baseline adjustments scenario of 0.2% of the aggregate exposures of all institutions in the sample. Moreover, those credit institutions in the EU banking system which already comfortably meet an LR requirement of 3% could absorb a certain share of potential exposure reductions.

If the LR requirement were applied to all credit institutions in the sample, the simulation analysis estimated that the potential reduction of exposures would increase significantly beyond an LR level of 3.5%.

Furthermore, pursuant to Article 511(4)(a) of the CRR, the EBA worked on the assessment of the potential effects of introducing an LR requirement on financial markets, the robustness of institutions, specific types of financing, and cyclicity of the capital and total exposure measure. The data received through the EBA voluntary QIS exercise was useful for these assessments, but econometric analyses and qualitative approaches such as literature reviews, case studies and expert review have proven essential. The results from these analyses further corroborated the overall conclusions of the report.

## Developing the NSFR

In September 2016, the EBA published a report on a descriptive analysis of the core funding ratio (CFR) <sup>[22]</sup> across the EU. This report responded to a call for advice (CfA) received from the European Commission, as a follow-up to the EBA NSFR calibration report, published in December 2015 <sup>[23]</sup>, where an assessment of the possible introduction of that ratio was requested.

The CFR is defined as the ratio comparing retail deposits + wholesale funding > 1 year + equity instruments, in the numerator, with total liabilities and equity instruments, in the denominator <sup>[24]</sup>.

The report highlighted a lack of correlation between the CFR and the NSFR for the whole sample used and also by business model and size bucket. Overall, the report concluded that it would be misleading to rely only on the CFR to assess banks' funding needs because, unlike the NSFR, the CFR does not look at the whole balance sheet of a bank and, therefore, cannot fully assess a potential funding gap. In particular, the CFR only gives a picture of the importance of the stable funding sources among the whole liabilities and does not compare them with banks' funding needs. Therefore, objective minimum requirements to be used by supervisors cannot be set, except in the form of benchmarks that would then need to be tailored to the specific business model.

The report also clarified that a CFR metric cannot on its own be a replacement of the NSFR metric, even for a specific type of business model or for smaller institutions, and that a proper funding risk assessment needs to compare the available stable/core funding with the funding required based on the type of assets and off-balance-sheet items. This is clearly achieved by the NSFR, which appears to be the most precise metric for assessing banks' funding risk.

## Contributing to and promoting stronger governance arrangements

In 2016, the EBA launched a three-month public consultation for both the joint European Securities and Markets Authority (ESMA) and EBA guidelines on the assessment of suitability of members of the management body and key function holders, and the EBA guidelines on internal governance. The consultation period ended on 28 January 2017.

<sup>[22]</sup> <http://www.eba.europa.eu/documents/10180/1568410/EBA+Report+on+Core+Funding+Ratio+%28EBA-2016-Op-15%29>

<sup>[23]</sup> <http://www.eba.europa.eu/documents/10180/983359/EBA-Op-2015-22+NSFR+Report.pdf>

<sup>[24]</sup> Liquidity Identity Card as published by CEBS in June 2009. [https://www.eba.europa.eu/documents/10180/16166/CEBS+2009+127+final+\(Liquidity+ID\).pdf](https://www.eba.europa.eu/documents/10180/16166/CEBS+2009+127+final+(Liquidity+ID).pdf)

## ONGOING WORK

Both sets of guidelines (ESMA and EBA guidelines on the assessment of suitability of members of the management body and key function holders; and the EBA guidelines on internal governance) will be published in 2017.

### Draft guidelines on internal governance

Weaknesses in corporate governance in a number of institutions have contributed to excessive and imprudent risk-taking in the banking sector, which has led to the failure of individual institutions and systemic problems in Member States and globally. In order to address the potentially detrimental effects of poorly designed corporate governance arrangements on the sound management of risk, there was a need to update the EBA guidelines on internal governance published on 27 September 2011, taking into account the entry into force of Directive 2013/36/EU (CRD IV) and the mandate given to the EBA under Article 74 of CRD IV to develop guidelines in this area. CRD IV and the EBA guidelines strengthen, in particular, the responsibility of the management body in its supervisory function for risk oversight and the risk management function.

Compared with the previous version, the draft guidelines on internal governance put more emphasis on the duties and responsibilities of the management body and, in particular, on the responsibility to implement and oversee an effective internal control and risk management framework. They elaborate more on the committees that are supposed to support the management body. The 'know your structure' and complex structures section has been strengthened, reflecting the light shed by the 'Panama events', to ensure that the management body is aware of the risks that can be triggered by complex and opaque structures and to improve transparency.

The revised guidelines take also into account the updated guidelines on corporate governance published by the Basel Committee on Banking Supervision (BCBS) <sup>(25)</sup>.

<sup>(25)</sup> BCBS Guidelines on corporate governance principles for banks, published in July 2015, <http://www.bis.org/bcbs/publ/d328.pdf>

### Draft guidelines on the assessment of the suitability of members of the management body and key function holders

When appointing members of the management body, the institution should ensure that the members have the reputation, knowledge, experience and skills necessary to safeguard proper and prudent management of the institution. To address the lack of monitoring by the management body, the EBA, jointly with ESMA, drafted an update of the guidelines on the assessment of suitability of members of the management body and key function holders, published on 22 November 2012, taking into account the new requirements in this area introduced under CRD IV and the Directive on Markets in Financial Instruments repealing Directive 2004/39/EC (MiFID II). Both directives include measures to remedy weaknesses that were identified during the financial crisis regarding the functioning and composition of the management body within credit institutions and investment firms and the qualification of its members. In particular, these guidelines as mandated within Article 91(12) of the CRD specify the notions of (a) sufficient time commitment, (b) adequate collective knowledge, skills and experience, (c) honesty, integrity and independence of mind, (d) adequate human and financial resources for induction and training of members of the management body and (e) diversity to be taken into account in the selection process. This joint work also takes into account the results of the EBA's peer review of the guidelines on the assessment of the suitability of members of the management body and key function holders of credit institutions. The review report was published on 22 November 2015 on the EBA's website.

The draft guidelines on the assessment of the suitability of members of the management body and key function holders give further guidance on the scope of assessments to be made, the assessment process for institutions and competent authorities, and related policies. The guidelines lay down that the heads of internal control functions and the Chief Financial Officer, when they are not members of the management body, are always considered key function holders who are to be assessed by institutions. Competent authorities should assess the suitability of key function holders for only significant institutions.

As laid down in CRD IV, the management body must collectively possess adequate knowledge, skills and experience to understand the institu-





## INTERNAL GOVERNANCE

The work we have done so far on governance is really crucial and challenging at the same time. It is crucial because past experiences have showed us that weaknesses in governance have contributed to excessive risk-taking in the banking sector. Therefore, regardless of their size, nature, complexity and business model, institutions must have in place sound governance arrangements that ensure a sound risk management and business conduct. In turn, this also reduces institutions' operational risk and ensures consumer protection and compliance with prudential regulation.

To this end, one of the key objectives of the CRD IV is to reinforce the requirements of institutions' corporate governance arrangements and processes by increasing the effectiveness of risk oversight by boards, improving the status of the risk management function, enhancing the information flow between the risk management function and the board and ensuring effective supervision of institutions' governance arrangements. In addition, fit and proper rules for board members have been also strengthened to ensure that board members have the necessary qualifications and skills to safeguard institutions' proper and prudent management and to foster a more diverse composition of boards. **One of the key challenges in drafting the Guidelines is to strike the right balance between the need to reflect the very diverse size, nature and legal form of institutions within the EU to ensure that some specificities are taken into account, where appropriate, and the need to have harmonised sound governance arrangements in place across all EU institutions so as to help guarantee a level playing field.** This is even more challenging, as governance touches upon very different areas such as banking law, company and criminal law, just to mention a few. We are now finalising those products and making sure that they will meet their prudential objectives.



tion's activities, including the main risks. In this respect, the guidelines provide a non-mandatory tool, covering all relevant areas of knowledge and experience that should facilitate the assessment of its collective suitability.

### Repairing internal models and enhancing their comparability across Europe

Reviewing the regulatory framework in 2016, the EBA continued its work on the enhancement of the comparability of capital requirements, as part of the broad review of the Internal Ratings Based (IRB) approach started in the previous year. The use of internal models is an important element to improve risk-sensitivity when measuring capital requirements, encouraging institutions to improve their risk

management practices. Two of the EBA's main objectives are on the one hand, to ensure comparability of capital requirements, restoring the overall trust in internal models and, on the other hand, to coordinate its regulatory review with the Basel Committee.

In February, the EBA issued a roadmap for the implementation of the regulatory review of internal models, consisting of four phases according to the following priorities: assessment methodology; definition of default; risk parameters; and credit risk mitigation (CRM). The last phase will be finalised by the end of 2017 and the implementation of the changes in the institutions' models and processes should be finalised by the end of 2020 at the latest, as outlined in a separate EBA opinion. The proposed phase-in approach accounts for the operational burden related to the wide range of changes in

## ONGOING WORK

The EBA expects to consult on its draft RTS on economic downturn in February 2017.

the rating systems and supervisory approval processes resulting from the reviewed regulatory framework, which is considered to provide harmonised supervisory assessments of IRB models as well as harmonised key definitions and core methods underlying the IRB parameter estimations. This should ultimately lead to a reduction in unjustified variability of risk-weighted assets (RWAs) among IRB institutions in Europe and restore confidence in IRB parameter estimation and risk-sensitive capital requirements based on own estimations.

The EBA has also been active in providing input at the BCBS table regarding the review of the credit risk framework and the proposed constraints on the use of internal model approaches. The focus here was on reducing variability of RWAs by limiting the scope of application of the IRB approach. The EBA managed to moderate its members' discussion of core policy issues of the revised Basel standard and to achieve a coordinated and, therefore, more powerful voice for the European members of the BCBS on the international stage.

## ONGOING WORK

In 2017, the EBA will finalise its regulatory review of the IRB approach and, therefore, its efforts are likely to focus on the guidelines on PD and LGD estimation and the treatment of defaulted assets as well as on the RTS on economic downturn. Moreover, as outlined in the EBA Report on the regulatory review of the IRB approach, besides its work on the regulatory review, the EBA will start working on policy-related benchmarking exercises as well as on increased transparency based on standardised comparable disclosure templates.

Complementary to the top-down approach followed by Basel – which was not finalised in 2016, thus leaving an undesirable uncertainty about the future of IRB models – the EBA delivered on the majority of the regulatory products included in its IRB review plan, which was designed in such a manner that the shortcomings identified in the current regulation could be overhauled as far and as quickly as possible within the given EBA mandates and the current legislation. In detail, the first phase, whose objective was to harmonise the supervisory assessment of the IRB approach, was finalised with the publication of the report in July 2016 on the final draft RTS on the IRB assessment methodology under Articles 144(2), 173(3) and 180(3)(b) of the CRR. The finalisation of the second phase, dedicated to the review of the definition of default, was achieved in September 2016 with the publication of the RTS on the materiality threshold under Article 178(6) and of the Report on the Guidelines on the application of the definition of default under Article 178(7). This phase is crucial for the subsequent regulatory products as well as for banks that need to prepare for the review of their models. The major achievement of this phase is a harmonised structure and level of the materiality threshold, which increases significantly the comparability of default rates. The GL on the application of the definition of default as well as the RTS on materiality threshold apply however as well to SA exposure.

The third phase of the EBA's plan for the review of the IRB approach aims to reduce variability in IRB parameter estimations, and thus RWAs, stemming from different underlying definitions and certain modelling choices that were possible because of the large degree of flexibility incorporated in the IRB framework. On this topic, in November 2016, the EBA published for consultation draft guidelines on probability of default (PD) and loss given default (LGD) estimation and the treatment of defaulted exposures. These draft guidelines aim at aligning the terminology and definitions, in particular in relation to metrics such as default rate or realised LGD that are the basis for the estimation of risk parameters. Furthermore, they provide clarification on the application of certain regulatory requirements that were, until now, interpreted in various ways, and specify principles for the estima-

tion of risk parameters, including those applicable to defaulted exposures. Although the draft guidelines may limit certain modelling choices, they are focused on the elements that lead to non-risk-based variability and intend to preserve sufficient flexibility to ensure the risk sensitivity of the models.

The work on the fourth and last phase has been initiated by the EBA to produce a report on the CRM framework with the objective of outlining areas that require more clarification or that bear potential for significant simplification, however, as the CRM framework is not specific to the IRB approach, this phase is not only limited to its application of the IRB approach.

The EBA, moreover, continued to work on risk parameters and the consistency of RWAs in the EU banking sector through the development of annual supervisory benchmarking exercises for credit risk and market risk. The regular reporting of the results of the calculations of their internal models allows the development of peer comparisons and benchmarking analysis for the most relevant risk parameters. In particular, the 2016 exercise covered credit risk for small and medium-sized enterprises (SMEs), other corporate and residential mortgage (the so-called high-default portfolios) and market risk portfolios. The EBA published two reports at the beginning of 2017.



Competent authorities are using the benchmarking exercises as a regular supervisory tool to assess on an ongoing basis the quality of the internal models by highlighting banks and portfolios that may need specific supervisory actions when compared with peer banks. In addition, it is improving the sharing of such assessments with other competent authorities and the EBA and motivating a more in-depth analysis of banks' models and modelling assumptions.

**Figure 5:** Review of internal models phases

The EBA has undertaken a bottom-up approach to repairing the drawbacks of internal modelling: excessive RWA variability and lack of comparability across modelling outcomes.

Prioritisation	Regulatory products	Current status
<b>Phase 1: Assessment methodology</b>	RTS on IRB assessment methodology	Finalised ✓
<b>Phase 2: Definition of default</b>	RTS on materiality threshold GL on default of an obligor	Finalised ✓
<b>Phase 3: Risk parameters</b>	GL on PD estimation GL on LGD estimation GL on treatment of defaulted assets RTS on downturn conditions	Finalisation stage Consultation stage
<b>Phase 4: Credit risk mitigation</b>	RTS on conditional guarantees RTS on liquid assets RTS on master netting agreements	Preparation stage

## BOX 1 — EBA's work on enhancing the consistency of RWAs

In the second half of 2016, the EBA ran benchmarking exercises on banks' internal models for credit risk (focusing on SMEs, other corporate, and residential mortgage, the so-called high-default portfolios or HDPs) (\*) and for market risk (\*\*). For the first time, the supervisory benchmarking exercises covered the entire population of banks, which were allowed to use internal models in the EU for the calculation of RWAs or own fund requirements (114 banks for credit risk and 50 banks for market risk) (\*\*\*)).

**These benchmarking exercises are part of the toolkit available to CAs to identify any material differences in RWA outcomes, understand the sources of such differences and carry out their ongoing monitoring of internal models.** It is also useful to support the formulation of policy solutions to enhance convergence among banks and to increase transparency and disclosure of EU benchmarks. As part of the supervisory benchmarking exercise, the EBA computed EU benchmarks and provided detailed feedback and bank-specific reports to the CAs, allowing each CA to compare its submission with the EU sample, and detecting the most relevant deviations and possible anomalies. In particular, the benchmarking tool enabled the CAs to compare the outcomes of institutions' internal models and to identify the risk-based and non-risk-based variability across firms.

For the credit risk (HDP) exercise, most of the results were broadly in line with previous exercises on HDP.

**A key finding was that 82% of the observed variability (taking into account the expected and unexpected losses) could be explained by three main factors: the proportion of defaulted exposures in the portfolio; the portfolio mix; and the country of the counterparty.** The study concludes with an impact analysis showing that, if the RWAs estimated by institutions were replaced by higher RWAs driven by both PDs and observed default rates rather than estimated PDs alone, the average CET 1 ratio of the banks in the sample would decrease only slightly, by 17 bps.

As regards the market risk report, and in common with the previous exercises, a significant dispersion for all the risk measures provided by banks was observed by the inter-quantile dispersion (IQD) metric. As expected, the overall variability for value at risk (VaR) was lower than that observed for stressed VaR (sVaR), and more sophisticated measures such as incremental risk charge (IRC) and all price risk (APR) showed a much higher level of dispersion. Modelling choices played an important role in explaining this variability, especially for the most complex risk measures.

(\*) <https://www.eba.europa.eu/documents/10180/15947/EBA+Report+results+from+the+2016+high+default+portfolio+exercise+--+March+2017.pdf>

(\*\*) <https://www.eba.europa.eu/documents/10180/15947/EBA+Report+results+from+the+2016+market+risk+benchmarking+exercise+--+March+2017.pdf>

(\*\*\*) EBA List of institutions for the purpose of supervisory benchmarking, 28 June 2016, <https://www.eba.europa.eu/documents/10180/15926/EBA+list+of+institutions+for+the+purpose+of+supervisory+benchmarking+%28+June+2016%29.pdf/2b0b55f7-f745-49e2-ace5-f7249205db8d>



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## BENCHMARKING EXERCISES

Working on the benchmarking project has been challenging and stimulating. **The exercise aims to compare and exchange the outcome of EU banks' internal models, based on a framework that entered into force at the end of the 2016. The objective is to increase the consistency of the RWAs and rebuild confidence in the internal models.**

As part of the benchmarking exercise, the EBA receives detailed data on the outcome of internal models – for instance probability of default and loss given default – and computes statistical EU benchmarks that can be used by the competent authorities as part of their assessment and review of the models. My job is to assess the quality of the data submitted by the banks, provide feedback and ask for possible resubmission and develop interactive reports to support my bank analyst colleagues involved in the process. Based on my analysis, we identify outliers and cases that may require additional analysis or a more qualitative assessment. Some differences across banks can be justified, but they need to be fully understood. For this reason, we also organise interviews with some of the banks, which allow us to have a direct interaction and exchange of views with them and their supervisors. This is important for understanding banks' peculiarities, the limitations of their models and, possibly, areas for improvement in our analysis.

**I find the interaction with supervisors from 28 countries and with banks very stimulating, since it allows me to match my statistical background with supervisory experience.** In my view, sharing the EU benchmarks and analyses with our colleagues in the competent authorities and agreeing on the common rules and practices for all EU banks is essential for improving the quality of banks' models and to restore confidence in risk-based capital requirements.



### Fostering convergence in the implementation of new capital requirements for market risk

The EBA published in November the final draft Regulatory Technical Standards (RTS) that specify the conditions under which CAs assess the significance of positions included in the scope of market risk internal models, as well as the methodology they shall apply when assessing an institution's compliance with the requirements to use an Internal Model Approach (IMA) for market risk. The finalisation of these draft RTS is a key component of the EBA's work to ensure consistency in models' outputs and comparability of risk-weighted exposures, and will contribute to harmonise the supervisory assessment methodology

across all EU Member States and, ultimately, to restore confidence in the use of such models for regulatory purposes.

The RTS provide objective criteria to be applied in the assessment of the significance of those positions included in the scope of the internal model, and state two different methodologies for general and specific risk categories, both of them based on the standardised rules for market risk. In addition, they set out the standards for the assessment by competent authorities of an institution's compliance with IMA requirements when the institution applies to use an internal model to determine market risk capital requirements or introduces any material changes or extensions to the IMA approach already in use.

When finalising the RTS, the EBA has been mindful of developments at international level in market risk capital standards. In particular, it considered the Fundamental Review of the Trading Book (FRTB), published by the BCBS in January 2016, that will be implemented in the EU as part of the CRR 2 review. These RTS introduce some elements that go in the direction of the Basel review but, at the same time, can be implemented within the current legal setting of the CRR.

Regarding market infrastructure, the three European Supervisory Authorities (ESAs) published in March 2016 the final draft RTS outlining the European Market Infrastructure Regulation (EMIR) margining framework for non-centrally cleared over-the-counter (OTC) derivative transactions, which was adopted in October 2016 by the European Commission. These draft RTS

prescribe the regulatory amount of initial and variation margins to be posted and collected to mitigate the potential systemic risk, as well as the methodologies by which that minimum amount should be calculated.

In 2016, the EBA has also collaborated with the joint BCBS/International Organization of Securities Commissions (IOSCO) Working Group on Margin Requirements (WGMR) in monitoring and assessing the implementation of the international margining framework into the different national legislations. This assessment has also allowed an understanding of the industry's readiness for the implementation of the framework on margin requirements. Finally, the EBA, together with ESMA, finalised and published a joint report on the functioning and interaction between the CRR and EMIR.



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## MARKET RISK

Market risk has been the area where regulation has changed most rapidly as a result of the financial crisis. Indeed, the BCBS, in the so-called Basel 2.5 package, introduced a series of 'quick fixes' for some of the 1996 market risk framework's flaws, which, despite being widely known, were dramatically exposed by the financial crisis. The CRR implemented Basel 2.5 in the EU, though some of its key technical elements needed further specification through EBA delegated level II mandates. **The implementation of these mandates was largely finalised by November 2016 with the publication of the Regulatory Technical Standards (RTS) on the assessment methodology for market risk models. These RTS, together with other developed standards, are a key component of the EBA's work to ensure consistency in models' outputs and comparability of risk-weighted exposures.**

While addressing most of the main flaws of the 'old' market risk amendment, the Basel 2.5 package did not fully tackle all of the structural shortcomings embedded in the market risk framework. In particular, deficiencies remained in the Trading Book/Banking Book boundary and there was a need to increase the risk sensitivity of the framework as well as to realign the risk incentives in some key areas, such as market liquidity and the use of proxies. Additionally, the 1996 framework did not provide a credible solution for the standardised approach to work as a fallback alternative for banks applying an internal model. Accordingly these elements have formed the basis of the Fundamental Review of the Trading Book (FRTB), published by the BCBS in January 2016, which will be incorporated into EU regulation in the near term. The EBA has started extensive preparatory work in connection with this implementation, including the publication in 2016 of a report assessing the impact of the new FRTB and Counterparty frameworks (SACCR).



## Reviewing the requirements applicable to investment firms

The European investment services landscape comprises various types of operators. There are around 6 000 investment firms initially authorised and regulated by MiFID. The United Kingdom, Germany and France are the main jurisdictions for over 70% of the EU investment firm population.

The prudential regulation that governs the exercise of investment services stems from the CRD and CRR. Depending on the services they exercise, and their combination or size, some of the investment firms are exempt from prudential regulation, some are subject to lighter prudential regulations and others are subject to the full CRD/CRR rules.

In December 2015, EBA recommended to develop a new, more risk-sensitive prudential framework for investment firms, taking into account the objectives of preserving financial stability, protecting investors and ensuring failures are orderly.

In June 2016, EBA launched a consultation in response to the European Commission's call for technical advice on the design of a new prudential regime for investment firms. The approach presented in the discussion paper aimed to better capture the risks for investment firms that are not deemed to be systemic and bank-like, and recommended a single, harmonised set of requirements that are reasonably simple, proportionate and more relevant to the risks that investment firms pose to customers and markets. It also took into account the diverse nature of different business models of investment firms.

The most important aspects in the proposals relate to the prudential treatment of capital, liquidity management, concentration risk, consolidated supervision, additional firm-specific requirements, corporate governance and remuneration.

One of the most innovative elements is the proposed formula for the calculation of capital requirements based on the factors (K-factors) that capture all the risks arising from all the services and activities that investment firms undertake.

In parallel with the public consultation, the EBA launched a QIS on the new framework, to be able to precisely calibrate the new capital and liquidity requirements.

## ONGOING WORK

- During the first half of 2017, the EBA will analyse the information received on the second impact assessment of IFRS 9.
- The EBA expects to issue an opinion in Q1 2017 on the technical design of the Commission's proposals on transitional arrangements and the RTS on Credit Risk Adjustments in the context of the application of IFRS 9.
- The EBA expects to finalise the guidelines on credit risk management practices and accounting for expected credit losses during the first half of 2017.

## Driving forward IFRS 9 implementation in the EU

Following the launching of the first EBA impact assessment of International Financial Reporting Standards (IFRS) 9, covering a sample of approximately 50 banks in the EU, the EBA published in November 2016 a report <sup>(26)</sup> including some qualitative and quantitative observations of this assessment. That report was the first coordinated effort in the EU to understand the way in which institutions are preparing for the application of IFRS 9. The report contains some recommendations relevant to the observations as well as some future actions, including the interaction of IFRS 9 with existing prudential requirements. Among other topics, the report highlighted that, as of December 2015, when the exercise was launched, banks were, overall, still at an early stage of preparation for the implementation of IFRS 9 and they still needed to make some key accounting policy decisions.

Immediately after the publication of the report, the EBA launched a second impact assessment of IFRS 9, covering a similar sample of banks. As banks are expected to have made progress in the implementation of IFRS 9, the second exercise will allow the EBA to have a better understanding of the possible impact of IFRS 9 and the way it is being implemented.

<sup>(26)</sup> <https://www.eba.europa.eu/-/eba-provides-its-views-on-the-implementation-of-ifrs-9-and-its-impact-on-banks-across-the-eu>

The EBA has also been following the relevant developments at the international level (BCBS) and engaging in an ongoing dialogue with stakeholders – including banks and auditors – to discuss the progress in the implementation of IFRS 9 and its interaction with prudential requirements. The EBA is actively contributing to the discussions at the EU level regarding the immediate impact of introducing IFRS 9.

The EBA is also working towards the implementation of IFRS 9 in the EU through the finalisation of the EBA Guidelines on credit risk management practices and accounting for expected credit losses <sup>[27]</sup>, which introduce to the EU regulatory framework the BCBS Guidance on credit risk and accounting for expected credit losses, published in December 2015.

In November 2016, the EBA published the final amendments to the supervisory reporting framework on financial information due to IFRS 9, which should provide institutions with sufficient time to implement the changes in their systems.

### Enhancing the communication between competent authorities and auditors for banks

Following the public consultation on the initial proposals, the EBA issued in November 2016 the final guidelines on the communication between competent authorities supervising credit institutions and the statutory auditors of credit institutions <sup>[28]</sup>. The guidelines are effective from 31 March 2017. Effective communication between the CAs and auditors should contribute to fostering financial stability, and the safety and soundness of the banking system, by facilitating the task of supervision of credit institutions. Further convergence of the existing different practices applied across Member States should contribute as well to establishing a level playing field between credit institutions, especially those that can pose a higher threat to financial stability. Also in the context of the forthcoming IFRS 9 and the au-

ditors' significant involvement in the preparation of the implementation of the new requirements by banks, these guidelines have been issued in a timely way in order to facilitate the discussions between the competent authorities and the statutory auditors on IFRS 9.

### Ensuring a consistent implementation of the prudent framework for securitisations and covered bonds

The EBA continued to contribute towards the successful implementation of the Capital Market Union reform by issuing final guidelines on implicit support for securitisation transactions in October 2016 and publishing a report in December 2016, recommending how to harmonise the covered bond framework in the EU.

The objective of these guidelines is to clarify what constitutes arm's length conditions and to specify when a transaction is not structured to provide support for securitisations. The guidelines will contribute towards the successful implementation of the Commission's new securitisation legislative proposals and will give clarity on the matter to credit institutions.

The covered bonds report <sup>[29]</sup> represents an unparalleled attempt to further strengthen the covered bonds across the EU and seeks to ensure that only those financial instruments that comply with the harmonised structural characteristics (specified in the step I) and harmonised credit risk-related standards (specified in the step II) can be branded as 'covered bonds' and have access to special regulatory and capital treatment as provided in the current EU financial regulation.

Building on the results of the extensive study, and at the same time recognising the specificities and strengths of national frameworks, the EBA proposes in its report a fully-fledged framework based on a 'three-step approach' to harmonise covered bonds in the EU. The recommendations provide input into the European Commission's considerations on the further development of a Covered Bonds Directive in 2017.

<sup>[27]</sup> <https://www.eba.europa.eu/-/eba-consults-on-guidelines-on-credit-risk-management-practices-and-accounting-for-expected-credit-losses>

<sup>[28]</sup> <https://www.eba.europa.eu/regulation-and-policy/accounting-and-auditing/guidelines-on-communication-between-competent-authorities-and-auditors>

<sup>[29]</sup> <https://www.eba.europa.eu/documents/10180/1699643/EBA+Report+on+Covered+Bonds+%28EBA-Op-2016-23%29.pdf>





## IFRS 9

IFRS 9 is intended to enhance investor confidence in banks' balance sheets by improving the way in which banks report financial instruments; in particular, improving the recognition of loan loss provisions to address the 'too little, too late' recognition of credit losses, further to G20 requests for reforms following the financial crisis.

These reforms include a new model for classifying financial assets which will allow a better consideration of banks' business models and the characteristics of the financial instruments: the recognition of 'expected losses' using a broader range of information than is the case under the current 'incurred loss' model of IAS 39 and hedge accounting rules more aligned to the risk management practices of entities. IFRS 9 also mitigates volatility in profit or loss reporting caused by changes in the credit risk of liabilities elected to be measured at fair value.

**The EBA is well placed to support regulators and banks in the major task of implementing IFRS 9.** In terms of my day-to-day role, in addition to participating in the discussions at the BCBS on aspects related to accounting and other related prudential issues, I am responsible for supporting the work on the impact assessments. This is challenging, as it involves the analysis of the qualitative and quantitative information submitted by around 50 banks, but is critical to understanding how banks are progressing in the implementation of IFRS 9 and the impact that it may have on capital. The results of this work inform the EBA's policy observations and recommendations on the banks' progress in the implementation of IFRS 9 and the interaction with the prudential requirements – something I find very rewarding.

I also very much enjoy the opportunities to engage extensively with stakeholders, including auditors and banks, to discuss their progress in the implementation, as this helps bring to life the implementation issues identified as a result of our analysis.

**Overall, the EBA's work will contribute to a high-quality application of IFRS 9 and providing prudential views in the short term to achieve an appropriate phasing-in mechanism to lessen the impact of IFRS 9 in capital. In the long term, it would also be necessary to assess whether additional changes in the prudential framework are warranted by the introduction of IFRS 9.**





## COVERED BONDS

Why did the EBA embark on this monumental piece of work knowing that covered bonds are very politically sensitive and protected by national interests?

We understand the essential role played by covered bonds in the financing of national economies, and, in particular, of the real estate sector in many European jurisdictions. **The EBA has a long-term interest in ensuring a robust and consistent covered bond framework across Europe.** In 2014, we published a report identifying the best practices for covered bonds with this aim. In 2016, following the recommendation of the European Systemic Risk Board, we assessed the functioning of the covered bond framework under the EBA best practice principles, and developed detailed recommendations on the harmonisation of covered bonds in the EU.

The extensive analysis of national frameworks confirmed a significant level of diversity of covered bond systems across Europe, in various core aspects such as special public supervision, composition of cover pools, or tools addressing liquidity risks associated with the covered bonds. As a consequence, covered bonds with different quality characteristics across Europe are subject to the same regulatory rules and benefit from favourable regulatory recognition at EU level, such as being eligible for LCR purposes, being excluded from bail-in or benefiting from low risk weights. **The objective of our recommendations is to ensure that all covered bonds in the EU comply with harmonised standards, and only compliant instruments have access to special regulatory treatment currently offered by the EU legislation.**

While representing a European instrument by tradition, the covered bond is becoming a global product: we have seen many countries across the globe adopting the covered bond legislations in the past years and becoming active issuers or investors on the covered bond market. This further underlines the need to provide a clear definition of the covered bond so as to strengthen the stability and robustness of the instrument.

The technical expertise here at the EBA, combined with our role of regulatory standard setter, puts us in a perfect position. As is the case for the area of securitisation, where the EBA's advice formed the main basis for both the European and Basel regulatory frameworks, we believe that the EBA's recommendations will provide a useful input into future harmonised covered bond legislation.

Why, in your opinion, is it crucial to implement an EU Covered Bonds Directive in the near future?

The development of a Covered Bonds Directive to specify harmonised structural requirements on covered bonds is a core pillar of our recommendations. Initiatives seeking partial integration of the covered bonds, such as strengthening transparency requirements, are not sufficient. A comprehensive framework, allowing us to build on the strengths of national systems, is crucial to justify the favourable regulatory treatment conferred on covered bonds in the long term, especially in the context of a high level of heterogeneity of national covered bond systems and evolving developments on the covered bond market.

**Importantly, the harmonisation framework should reflect the vital role of covered bonds in the funding of the European real economy.** This has also been recognised by the Commission, as development of the covered bond markets across the EU is one of the building blocks of the Commission's Capital Markets Union project. At the EBA we consider that starting with the development of a Covered Bonds Directive is a first and essential step in this regard.



Figure 6: Three-step approach to harmonisation



## BOX 2 — Main conclusions of the report on covered bonds

The report provides a comprehensive overview of covered bond developments in the past two years, in both the national and European contexts. Building on the results of an extensive study, the EBA proposes to harmonise the covered bonds in three separate steps.

**First, the EBA recommends that a new covered bond directive should be developed to define harmonised structural quality requirements of all covered bonds across the EU.** Compliance with detailed rules on special public supervision, transparency, coverage of liabilities, liquidity and derivatives should thus become standard quality features of every regulated covered bond in the EU.

One of the core elements of the proposed framework is the requirement to hold a liquidity buffer, established separately for the purposes of the covered bond, to address in a comprehensive manner possible liquidity shortages of a specific covered bond programme. The buffer should cover the net liquidity outflows faced by the covered bond programme over a time window of six months. It is also proposed to explore the possibility of introducing interactions between the separate liquidity buffer and LCR, to prevent double liquidity requirements for the issuer, in a way that does not weaken the LCR rules.

In line with the EBA's recommendations, all covered bond programmes should be duly licensed, and be subject to robust special supervision. All issuers should publish detailed information on

the cover assets and covered bonds, including, for example, transaction documents and statements on compliance with regulatory rules (such as CRR and LCR), to enable investors to conduct a comprehensive risk analysis. Last but not least, to address the increasing use of innovative covered bond structures, the Covered Bond Directive should specify additional conditions for the soft bullet and conditional pass-through covered bonds to allow them to qualify as covered bonds, which should in particular set out conditions and triggers for the maturity extension.

**As a second step, the EBA recommends strengthening the conditions for preferential capital treatment, currently specified in Article 129 of the CRR.** All covered bonds across the EU that seek preferential risk weights would thus need to meet the strengthened conditions in the CRR in addition to all the requirements in the Covered Bond Directive, including the new requirements on the substitution assets, and effective overcollateralisation of 5%.

**As a third step, voluntary convergence between national frameworks should be encouraged by means of non-binding instruments, in certain specific areas such as composition of the cover pool and loan-to-value measurement for mortgage cover pools.** In the longer term, greater harmonisation could be pursued in these areas, but at the current stage these are considered secondary for the overall soundness of the framework.

### Supporting the European Commission's proposal to review the current CRD/CRR and BRRD framework

The EBA supported the Commission in the preparation of its legislative proposal to amend the rules on capital requirements and the resolution framework which was issued on 23 November 2016. The purpose of the latest proposals is to implement the most recent international regulatory reforms such as those arising from the FRTB or the total loss absorption capacity (TLAC) requirement in EU law. In particular, the proposal covers market risk, counterparty credit risk (CCR), the LR, the NSFR and elements of the BRRD.

The EBA responded to calls for advice from the Commission on a range of topics. For example, the EBA provided advice to the Commission on the implementation of BCBS recommendations in the area of CCR, central counterparties (CCPs) and market risk following the publication by the EBA of a report in November

2016 on the envisaged qualitative and quantitative impact of (i) an enhanced standardised framework for CCR, i.e. the SACCR, and (ii) a new market risk framework (the FRTB). The Commission's proposals in these areas follow the EBA's recommendations on the introduction of some key proportionality measures, such as increasing the threshold value for the derogation of small trading book business and introducing a similar threshold for small derivative businesses, below which institutions are allowed to use simple approaches currently used for the computation of CCR requirements. The EBA also recommended that banks outside the traditional scope of the Basel standards should be allowed to carry on applying the current approaches, subject to appropriate recalibration. Finally, the EBA recommended including more granularity in COREP reporting to provide a better overview of institutions' CCR exposures and the information needed to monitor the computation of the different proportionality thresholds included in legislation.



## Developing resolution policy and promoting common approaches to the resolution of failing financial institutions

### Assessing the quality and effectiveness of resolution colleges

After a relatively slow start in 2015, when only a small number of resolution colleges were held, activity accelerated in 2016. EBA staff attended resolution colleges for 25 major EU banking groups during the year. Where those institutions were global systemically important institutions (G-SIIs), EBA staff also attended the meetings held for such institutions.

The focus of attention for the EBA during the year was on the efficient, effective and consistent functioning of the colleges. A particular focus was placed on the assessment of the quality and effectiveness of the annual resolution-planning cycle. In this regard, numerous contributions were made to the development of the written arrangements that establish the foundation for how a college operates.

Given the wide range of banking groups and authorities involved, a diverse array of issues were addressed and different levels of progress made in the colleges. While the significant increase in resolution college activities in 2016 is positive, further progress is needed to ensure that the regime is fully implemented and operational for all banking groups in the EU.

### Completing and strengthening the regulatory framework

The EBA's contribution to the development of the Single Rulebook in the area of crisis management has been significant: since 2014, the EBA has finalised 28 binding technical standards, guidelines and pieces of technical advice requested by the European Commission. By developing the relevant resolution framework, the EBA has significantly supported the newly established resolution authorities in the EU, including the Single Resolution Board (the second pillar of the Banking Union), in carrying out their functions.

The regulatory products developed by the EBA in 2016 cover a wide range of resolution matters. The EBA undertook substantial work in the area of the minimum requirement for own funds and eligible liabilities (MREL) (see Box 3). In addition to the reports on the design and implementation of MREL, the EBA developed and launched a public consultation on the implementing technical standards (ITS) on how resolution authorities should report MREL decisions to the EBA.

The EBA has also issued guidelines on confidentiality aimed at promoting the convergence of supervisory and resolution practices on the disclosure of confidential information collected for the purposes of the BRRD. These guidelines are also relevant in the context of equivalence assessments of confidentiality regimes.

Finally, the EBA has initiated the review and transformation of its Guidelines on the application of simplified obligations into the RTS, with a view to further harmonising supervisory and resolution practices with respect to the methodology and criteria for the application of simplified obligations.

## ONGOING WORK

Work on a number of regulatory products in 2016 will continue into 2017. In particular, work is ongoing to finalise the RTS on valuation before resolution and the RTS on valuation after resolution, which are crucial elements of the resolution framework. The EBA expects to submit the two sets of RTS to the European Commission in the course of 2017. In parallel the EBA will publish the Guidelines on bail-in, which are linked with the RTS on valuation.

### BOX 3 — MREL

The BRRD requires banks to hold a minimum amount of own funds and eligible liabilities (MREL) to allow the credible implementation of the resolution tools. MREL is the European approach to a global effort to build up loss-absorbing capacity within banks, so that the costs of a failure are internalised, to the greatest extent possible, and bail-outs are minimised.

In May 2016, the Commission adopted the RTS on MREL criteria on the basis of a draft prepared by the EBA. With these rules in place, the necessary criteria and framework are in place for authorities to set MREL on an institution-by-institution basis as required by the BRRD.

**In the second half of 2016, the EBA delivered on an important BRRD mandate, to report on the implementation of MREL and to make proposals to improve its design and ensure consistency with international standards.**

After the release of an interim version of the MREL Report in July 2016 and a public consultation over the summer, the final report was delivered to the Commission on 14 December 2016. The report reinforces the EBA's commitment to preserving financial stability, promoting transparency and implementing international standards in a technically sound way as part of an integrated EU framework. **Some key policy recommendations of the final MREL Report included:**

- **reaffirming resolution strategies as the primary driver of bank-specific MREL calibration;**
- **enhancing resolvability, by introducing mandatory subordination requirements not only for global systemically important banks (G-SIBs) (as required by the TLAC**

**term sheet), but also for other systemically important institutions (O-SIIs) in order to alleviate 'no creditor worse off' concerns and ensure a level playing field; and**

- **enhancing transparency and disclosure of the MREL stack and applicable creditor hierarchy (at a minimum) to support market discipline and facilitate the emergence of a market for MREL instruments.**

The final report also included an extensive quantitative analysis and a macroeconomic impact assessment. Under central estimates, the report assesses that the financing needs that 133 banking groups included in a representative sample would have to meet in order to comply with an assumption-based MREL requirement in the steady phase would range between EUR 186 billion and EUR 276 billion. Moreover, subject to the assumptions used in the report, the net macro-economic impact of introducing MREL in the EU is positive and ranges between 17 and 91 bps of GDP.

The European Commission was closely involved in this work and regularly apprised of progress in the elaboration of the report. The legislative proposals for a review of the resolution framework, which the Commission published in December 2016, endorse many of the recommendations made in the EBA's report. The EBA also expects that the report will shed light on a number of technical issues open for discussion in the context of the legislative process and deliberations in 2017 of the European Parliament and Council on this banking reform package.

## Strengthening resolution financing and deposit guarantee schemes

### Deposit guarantee schemes

Following the entry into force of the new Deposit Guarantee Schemes Directive (DGSD) in July 2015, the EBA further helped to develop the rules for strengthening the resilience of deposit guarantee schemes (DGSs) and improving depositors' access to compensation, including in cross-border bank failures. In 2016, the EBA published own-initiative Guidelines on cooperation agreements between DGSs as well as Guidelines on stress tests of DGSs.

The EBA Guidelines on cooperation agreements between DGSs facilitated entry into cooperation agreements between DGSs and ensured that such agreements include the necessary elements to ensure that cooperation is effective. In particular, the guidelines focused on three key areas: repaying depositors by the local DGS at branches of banks established in other Member States, the transfer of contributions from one DGS to another in case a credit institution joins a different DGS, and mutual lending between DGSs.

The EBA Guidelines on stress tests of DGSs laid down basic methodological principles for stress tests run by DGSs in the EU, including the various stages to be completed, the scenarios to be simulated and the areas and indicators to be measured. In addition, the guidelines established a small core of harmonised priority tests to be run by DGSs and reported to the EBA, with a view to running a comparable EU-wide peer review in 2020.

### Resolution-financing arrangements

In October 2016, the EBA published a report on the reference point for the target level of national resolution-financing arrangements. Based on the qualitative and quantitative assessment of various criteria, including historical data, the EBA report recommended that measures based on total liabilities, and 'total liabilities excluding own funds less covered deposits' in particular, are the most appropriate target-level basis for resolution-financing arrangements (instead of the current reference basis of covered deposits). The main reasons for the recommendation are that this basis is consistent with the regulatory framework and calculation methodology for the individual contributions and it is a simple and transparent reference basis.

## ONGOING WORK

- In 2017, the EBA plans to hold a workshop with practitioners on DGS stress testing.
- In 2017, the EBA will contribute to the transparency of the EU DGS framework by publishing notifications on any uses of DGS funds in the EU, the amounts of available financial means of DGSs and the amount of covered deposits in each Member State. The EBA will also issue a review of the Guidelines on methods for calculating contributions to DGSs, as required by the DGSD.

## Promoting convergence of supervisory practices and ensuring their consistent implementation across the EU

### Facilitating and monitoring the implementation of the Single Rulebook



#### OWN FUNDS

Own funds has been the first area where the EBA has developed a monitoring function, after having finalised a large bunch of technical standards quite early after the adoption of the CRR.

We are doing two types of monitoring of capital issuances, focusing on the one hand on Common Equity Tier 1 (CET1) instruments capital, which is the highest form of capital of EU banks, and on Additional Tier 1 (AT1) instruments on the other hand.

In terms of CET1 capital, the EBA regularly publishes a list of instruments that EU banks have included in their CET1 capital, after having performed an assessment of the terms and conditions for each new form of instrument, in order to ensure the compliance with eligibility criteria contained in the CRR and in the related technical standards on own funds. In 2017, we aim to complement this list with a CET1 monitoring report, which will explain to stakeholders the approach that we follow in the context of this monitoring, the issues we have identified in some new forms of instruments which were submitted to us for assessment, and a kind of 'lessons learnt' aspect in view of potential new issuances in the future.

In terms of AT1 capital, the EBA has now a long-standing experience in assessing the regulatory terms and conditions of EU issuances. A report presenting the result of this monitoring and including the best practices observed so far as well as clauses that should be avoided is regularly published. We have to date released three versions of the report, containing iterations based on the increase in the numbers of issuances monitored. As a novelty, we also published in October some standardised templates for AT1 issuances. While the proposed templates are not legally binding and their use by institutions is optional, we believe that their use would bring a certain level of security to the issuing institutions, as the templates are perceived to reflect the expectations of the supervisory community on the practical implementation of the provisions laid down in CRR, the corresponding technical standards and Q&As on own funds.

**All in all, the objective of the monitoring of CET1 or AT1 instruments in particular is twofold: assessing the compliance with regulatory criteria as included in the Level 1 legislation, as well as ensuring a common understanding of these criteria in their operational implementation by institutions and supervisors.**





### Credit valuation adjustment

Following the recommendations of the Credit Valuation Adjustment (CVA) Report published in February 2015 and in order to partially address the risks generated by EU exemptions, the EBA developed during 2016 a coordinated approach for monitoring the impact of transactions exempted from the CVA risk charge on an annual basis.

### Remuneration

The EBA is continuously monitoring the development of remuneration practices and trends. In line with the CRD IV, the EBA annually collects data on staff who have received a total remuneration of EUR 1 million or more in the previous financial year (high earners). In addition, detailed information is also collected in particular on the remuneration of identified staff from over 100 groups and institutions. Both data collections aim to ensure a high level of transparency regarding the remuneration practices across the European Union. The EBA analysed the high-earner data submitted by CAs for the year 2015, which will be published in early 2017.

The EBA observed that the number of high earners increased significantly from 3 178 in 2013 to 3 865 in 2014 (up 21.6%) and continued to increase significantly to 5 142 in 2015 (up 33.04%), mainly driven by changes in the exchange rate between euros and pounds sterling. In 2015, the largest population of high earners in the EU, 4 133, was located in the United Kingdom (UK) (80.4% of the total num-

## ONGOING WORK

The EBA will continue to monitor remuneration trends and practices in 2017. So far, the EBA has published the aggregated data and a benchmarking analysis on an annual basis. From 2017, the EBA will benchmark remuneration trends biennially (e.g., for the performance years 2015 and 2016, a benchmarking exercise will take place in 2017). The EBA will continue to publish data on high earners annually to closely monitor and evaluate developments in this area.

ber of high earners), and most of them were remunerated in pounds sterling.

In 2014, around 87% of the high earners were identified staff compared with 59% in 2013, following the publication of the RTS on identified staff in 2014. The percentage of high earners that were identified staff remained stable at 86% in 2015.

The average ratio of variable to fixed remuneration for all high earners has increased from 127% in 2014 to 147% in 2015. However, the ratio within asset management (part of a banking group) largely exceeds the maximum ratio of 200% set out in the CRD, averaging 468%. This is because of waivers granted for this business area in several Member States despite CRD IV specifying that the remuneration requirements should be applied on a consolidated basis within a banking group to all business areas.

**Figure 7:** Development of the number of high earners and the EUR-GBP exchange rate

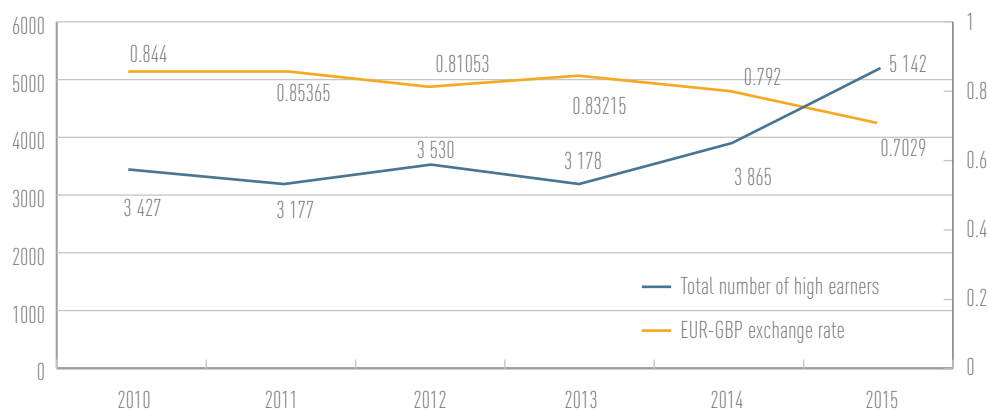
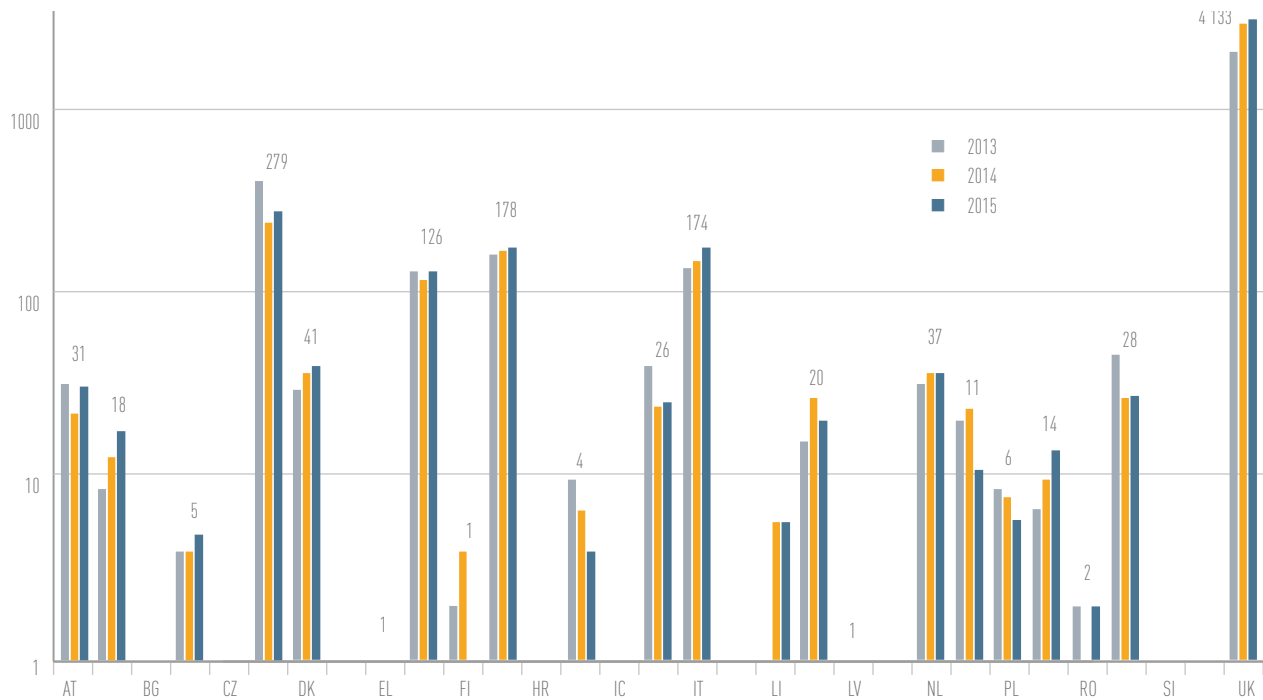


Figure 8: Number of high earners by Member State (values shown refer to 2015) (logarithmic scale)



REMUNERATION

Incentives provided under institutions’ remuneration policies are a key driver for staff’s behaviour in terms of sound risk-taking in the long run. In 2016, after finalising the EBA Guidelines on remuneration policies, I focused my work on the review of the remuneration provisions included in the Capital Requirements Directive (CRD IV). The EBA Opinion on proportionality in the area of remuneration, on which I worked, recommended that a legal basis be introduced in the Directive, to allow small and non-complex institutions to not apply to their identified staff (risk takers) the deferral and pay-out in instruments requirements. The same was suggested for identified staff with a low level of variable remuneration.

**I believe that an implementation of waivers, applicable at appropriate thresholds, will help establish the right balance between regulatory burden and prudential benefits of the remuneration requirements.** I was deeply involved in the collection and analysis of data to determine the effect of waivers currently applied by Member States and the potential effect of future waivers at certain thresholds. Looking at the revisions proposed by the European Commission, **I am proud to see that my work in this area has contributed to a well-balanced legal proposal.**



## Reviewing the impact of proportionality

The EBA published a report in November 2016 to respond to the letter from the European Commission dated 21 April 2016, requesting further information with regard to the EBA's Opinion on the application of the principle of proportionality to the remuneration provisions in Directive 2013/36/EU (EBA/OP/2015/25).

The EBA requested data from all EU/EEA competent authorities on the application of proportionality in the area of remuneration, on the number of institutions per Member State and on the impact of any waivers in that area currently in place. To estimate the effect of such waivers in quantitative terms, the balance sheet total, number of staff and identified staff of credit institutions were collected on a single credit institution basis.

The report provides an overview of the applicable framework regarding the principle of proportionality in each Member State showing a huge diversity in regulatory frameworks and supervisory practices. The number of institutions and staff currently benefiting from waivers from the application of the requirements of Article 94(1) points (l) and (m) and the second subparagraph in point (o) of Directive 2013/36/EU differs significantly between Member States. The EBA calculated, per Member State and for three different thresholds, the extent to which institutions, including their identified staff, would benefit from potential waivers if the amendments to Directive 2013/36/EU proposed by EBA in its opinion were to be adopted. In addition the report provides an overview of the current national implementation of the Directive 2013/36/EU regarding the possibility for listed institutions to use share-linked instruments: most Member States already allow for this possibility in their national law.

The Commission's CfA requested the EBA to submit estimates for the impact of possible future waivers at three different thresholds. The report includes estimates for thresholds of EUR 1.5 billion, EUR 5 billion and EUR 10 billion in terms of balance sheet total. Waivers calibrated within this range would benefit around 75% to 90% of institutions (3% to 15% of institutions in terms of market share) and 35% to 60% of the identified staff. This would

be in addition to staff that could benefit from waivers based on low levels of remuneration. Results, however, differ significantly across Member States, depending on the structure and size of their financial markets.

## Enhancing convergence of supervisory practices under the Supervisory Review and Evaluation Process

The effective functioning of the single market requires enhanced convergence of supervisory practices of the CAs in all Member States. The existence of common rules alone cannot ensure effective oversight of cross-border groups and the development of a level playing field in the financial services, if divergent supervisory practices and outcomes pose a potential risk to the consistent implementation of these rules.

One of the EBA's main objectives is to achieve supervisory convergence across the EU which is characterised by the three 'C's: i) Compliance with the Single Rulebook, ii) Comparability of supervisory practices and iii) Consistency of supervisory outcomes. The EBA can resort to three important tools to achieve this goal: the assessment of the applied supervisory methodologies and supervisory outcomes, the further development of the regulatory framework where more harmonisation is necessary and finally the consistent implementation through training programmes.

The EBA continued to monitor the practical application of the single rulebook by competent authorities (CAs), mainly focusing on the consistency of outcomes from the supervisory reviews. Likewise, the EBA kept engaging with colleges of supervisors by promoting the consistent application of Level 1 and Level 2 text, particularly for the application of joint decisions on capital, liquidity and recovery plans, and by drawing supervisory attention to key risks and themes such as non-performing loans (NPLs), conduct issues and remuneration practices.

The EBA continued to work also on methodologies and procedures for supervisors i) in areas where the monitoring of practices showed a need for additional guidance, ii) on emerging risks and iii) where international standards

have been updated. The main themes of supervisory convergence work in 2016 were the consistent application of automatic restrictions on distributions and the convergence in the use of the stress test as a supervisory tool to determine the need for capital guidance on top of Pillar 2 and buffer requirements.

Finally, the EBA new training strategy adopted in 2016 set the foundations for a common approach, which will contribute to the building of a common supervisory culture.

### Assessing convergence of supervisory practices

The CRD includes a specific mandate for the EBA to promote and monitor convergence of supervisory practices under the SREP. Therefore, the EBA continued to assess, as one of its main focuses in 2016, the progress made in ensuring consistency of supervisory reviews, evaluations and supervisory measures in Member States.

The report on supervisory convergence, published in July 2016, highlighted progress in the convergence of risk assessment practices following the implementation of the EBA SREP Guidelines and the establishment and operation of the Single Supervisory Mechanism (SSM), in the euro area. While the adoption of comparable SREP processes and improvements with regard to the articulation of capital requirements was carried out, several areas of misalignment have been identified and differences observed mainly with reference to the nature and determination of supervisory capital requirements (recommendations versus binding capital requirements) as well as in the use of stress testing. The report emphasised the EBA's efforts in promoting convergence, through its participation in colleges, policy work and training programmes. The EBA identified the definition of a common approach to the use of stress testing and of the distinctive criteria for setting capital requirements and capital guidance as main challenges for 2016.



## SUPERVISORY CONVERGENCE

In 2016, the EBA stepped up its work on ongoing monitoring and assessment of convergence of supervisory practices – the work that is at the core of the EBA mandate and that aims at ensuring level playing field across the Single Market. **The major highlights of our convergence work in 2016 included the publication of our second flagship report on the authorities' achievements in the convergence of supervisory practices, which for the first time was based also on structured bilateral interviews between the EBA staff and competent authorities.** During these interviews, we visited 10 authorities and discussed their practical implementation of the EBA SREP Guidelines, in particular focusing on the assessment of capital adequacy. These interviews were extremely useful and mutually beneficial experiences for all parties, as we were able to see in practice how line supervisors apply the Guidelines and also help them with the interpretation of difficult points. In 2017, we will continue with the interviews, widening their scope in terms of authorities and topics, and will also reflect the findings in the update of the SREP Guidelines planned for 2017.

It was also an exciting year from the Pillar 2 policy perspective, as we worked hard with authorities to find a common approach to incorporating outcomes of supervisory stress tests into the SREP and introducing technical details of the new supervisory tool – Pillar 2 Capital Guidance, which will be also incorporated in the 2017 revision of the SREP Guidelines.



Figure 9: Promotion of convergence



### Ensuring efficient functioning of colleges of supervisors

The EBA is tasked with contributing to, promoting and monitoring the efficient, effective and consistent functioning of colleges of supervisors across the EU. Colleges of supervisors play a vital role in the effective supervision of cross-border groups and have been an important forum for the coordination of supervisory activities, sharing information and reaching joint decisions.

On an annual basis, the EBA establishes an action plan for supervisory colleges which provides authorities responsible for supervising cross-border institutions with a set of objectives and deliverables in line with the Level 1 and Level 2 provisions. The annual EBA Colleges Action Plan also sets the approach to be followed and the tasks to be undertaken by the EBA staff in supporting and monitoring colleges within its statutory mandate.

The Colleges Action Plan for 2016 considered the findings from the monitoring of supervisory colleges in 2015, incorporated relevant requirements based on regulatory developments and benefited from the EBA's risk analysis work as well. Regarding this last, the EBA, as part of its work on risks and vulnerabilities in the European banking system, identifies risks that pose major threats to the EU cross-border banking groups and, thus, represent significant concerns for the EU supervisory authorities. Therefore, the 2016 Colleges Action Plan identified eight key topics for supervisory attention stemming from its risk assessment and policy work – see Box 4.

All colleges discussed the topics directly linked to risk assessments, i.e. NPLs and bal-

### BOX 4 — Key topics for enhanced supervisory attention in 2016

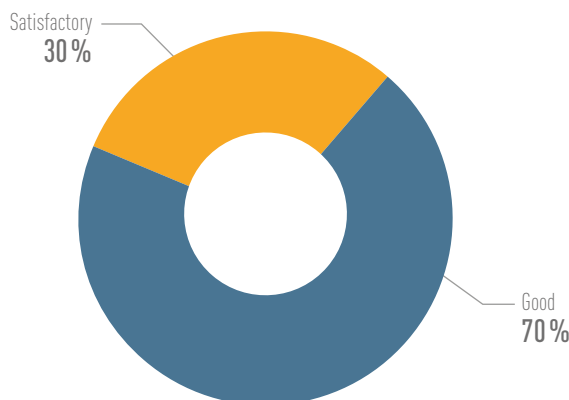
- Non-performing loans (NPLs) and balance sheet cleaning
- Business model sustainability
- Operational risk – conduct risk and IT risk
- Implementation of the SREP Guidelines by competent authorities
- Cross-border supervisory cooperation in review of Internal Ratings Based (IRB) models
- Impact of International Financial Reporting Standard (IFRS) 9
- Assessment of institutions' compliance with bonus cap for remuneration
- Supervisory cooperation and communication during the 2016 EU-wide stress test (i.e. home-host protocol)

ance sheet cleaning, business model sustainability, operational risk and EU-wide stress test, while other topics related to specific policy products were covered considerably less within the college structures.

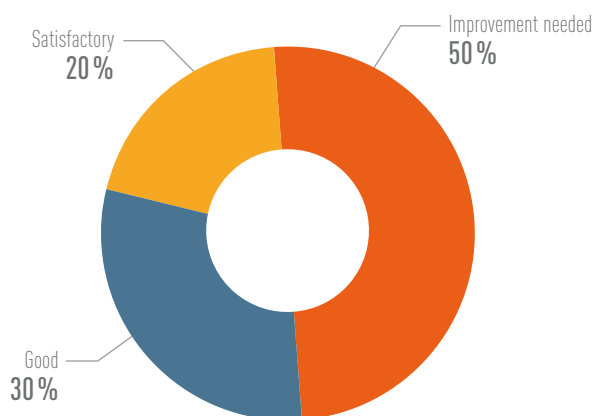
The EBA staff introduced a new tool into its supervisory convergence toolkit in 2016, namely the bilateral visits to national CAs, in order to directly interact with supervisors and policy and methodology experts on issues related to supervisory convergence and the functioning of colleges.

The visits proved to be beneficial not only for the EBA staff to understand better some of the issues arising in colleges, from both home

**Figure 10:** Assessment of the content of the capital joint decision document



**Figure 11:** Assessment of the capital joint decision process



and host supervisory perspectives, but also for competent authorities, as they could directly interact with the EBA staff on the implementation of policy products and receive hands-on guidance on their work in colleges. Another added value of the meetings was the availability of the horizontal functions at the various authorities and the possibility of exploring the role and engagement of horizontal functions in supporting and coordinating the work of colleges.

To support the work on supervisory convergence, among the topics unanimously selected for thematic review in 2015-2016 were supervisory approaches and responses to conduct risk. To this end, the EBA staff organised and ran a stock-take exercise during the course of 2015, the results and findings of which fed into the EBA's report on conduct risk, made available to the supervisory community in April 2016.

In 2016, the EBA staff completed its annual assessment of closely monitored colleges focusing on three main elements of the colleges' work: i) frequency and quality of interactions, ii) key deliverables and iii) responsiveness of colleges. Each assessment category was then scored against a three-level scoring system of 'good', 'satisfactory' and 'improvement needed' (scorecard). The assessment i) aimed to provide integrated feedback to consolidating and host supervisors on a college-specific basis, by acknowledging achievements and identifying areas for further improvement, and ii) also informed BoS members about the performance of individual colleges under their responsibility and shared key conclusions for all 20 closely monitored colleges.

The EBA public report on the functioning of supervisory colleges in 2016 relied on the EBA staff's observations gained through their participation in colleges of supervisors, and most importantly on the consolidated results of the individual college assessments. The report concluded that, overall, the level and quality of engagements in supervisory colleges have been further improved in the course of 2016, in particular the quality and depth of the discussions. College meetings benefited from multilateral interactions, in-depth conversations and a certain degree of mutual challenging. Another area where improvements were clearly identifiable is the content of joint decision documents, as 70% were assigned a good score compared with 22% a year ago (see Figure 10). In general the joint decisions were well reasoned and the articulation of own funds requirements (Pillar 2 Requirements – P2R) brought more in line with the SREP Guidelines.

In spite of the significant efforts put into the joint decision processes, some recurrent issues remained a challenge in 2016. In many colleges, not sharing material information with college members i) on the mandatory decomposition of the capital requirements and ii) in a timely manner on proposed qualitative and quantitative requirements was a key issue.

Supervisory colleges were required to assess group recovery plans for cross-border banking groups and to reach joint decisions for the second year in 2016. The formal joint decision process for 2016 was initiated for almost all of the submitted plans. However, this process was successfully completed, i.e. reaching the joint decision among the whole college members within the expected timeframe, only in

50% of the closely monitored colleges. The remaining colleges had to deal with challenges arising from the treatment of pre-existing individual recovery plans originated before the BRRD came into force and the appropriate coverage of individual entities in the group recovery plans. These issues led to delays in reaching a joint decision, or to a partial decision, or to a situation where no joint decision could be reached.

The EBA staff contributed to the assessment of group recovery plans in 2016 by providing comments to individual colleges on the aspect of the coverage of individual entities in the group recovery plans as well as by contributing to two dedicated meetings between home and host competent authorities, which aimed mainly at finding a common, shared and sustainable solution on the coverage of entities in group recovery plans going forward.

For the first time in 2016, the EBA launched a self-assessment exercise for the colleges monitored on a *thematic or selected basis* <sup>(30)</sup>, which was aimed both at achieving a broader coverage of colleges by the EBA with limited resources and at facilitating colleges' work as well. Templates were developed and provided to college leads early on in 2016, which contained the main milestones of college work and provided reference to the specific legal frameworks supporting this group of colleges throughout the year.

While physical college meetings have not yet been fully introduced into the interactions of this group of colleges (as almost one third held no physical meetings in 2016), the majority completed the joint decision process and reached the final joint decisions within the legally applicable timeframes. Most importantly, no disagreements between college members on the capital and liquidity joint decisions were indicated in the self-assessment templates, although, in cases where the EBA staff became aware of any potential issues, they proactively liaised with the consolidating supervisor and participated in college meetings.

Three issues of the EBA Colleges Newsletter, covering key topics relevant to supervisory work in colleges, were published in the course of 2016 (Q1, Q3 and Q4) and distributed not only to closely monitored colleges, but also to



colleges followed on a thematic and selected basis. The EBA continued to receive very positive feedback from the supervisory community throughout 2016 with regard to the content and usefulness of this publication and will keep working on it in 2017.

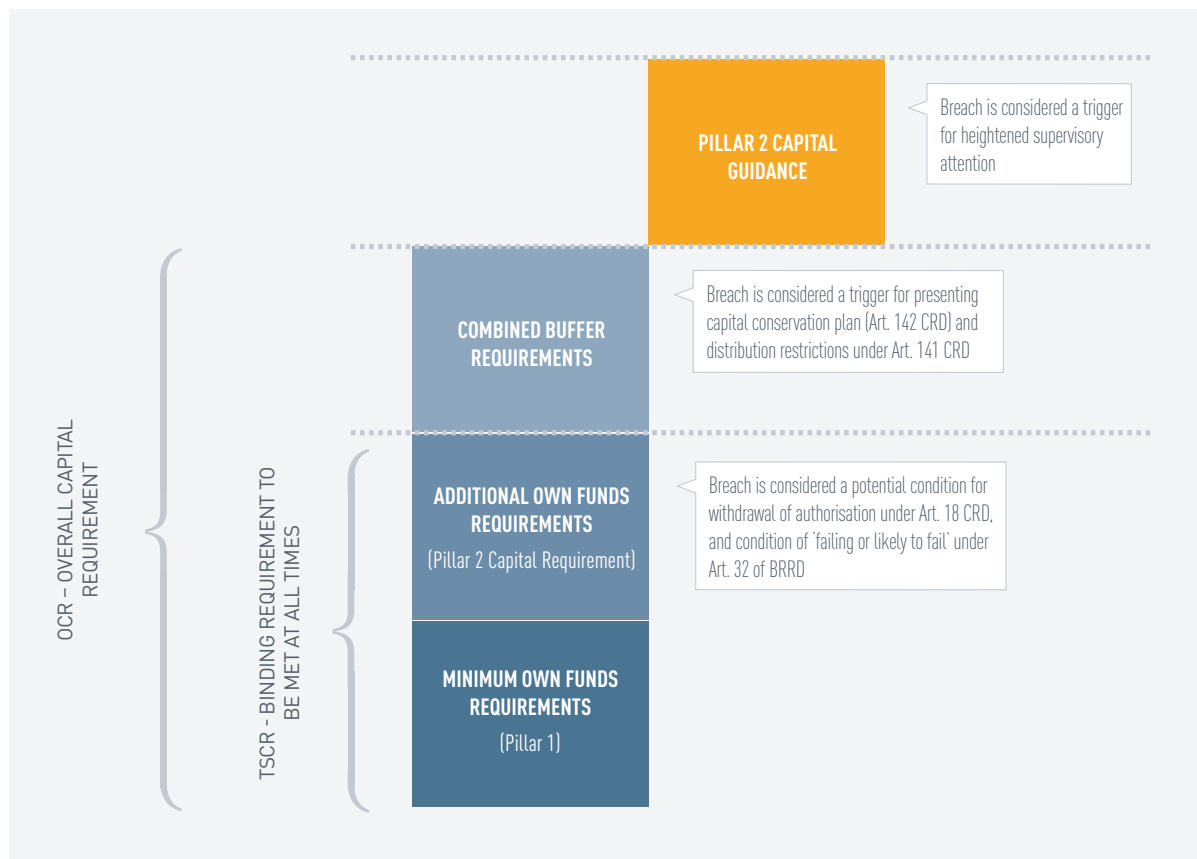
### Developing methodologies for the Supervisory Review and Evaluation Process

#### Opinion on the maximum distributable amount

The publication of the EBA Opinion on the maximum distributable amount (MDA) in December 2015, which was significant in ensuring the consistent application of the Single Rulebook, provided clarity to supervisors, banks and market participants for the supervisory review process conducted in 2016. The opinion aimed to clarify the provisions of Article 141 of the CRD which limit the distribution of interim and year-end profits in case of breaches of the combined buffer requirement. The opinion addressed the i) ambiguity stemming from the interpretation of the CRD provisions concerning the position and relevance of Pillar 2 Requirements (P2R) for the purposes of the MDA and ii) the fact that supervisors were implementing different approaches with regard to the identification of the trigger and to the calculation of the MDA. In particular, the opinion restated the relevance of the stacking order of capital requirements (P1 + P2 + combined buffer), both for triggering the breach of the combined buffer and for the MDA calculation.

<sup>(30)</sup> EBA staff engagement with colleges monitored on a thematic or selected basis in general is limited to specific topics and selected cases.

Figure 12: Stacking order of supervisory capital demand



**Pillar 2 Capital Guidance**

Pillar 2 Capital Guidance (P2G) can be defined as a supervisory tool setting non-legally binding capital expectations for banks at a level over and above the Overall Capital Requirement (OCR) based on the findings of the supervisory review, in particular relying on the outcomes of the supervisory stress test. The EBA introduced the concept of the P2G in July 2016 <sup>(31)</sup> in connection with the EU-wide stress test and explained how additional ‘capital guidance’ can be used as a tool to address the quantitative outcomes of the stress test. The conceptual features of the P2G and the proposed way forward with its application in 2017 have been approved by the Board of Supervisors (BoS) in the December meeting, which will lead to the amendments of the SREP Guidelines.

<sup>(31)</sup> <https://www.eba.europa.eu/-/eba-clarifies-use-of-2016-eu-wide-stress-test-results-in-the-srep-process>

**Guidelines on ICAAP and ILAAP information for SREP**

The EBA published in November a set of Guidelines on information related to Internal Capital Adequacy Assessment Process (ICAAP) and Internal Liquidity Adequacy Assessment Process (ILAAP) that CAs should collect from institutions for SREP purposes. These Guidelines facilitated the consistent supervisory assessment of internal risk assessment models developed by banks, the reliability of ICAAP and ILAAP capital and liquidity estimates, their use in the assessment of institutions’ capital and liquidity adequacy, and the determination of additional own funds and liquidity requirements. The principle of proportionality is recognised in the Guidelines in relation to the frequency, reference and remittance dates, as well as the scope for the ICAAP and ILAAP information that should be determined in relation to the SREP categorisation of institutions.



## ICT risk

The growing importance and increasing complexity of information and communication technology (ICT) risk within the banking industry and in individual institutions led the EBA to develop its own-initiative draft guidelines addressed to competent authorities to promote common procedures and methodologies for the assessment of ICT risk. These guidelines, which complement the existing guidelines on the Supervisory Review and Evaluation Process (SREP), are structured around three main parts: i) setting the context and scope of the ensuing assessment; ii) addressing what competent authorities should expect to see with regard to management of ICT risks at senior management level and management body level, as well as the assessment of an institution's ICT strategy and its alignment with the business strategy; and iii) covering the assessment of the institution's ICT risk exposures and the effectiveness of controls. The consultation paper was published in October 2016.

In 2016, the EBA also issued the first version of a new annual report on material and emerging IT risks in the EU banking sector and made it available to supervisors. The aim of this report is to provide insight into the most significant material and emerging IT risks as they are currently perceived by IT supervisors from EU competent authorities. The report highlighted six main IT risks, namely IT governance; rigid and outdated technology environments; cyber- and information security; IT continuity and resilience; external and intragroup dependencies; and risks related to technological innovation in the financial sector (FinTech). The report also identified key supervisory concerns and provided guidance to supervisors for their supervision of IT risk.

ICT risks (such as outsourcing to cloud service providers), cybersecurity and assessing ICT risk as a prudential risk in banks were a focus of EBA activities in 2016. The EBA, together with the Commission, Europol and representatives of the EU banking and payment services sector on cybersecurity, organised a joint workshop, which brought together IT and generalist supervisors from EU CAs, and IT officers from EU banks.

## ONGOING WORK

- The outcomes of the workshop on ICT risks will form the basis of further work on cybersecurity in 2017.
- The EBA Guidelines on the management of IRRBB that apply since 1 January 2016 are being revised to align them with the BCBS Standards, which are expected to be implemented by January 2018. The objective of the EBA is to finalise the revised EBA Guidelines in the course of 2017.

### Interest rate risk in the banking book

Interest rate risk in the banking book (IRRBB) is an important financial risk for credit institutions, which has traditionally been considered under the supervisory review process. Interest rate risk can materialise in various ways, but most importantly in the repricing of the banks' assets and liabilities, as well as in the maturity mismatches which exist in the balance sheet. Thus, the supervisory framework assumes that institutions develop their own methodologies and processes for identification, measurement, monitoring and control of this risk. These methodologies and internal processes are subject to the SREP.

In order to communicate expectations regarding the management of IRRBB, in 2015 the EBA published Guidelines on the management of IRRBB, which took account of existing supervisory expectations and practices including the Principles for the management and supervision of interest rate risk published by the BCBS in 2004. In April 2016, the BCBS published an updated version of standards on the management of IRRBB (BCBS Standards), thus prompting the EBA to update its Guidelines on IRRBB to reflect changes in markets and supervisory practices experienced since 2004.



**Davide Stroppa**

BANK EXPERT,  
SUPERVISORY CONVERGENCE UNIT



## RECOVERY PLANNING

With the implementation of the Bank Recovery and Resolution Directive (BRRD) in January 2015, **recovery planning has become a key aspect of European banking groups' planning and risk management and is now embedded in the standard cycle of supervisory activities.**

Together with other colleagues in the Supervisory Convergence Unit, I have been heavily involved in the work on recovery planning carried out in EU colleges of supervisors, contributing to the assessment of group recovery plans and facilitating the discussions during supervisory colleges. Moreover, we provided valuable support on those issues which have proved to be quite compelling in the first years of implementation of provisions on recovery planning, like the appropriate calibration of recovery indicators, the adequate coverage of entities in group recovery plans, and the way to address material deficiencies in the assessment process.

**One of our most significant contributions has been the comparison of specific aspects of recovery planning across major EU banks, with the aim of identifying good practices and areas for improvement and of providing guidance to institutions and supervisors alike.** As part of this effort, we have conducted a series of thematic comparative analyses over the past few years. After the first two peer-group exercises, which focused on core business lines and critical functions and the comparative report on scenario testing, in 2016 we published a third report, analysing governance arrangements and indicators, which are key elements to understand the credibility and feasibility of a recovery plan. Towards the end of the year, we started working on a fourth report covering those elements that should be considered by institutions when designing and selecting credible recovery options.



### Monitoring the implementation of the recovery planning framework and early intervention

The aim of recovery plans is to effectively restore the long-term viability of a banking group by selecting appropriate recovery measures which can be executed in case of financial distress. EBA staff continued to provide support to the recovery-planning activities carried out in colleges of supervisors, contributing to the assessment of group recovery plans, especially on the aspect of the coverage of individual entities in the group recovery plans, and facilitating the discussions on recovery planning during supervisory colleges. Moreover, the EBA's guidance and advice continued to be requested by competent authorities in several instances on ad hoc issues involving mainly the appropriate calibration of recovery indica-

tors, the issue of adequate coverage of entities in group recovery plans, and the appropriate approach to address material deficiencies in the assessment process.

In July, a comparative report on the governance arrangement and recovery indicators was published, based on the analysis of 26 plans of large European cross-border banking groups. This was the third thematic comparative report in the area of recovery planning published by the EBA in the past few years, following two other reports on i) critical functions and core business lines and ii) the approach to scenario testing in recovery plans. In particular, the 2016 comparative exercise focused on i) recovery plan development/maintenance, ii) escalation procedures and iii) framework of recovery indicators. The aim of the report was to support the work of both competent author-

ities and institutions by providing an overview of the best practices, as well as by identifying the key areas for improvement. In particular, it was found that:

- Sound practices were applied by most banking groups in terms of process description, with the approval of the highest group management bodies; the main area for improvement was the limited involvement of local management in developing and updating the group plan.
- Most banks integrated recovery plans into existing governance arrangements; however, some clarifications could be added on the type of arrangements to be applied at different stages of deteriorating financial positions (i.e. the existing ones or those designed ad hoc for recovery planning), as well as proper notification to relevant competent authorities.
- Most banks included a broad set of indicators, integrating them in their risk management framework; however, in many cases, recovery indicators were limited to only two categories (capital and liquidity). Moreover, the calibration of capital recovery indicators for the capital ratio was not always consistent with SREP requirements established at supervisory level.

### Assessing third countries' equivalence

Under the CRD-CRR, three types of equivalence assessments can be conducted: on i) confidentiality regimes, ii) consolidated supervision and iii) legal and supervisory regimes. The last is limited to the prudential treatment of certain types of exposures to entities located in non-EU countries, whereas the first two are for supervisory engagement and co-operation purposes. The equivalence under the CRD-CRR does not provide any passport-like rights for third countries. Third-country supervisory authorities may participate in EEA supervisory colleges, according to Article 116(6) of the CRD, if the confidentiality regime of these countries is equivalent to the requirements laid down in the CRD. In order to facilitate consistent participation of third-country supervisory authorities in supervisory colleges, and improve cross-border cooperation, the EBA assessed the equivalence of the confidentiality regimes of a number of non-EU supervisory authorities. The assessment resulted in a positive evaluation for six non-EU

## ONGOING WORK

After publishing the amended Recommendation on the equivalence of confidentiality regime of third country supervisory authorities, the EBA will continue to assess a number of third-country supervisory authorities.

supervisory authorities from four countries, allowing the participation of these authorities in EEA supervisory colleges.

### Promoting supervisory convergence through EBA training programmes

The EBA's training programmes for EU competent authorities are a key instrument to promote supervisory convergence.

In 2016, the EBA organised 26 training courses, of which 18 were sectoral, four online, two cross-sectoral (co-organised with the European Insurance and Occupational Pensions Authority (EIOPA)) and two on soft skills. Figure 13 shows the increase in EBA training programmes as well as in the number of participants from 2011 to 2016.

The majority of the EBA's training programmes was held at the EBA's office in London (12); however, following the increasing demand from individual CAs, eight training courses focusing mainly on the implementation of the common European SREP framework and on recovery planning were run in other cities such as Warsaw, Prague, Dublin, Sarajevo and

**Figure 13:** EBA training provided to national supervisory authorities from 2011 to 2016

Year	Courses	Participants
2011	6	244
2012	10	287
2013	12	341
2014	14	652
2015	23	1018
2016	26	1206

Vilnius. Cross-sectoral training programmes on the role of colleges of supervisors in sectoral, group and conglomerate supervision were held in Berlin. Overall, training programmes were oversubscribed, especially in the case of online training.

In 2016, while strengthening the focus on residential training courses, the EBA engaged more heavily in the production and provision of online courses, which focused on regulatory priorities in 2016, such as recovery planning and SREP implementation (both run twice). The first joint EBA online training course was run in February 2016 on bank recovery plans, in collaboration with the European University Institute (EUI). The format of the training comprised an introductory series of webinars, individual study periods and group case studies, including the use of collaboration tools such as fora and chats. One participant commented

that the case study was ‘certainly the best exercise to get used to an assessment of a recovery plan’. The EUI colleagues, with their technical expertise, monitored the progress of the participants and sent regular updates to the EBA experts, who remained on standby to assist users where necessary.

Following an increased demand for online courses, training programmes on bank recovery plans and SREP were held in March and November 2016 respectively. More than 200 participants took part in the four courses and expressed satisfaction for the high quality and effectiveness of the programmes.

Some EBA training events were open not only to EU supervisors but also to the wider supervisory community and welcomed participants from various countries outside the EU.

Figure 14: Increase in number of trainings and participants from 2011 to 2016

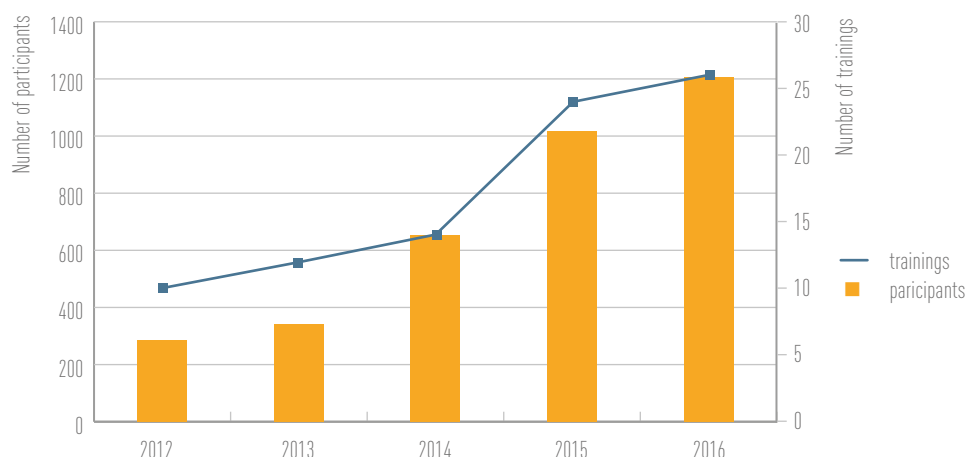


Figure 15: Overview of the training events the EBA provided to EU competent authorities in 2016 <sup>(32)</sup>

No	Title	Date	Host	Attendees
1	Joint risk assessment and joint decisions in colleges (for staff of the UK Prudential Regulation Authority only)	29 January	EBA, London	21
2	Common European SREP framework: EBA Guidelines on SREP	22-23 February	Polish Financial Supervision Authority, Warsaw	97
3	COREP and FINREP (SRB staff only)	15 March	SRB, Brussels	54
4	EBA/European Supervisor Education Initiative (ESE) seminar on capital markets – Innovative products	7-8 April	Czech National Bank, Prague	40

<sup>(32)</sup> Figures are based on cross-sectoral training courses led by EIOPA. They include speakers and organisers.

No	Title	Date	Host	Attendees
5	Supervisory colleges and joint decisions	12-13 April	EBA, London	24
6	Common European SREP framework: EBA Guidelines on SREP (for staff of the Central Bank of Ireland only)	21-22 April	Central Bank of Ireland, Dublin	54
7	Joint EBA/ESE seminar on stress testing and asset quality review	26-27 April	CNB, Prague, Czech Republic	20
8	Cross-sectoral seminar on the role of colleges of supervisors in sectoral, group and conglomerate supervision	12-13 May	Federal Ministry of Finance, Berlin	50
9	Joint EBA/SRB training: resolution induction	26 May	EBA, London	98
10	Joint EBA/Basel Financial Stability Institute (FSI) – Basel III and CRD IV/ CRR – Latest developments and implementation challenges	7-9 June	EBA, London	37
11	Cross-sectoral seminar with EIOPA: impact assessment in practice	9 June	EIOPA, Frankfurt am Main	37
12	Valuation in resolution	21 June	EBA, London	71
13	IT supervision – cyber security	1-2 September	EBA, London	60
14	Common European SREP framework and supervisory assessment of recovery plans	22-23 September	Federal Banking Agency, Sarajevo	45
15	Operational risk	29 September	EBA, London	33
16	Common European SREP framework: EBA Guidelines on SREP	5-6 October	Bank of Lithuania, Vilnius	46
17	Workshop on the role of mediation in colleges	19 October	EBA, London	10
18	ITS data analysis	15-16 November	EBA, London	74
19	Introduction to data point modelling and EBA taxonomy	12-13 December	EBA, London	51
20	Supervisory assessment of recovery plans	13-14 December	EBA, London	41
<b>Total</b>				<b>963</b>

Figure 16: Overview of EBA online training courses in 2016

No	Title	Date	Attendees
1	Online training module: Bank Recovery Planning	29 February	27
2	Online training module: Supervisory Review and Evaluation Process (SREP)	13-17 June	79
3	Online training module: Bank Recovery Plans 2	27 June to 8 July	48
4	Online training module: Supervisory Review and Evaluation Process (SREP) 2	28 November to 9 December	71
<b>Total</b>			<b>225</b>

## ONGOING WORK

In preparation for the development of an EBA Core Curriculum for EU supervisors, EU supervisors will be invited in 2017 to contribute with their expertise to EBA training events and a database of experts from competent and resolution authorities on specific topics will be compiled.

## Monitoring key risks in the banking sector across Europe

The EBA's work includes the monitoring and assessment of market developments, as well as the identification of trends, potential risks and vulnerabilities across the EU banking system. In 2016, the EBA continued to improve its role, contributing to ensure the stability,

transparency and orderly functioning of the EU banking sector.

To enhance this role, the EBA has developed, over time, a comprehensive risk infrastructure, which includes supervisory reporting

### BOX 5 — Promoting the ongoing process of balance sheet repair

**The EBA has taken important steps to strengthen the resilience and transparency of the EU's banking sector.**

From 2011 to 2016, it developed three EU-wide stress tests, monitoring potential risks and market developments across the banking sector in Europe. This tool is currently one of the primary supervisory tools to identify trends and individual vulnerabilities stemming from the micro-prudential level, and also a significant contribution to the overall assessment of systemic risk in the EU financial system. Besides these assessment exercises and over the same period, the EBA also published three EU-wide transparency exercises. In each of these exercises, **over 16 000 data points per bank were disclosed, thus contributing to enhance and extend the transparency of the EU's banking sector.** All these exercises were followed by direct recommendations, with an important and direct impact on the sector. For instance, after the EBA's 2011 stress test exercise, the EBA issued a capital recommendation for all banks to raise their capital levels to 9% (\*). Since then, the average CET1 ratio has increased, amongst the largest EU banks, to over 14%.

**Although the capital took priority, the EBA was also focused on the banks' business model sustainability,**

**particularly on promoting the ongoing process of balance sheet repair.** Tackling poorly performing assets is a key to unlock the levels of renewed lending, necessary to ensure that banks play their part in the EU economy. **The EBA led this process by introducing a single definition of forbearance and NPLs, which is nowadays broadly used in asset-quality reviews across the EU.** Moreover, and as part of its in-depth analysis, in 2016, the EBA published a thematic assessment of NPLs and forbearance (FBL) exposures in the EU banking sector. The results showed that, despite recent improvements, the NPL level remained one of the major risks for the EU's economy and banks' profitability. As a direct consequence, the EBA updated its Regulatory Technical Standards (\*\*) (RTS) and recommended three specific actions:

- taking supervisory measures to guarantee an efficient management and conservative provisioning of NPLs;
- adopting structural reforms to improve loan recovery processes;
- developing an efficient secondary market to NPLs.

(\*) After accounting for sovereign bonds.

(\*\*) <https://www.eba.europa.eu/-/eba-harmonises-the-definition-of-default-across-the-eu>



standards, solutions for data collections and tools for data exploration. In order to keep the quality at the highest level, the EBA focused on developing comparable data and standard definitions in all its outputs. The EBA's main and regular outputs for identifying, analysing and addressing risks in the EU banking sector are quarterly risk dashboards, an annual risk assessment report (RAR), booklets summarising the results of the risk assessment questionnaire (RAQ) addressed to banks and analysts, and transparency and stress test exercises.

## Overseeing the development of the EU banking sector

### Regular risk assessment

As part of the EBA's assessment of the risks and vulnerabilities of the EU's banking system, the EBA continued to produce a regular RAR. The RAR assesses market developments and identifies risks for banks and also serves as an accountability tool vis-à-vis the European Parliament, the European Council, the European Commission and the European Systemic Risk Board (ESRB). It describes the main developments and trends that have affected the EU banking sector during the year and provides the EBA's outlook on the main microprudential risks and vulnerabilities for the future. In 2016, the RAR was, for the first time, complemented with the EU-wide transparency exercise.

This assessment relies primarily on supervisory data collected under the ITS. Since 2014, the EBA has focused its work on collecting and developing uniform reporting requirements,

allowing the supervisors to have comparable figures across the EU. Nowadays, this is a key tool to assess the overall stability of the EU banking system, covering important information such as the reporting of own funds and capital requirements, financial statements, large exposures and banking liquidity.

The Risk Dashboard is another important product in the EBA's regular risk assessment toolkit. It summarises the main risks and vulnerabilities in the banking sector by means of the development of a set of risk indicators (Figure 17) on a quarterly basis. The Risk Dashboard also includes a statistical annex, which shows an overview of the composition of the asset and liability sides, such as the RWAs.

The results of the EBA's RAQs are the final component of the report. This questionnaire is a semi-annual exercise, conducted among banks and market analysts, providing a deeper understanding of the market participants' views and outlook on challenges ahead. With the first-time publication of a booklet covering the whole set of the results in June and December, the EBA expanded its set of risk assessments provided to the general public.

The EBA also makes use of market data, market intelligence and supervisory sources to provide information to its board and other public authorities. For instance, it produces weekly newsletters on liquidity and funding, and market developments. Besides this regular assessment, the EBA dedicates additional resources to create thematic risk reviews, such as monitoring trends in asset quality across EU countries.

Figure 17: Risk indicators heatmap

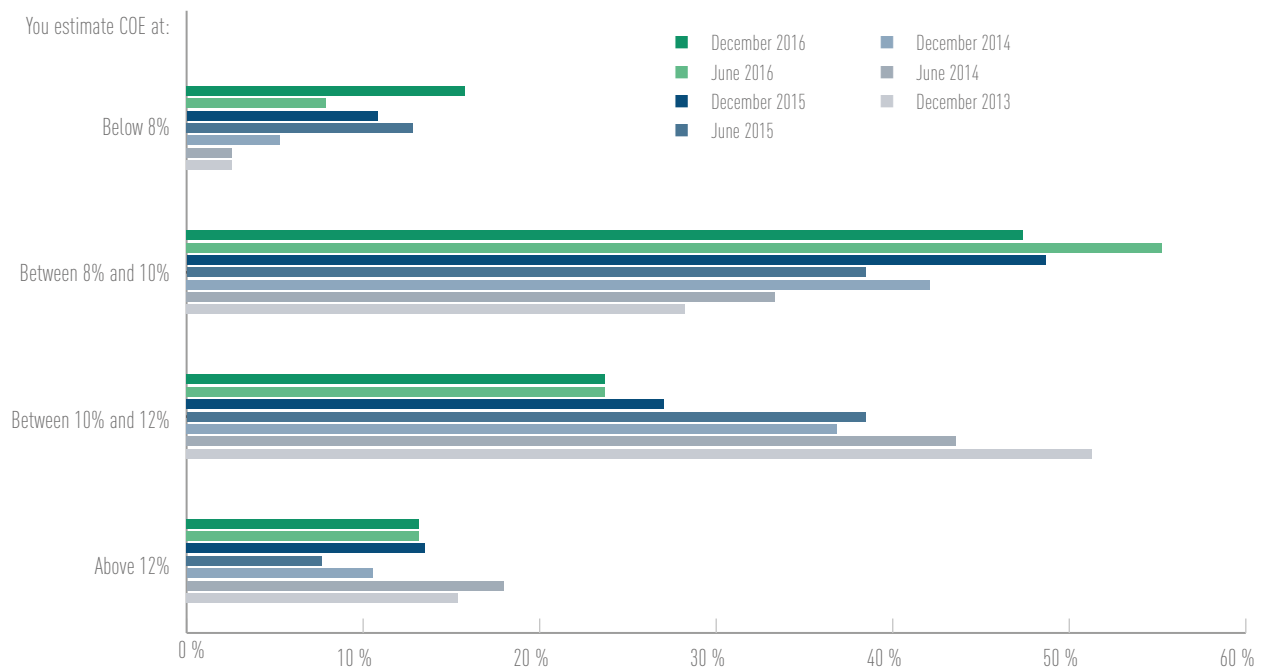
				Sample of banks*								
				Traffic light	153	155	154	154	153	157	157	156
				Current vs previous quarters for the worst bucket	201412	201503	201506	201509	201512	201603	201606	201609
	Risk indicator	Threshold										
SOLVENCY	1 Tier 1 capital ratio	> 15%	1-1		21.8%	14.4%	16.9%	27.7%	30.7%	28.8%	30.6%	39.9%
		[12% - 15%]	1-2	■	48.1%	57.6%	63.9%	52.7%	61.5%	63.5%	61.7%	52.5%
		< 12%	1-3		30.1%	28.0%	19.2%	19.7%	7.8%	7.8%	7.7%	7.5%
	3 CET1 ratio	> 14%	3-1		19.7%	12.0%	19.6%	13.1%	23.0%	22.0%	22.8%	27.5%
		[11% - 14%]	3-2	■	39.3%	49.9%	66.5%	73.8%	72.7%	73.7%	73.0%	68.4%
		< 11%	3-3		41.0%	38.1%	13.9%	13.1%	4.3%	4.3%	4.2%	4.1%
CREDIT RISK & ASSET QUALITY	93 Ratio of non-performing loans and advances (NPL ratio)	< 3%	93-1		34.6%	36.9%	38.1%	38.4%	36.6%	37.9%	43.0%	42.1%
		[3% - 8%]	93-2	■	43.1%	46.9%	46.7%	46.6%	50.4%	49.3%	44.6%	45.3%
		> 8%	93-3		22.3%	16.2%	15.1%	15.0%	13.0%	12.8%	12.4%	12.6%
	235 Coverage ratio of non-performing loans and advances	> 55%	235-1		9.2%	9.7%	9.7%	10.4%	10.2%	10.6%	10.8%	10.6%
		[40% - 55%]	235-2	■	56.2%	56.0%	58.9%	57.0%	50.2%	48.0%	50.0%	48.8%
		< 40%	235-3		34.6%	34.3%	31.4%	32.6%	39.7%	41.4%	39.2%	40.6%
	239 Forbearance ratio for loans and advances	< 1.5%	239-1		30.3%	30.2%	36.6%	37.5%	43.9%	43.1%	44.3%	44.5%
		[1.5% - 4%]	239-2	■	41.3%	43.0%	35.7%	38.8%	37.3%	38.6%	37.7%	33.5%
		>4%	239-3		28.4%	26.8%	27.6%	23.7%	18.8%	18.4%	18.0%	22.0%
PROFITABILITY	22 Return on equity	> 10%	22-1		5.1%	18.6%	24.1%	22.7%	6.4%	3.1%	6.0%	6.6%
		[6% - 10%]	22-2	■	29.2%	33.2%	46.2%	35.5%	44.3%	42.4%	49.9%	37.0%
		< 6%	22-3		65.7%	48.1%	29.7%	41.8%	49.3%	54.5%	44.1%	56.3%
	24 Cost to income ratio	< 50%	24-1		10.1%	10.5%	11.6%	12.3%	11.7%	12.2%	10.1%	9.4%
		[50% - 60%]	24-2	■	13.6%	33.7%	34.8%	36.3%	17.6%	17.0%	26.1%	23.8%
		> 60%	24-3		76.3%	55.8%	53.6%	51.4%	70.7%	70.8%	63.8%	66.8%
BALANCE SHEET STRUCTURE	87 Loan-to-deposit ratio for households and non-financial corporations	< 100%	87-1		30.6%	31.4%	29.6%	31.6%	32.8%	29.3%	30.8%	32.1%
		[100% - 150%]	87-2	■	56.5%	56.2%	57.7%	56.0%	54.8%	58.2%	56.7%	54.9%
		> 150%	87-3		12.9%	12.4%	12.8%	12.5%	12.3%	12.5%	12.5%	13.1%
	45 Debt to equity ratio	< 12x	45-1		10.2%	9.7%	7.2%	10.4%	12.3%	9.4%	10.8%	16.0%
		[12x - 15x]	45-2	■	26.4%	32.8%	41.2%	37.7%	36.6%	35.6%	32.9%	32.5%
		> 15x	45-3		63.4%	57.5%	51.6%	51.9%	51.0%	55.0%	56.3%	51.4%

Note: Traffic lights provide the trend of the KRI given the historical time series. Data bar colour scale: green for the “best bucket”, yellow for the intermediate and red for the “worst bucket”.

\* Number of banks after consolidation. Furthermore, not all banks submit respective data for all Risk Indicators.



Figure 18: Question 7 of the risk assessment questionnaire



## BOX 6 — Main results of the EBA report on non-performing loans

In July 2016, the EBA published a report on the dynamics and drivers of NPLs for over 160 EU banks. The report showed that, despite improvements, the NPLs level remains high, with significant consequences for the economy and banks' profitability. **With over EUR 1 trillion of non-performing loans in the EU banking sector, the NPLs resolution represents one of the biggest challenges and requires a coordinated EU response.** Elevated NPL levels are a concern for individual banks, for countries and for the banking sector as a whole. Higher NPLs levels are also directly related to low profitability. Moreover, they are also associated with inefficient capital allocation in the general economy level and contribute to a slow recovery.

**The report also identified several structural impediments to addressing NPLs and set out three key areas for improvement, including:**

- **supervisory actions to ensure the correct identification and efficient management of NPLs as well as conservative provisioning policies;**
- **structural reforms to improve loan recovery processes; and**
- **development of an effective secondary market to NPLs.**

Supervisory work ensures a harmonised application of definitions, for example on NPLs, forborne loans or default. In addition, it provides guidance on NPLs management process, including on the definition of the strategy for reducing NPLs stocks, suggesting sound collateral valuation methodologies, promoting correct calculations of provisioning requirements and offering solutions in other operational parts of the NPLs internal workout process. Addressing structural issues includes measures for making the judicial system and

processes more efficient and removing tax disincentives to provisioning, as well as legal and accounting impediments. A functioning secondary market requires that barriers such as lack of data and poor transparency are removed to ensure that mechanisms for price discovery work properly. Also, securitisation initiatives for such assets and the setting up of an asset management company (AMC) would be beneficial.

Work on tackling NPLs in the European Council is ongoing, with several expert groups dealing with the different areas where improvements are deemed necessary. The SSM deals with the supervisory area and has issued draft guidance to banks on NPLs (\*) that covers the internal

process of NPLs management. The EBA takes part in this working group and has extensively contributed to the drafting of the guidance especially in connection with its interaction with supervisory reporting and disclosure. The Financial Services Committee, under the EU Council, has been working intensively on the structural aspects of the NPLs problem. The EBA also contributes to this group by providing data and analysis for the EU banking sector. Finally, the EBA is co-chairing the ESRB's working groups on NPLs, whose primary task is to develop policy solutions which would help establish a liquid and functional secondary market for NPLs.

(\*) [https://www.bankingsupervision.europa.eu/legalframework/publiccons/pdf/np/npl\\_guidance.en.pdf](https://www.bankingsupervision.europa.eu/legalframework/publiccons/pdf/np/npl_guidance.en.pdf)

### The 2016 EU-wide stress test

In 2016, the EBA launched the EU-wide stress test exercise. The objective is to give supervisors, banks and market participants a common analytical framework to assess and consistently compare the resilience of EU banks to adverse economic shocks. The 2016 EU-wide stress test did not contain a pass-fail threshold and was designed to be used as a crucial input into the SREP, with the primary aim of setting Pillar 2 capital guidance.

The EBA was responsible for coordinating and defining a common framework for the stress test exercise. The stress test exercise was based on a standard methodology and scenarios and was accompanied by uniform data templates that captured starting point data and stress test results. This framework allowed a comparable and rigorous assessment of all the banks in the sample. The EBA played a key role also in disseminating the final results. CAs were responsible for assuring the quality of the results and for any necessary supervisory follow-up measures as part of the SREP. The adverse scenario was provided by the ESRB.

The adverse scenario implied EU real GDP growth rates, over the three years of the exercise, of -1.2%, -1.3% and 0.7% respectively –

a deviation of 7.1% from its baseline level in 2018. It assessed 51 banks from 15 EU and EEA countries – 37 from euro area countries and 14 from Denmark, Hungary, Norway, Poland, Sweden and the United Kingdom. The exercise was again based on bottom-up projections from banks, but with various constraints defined in the common methodology in order to ensure a consistent application. For example, all the banks applied a static balance sheet assumption. For the first time, the 2016 stress test included an explicit treatment of conduct risk.

Following extensive preparatory work in 2015, the exercise was launched in February 2016 and results were released at the end of July. In line with the EBA's objective of providing transparency to market participants, detailed information on individual banks' starting points and stress projections was released. Bank-by-bank results were complemented with interactive tools accessible on the EBA's website, as well as an extensive database.

While the outcome showed, overall, a resilient EU banking sector, the results varied widely across banks, prompting supervisory discussions in the SREP framework in order to understand each individual bank's resilience to the shocks, identify available mitigating actions and, possibly, deploy corrective measures.

## BOX 7 — Results of the 2016 EU-wide stress test

EU banks faced the 2016 EU-wide stress test with a significantly strengthened capital position over that of previous years. In particular, since December 2013, the CET1 capital has increased by EUR 180 billion for the banks in the stress test sample. As a result, the starting point for the 2016 exercise was a weighted average CET1 ratio of 13.2%, as of end-2015 – 200 bps higher than the starting point for the 2014 stress test exercise and more than 400 bps over the average capital level in 2011.

**The results showed that, under the adverse scenario, the average CET1 capital ratio would fall by 380 bps, reducing the ratio across the sample to 9.4% at the end of 2018.** This fall in the capital ratio was mostly driven by a capital depletion of EUR 269 billion, although risk exposure amounts (REAs) also increased by 10%. The impact on a fully loaded basis was lower, at 340 bps (from 12.6% in 2015 to 9.2% in 2018). The effect also varied significantly across

banks, with 14 institutions projecting an impact of more than 500 bps on a transitional basis. Finally, under the adverse scenario, the aggregated LR also reduced from 5.2% to 4.2%.

**The reduction in the CET1 ratio referred to was mostly driven by credit risk losses of EUR 349 billion.** The other main losses were due to operational risk, including conduct losses (EUR 105 billion or 110 bps) and market risk across all portfolios including CCR (EUR 98 billion or 100 bps). **Although losses were partly offset by income, this was also stressed.** For example, the net interest income (NII) decreased significantly in the adverse scenario (20% compared with the starting point), highlighting strains in profitability. **This resulted in an aggregate loss of EUR 90 billion over the three years (100 bps) – excluding EUR 91 billion (100 bps) of market risk losses, directly recognised in capital.** The remaining capital depletion was mostly due to dividends paid and transitional arrangements.

**Figure 19:** Contribution of main drivers to the change in CET1 capital ratio from 2015 to 2018 under the adverse scenario



### Enhancing transparency through data

The EBA played an important role in promoting and supporting the exchange of information among supervisors. The Memorandum of Understanding (MoU) for sharing macroprudential data of individual banks allows supervisors, across Europe, to compare a set of risk indicators for 200 banks. To enhance this data set, the EBA developed its online analytical tools, helping the national supervisors to create their own risk dashboard and European and peer group analyses.

For the third consecutive year, the EBA disclosed information on indicators of global systemic importance. The EBA is promoting and leading on the level of data disclosure across the EEA. This information is a further step towards improving the general public un-

derstanding about systemically important institutions, and their key figures and business activities.

For the first time, the EBA published the list of other systemically important institutions (O-SIIs) <sup>(33)</sup>. O-SIIs are institutions that, because of their systemic importance, are more likely to create risks to financial stability, potentially conveying negative externalities into the system and contributing to market distortions. For those reasons, supervisors or macroprudential authorities may require these institutions to maintain an additional capital buffer. By publishing and maintaining this list, the EBA provides essential information to market participants and the wider public.

<sup>(33)</sup> <https://www.eba.europa.eu/-/eba-discloses-first-list-of-o-siis-in-the-1>



## TRANSPARENCY

A healthy banking sector is in everyone’s interest, and one way of ensuring this is by providing transparency. **Collecting supervisory data for the EU banks is, therefore, an important part of the EBA’s work. From this data we are able to produce risk indicators and other statistical products, which are used in various publications, like the regularly disseminated EBA Risk Dashboard.**

Similar to other publications, there are numerous steps in the process chain before the end product is put together. Definitions need to be discussed and harmonised, data needs to be collected by the national supervisors and the quality assessed. After this, the physical transmission of large quantities of data to the EBA takes place, which calls for a secure and reliable platform. When the data reaches the EBA, it is further assessed and then stored in a database, where it is made available to analysts.

All in all, **the collection of supervisory data is a good example of how cooperation between Member States ends up serving the people, as the transparency helps reduce risks in the EU financial system.**



### The 2016 EU-wide transparency exercise

The EBA conducted an EU-wide transparency exercise during the second half of 2016. This exercise is part of its work to promote market discipline and foster consistency in banks' disclosures, which the EBA has been carrying out since 2011, either linked to concurrent stress tests or as stand-alone exercises.

The exercise comprised 131 banks, from 24 EU Member States and Norway, and was published on 2 December 2016 in parallel with the RAR. The EBA published on its website an extensive collection of bank-by-bank data that was in line with past exercises and covered the following areas: capital, RWA, profit and losses, market risk, credit risk, exposures to sovereigns, non-performing exposures and forbore exposures. This was the first time that the exercise was conducted along with other regular assessments, providing a con-

sistent and comparable overview of the European banking sector as a whole.

The information disclosed is expected to be extensively used by banks, market analysts, academics and international organisations in their assessments of EU banks, which will result in better understanding of and more confidence in the EU banking sector.

In order to promote efficiency and consistency across time as well as reduce the burden for banks, the 2016 transparency exercise relied solely on supervisory reporting data (FINREP, COREP). The data processing and population of templates were carried out by the EBA, which filled them in centrally and sent them for verification to banks and supervisors. In this process, the EBA processed and disclosed up to 4 000 data points for each bank involved. This amounted to approximately 0.6 million data points published in an aggregate form.

Figure 20: EU-wide transparency exercise



Available from: [http://tools.eba.europa.eu/interactive-tools/2016/transparency\\_exercise/map/atlas.html](http://tools.eba.europa.eu/interactive-tools/2016/transparency_exercise/map/atlas.html)

### Pillar 3 Guidelines

The EBA published in December 2016 its 'Guidelines on disclosure requirements under Part Eight of Regulation (EU) No 575/2013'. Following the release by the Basel Committee on Banking Supervision (BCBS) of a revised version of the Pillar 3 framework (RPF) in January 2015, the EBA published its own-initiative guidelines to promote the harmonised and timely implementation of the RPF in the EU. By introducing more precise guidance and formats for disclosures, through the use of tables and templates, the guidelines represent a significant step towards enhancing the consistency and comparability of institutions' regulatory disclosures under Part Eight of the CRR.

The guidelines allow EU institutions to implement the RPF in a way that is compliant with the requirements of Part Eight of the CRR. These guidelines specify existing disclosure requirements laid down in the CRR regarding risk management, the scope of application, capital requirements, credit risk, CCR and market risk.

The guidelines apply to G-SIIs and O-SIIs, with some specific sections applicable to all institutions required to comply with some or all disclosure requirements in Part Eight of the CRR, like significant subsidiaries and subsidiaries of material significance for their local market, subject to the disclosure requirements specified in Article 13 of the CRR. CAs may in addition require other institutions to implement some or all the guidance provided in the guidelines when complying with the requirements in Part Eight of the CRR.

Proportionality is one of the key principles in all templates and tables. In this way, smaller, less sophisticated or less complex institutions are expected to have a lower risk profile and, therefore, will not be subject to all the disclosure requirements. Furthermore, the concept of materiality allows institutions to tailor the granularity and the frequency of their disclosures. Although the guidelines apply from 31 December 2017 onwards, the G-SIIs are encouraged to comply with a subset of those guidelines as soon as 31 December 2016.

### Strengthening the EBA's role as EU data hub for the collection, use and dissemination of data on EU banks

The EBA's database was expanded to include more than 300 risk indicators. This new data set provides a wider and comprehensive set of financial and risk information, supporting the EBA to carry out its mandate to monitor and assess market developments, as well as potential risks and vulnerabilities across the EU banking system.

In addition, because of the expansion of the supervisory reporting requirements (ITS), the EBA started gathering information from three new data sources. For the first time, the EBA received data for the new module Supervisory Benchmarking Portfolio, as well as for the liquidity modules Additional Liquidity Monetary Metrics and Liquidity Coverage Ratio Delegated Act, increasing the number of modules collected to 11, with more than 160 different templates.

In 2016, data quality assurance was one of the cornerstones of the EBA's work. On the one hand, the EBA invested significant resources in developing and assessing the adequacy of over 3 000 validation rules. On the other hand, a new master data management tool was implemented, improving the overall quality of the supervisory report. Moreover, several corrections were performed in the master data, which improved the data timeliness, completeness and accuracy of transmissions.

The submission of supervisory reporting data from CAs reached a steady state in terms of timeliness. Whereas the EBA had previously invested much work in overcoming challenges with late data submissions, in the second half of 2016 around 97% of ITS data was received on time. This means that the focus can now be shifted to monitor the completeness of the data and enhance its quality assurance.

The EBA also put emphasis on the close cooperation with the CAs. The validation rules and quality checks are run regularly in conjunction with the transmission of data from CAs to the EBA. In order to foster the collaboration between all institutions, the EBA was keen to provide timely feedback on timeliness, completeness and accuracy of the data. This feedback was given mostly at regular meetings, but also through bilateral communications. In 2016, the improvement in the quality of this information was remarkable.

## Implementing funding plans

Following the ESRB Recommendation on funding of credit institutions in 2012, the EBA developed harmonised reporting of banks' funding plans, with the first regular reports in 2016. The EBA worked with the competent authorities on data quality issues and started to develop a process for assessing banks' funding plans at EU level.

## ONGOING WORK

The first report on EU banks' funding plans will be submitted to the ESRB in early 2017, covering comprehensive data on liabilities and assets growth, deposits trends, issuance plans and funding mix.

## Protecting consumers and monitoring financial innovation and contributing to secure, easy and efficient payment services across the EU

In 2016, the EBA continued enhancing the protection of consumers, promoting transparency, simplicity and fairness for consumer financial products and services across the Single Market, monitoring financial innovation, and contributing to secure and efficient retail payments in the EU.

While the main focus of the EBA was on developing several sets of regulatory requirements under the revised Payment Service Directive (PSD2), the Interchange Fee Regulation (IFR) <sup>(34)</sup> and the Payments Account Directive (PAD) <sup>(35)</sup>, the EBA also issued regulatory requirements in order to address certain retail conduct failures of financial institutions that the EBA had identified as causing significant consumer detriment, and undermining market confidence, financial stability and the integrity of the financial system.

For issues that cut across the banking sector but are also relevant to the insurance and investment sectors, the EBA cooperated closely with the other two ESAs, EIOPA and ESMA. Relevant initiatives are summarised in a separate section of this report: 'Working on cross-sectoral issues' (page 79).

The EBA also continued to fulfil its mandate under the EBA Regulation to monitor new and existing financial activities and to report on consumer trends.

### Protecting consumers

The EBA's work on consumer protection is aimed at reducing consumer detriment when purchasing retail banking products and services. The EBA identified poor remuneration policies and practices as a key driver of mis-selling of retail banking products and services. To address these practices, the EBA published in September 2016 the Final Guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services.

These guidelines provide a framework for financial institutions to implement remuneration policies and practices that will improve links between incentives and the fair treatment of consumers, and reduce the risk of mis-selling and resultant conduct costs for firms. The guidelines cover the design of remuneration policies and practices and how institutions have to implement them; docu-

<sup>(34)</sup> Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions

<sup>(35)</sup> Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features

## ONGOING WORK

The guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services will apply from 13 January 2018.

## ONGOING WORK

The EBA aims to finalise the Draft RTS and ITS under the PAD in the first quarter of 2017.

mentation on these policies and practices for review by supervisory authorities; accessibility of remuneration policies and practices within the institution and notification to staff before they are allowed to offer banking products or services to consumers; and the role of the management body within an institution, such as the approval, monitoring and review of the policies and practices.

In support of the transposition of the Mortgage Credit Directive (MCD), the EBA published, in March 2015, a decision specifying the formula to be used by creditors when calculating the benchmark rate under the MCD. The EBA benchmark rate is to be used by creditors to calculate the illustrative example of the Annual Percentage Rate of Charge (APRC) and the illustration of a maximum instalment amount respectively, which are to be included in the European Standardised Information Sheet (ESIS). The creditors should use the EBA benchmark rate in cases where the competent authority of the Member State has not specified a benchmark rate. This Decision applies as of 24 June 2016

Following the publication of the EBA Guidelines on national provisional lists of the most representative services linked to a payment account and subject to a fee under the PAD in March 2015, the EBA continued develop-

ing three mandates under the PAD in the first half of 2016. In the preparation phase, the EBA assessed the provisional lists submitted by national authorities based on the EBA Guidelines, so as to identify the most representative services that are common to at least the majority of Member States.

The assessment allowed the EBA to identify eight standardised terms and definitions, which were included in a Consultation Paper on the Draft Regulatory Technical Standards setting out the European Union's standardised terminology for the most common services linked to a payment account. The standardised definitions will be made available to consumers by payment service providers in a glossary. The glossary will contain at least the standardised terms set out in the final lists of the most common services that Member States will have to publish according to the PAD and the related definitions. Therefore, in addition to the standardised terminology, the consultation paper also included the Draft Implementing Technical Standards on the standardised presentation format of the fee information document (FID) and its common symbol, and Draft Implementing Technical Standards on the standardised presentation format of the statement of fees (SoF) and its common symbol.

In developing the FID and SoF templates, the EBA used findings of extensive consumer testing using a mixture of qualitative and quantitative research techniques. The quantitative testing consisted of online interviews with a sample of 5 108 adults in eight Member States (the United Kingdom, France, Germany, Italy, Sweden, the Czech Republic, Romania and Greece). The qualitative testing comprised four face-to-face focus groups in the United Kingdom and Poland.







## PAYMENT ACCOUNTS DIRECTIVE

For the first time, the EU legislation has mandated the EBA to develop disclosure documents for such commonly used banking products as payment accounts. Based on the mandates received in the Payment Accounts Directive (PAD), **the EBA is developing ex ante and ex post cost templates and terminology that will have to be used by payment service providers when disclosing to consumers the costs of opening and holding a payment account.** The payment service providers will be using the templates in all Member States regardless of the residence of the consumers.

With these templates, the EBA ensures that the information on costs and fees linked to payment accounts received by consumers will follow the same structure and format in all Member States. Also, the EBA has introduced specific symbols into the templates so as to make them distinct from other documentation.

**The key objective of our work is to help consumers understand fees and costs linked to their payments accounts. This should allow consumers to make informed decisions based on clear and comprehensive information, and to choose payment accounts that suit their needs.**



### Monitoring financial innovation

The EBA has an interest in allowing market participants to benefit from innovative products and services while at the same time mitigating relevant risks. It does so by establishing or clarifying, where possible, applicable regulatory frameworks and approaches that allows innovative market segments to grow, and/or proposing to the European Commission and EU co-legislators the areas in which such frameworks should be developed and what these frameworks should look like.

To that end, the EBA published, in May 2016, a Discussion Paper on innovative uses of consumer data by financial institutions. The discussion paper identified the risks and potential benefits of innovative uses of data to consumers, financial institutions, and financial integrity more widely. Regarding the potential risks, the EBA identified information asymmetries, the misuse of data and data security, as well as reputational risks for financial institutions, while the benefits included cost reductions, improved product quality and new sources of revenue for financial institutions.

Finally, the EBA published in August 2016 an opinion addressed to the Commission, European Parliament and Council on the Commission's proposal to bring virtual currencies into the scope of Directive (EU) 2015/849 (Fourth Anti-Money Laundering Directive – 4AMLD). In its opinion, the EBA welcomed the Commission's proposal because it represented the implementation of recommendations regarding virtual currencies that the EBA had published two years earlier.

In its opinion, the EBA also set out a series of proposals that the three EU institutions should consider before finalising the proposed amendments in the second half of 2016, to ensure the EBA and the national competent authorities are able to effectively supervise the proposed amendments. In particular, the EBA recommended that implementation deadlines for the amendments should be set in a way that facilitates their consistent implementation across the EU, and in a way that enables competent authorities to exchange information more easily and efficiently. The EBA also highlighted that it welcomes the Commission's proposal to bring custodian wallet providers

## ONGOING WORK

The EBA continues monitoring the innovative uses of consumer data by financial institutions with the aim of assessing which, if any, further actions may be required to mitigate the risks arising from this innovation, while also allowing market participants to harness its benefits.

(CWPs) and virtual currency exchange platforms (VCEPs) within the scope of the 4AMLD, as this will be an important step to mitigate some of the financial crime risks arising from the use of virtual currencies.

### Ensuring secure, easy and efficient payment services across the EU

In 2016, the EBA delivered its final draft RTS on the separation of card schemes from processing entities under the IFR. It also continued contributing to the implementation of PSD2, which entered into force in January 2016 and entrusted the EBA with the development of six technical standards and five sets of guidelines.

In relation to PSD2, and following the publication of the Discussion Paper on strong customer authentication and secure communication in December 2015, and a subsequent analysis of the responses, the EBA published, in August 2016, a Consultation Paper on the draft RTS specifying the requirements on strong customer authentication and common and secure communication under PSD2. The aim of these draft RTS is to set out a harmonised framework that would ensure an appropriate level of security for consumers and payment service providers (PSPs), through the adoption of effective and risk-based requirements, securing and maintaining fair competition among all PSPs and allowing for the development of user-friendly, accessible and innovative means of payment. To that end, the draft RTS identified the requirements on strong customer authentication and defined the exemptions to these requirements; set out requirements related to the protection of the personalised security credentials; and specified requirements for common and secure communication.

Furthermore, in September 2016, the EBA published a Consultation Paper on draft Guidelines on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance (PII) or other comparable guarantee under Article 5(4) of PSD2. In addition to the criteria to be considered by the competent authorities, these draft guidelines proposed a formula for the calculation of the minimum monetary amount of the PII or comparable guarantee; provided details on indicators for the criteria set out in PSD2; and explained the calculation method proposed for some of the indicators.

Also under PSD2, the EBA published in November 2016 a Consultation Paper on draft Guidelines on the information to be provided for authorisation as payment institutions and e-money institutions and for registration as account information service providers. These draft guidelines specified the detailed information and documentation that applicants need to submit to national authorities in the authorisation or registration process, such as the applicant's programme of operations; its business plan; evidence of initial capital; the measures taken for safeguarding payment service users' funds; the applicant's governance arrangements and internal control mechanisms. In order to address the different nature of the PSPs that will apply for authorisation or registration, the draft guidelines are structured into three separate sections, which are addressed to payment institutions, account information service providers and electronic money institutions respectively.

In December 2016, the EBA published a Consultation Paper on draft Guidelines on major incidents reporting under PSD2 developed in close cooperation with the European Central Bank (ECB). These draft guidelines set out the criteria, thresholds and methodology to be used by PSPs in order to determine whether an operational or security incident should be considered major and, therefore, be notified to the competent authority in the home Member State. These guidelines also established a template that PSPs will have to use for this notification, and reports that the PSPs will have to send during the lifecycle of the incident. Furthermore, these draft guidelines set out criteria that competent authorities have to use as primary indicators when assessing the relevance of a major operational or security incident to other domestic authorities.

Moreover, they detailed the information that, as a minimum, CAs should share with other domestic authorities when an incident is considered of relevance to the latter. Finally, for the purposes of promoting a common and consistent approach, these draft guidelines also established requirements regarding the reporting process envisaged in Article 96(2) of PSD2 between competent authorities in the home Member State and the EBA and ECB.

The last product in relation to PSD2 to be published in 2016 was the final draft RTS on the framework for cooperation and exchange of information between competent authorities for passport notifications under PSD2. The aim of these final draft RTS is to set out a harmonised framework which will provide clarity to payment institutions about regulatory requirements and, in so doing, will foster the cross-border provision of payment services in the EU internal market. The final draft RTS also provide a template for passport notifications.

Under the IFR, the EBA published, in July 2016, its final draft RTS on separation of payment card schemes and processing entities. The aim of these RTS is to facilitate greater competition among processing service providers. To that end, the RTS specify requirements with which payment card schemes and processing entities must comply to ensure the independence of their accounting, organisation and decision-making processes. They also lay down requirements related to the use of shared services and a shared information management system; the treatment of sensitive information; a code of conduct; and the separation of annual operating plans.

### Other activities

In June 2016, the EBA published its annual Consumer Trends Report. The report highlighted eight relevant trends that the EBA identified using input about consumer issues from its 28 national member authorities; complaints data from the network of European ombudsmen; views from the EBA Banking Stakeholder Group; and data from independent EU research reports. These trends included indebtedness; banking fees and costs; selling practices; foreign currency loans; innovation in payments; alternative financial services providers; virtual currencies; and, finally, innovative uses of consumer data. The

## ONGOING WORK

- The EBA aims to finalise the draft RTS on strong customer authentication in the first quarter of 2017.
- The EBA aims to finalise the guidelines on how to stipulate the minimum monetary amount of professional indemnity insurance (PII) and the guidelines on major incidents reporting under PSD2 in the second quarter of 2017.

2016 report also listed the measures taken by the EBA, and to a lesser extent national competent authorities, to address the issues that had been identified in the 2015 report.

In order to enhance European-wide legislative framework for consumers, the EBA submitted to the European Commission in March 2016 a response to the Commission's *Green Paper on Retail Financial Services – Better products, greater choice, and greater opportunities for businesses and consumers*. In its response, the EBA focused on a subset of the questions raised, which fall into its scope of action. In particular, the response dealt with the risks and opportunities of digital services in the banking sector and the enforcement of consumer protection regulation in the EU.

The EBA continued to foster the development of a consistent approach to tackling money laundering and terrorist financing, and to take the lead in identifying practical solutions to shared AML/CFT compliance challenges. For example, in April 2016, the EBA published an 'Opinion on the application of customer due diligence measures to customers who are asylum seekers from higher-risk third countries or territories', which set out how financial institutions could provide vulnerable customers with access to financial products and services while at the same time managing financial crime risks associated with such customers effectively.

## International engagement

### Basel Committee

The lesson learnt from the recent global financial crisis is that banks sometimes have incentives beyond their contractual obligations or capital ties to step in <sup>(36)</sup> to support unconsolidated entities to which they are connected. For this reason, the BCBS established a Task Force on Regulatory Consolidation to address this issue and mitigate potential spillover effects from the shadow banking system to banks. The BCBS published in December 2015 a consultative document on the identification and measurement of step-in risk and it is currently considering the way forward, taking into consideration the comments received.

The EBA is also developing RTS on methods for prudential consolidation (Article 18 of the CRR), which interact at times with the BCBS's work.

<sup>(36)</sup> Step-in risk is defined as the risk that a bank may provide financial support to an entity beyond or in the absence of any contractual obligations, should the entity experience financial stress.

### ONGOING WORK

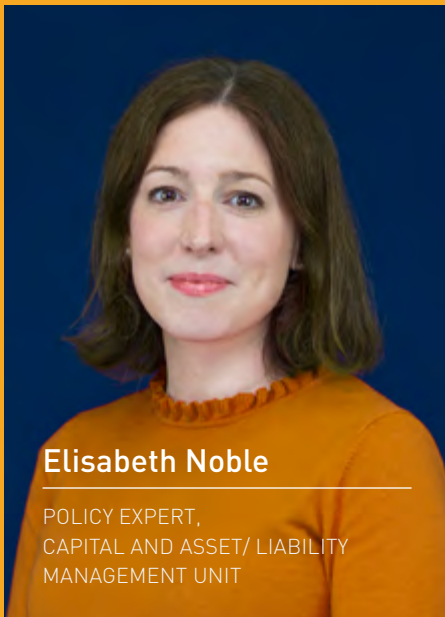
The EBA expects to deliver the RTS on method for prudential consolidation by the end of 2017.

### Financial Stability Board

The EBA is actively engaged in international fora and standard-setting bodies developing the resolution framework. The EBA is a member of the Financial Stability Board's (FSB) Resolution Steering Group (ResG), the Cross-Border Crisis Management Group (CBCM) and several work streams where it actively contributes to the development of the regulatory policy in resolution matters. The EBA's areas of particular focus are bail-in execution, internal TLAC, liquidity in resolution, continuity of access to financial market infrastructures, and effectiveness of cross-border resolution. In parallel, the EBA is actively involved in the area of enhancement of CCP resilience, recovery and resolution.



## BOX 9 — Interconnectedness



**Elisabeth Noble**

POLICY EXPERT,  
CAPITAL AND ASSET/ LIABILITY  
MANAGEMENT UNIT

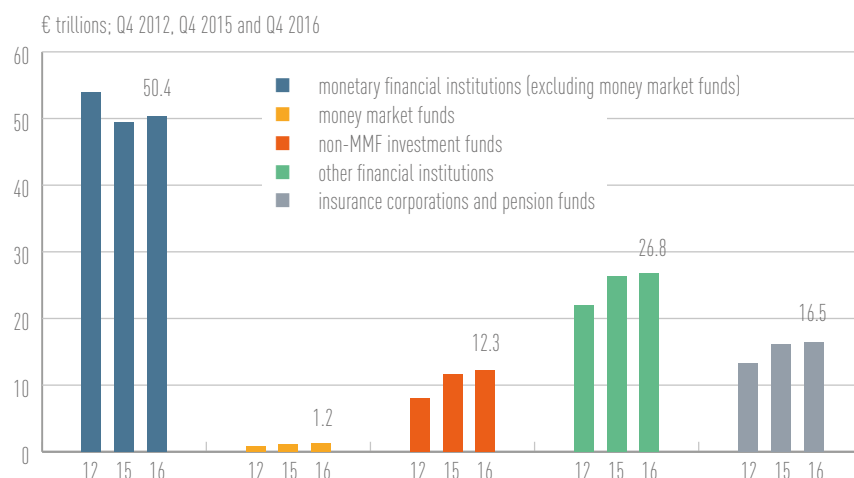
Elisabeth Noble, policy expert at the EBA, observed that **‘The growth of market-based intermediation is recognised as offering a range of benefits. It provides new sources of credit and investment to support growth and reduces the reliance of the real economy on bank funding, thereby providing capacity to enhance the overall efficiency and resilience of the financial system.’**

However, as acknowledged by the Joint Committee of the ESAs (\*\*), the rapid growth in market-based intermediation and increasing interconnectedness across the EU financial system present sources of risk and vulnerability.

In line with global trends, EU market-based intermediation continues to grow. As an illustration, at the end of 2016, using a broad measure of shadow banking (\*), in the EU area total assets amounted to a value equal to 99% of credit institutions assets, compared with 85% in 2014 [see Figure 21 (\*\*)].

Neill Killeen, economist at the ESRB Secretariat, explained that **‘The interaction of banks and shadow banking entities can lead to the amplification of risks and spillovers which can be transmitted across sectors and borders. Therefore, systemic risk monitoring is important, for instance to map the interconnections between banks and shadow banking entities,**

**Figure 21: EU financial sector**



Source: ECB and ECB calculations.

Note: Based on financial accounts data on the total financial assets of the financial sector of the euro area plus non-euro area EU Member States.

### in order to identify potential channels of contagion which may emerge in times of stress.’

Accordingly, the EBA, the other ESAs and the ESRB have been working together closely to support a range of initiatives to analyse and, where necessary, formulate appropriate policy responses to mitigate identified risks and vulnerabilities. Elisabeth Noble explained that this work includes the regular monitoring of the shadow banking sector (†), and the coordination of policy stances on a wide range of topics, including securities financing transactions (††), margin and haircut-setting practices (†††), investment fund liquidity and leverage, and interconnectedness in the financial system (‡).

To facilitate this coordination, the ESAs participate in the ESRB’s Joint Expert Group on Shadow Banking

(co-chaired by ESMA) and the ESRB’s Joint Expert Group on Investment Funds. In this context the EBA contributes its expertise gained from the development of the LR, the NSFR and LCR, bank stress testing, the regular monitoring of the regulatory perimeter, and the scope of prudential consolidation.

Neill Killeen, ESRB Secretariat, observed: ‘Assessing risks and vulnerabilities within the EU shadow banking system, including those risks that cut across different types of entities in financial markets, requires a holistic monitoring approach. Reflecting this, the ESRB’s monitoring framework for shadow banking applies both an entity-based and an activity-based mapping approach. Contributions of ESRB members, including the EBA and other ESAs, in terms of data and analytical expertise, form important inputs to this monitoring framework.’

(†) Including other financial intermediaries (OFIs) such as financial vehicle corporations, security and derivative dealers, and financial corporations engaged in lending.

(††) Numbers are drawn from the ESRB Shadow Banking Monitor 2017, available from: [https://www.esrb.europa.eu/pub/pdf/reports/20170529\\_shadow\\_banking\\_report.en.pdf](https://www.esrb.europa.eu/pub/pdf/reports/20170529_shadow_banking_report.en.pdf).

(†††) See, for example, the Joint Committee Report on Risks and Vulnerabilities in the EU Financial System August 2016: [https://esas-joint-committee.europa.eu/Publications/Press%20Releases/2016-09-07%20JC\\_PR\\_Report%20on%20Risks%20and%20Vulnerabilities.pdf](https://esas-joint-committee.europa.eu/Publications/Press%20Releases/2016-09-07%20JC_PR_Report%20on%20Risks%20and%20Vulnerabilities.pdf).

(†) In 2017 the ESRB published the second EU Shadow Banking Monitor, which will provide a comprehensive overview of market developments and identify key risks, building on the entity-based monitoring framework developed by the Financial Stability Board.

(††) ESMA’s October 2016 report on securities financing transactions (SFTs) and leverage in the EU: [https://www.esma.europa.eu/sites/default/files/library/2016-1415\\_-\\_report\\_on\\_sfts\\_proccyclicity\\_and\\_leverage.pdf](https://www.esma.europa.eu/sites/default/files/library/2016-1415_-_report_on_sfts_proccyclicity_and_leverage.pdf).

(†††) ESRB’s February 2017 report on the macroprudential use of margins and haircuts: [https://www.esrb.europa.eu/pub/pdf/reports/170216\\_macroprudential\\_use\\_of\\_margins\\_and\\_haircuts.en.pdf](https://www.esrb.europa.eu/pub/pdf/reports/170216_macroprudential_use_of_margins_and_haircuts.en.pdf).

(‡) See, for example, the results of the EBA’s comprehensive data collection of institutions’ exposures to shadow banking entities EBA’s Report on institutions’ exposures to shadow banking entities: <https://www.eba.europa.eu/documents/10180/950548/Report+on+institutions+exposures+to+shadow+banking+entities.pdf/9cec3aa1-9205-4b97-8ec1-f0f26bf991b4>. The data has been analysed extensively by EBA and ESRB colleagues, resulting in some useful analytical outputs, including the ESRB Working Paper No 40 March 2017 on mapping the interconnectedness of EU banks and shadow banking entities: <https://www.esrb.europa.eu/pub/pdf/wp/esrbwp40.en.pdf?c3e059e1c442492ccaec0e755b904e16>. The EBA Guidelines on institutions’ exposures to shadow banking entities came into force on 1 January 2017: <https://www.eba.europa.eu/documents/10180/1310259/EBA-GL-2015-20+GL+on+Limits+to+Exposures+to+Shadow+Banking+Entities.pdf/f7e7ce6b-7075-44b5-9547-5534c8c39a37>. The Guidelines lay down requirements for institutions to set limits, as part of their internal processes, on their individual exposures to shadow banking entities.

### Developing resolution policy for financial market infrastructures

The EBA's work in the area of CCP resolution in 2016 focused primarily on policy contributions to international regulatory fora working on the topic.

At the international level, the EBA contributed to the work of the Financial Stability Board (FSB) in CCP resolution through its membership of the financial market infrastructure Cross-Border Crisis Management group (fmiCBCM), as well as the ResG. In August 2016, the FSB published for consultation a discussion note, to which the EBA contributed, on the essential aspects of CCP resolution planning. For the remainder of the year, the EBA assisted in drafting the final draft guidance on CCP resolution to be issued by the FSB – this draft guidance was eventually issued for consultation in January 2017.

At the EU level, the EBA was an active participant in the Commission's Expert Group which discussed policy issues related to an EU framework for CCP resolution. The Commission's proposal in this regard was issued at the end of November 2016, and the EBA broadly welcomes the initiative taken by the Commission to put in place this important regulation.

Another EU forum where the EBA plays an active role is the European Systemic Risk Board's Task Force for CCPs. This forum looks at the role CCPs play in the financial system from a macroprudential perspective, with the EBA bringing its insights on CCP resolution and the interlinkages between CCPs and banks. Finally, the EBA also engaged with individual resolution authorities in different Member States over the course of 2016, in the context of crisis management groups that were established for CCPs.



### CCP RESOLUTION

The global enhancement of central clearing has been one of the key reforms after the financial crisis, in order to improve the safety of derivative trading. Both market and banking regulators have a role to play and we have worked hard to improve the resilience of the system, while ensuring that market participants keep trading. **More recently, regulators started looking at the possibility of a central counterparty (CCP) failing and what could be done to ensure an orderly resolution of these ever more necessary market infrastructures.**

We have taken a proactive part in this debate from the very beginning, because of the reliance of any CCP resolution action on clearing participants – predominantly banks – while recognising the need to plan for such a low-probability but high-impact scenario. The novel issues raised in the context of this work make it an intellectually stimulating exercise. Additionally it has been a rewarding process, as we are now starting to see the first plans and legislative proposals taking shape. **The biggest challenges lie ahead, as in 2017 we will be working to fine-tune the legislative proposal for the EU and proceed with its implementation primarily through our participation in resolution colleges.**



### Engaging with third-country authorities

The BRRD has given the EBA powers to establish uniform standards for information sharing and coordination on cross-border crisis management between, on the one hand, EU competent and resolution authorities and, on the other hand, relevant non-EU responsible authorities.

In this context, the EBA initiated negotiations with the aim of concluding Framework Cooperation Arrangements with key authorities of non-EU jurisdictions that have resolution regimes comparable to the BRRD, and which either are major financial centres or have substantial activities of EU banks. The Framework Cooperation Arrangement negotiated in 2016 with authorities from some of these jurisdictions is consistent with relevant

international standards and aims to facilitate the conclusion and consistency of future cooperation agreements between any of the non-EU counterparties and any EU supervisory or resolution authorities.

In 2017, the EBA plans to conclude those arrangements that were negotiated in 2016 and furthermore plans to start negotiations for the conclusion of a Framework Cooperation Arrangement with other relevant non-EU authorities.

The EBA has also been engaging actively in international fora (e.g. the Financial Stability Board) and cooperate with the World Bank, in particular its Financial Sector Advisory Center (FinSAC) on a range of policy issues relating to recovery and resolution.



**Chris Mills**

POLICY EXPERT,  
RESOLUTION UNIT



### THIRD-COUNTRY INSTITUTIONS UNDER THE EU RESOLUTION FRAMEWORK

A key concern for the EBA in the past year has been the absence of resolution colleges for third-country banking institutions operating in the EU. The impact of the failure of Lehman Brothers during the last financial crisis shows how important it is to prepare for the possible failure of a third-country institution.

The BRRD (Article 89) specifically provides for a college to be established where a third-country institution operates in two or more EU Member States; that college is required to carry out the same functions (e.g. developing resolution plans, joint decision making etc.) as in the case of banks headquartered in the EU.

Third-country institutions in the EU often have complex group structures, and this could have contributed to the delays in the establishment of colleges for them. In order to assist this process, **we have been working on mapping all third-country groups operating in more than one EU Member State. We have also raised the delays in establishing these resolution colleges on a number of occasions in the EBA's internal committees and Board.**

This is an important issue, particularly as a failure in one of these groups could have systemic consequences. We will, therefore, continue to pursue this issue in 2017 and promote the establishment of the appropriate structures. The recent proposals from the European Commission in this area introduce a number of legislative measures that seek to clarify the arrangements that should apply for these colleges. If adopted, it is likely that these changes will also facilitate progress.





## Contributing to the Single Rulebook through cross-sectoral work under the Joint Committee

### Joint Committee of the ESAs

In 2016, the Joint Committee continued to provide a forum for cross-sectoral coordination and exchange of information across the three ESAs. Under the chairmanship of EIOPA, the Joint Committee focused in particular on consumer protection and cross-sectoral risk assessments. In order to increase the visibility of the Joint Committee, a new website was set up where deliverables about the Joint Committee are centrally published <sup>[37]</sup>. To further promote the work of the Joint Committee and to celebrate its fifth anniversary a booklet <sup>[38]</sup> (*Towards European Supervisory Convergence*) was also published highlighting the Joint Committee's mission, objectives and tasks, as well as its strategic outlook.

### Consumer protection and financial innovation

#### ESAs focus on consumer protection – PRIIPs milestone

In the area of consumer protection, the Joint Committee reached a significant milestone by submitting draft Regulatory Technical Standards (RTS) on key information documents (KIDs) for packaged retail and insurance-based investment products (PRIIPs) <sup>[39]</sup>, at the beginning of April, to the European Commission for endorsement. The proposed KIDs provide retail investors, for the first time across the EU, with simple and comparable information on investment products in the banking, insurance and securities sectors. The three-page documents will increase the transparency and comparability of information about the risks, performance and costs of these products. The new rules contribute to enhancing confidence and strengthening the protection of European consumers.

<sup>[37]</sup> <https://esas-joint-committee.europa.eu/>

<sup>[38]</sup> [https://esas-joint-committee.europa.eu/Publications/EI0116679ENN\\_proof\\_updated\\_2\\_FINAL%20FINAL%20FINAL.pdf](https://esas-joint-committee.europa.eu/Publications/EI0116679ENN_proof_updated_2_FINAL%20FINAL%20FINAL.pdf)

<sup>[39]</sup> Regulation (EU) No 1286/2014 of the European Parliament and of the Council.

The Commission endorsed the draft RTS in June 2016. However, during the following scrutiny period, the European Parliament rejected them. In order to address the concerns expressed by the Parliament, the European Commission set out its intention to amend the RTS. The ESAs discussed the proposed amendments to the draft RTS and presented a joint Opinion to the three Boards of Supervisors covering all amendments in the RTS. However, the three ESAs could not provide an agreed joint Opinion on the amended draft RTS to the Commission.

#### ESAs report on automation in financial advice

The Joint Committee finalised its work on the automation of financial advice, which focuses on the characteristics of automated financial advice tools and potential benefits and risks associated with increasing automation of financial advice for consumers and financial institutions, and published a comprehensive report in November 2016. As the proliferation of automated advice is still at an early stage, it is less likely, at present, that some of the risks will materialise in a way that creates widespread detriment to consumers or undermines the confidence of market participants. For these reasons, the ESAs have concluded not to develop additional joint cross-sectoral requirements specific to this particular innovation. However, this topic will continue to be monitored.

#### ESAs work on Big Data

In December, the Joint Committee launched a three-month public consultation on the potential benefits and risks of Big Data, to better understand what the Big Data phenomenon means for consumers, the financial industry and regulators, and to determine whether any further regulatory or supervisory actions may be needed. Big Data can bring a number of benefits to both financial firms and consumers. Better analytics mean that firms can profile customers in order to personalise products and services, enhance their own internal processes and improve their fraud detection capabilities. At the same time, the ESAs also considered potential risks associated with Big Data, such as access issues for consumers who are classified as undesirable because of firms' ability to undertake more granular analyses.



#### Fourth Joint Consumer Protection Day

The ESAs held their fourth Joint Consumer Protection Day on 16 September, which was hosted by ESMA in Paris, with Olivier Guersent, DG FISMA's Director-General, as keynote speaker. The event, which was streamed live, attracted a wide range of consumer representatives, academics, legal and financial consultants, national supervisors, and experts from the EU institutions and the financial services industry.

#### Joint risks and vulnerabilities assessment

##### ESAs assessment of cross-sectoral risks

The Joint Committee produced two biannual cross-sectoral reports which identified key risks and vulnerabilities in the EU financial system. The reports were submitted at the spring and autumn 2016 meetings of the Economic and Financial Committee of the Council (EFC-FST), shared with the European Systemic Risk Board (ESRB) and subsequently published on the Joint Committee website. They provided an overview of the main cross-sectoral risks identified in the EU financial system and recommended policy actions to mitigate them. The main risks identified over the past year included the low-growth and low-yield environment and its potential effects on financial institutions' profitability and asset quality. Further concerns relate to the interconnectedness in the EU financial system. The EU financial system is also vulnerable to more immediate risks such as the result of the UK referendum on EU membership, which has added political and legal uncertainties.

#### Anti-money laundering

##### ESAs work on anti-money laundering and counter-terrorist financing

The Joint Committee continued its work on anti-money laundering and counter-terrorist financing, focusing on the ESAs regulatory mandates under both the fourth Anti-Money Laundering Directive and the Anti-Money Laundering Regulation. In December, the Joint Committee published its final Guidelines on the characteristics of a risk-based approach to anti-money laundering and terrorist financing supervision and the steps to be taken when conducting supervision on a risk-sensitive basis. They define the characteristics of a risk-based approach to anti-money laundering/countering the financing of terrorism (AML/CFT) supervision and set out what competent authorities should do to ensure that their allocation of supervisory resources is proportionate to the level of money laundering and terrorist financing risk associated with credit and financial institutions in their sector.

#### Financial conglomerates

##### ESAs' work on supervision of financial conglomerates

The Joint Committee published its updated annual list of identified financial conglomerates in December 2016, which shows 79 financial conglomerates with the head of the group in an EU/EEA country, one with the head of the group in Australia, one with the head of the group in Bermuda, one with the head of the group in Switzerland and two with the head of the group in the United States.

The Joint Committee also submitted its response to the Commission's public consultation on the evaluation of the Financial Conglomerates Directive in the context of the Commission Regulatory Fitness and Performance Programme. The Joint Committee believes that appropriate supplementary supervision of financial conglomerates – most of them being large financial groups active in different financial sectors and often across borders – remains very important. The Joint Committee encourages the Commission to increase consistency between the sectoral rules and the supplementary conglomerates supervision.

### Further cross-sectoral work to enhance supervisory convergence

#### ESAs' work on acquisitions and increases of holdings in the financial sector

The Joint Committee finalised its work on the review of the Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the banking, insurance and securities sectors, which aimed to ensure a common, uniform and consistent application of the Directive on acquisitions and increase of holdings in the financial sector. The revised guidelines<sup>[40]</sup>, which were published in December, replace the previous guidelines adopted in 2008. They provide further clarity on some key concepts, such as indirect holdings, persons acting in concert and decision to acquire. They ensure a consistent interpretation of time limits by clarifying when the competent authority should provide an acknowledgement of receipt of the notification regarding the acquisitions of a qualifying holding in a financial institution. The guidelines further clarify certain matters relevant to the assessment of an acquisition, such as the financial soundness of the proposed acquirer and suspicions of money laundering or terrorist financing. The joint guidelines shall be applicable as of 1 October 2017.

[40] [https://esas-joint-committee.europa.eu/Publications/Guidelines/JC%20GL%202016%2001%20\[Joint%20Guidelines%20on%20prudential%20assessment%20of%20acquisitions%20and%20increases%20of%20qualifying%20holdings%20-%20Final\].pdf](https://esas-joint-committee.europa.eu/Publications/Guidelines/JC%20GL%202016%2001%20[Joint%20Guidelines%20on%20prudential%20assessment%20of%20acquisitions%20and%20increases%20of%20qualifying%20holdings%20-%20Final].pdf)

#### ESAs' joint report on reducing reliance on credit ratings

In December 2016, the Joint Committee published its report on good supervisory practices for reducing sole and mechanistic reliance on credit ratings. The report is directed at the nationally appointed sectoral competent authorities (SCAs) for a wide range of financial institutions, such as credit institutions, investment firms, asset management companies and insurance undertakings. The report's purpose is to ensure cross-sectoral consistency in the implementation of elements of the Credit Rating Agencies Regulation (CRA Regulation) regarding overreliance on credit ratings. To achieve this, the report recommends a common framework of non-binding good supervisory practices for SCAs.

#### Board of Appeal of the ESAs

The ESAs continued to provide operational and secretarial support to the Board of Appeal. The Board of Appeal held its annual meeting in July at the EIOPA premises in Frankfurt and decided on one appeal case in January 2016. Furthermore, the majority of Board of Appeal Members were reappointed for a second term and the recruitment procedure for new members has been launched and will be finalised in 2017.



## Key areas of focus for 2017

### Monitoring FinTech and the regulatory perimeter

One of the key areas of focus for the EBA in 2017 relates to FinTech. From the consumer protection and financial innovation perspective, the EBA will follow up on the work done in previous years on crowdfunding, virtual currencies, innovative uses of consumer data and automation in financial advice.

Throughout all of this work, the EBA defined the FinTech innovation in question; identified the market participants; assessed the potential benefits and risks to consumers, financial institutions, market confidence, anti-money laundering and financial crime objectives, and integrity of payment systems; and identified the regulatory and/or supervisory action, if any, required. In so doing, the EBA had to make difficult trade-offs between competing demands, such as mitigating the risks while still allowing market participants to harness the benefits of the innovation.

In 2017, the EBA will continue analysing the phenomenon of FinTech and will issue a Discussion Paper setting out the EBA's strategic approach on i) authorisation and registration regimes for FinTech entities; ii) risks (prudential and operational) to credit institutions, payment institutions and electronic money institutions (e.g. IT systems); iii) impacts on business models of credit institutions, payment institutions and electronic money institutions; and iv) consumer protection and retail conduct of business issues and AML/CFT.

In addition, in the light of calls at the international level to undertake regular monitoring of the regulatory perimeter <sup>[41]</sup>, and tak-

ing account of the development of new types of entities such as FinTech, in 2017 the EBA will carry out an assessment of the prudential treatment of entities carrying out credit intermediation activities <sup>[42]</sup> outside an EU solo prudential framework further to the EBA's 2014 Opinion and Report on the perimeter of credit institutions <sup>[43]</sup>. The results will inform specific EBA outputs in a range of areas including the scope of authorisation requirements and prudential consolidation, the CRR/CRD review, and wider international work on non-bank credit intermediators.

### Developing disclosure documents to inform consumers about risks, costs and rewards of financial products and fees for services related to a payment account

In 2017, the EBA will continue working on two disclosure documents under the PAD and, in cooperation with ESMA and EIOPA, on the KID under the PRIIPs Regulation.

With regard to the PAD, the EBA will finalise two draft ITS on the standardised presentation format of the fee information document (FID) and its common symbol, and on the standardised presentation format of the statement of fees (SoF) and its common symbol. The aim of these ITS is to develop disclosure documents to facilitate the comparison of the costs of payment accounts across all payment account providers in the European Union. Together with the ITS, the EBA will also finalise the draft RTS on the European Union's standardised terminology for the most common services linked to a payment account.

<sup>[41]</sup> The FSB's Thematic Review on the Implementation of the FSB Policy Framework for Shadow banking Entities (Peer Review Report, May 2016); <http://www.fsb.org/2016/05/thematic-review-on-the-implementation-of-the-fsb-policy-framework-for-shadow-banking-entities/>

<sup>[42]</sup> Credit intermediation activities are activities involving i) maturity transformation (borrowing short and lending/investing on longer timescales); ii) liquidity transformation (using cash-like liabilities to buy less liquid assets); iii) leverage; and iv) credit risk transfer (transferring the risk of credit default to another person for a fee), or similar activities. Examples of entities carrying on credit intermediation include special-purpose vehicles engaged in securitisation transactions, securities and derivatives dealers, and companies engaged in factoring, leasing or hire purchase

<sup>[43]</sup> The Opinion and Report are available here: <https://www.eba.europa.eu/-/eba-publishes-an-opinion-on-the-perimeter-of-credit-institutions>



### Expanding the EBA sample of banks

The EBA will work further towards the creation of a European data hub for banking data. The EBA aims to collect and disseminate data for the entire population of EU banks, a major project which was initiated at the end of 2016 with the support of the EBA Board of Supervisors. The EBA believes this project will bring benefits to the entire EU financial system and should be fully operational in January 2019.

This new project will be one of the EBA's highest priorities in 2017. A first estimation shows that this expansion will increase the volume of data collected by around 50 times. Furthermore, the data itself will be significantly different. In particular, because this new sample will be mostly formed by smaller banks, with a distinct operation model when compared to the larger banks, and which may raise additional challenges.

To ensure the adequacy of this project and the future maintenance of the data, the current EBA's supervisory information systems need to be upgraded. The aim of such an upgrade is to improve and streamline the governance, organisation, and management of data, as well as to facilitate the usage of information through common practices, methodologies, infrastructures and tools. Moreover, this new data collection will also require a reliable, secure and efficient platform to collect supervisory data from all EU/EEA banks.

The long-term benefits of having a database with supervisory data from all EU banks need to be carefully weighed against the short-term challenges for both the EBA and the reporting NCAs. On one hand, it will be the first banking data hub, allowing the EBA to perform deeper analyses of the sector, such as peers' analyses, identify national trends and vulnerabilities. Moreover, this new data set will also provide additional tools to assess the full impact of new regulatory products. Finally, but not least, it will foster the transparency of European banking system as a whole. This project is, therefore, seen to be an important step towards building a common regulatory and supervisory framework for banking in the European Union.



## EU-WIDE STRESS TEST

In July 2016, we published the results of the third EU-wide stress test coordinated by the EBA. Shortly after the finalisation of this exercise, **we started the preparatory work for the next stress test in 2018.** This included looking back at the previous exercise to identify any lessons learnt in the process – in particular regarding the methodology prescribed by the EBA but also concerning all other aspects of the stress test. Based on this analysis we have already started the work on the methodology for the next stress test. The EBA stress test team is coordinating this task, which is carried out together with a group of experts from national competent authorities as well as from the ECB. **Some of the challenges of this work are the mediation between the various stakeholders in the process and the balancing of the core objectives of the exercise.** For instance, we try to strike a balance between keeping the approach simple and consistent across banks and on the other hand providing all necessary information to competent authorities for their quality assurance of banks' projections as well as for taking supervisory decisions about individual banks.



### Preparing for the 2018 stress test exercise

In December 2016, the Board of Supervisors decided that the next EU-wide stress test will take place in 2018. The EBA staff has already started to prepare the methodology for the 2018 stress test exercise, which will also include the assessment of the potential impact of IFRS 9.

The decision to run the next EU-wide stress test in 2018 was driven by an acknowledgement of the ongoing progress that EU banks are making in strengthening their capital positions. Competent authorities, as well as market participants, will, in the meantime, use the significant quantitative and qualitative information generated by the 2016 EU-wide exercise. Risks and vulnerabilities in the EU banking sector will continue to be jointly monitored by competent authorities and the EBA, as part of their regular assessment of banks.

### Identifying and addressing potential risks in 2017

The EBA will continue to oversee and address key risks for the financial system in Europe. Despite recent improvements, the subdued economic growth as well as the low-interest-rate environment has reduced banks' earnings in Europe. In 2017, one of the primary goals for the banking sector will be improving its profitability and, alongside that, completing its business model adjustments. To that end, the main structural challenge will be tackling and resolving the amount of NPLs across Europe. Looking forward, the higher cost of external funding together with the outlook of limited internal capital-generating ability raises additional obstacles to improving banks' weak profitability and economic recovery. In this context, the EBA will continue to closely monitor developments in NPLs, providing regular updates in its Risk Dashboards and RAR, as well by producing new ad hoc studies.

Moreover, the EBA plans to draft policy statements or call for coordinated actions across Europe, whenever needed. On the latter topic, efficient solutions are particularly required to improve the effectiveness and transparency of NPL markets. Potential solutions may include establishing an EU AMC, a blueprint for national AMCs or an NPL clearing platform for direct sale. All these initiatives will be closely planned with the relevant authorities and stakeholders.

In a similar vein, the EBA will closely oversee banks' funding plans across the EU. The first regular report on EU banks' funding plans will be submitted to the ESRB at the beginning of 2017. A first assessment of the aggregated data suggests that both assets and liabilities will grow in the next three years, particularly the market-based funding. The EBA has already commenced its work on a subsequent funding plan report, which will address banks' funding structure across the EU.

Finally, the EBA will continue to implement its roadmap for banks' internal models. These models are a key risk system to measure capital requirements and, therefore, intrinsically linked to the improvement of risk management practices in the banking system. Moreover, this approach aims to revamp the consistency and reliability of RWAs gauged through these systems, improving the overall comparability across the EU. The EBA will also carry on with the regulatory review of internal models, taking into account the request from the industry to have longer timelines to adopt the regulatory changes.

### Monitoring resolution planning and resolution colleges in the EU

In 2017, the EBA will maintain its focus on assessing the quality and effectiveness of the annual resolution-planning cycle. In that regard, the promotion and monitoring of resolution colleges will remain an area of priority for the EBA. Staff will continue to participate in the meetings and contribute to the speedy rectification of the key areas of weakness that were identified in the process in 2016. Such

areas of focus will include, for example, the organisation of meetings, the quality of resolution plans/resolvability assessments and the taking of joint decisions. The EBA also stands ready to fulfil its role in the provision of mediation services where disagreements arise.

A further focus in 2017 for the EBA will be on the extent to which authorities have established resolution colleges for third-country banking groups and investment firms. There has been no progress in this respect in 2016, and the EBA will bring additional focus to this area in 2017. This is of particular importance given the presence of multiple third-country entities in the EU, and the Commission's recent legislative proposals requiring greater EU-level interaction to manage such entities.

### Increasing competition, enhancing security and facilitating innovation in the market for retail payments in the EU

A key activity for the EBA in 2017 will be the finalisation of the mandates under PSD2 on which the EBA started working in 2016, and the development of the remaining PSD2 mandates, which the EBA had to delay because of budgetary constraints that had an impact on prioritisation of the EBA's tasks.

To that end, the EBA will finalise the draft Regulatory Technical Standards specifying the requirements on strong customer authentication and common and secure communication; Guidelines on the criteria on how to stipulate the minimum monetary amount of the professional indemnity insurance or other comparable guarantee; Guidelines on the information to be provided for the authorisation as payment institutions and e-money institutions and for the registration as account information service providers; and Guidelines on major incidents reporting.

With regard to the remaining PSD2 mandates, the EBA will commence work on the draft Regulatory Technical Standards (RTS) on central contact points. These draft RTS will specify the criteria to determine when host Member States may require payment institutions

and e-money institutions that are providing payment services across borders in their territories via agents under the right of establishment to set up central contact points in their territories, and the functions of these central contact points.

The EBA will also develop draft Regulatory Technical Standards (RTS) specifying the framework for cooperation, and for the exchange of information, between the competent authorities of the home Member State and of the host Member State. In these draft RTS, the EBA will specify the method, means and details of cooperation in the supervision of payment institutions operating on a cross-border basis and, in particular, the scope and treatment of information to be exchanged, to ensure consistent and efficient supervision of payment institutions exercising cross-border provision of payment services. In addition, these draft RTS will specify the means and details of any reporting requested by host Member States from payment institutions of the payment business activities carried out in their territories through agents or branches, including the frequency of such reporting.

Furthermore, the EBA will develop draft Regulatory Technical Standards setting technical requirements on development, operation and maintenance of the EBA's electronic central register and on access to the information contained therein. In addition, the EBA will develop draft Implementing Technical Standards on the details and structure of the information in the EBA's electronic central register, as notified by competent authorities, including the common format and model in which the information is to be provided.

Finally, the EBA will develop Guidelines on procedures for complaints of alleged infringements of PSD2. The guidelines will set out requirements on the channels to be made available by competent authorities to complainants for the submission of complaints of alleged infringements of PSD2, and on the information to be requested from complainants by competent authorities, and, where provided, to be recorded by such authorities, when complaints are submitted.

#### Further supervisory policy development for SREP, IRRBB and IT risks

To promote convergence of supervisory methodologies and practices to a high standard and to ensure that regulatory and supervisory rules for going-concern and crisis situations are implemented consistently across the EU, the EBA will pursue the following activities throughout 2017.

Further to the implementation of the common SREP guidelines in January 2016, the EBA is developing a range of guidelines on Pillar 2 issues to complement the existing SREP guidelines. These guidelines will cover supervisory stress testing alongside the P2G framework as well as the forthcoming revision on the management of IRRBB and ICT risk assessment under the SREP.

The EBA will be working on the amendment of the common procedures and methodologies for SREP guidelines, aiming to increase the coverage of areas as these were identified throughout the EBA's bilateral onsite visits, supervisory colleges and feedback from the competent authorities. One of these areas will be P2G, which explains how supervisors intend to use the stress test results in the SREP. The





EBA will continue working on the concept of P2G and developing a common approach and framework, with the objective of assisting the competent authorities in setting and using P2G based on the outcomes of supervisory stress tests under the current SREP framework. This will be accompanied by empirical information which will be used to draw conclusions on the overall P2G framework.

Moreover, guidelines on stress testing addressed to the competent authorities would also be incorporated in the amended SREP guidelines in order to support the newly introduced P2G framework. These guidelines will aim to cover the supervisory assessment of the institutions' stress testing, supervisory stress testing and the use of the outcomes of stress tests for capital adequacy purposes. In the context of facilitating a harmonised and consistent application of the SREP guidelines, the EBA will be developing additional supervisory tools to assist competent authorities in conducting SREP.

Recent changes in the operational structure of major institutions have led to the establishment of a number of systemically important branches in Europe, which highlighted the need to reinforce the cooperation framework amongst supervisors. These developments also prompted the EBA to develop own-initiative Guidelines on the supervision of significant branches aiming at better facilitating cooperation between competent authorities in supervision of the largest systemically important branches. These draft guidelines do not interfere with the tasks and responsibilities conferred on the consolidating supervisor and the home and host competent authorities by the Capital Requirements Directive (CRD) and Bank Recovery and Resolution Directive (BRRD), and merely aim to establish a framework of effective and efficient cooperation within colleges of supervisors when exercising tasks and discharging responsibilities. In addition, these draft guidelines do not limit in any form the freedom of institutions to establish branches in other Member States.

In 2017, the EBA will finalise the IT risk assessment guidelines based on the responses received during the consultation period, and publish the final guidelines with a view to promoting the quality and consistency of approaches in the assessment of IT risk.

## ONGOING WORK

The Consultation Paper on draft Guidelines on supervision of significant branches was published on 20 December 2016. The final guidelines are expected to be published in the second half of 2017.

Recognising the increased use of cloud service providers by banks and the need for supervisory guidance to supplement the existing outsourcing guidelines developed by the Committee of European Banking Supervisors (CEBS), which provide general applicable supervisory guidance for outsourcing but do not address the specificities of cloud outsourcing, the EBA is drafting a recommendation on outsourcing to cloud service providers. While using the cloud can provide more flexibility for institutions, enabling innovation and bringing cost benefits for institutions and their consumers, it can also introduce risks that need to be identified, monitored and mitigated such as data security issues. The purpose of the recommendation is to specify the supervisory requirements for institutions outsourcing to the cloud, and harmonise supervisory practices and expectations on cloud outsourcing across the EU. The recommendation is expected to be published in 2017.

The EBA Guidelines on IRRBB that apply since 1 January 2016 are being revised to align them with the new Basel Committee standards on IRRBB. The new Basel Committee standards were issued in April 2016 and are expected to be implemented by January 2018. The objective of the EBA is to finalise the revised Guidelines on IRRBB in the course of 2017.

### Facilitating and monitoring the implementation of the Single Rulebook by supervisors and assessing convergence of supervisory practices

In 2017, the EBA will undertake the second wave of bilateral convergence visits to carry out in-depth reviews of current supervisory practices on certain topics. The EBA is planning to visit 11 CAs including both SSM and non-SSM authorities.

The aim of these bilateral onsite visits is to identify challenges faced by supervisors and consider how to best address them in order to cultivate supervisory convergence and bring strong supervisory standards in the European Union. In 2017 the focus will be on the methodological and practical approach to the business model analysis (BMA) and related supervisory measures, as well as changes to the business models and strategies, and factors affecting them, including aspects of financial innovation and financial technology. Additionally, the determination of P2R and P2G will also be discussed, with a particular focus on how the values are determined and the key drivers affecting them. The EBA will review the practicalities of rolling out the SREP framework across the EU and identify the main difficulties encountered by CAs in its practical application. This will provide the EBA with an overview of the degree of convergence brought about by the guidelines. The findings will then feed into the EBA annual Supervisory Convergence Report, which will also be published in the course of 2017.

The work on assessing new and emerging IT risks in the EU banking sector will continue in 2017. The EBA will issue a new version of the annual Report on material and emerging IT risks in the EU banking sector and make it available to supervisors.

### Other policy products and guidelines on recovery planning

Under the BRRD, a recovery plan for a banking group must be developed for a group as a whole and identify measures that may be required to be implemented at the level of the parent and each individual subsidiary. However, recent experience shows that a number

of issues have been identified by supervisors when implementing the BRRD provisions and assessing group recovery plans. In particular, the perspective of group recovery plans has often been dominated by the parent, with little emphasis on other legal entities in the group. Clearly, the lack of information about recovery arrangements at the subsidiary level poses an issue for host competent authorities in terms of their knowledge and understanding of recovery arrangements.

Against this backdrop, the EBA has worked intensively during the second half of 2016 to draft, with the help of recovery-planning experts from national authorities, a recommendation (in consultation until June 2017) aiming to address the crucial issues of which entities should be covered in a group recovery plan, and the degree of detail that supervisors should expect in the different cases. In particular, the recommendation acknowledges that the coverage of all entities needs to be proportional, clarifying that not all entities may require the same level of detailed commentary. Finally, the recommendation encourages supervisors to reach a joint decision about a comprehensive group recovery plan (including subsidiaries and relevant branches) and to limit requests for the submission of individual ones due to insufficient coverage of individual entities.

According to Article 4(1) of the BRRD, competent authorities and resolution authorities may apply simplified obligations for recovery and resolution planning to institutions under their jurisdictions, provided that these institutions meet eligibility criteria set out in the BRRD. Pursuant to Article 4(6) of the BRRD, by 3 July 2017 the EBA shall develop the draft RTS further specifying criteria for assessing eligibility for simplified obligations, which would replace the existing EBA guidelines issued on the same topic in June 2015. In September 2016, the EBA commenced work on developing the draft RTS on simplified obligations, taking into account the experience acquired in the application of the guidelines and in particular data received from competent authorities and resolution authorities in the first data submission in June to July 2016. The drafting team working on the technical standards comprises both EBA staff and national experts from competent authorities and resolution authorities.

### Ensuring efficient functioning of colleges of supervisors

The conclusions of the EBA's college oversight work in 2016 will feed into the EBA Action Plan for Colleges in 2017, which will expect colleges of supervisors to complete the annual joint decision cycles by conducting the regular supervisory tasks and processes in line with the Level 1 and Level 2 text. In addition, the action plan will draw supervisors' attention to key risks identified by the EBA within the framework of its work on risk and vulnerabilities in the European banking system. Supervisors are then required to consider whether these key risks, such as NPL and balance sheet cleaning or business model sustainability or operational risk, are relevant to the banking group under their supervision, and they are expected to discuss their assessment of these risks with fellow supervisors in colleges.

### Enhancing the EBA's training activities

The EBA's new training strategy, approved by the BoS at the September meeting, focuses on well-identified key supervisory needs and areas where the establishment of common European training guidance will be crucial. To this extent, three areas have been recognised:

- assisting in the implementation of specific policy products (e.g. SREP, recovery planning, MREL, FRTB, assessment of internal models);

- informing on key topics relevant to the regulatory landscape (e.g. IFRS 9 impact);
- key risk topics for supervisory attention as identified by the EBA Colleges Action Plan (e.g. NPL and balance sheet cleaning, business model sustainability, or operational risk – conduct risk and IT risk).

For 2017, the training strategy will aim at strengthening the EBA's role as a provider of training programmes for EU supervisors, through the following:

- training programmes, with a focus on events based both in London and elsewhere, in order to ensure cost efficiency;
- implementation of a common EU online training tool and a gradual increase in online training courses;
- partnership with other training providers and establishment of an EBA list of trainers/speakers for core topics.

### Equivalence assessment

The work on assessing the equivalence of confidentiality regimes will continue throughout 2017 and beyond, as the evaluation of further authorities is scheduled to enable their participation in EEA supervisory colleges and strengthen cross-border cooperation.



## Ensuring effective and transparent processes to support the EBA's work

### Involving stakeholders in the EBA's regulatory work

The EBA adheres to a policy of full transparency of its working processes, and strives to ensure that it engages with all CAs, stakeholders and interested parties, such that they are informed of, and have the opportunity to provide input to, the EBA's work in the process of development of its work, especially in relation to the Single Rulebook.

The EBA is strongly committed to consulting with various stakeholders to ensure that it is able to take well-informed decisions and submit detailed proposals which take into consideration stakeholders' interests. A key part of this engagement with stakeholders is through the Banking Stakeholder Group (BSG). The BSG's view is sought on actions concerning RTS and ITS, guidelines and recommendations, to the extent that these do not concern individual financial institutions. Moreover, the BSG provides to the EBA its view on the assessment of market developments, which feeds into the EBA's banking risk reports. The EBA also seeks the BSG's thoughts on emerging risks for consumer protection, financial innovation and payments.

The BSG may also submit opinions and advice on any issue related to the tasks of the EBA, with particular focus on common supervisory culture and peer reviews of CAs. The BSG may also submit a request to the EBA, as appropriate, to investigate an alleged breach or non-application of Union law.

The BSG has provided its input by responding to EBA's public consultations as well as by providing informal feedback and contributions to the EBA's work on technical standards and guidelines. In 2016, the BSG provided opinions on 16 consultation papers, including three submissions to Joint Committee consultation papers and three responses to EBA discussion papers.

The third term of the BSG started on 18 April 2016. Of the 30 new members, six were already participating in the BSG, two were reappointed and 17 were new members representing cred-

it and investment institutions (three of whom represent savings or cooperative banks), consumers and users, academics, SMEs and employees of financial institutions. Seven members continued their mandates, as they were appointed in the course of the second term of the BSG and should complete their two-and-a-half-year mandate. On 22 June 2016, the BSG elected Santiago Fernández de Lis, Head of Financial Systems and Regulation at BBVA, as its Chairperson, and Alin Iacob, Managing Partner of the Association of Romanian Financial Services Users, as Vice-Chairperson. Two members of the BSG were reappointed, as their mandate finished in November 2016. In so doing, the EBA carried out a transparent selection process from the original list of applicants for the third term of the BSG, seeking to ensure adequate balance between EU Member States, entities represented and members' gender, in line with the EU Ombudsman's requirements.

The BSG established five standing technical working groups, namely on i) Capital and Risk Analysis, ii) Recovery, Resolution and Systemic Issues, iii) Consumer Protection, iv) Supervision, Governance, Reporting and Disclosure, and v) Payments, Digital and FinTech.

In 2016, the BSG held five regular meetings and one joint meeting with the EBA's BoS. Also, some BSG members have been actively involved in other activities of the EBA, e.g. as speakers at the Joint ESA Consumer Protection Day in September 2016 or as chair of a session at the EBA's research workshop, 'Competition in banking: implications for financial regulation and supervision', in November 2016. The second BSG also convened a Brussels-based meeting on proportionality to raise the profile of the publication of its position paper on 'Proportionality in Bank Regulation' in December 2015. It also published its End of Term of Office Report on concluding its mandate in April 2016.

With the aim of ensuring that input to the EBA's work is gathered from all interested parties and from all relevant stakeholders, beyond the BSG, stakeholders are invited to submit their comments to public consultations and par-

ticipate in public hearings, which take place regarding the EBA's draft technical standards and guidelines. In addition, the EBA has followed the practice of sometimes hosting bilateral meetings with representatives of some industry trade associations, consumers and employees, predominantly for specific technical considerations to assist its policy making.

### Engaging with EU resolution authorities

In 2016 the EBA intensified its efforts in terms of engagement with national resolution authorities and the Single Resolution Board (SRB) to monitor and support their harmonised implementation of the crisis management framework and contribute to consistent and effective resolution planning across Europe. This task was particularly challenging considering the early stage in terms of establishment of resolution authorities across Europe and the resulting need for more active support from and interaction with the EBA.

A number of tasks were undertaken to support this objective: (i) a focused training programme, in conjunction with the SRB, to provide resolution authorities and competent authorities with a common understanding of the key aspects of the regulatory framework for resolution; (ii) a survey on the organisational aspects of national resolution authorities, to provide benchmarking information and identify emerging trends in the establishment of resolution authorities; and (iii) active bilateral engagement with a number of national resolution authorities, in particular assisting them in the establishment phase of the first resolution colleges, discussing relevant aspects of the resolution framework and assisting in the establishment of processes for the proper functioning of resolution colleges.

With the SRB starting to operate with its full legal powers in 2016, the EBA also established significant engagement with this authority, supporting it in this important phase of rapidly increasing powers and responsibilities. In particular, the EBA also participated in various SRB committees with the aim of ensuring that the practices set up by the SRB are consistent with the framework and the resolution activities in the rest of the EU.

### Promoting mediation

Mediation is a widely used technique for resolving disagreements. An impartial third party listens to the parties and asks questions to understand their positions, their real needs and their understanding of the other side's position. The mediator does not impose solutions or even find them for the parties.

Mediation is a skill that can be used in everyday life, including by supervisors of cross-border banks when they are trying to find an agreement in the college. The EBA has a mandate to assist competent authorities in resolving disputes and disagreements related to supervision and resolution of cross-border banks. Thus, as well as applying the mediation skills themselves, supervisors may also ask EBA to mediate in their dispute. The disagreement can be about anything, but the main topics the EBA has dealt with so far are joint decisions (for example on capital requirements), liquidity, recovery planning and supervisory measures. The EBA has helped resolve disputes about the need for ring-fencing measures imposed by host authorities, and supervisory cooperation.

Starting mediation is straightforward. Supervisors just need to write to the EBA, stating what the disagreement is about and who else is involved. The EBA will bring the parties together, including supervisors and senior representatives, with the EBA Chairperson acting as mediator. By exploring the situation with the parties, separately and jointly, the EBA helps find a solution that works for everyone. The whole process is confidential; only the parties and a small EBA team know the details of the dispute and of discussion during the mediation. The EBA has helped in several mediations where the parties solved complex supervisory disputes that had been going on for years just by having them meeting for one day. If the parties do not find a solution, and only as a last resort, the EBA can also decide to go further and to tell the parties what they need to do. It is recommended to contact the EBA for assistance early, before positions get too hard, so the EBA can help find a solution that meets everyone's needs and maintain a strong working relationship.

In order to raise awareness among competent authorities about the mediation process, the EBA has organised a mediation workshop and provided internal training for EBA staff.

### Breach of Union law

The EBA’s founding regulation includes the ability to open an investigation where a competent authority has not applied relevant Union law or has applied it in a way which appears to be a breach of Union law. In 2016, the EBA received 11 requests to investigate an alleged breach or non-application of Union law, which is one more than the requests received in 2015. From a thematic perspective, the number of cases is too limited to identify trends, although four of the requests related to governance of credit institutions and two to issues regarding deposit guarantee schemes. The other requests raised questions related to the BRRD, the MCD, security of internet payments and the Payment Services Directive, and anti-money laundering supervision.

At the beginning of 2016, there were four cases pending from 2015, and only one remained open at the end of 2016. There are six cases from 2016 still pending. In two of these cases a pre-closure letter has been sent to the requesters. The others are in an advanced state following some preliminary enquiries.

Of the total number of 15 cases handled during 2016, three have been declared inadmissible. In two of the remaining cases, CAS have given full effect to the legal provisions after the EBA’s preliminary enquiries. The other

cases have not concluded in an opening of investigation, taking into account the criteria set up in Annex 2 to the EBA’s Decision adopting Rules of Procedure for Investigation of Breach of Union Law. In conclusion, the request was deemed more suitable to be dealt with by another person or body or by other means, or the request set out a grievance which did not relate to a clear and unconditional obligation under the EBA’s remit.

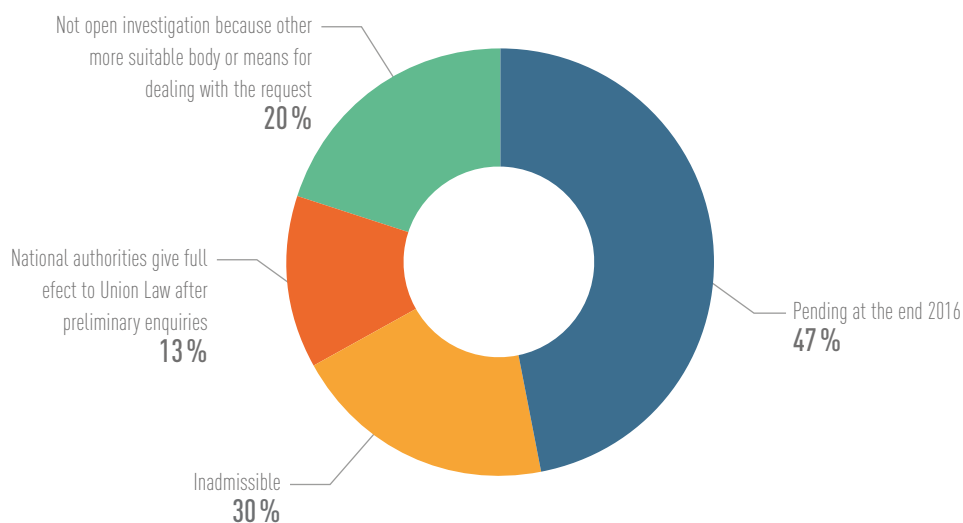
EBA staff have also reviewed how to make the enquiries process more effective, building on confirmation by the Court of Justice <sup>[44]</sup> and the General Court <sup>[45]</sup> that the EBA’s conclusion on whether or not an investigation should be opened is not reviewable by the Court or the Board of Appeal. On the other hand, a revised EBA Decision <sup>[46]</sup> adopting Rules of Procedure for Investigation of Breach of Union Law was adopted by the Board of Supervisors on 23 December 2016.

<sup>[44]</sup> ECJ Judgment of 14 December 2016, C-577/15 P, *SV Capital v EBA*.

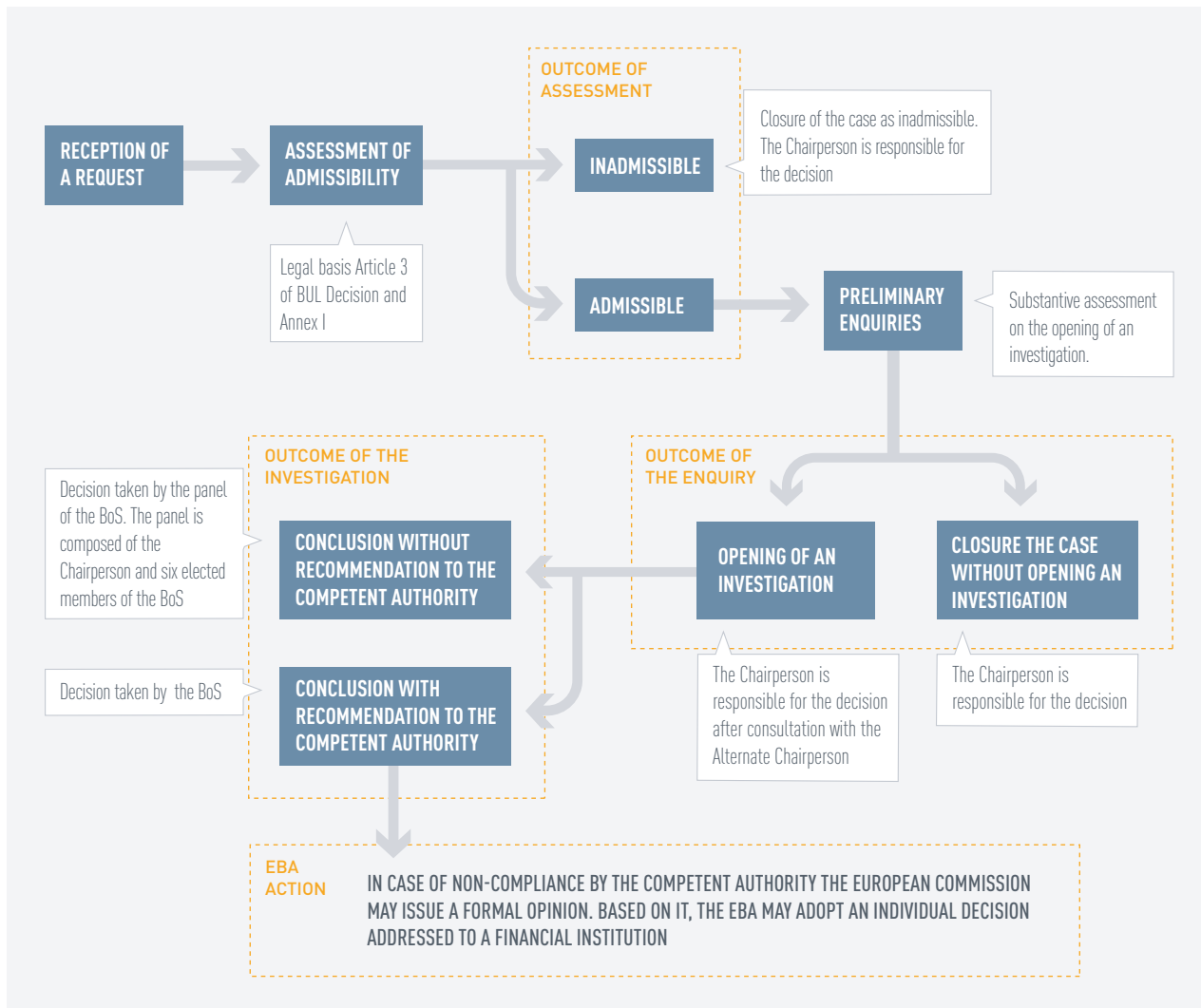
<sup>[45]</sup> General Court Judgment of 9 September 2015, T-660/14, *SV Capital v EBA*.

<sup>[46]</sup> <https://www.eba.europa.eu/documents/10180/1712606/EBA+DC+174+%28Decision+on+adopting+Rules+of+Procedures+for+Investigation+of+Breach+of+Union+Law%29.pdf/404eb483-e1ec-4b56-9e31-e5988138455d>

Figure 22: Breach of Union law cases handled in 2016



**Figure 23:** How the EBA deals with breach of Union law cases



### Conducting peer reviews

Another tool that the EBA uses to foster consistency in supervisory outcomes is conducting peer reviews of activities of CAs, in line with Article 30 of the EBA Regulation. The peer review work is carried out by the EBA's Review Panel, using a peer review methodology agreed by the EBA's BoS in June 2012. The peer review seeks to assess supervisory implementation practices, such as of EBA regulatory products, including an assessment of the adequacy of CAs' resources and governance arrangements, and the degree of convergence in the application of these supervisory practices, including legal frameworks and guidance; and seeks to identify best practices developed by CAs. The results of a peer review can lead to identification of best

practices which might be of benefit for other CAs to adopt, to issuing changes to existing guidelines and recommendations, to informing technical standards under development and/or to the EBA providing an opinion to the EU Institutions, as appropriate.

In 2016, the Review Panel conducted a peer review of the ITS on Supervisory Reporting. This peer review started in October 2015 and the final report was approved by the BoS in December 2016. The exercise consisted of a self-assessment carried out by CAs, followed up by the review by peers. It was the first time that the EBA's Review Panel performed on-site visits to all EU CAs, plus the ECB/SSM and three EFTA countries. Overall, the exercise concluded that there were no significantly negative outliers and all CAs had set

up fully or largely comprehensive processes to monitor institutions' reporting and assess data quality. Further to the desk-based analysis and the on-site visits, the Review Panel identified some best practices in the CAs' supervisory practices with regard to supervisory reporting. The Review Panel also observed some discrepancies in the performance and the technicalities of the different IT systems and processes.

Moreover, with a view to addressing uncertainty before the endorsement by the European Commission of the final ITS on Supervisory Reporting, the EBA decided to submit an Opinion to the European Commission requesting changes to the CRR to enable the EBA to adopt supervisory reporting requirements directly, in particular the reporting templates, rather than requiring the Commission's endorsement of EBA draft ITS as is currently the case.

At its October meeting, the BoS decided to carry out a new peer review of the Guidelines on the criteria to determine the conditions of application of Article 131(3) of Directive 2013/36/EU (CRD) in relation to the assessment of O-SIIs to be launched in early 2017. The focus of the review will be an assessment of the application of the Guidelines by CAs and of convergence in the application of the methodology developed to evaluate systemic risk developing in the different Member States, particularly arising from the O-SIIs.

### Impact assessment of regulatory proposals

The EBA applies the principle of better regulation in its efforts to develop the Single Rulebook, and strives to ensure that it performs impact assessment to support the EBA's development of regulatory policy.



## PEER REVIEWS

The EBA is mandated to carry out peer review exercises on an annual basis with a view to strengthening consistency in supervisory outcomes across the EU jurisdictions and the three participating EFTA countries. In 2016, the EBA's Board of Supervisors decided to assess the application of the ITS on supervisory reporting requirements by competent authorities.

**The goal of this peer review was to provide an overview and assessment of competent authorities' procedures and processes in the area of supervisory reporting,** such as the procedures and IT systems to collect data and ensure data quality, the process of dealing with enquiries by reporting institutions, issues of governance or measures taken with regard to updates of the reporting framework.

This peer review was unique in several respects. **It was the first time that we conducted a peer review of a legally binding act requiring full harmonisation.** We also met the challenge of performing on-site visits to all competent authorities, including the ECB/SSM. These on-site visits aimed at complementing the off-site analysis so as to better understand the processes implemented locally. Eventually, **the main findings of this peer review will enable us to improve the standards in terms of supervisory reporting by sharing the best practices identified during the review, to promote supervisory convergence in the EU and to implement an enhanced framework in relation to updates of ITS on Supervisory Reporting.**





In line with the relevant provisions of the EBA's Regulation, the EBA duly performs impact assessments when developing the technical standards, guidelines, recommendations and opinions, by assessing the incremental costs and benefits of the various policy options/technical specifications of its proposals. This work includes undertaking quantitative impact studies, analysing individual and aggregate banking data, assessing appropriate methodologies for using such data, and also performing qualitative analysis, and considering, where appropriate, the proportionality implications of its proposals.

The role of impact assessment at the EBA extends beyond the policy development phase, as it also applies to the monitoring of the implementation of particular pieces of banking regulation, including, where appropriate, the application of relevant regulatory and implementing technical standards (drafted by the EBA) and adopted by the Commission, and of the guidelines and recommendations issued by the EBA. One such product is the EBA's semi-annual analysis of the impact of CRD IV-CRR/Basel III rules on European credit institutions' capital, liquidity and LRs and the estimated shortfalls relating to the lack of convergence with the fully implemented framework, the CRD IV-CRR/Basel III monitoring exercise. In 2016, the EBA published two reports on monitoring the impact of the transposition of the Basel III requirements in the EU — in March for data as at June 2015, and in September for data as at December 2015, under a static balance sheet assumption. This exercise, run in parallel with the one conducted by the BCBS at a global level, gathered aggregate results on capital, risk-weighted assets, liquidity and LR for banks in the EU. A total of 148 and 364 EU banks respectively participated in the two exercises, of which 40 and 53 are in Group 1 (the largest internationally active European banks, with Tier 1 capital exceeding EUR 3 billion).

In addition to the regular monitoring exercise reports, the EBA conducted several ad hoc monitoring exercises to assess the impact of the new Basel reforms on EU banks. In 2016, these ad hoc exercises included QISs on BCBS proposals relating to credit risk (IRB and SA), FRTB, operational risk, LR and output floors on the total RWA. The cumulative (overall) impact of the proposed BCBS reforms was presented to the BoS for further guidance prior to

the finalisation of BCBS reforms and in view of their incorporation into the EU Regulation. To this end, the EBA will be prepared to use the collected data for responding to the calls for advice from the Commission.

At the end of 2016, the EBA published a Report on the cyclical nature of banks' capital requirements under the applicable regulatory framework in the EU (CRD IV/CRR), assessing whether that framework tends to amplify feedback loops between bank capital and the real economy in a procyclical manner. The report, developed in close cooperation with the ESRB and ECB, was submitted to the Commission to inform its current review of CRD IV/CRR and recommends retaining the risk-sensitivity of the EU bank regulatory framework.

In addition, the EBA supports the development and implementation of banking regulation in Europe by drafting dedicated reports assessing the impact of the calibration of regulatory requirements on leverage, resolution financing, own funds and bail-in-able liabilities and on liquidity as mandated by the relevant banking legislation (CRD IV-CRR, BRRD, SRM Regulation). More specifically, in 2016 the EBA published two reports on the implementation of the MREL, assessing the impact of the BRRD regulatory provisions on the EU banking sector, based on data collected from around 120 banks. Also, the analytical expertise of the EBA is sought by the EU co-legislators to inform them on the associated costs and benefits of technical options for their development of delegated acts, for instance in the area of BRRD, PSD2 and the transposition of the Basel III requirements in the EU.

In addition, the EBA produced the report on liquidity measures under Article 509(1) and the review of the phase-in of the liquidity coverage requirement under Article 461 of the CRR. The analysis was based on the QIS monitoring data and the supervisory data as of December 2015, and covered a set of topics including major descriptive statistics on the LCRs of a sample of European banks (e.g. level of ratios, liquidity shortfall, composition of liquid assets and net outflows), business model analysis, a quantitative comparison between the Commission's Delegated Act and the BCBS LCR framework, an analysis of currency mismatch in the LCR, an analysis of central bank-related activities under the LCR regulation and the review of the phase-in period of the LCR.

### Maintaining the Interactive Single Rulebook

Launched in 2014, the Interactive Single Rulebook (ISRB) provides a comprehensive compendium of the Level 1 texts for banking supervision (CRR/CRD IV). It was extended to include the BRRD in early 2015 and the DGSD in August 2016. For the legislative frameworks covered, the ISRB offers a resource where stakeholders can find links from the articles of Level 1 texts to their associated technical standards or guidelines as well as Q&As relating to the corresponding Level 1 provisions.

As an integral part of the ISRB, the Single Rulebook Q&A continued to play a significant role

for consistent application and implementation of the regulatory framework across the EU Single Market. The Q&A process, via its on-line tool <sup>(47)</sup>, provides an important interface for CAs, institutions and their associations, as well as other stakeholders, to submit questions on the practical application and consistent implementation of EU regulation in the EU banking sector. Respecting a thorough due process involving the EBA, NCAs and the European Commission, the Single Rulebook Q&A tool facilitates clarifications on CRD IV, the CRR, the BRRD and more recently the DGSD as well as related delegated or implementing acts, EBA Regulatory Technical Standards, EBA Implementing Technical Standards (adopted by the European Commission) and EBA guidelines. Its significance is not least reflected by the fact that in 2016 the Q&A section was again the most visited section of the EBA website.

Much work has again gone into answering questions from stakeholders regarding the interpretation and implementation of the Single Rulebook: by 31 December 2016 around 3 075 questions (compared with 2 550 at the end of 2015) had been submitted via the web interface. Of these about 1 120 have been rejected or deleted (up from about 930 at the end of 2015), about 1 110 have been answered (up from about 830 at the end of 2016) and about 845 are under review (up from about 790 at the end of 2015). Of the questions under review, about 95 are on the BRRD and about five are on the DGSD. The remaining c. 745 are on the CRR-CRD, with the majority (about three quarters) focusing on reporting issues, followed by questions on credit risk, liquidity risk, own funds and market risk-related issues (see Figure 24).

The Single Rulebook Q&As were instrumental in the European Commission’s efforts to review the CRR/CRD IV Q&As. In response to a CfA, the EBA reviewed published Q&As and highlighted, for the areas under consideration, questions identifying errors, inconsistencies or fundamental issues in the underlying legislative texts. The outcome of the review was transmitted to the European Commission and published in the CfA section<sup>(48)</sup> of the EBA’s website.

Figure 24: Questions submitted by topic

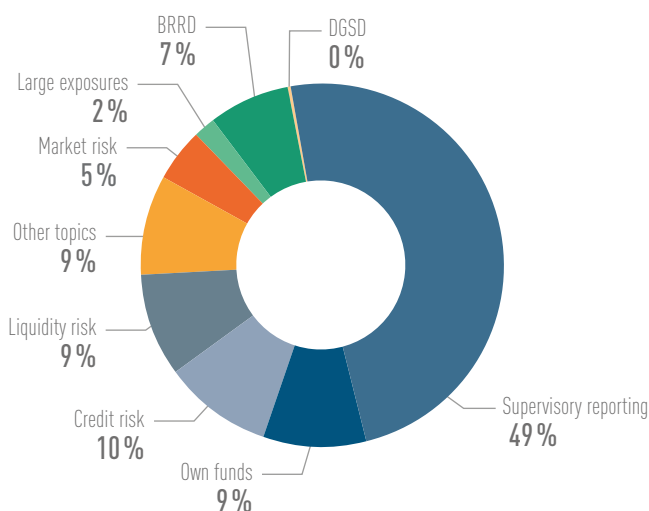
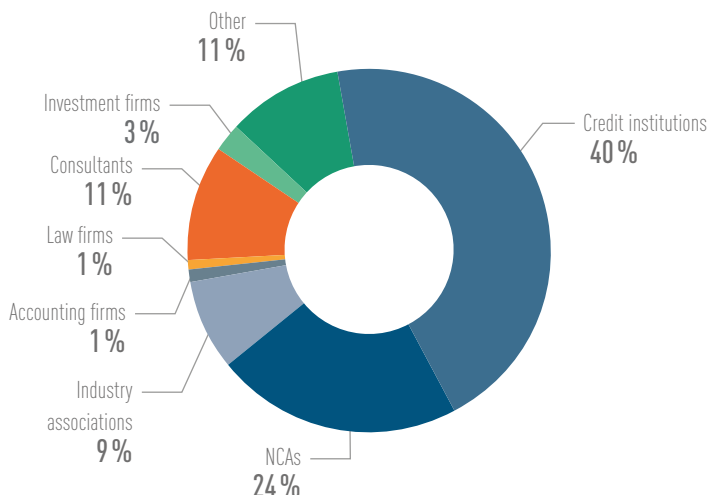


Figure 25: All questions by submitter type



<sup>(47)</sup> EBA Single Rulebook Q&A tool, <https://www.eba.europa.eu/single-rule-book-qa>

<sup>(48)</sup> <http://www.eba.europa.eu/about-us/missions-and-tasks/calls-for-advice>

Also noteworthy in that context is the follow-up work undertaken following the publication of the proposals for the review of the Directive and Regulation on banking prudential requirements, which consisted in an assessment of the extent to which the Q&As identified in the EBA's response to the Commission's CfA had been addressed in the new proposed regulatory frameworks.

### Providing legal support to EBA regulatory products

Throughout 2016, the Legal Unit has provided legal support to the governing bodies, to the management and to the core policy and operational functions of the EBA.

As regards the EBA's regulatory activities, the Legal Unit has ensured legal analysis and support in drafting binding technical standards, guidelines, recommendations and opinions, and legal analysis of proposed technical standards, guidelines and recommendations.

Legal advice has also been supplied for oversight activities in producing supervisory recommendations and in dispute resolution as well.

In relation to the EBA's institutional setting, legal support was given on matters related to the negotiation and drafting of contracts, undertakings and agreements entered into by the EBA; issues stemming from the Staff Regulations and the Conditions of Employment of Other Servants of the European Union; governance-related issues; public access to documents requests lodged pursuant to Regulation (EC) No 1049/2001; professional secrecy and confidentiality issues; intellectual property rights; protocol and matters arising in connection with the EBA's relations with the host State; and requests from EU bodies such as the European Court of Auditors and the European Ombudsman. As part of continuous surveillance of the EBA's legal framework, the Legal Unit has worked to enhance good administrative practices.

One of the key challenges in 2016 was related to the proactive contribution to the further overall development of the EBA's legal framework, as the Legal Unit advises on issues which could potentially give rise to litigation, providing legal advice, managing cases of litigation at both administrative and judicial levels and representing the EBA in legal disputes.

## BOX 10 — Litigation

The EBA Legal Unit provided advice and assistance in a number of litigation cases in 2016. A particular case is *European Dynamics Luxembourg and Others v ABE*, T-229/15, lodged before the General Court of the EU by the applicant, who was an unsuccessful bidder in a tender that was launched by the EBA in 2014 and which related to the supply of interim personnel specialised in the IT sector. The case is ongoing.

There was also an appeal before the European Court of Justice, *SV Capital OÜ v ABE*, C-577/15P. The appeal concerned the judgment of the General Court in case T-660/14, which held that the exercise by the EBA of the discretion to open or not open investigation proceedings in alleged breaches of Union law cannot be challenged by non-privileged applicants and that this restriction should also define the pertinent competence of the Joint Board of Appeal of the European

Supervisory Authorities to hear such cases. By virtue of its decision delivered on 14 December 2016, the Court of Justice confirmed the aforementioned judgment of the General Court.

Furthermore, a case was lodged before the ESA Joint Board of Appeal, *Kluge et al. v* [EBA Decision Ref. EBA/2015/D/2015 of 19 August 2015]. An appeal against a decision not to open a breach of Union law investigation into the actions of the Estonian Financial Supervision Authority was filed. However, in its decision of 7 January 2016, the ESA Joint Board of Appeal declared that it lacked competence to consider the appeal and the appeal was deemed inadmissible. The decision relating to costs was deferred but, as the EBA succeeded, no liability was expected. The applicant could have sought to refer the matter to the General Court of the EU, but did not file an application by the deadline.



**EFTA COUNTRIES**

Under the European Economic Area (EEA), the EU and three EFTA member states (Liechtenstein, Norway, Iceland) have agreed to extend the EU’s internal market rules also to these EFTA countries. Legally, this extension involves ‘common’ EEA institutions reviewing EU legislation and adapting it to the specificities of these EFTA countries. The creation of the ESAs (EBA, ESMA and EIOPA) in 2010 challenged that process. The potential for EU agencies to apply direct decision making vis-à-vis supervisory authorities and firms established in EFTA countries raised constitutional issues for those EFTA countries, given that they are not parties to the EU.

In the context of my work for the EBA Legal Unit, indeed already during the transition from the Committee of European Banking Supervisors, **I was fortunate to research and analyse the fascinating legal issues raised and to contribute to the legal advice the ESAs provided to both EU and EFTA throughout their negotiations in the EEA context.** Having got involved with EEA work for the first time back in 2010, **I was happy to see the process culminating in the adoption of the ESA regulations in October 2016 and proud to have assisted with it, given that it represents a landmark in the completion of the EEA market for financial services.**



**Working to protect personal data**

Given its responsibility for data protection pursuant to Regulation (EC) No 45/2001, the EBA liaised with the office of the European Data Protection Supervisor (EDPS) and submitted to the EDPS notifications on processed operations. In 2016, the designated officers within the EBA promoted the importance of data protection issues with the EBA staff, especially by raising the importance of data protection during induction sessions organised for new joiners.

**Delivering digital services to support the EBA’s core functions and internal administration**

The Information Technology Unit at the EBA delivers digital services that support the core functions of the EBA and its internal administration. The unit is responsible for providing the EBA, and whenever appropriate other competent authorities and bodies, with high-quality and innovative workplace and business IT solutions. It works to deliver reliable, cost-effective and secure infrastructure and information systems, aligns IT investments with business priorities, and provides training and seminars in advanced technologies to national regulators within the EU.

The current EBA IT strategy (2015 to 2017) is divided into four areas which aim to standardise and optimise the delivery of IT solutions (Figure 26).

**Figure 26:** EBA IT strategy (2015 to 2017)

<b>Effective solutions</b>	IT solutions to support the EBA’s core mission, assisting pan-European users
<b>Workplace solutions</b>	IT solutions to support the way of working and collaborating between EBA and pan-European users
<b>Business solutions</b>	Administrative applications to support the EBA’s internal users
<b>Infrastructure solutions</b>	IT solutions to provide necessary infrastructure and services

In 2016, the IT focus has been on maintaining and supporting production systems for data collection and infrastructure and implementing a number of projects in line with the IT work programme.

To enhance and support the implementation of the Single Rulebook with effective solutions, the EBA has implemented two releases of the European Supervisory Platform (ESP) to extend the regulatory framework in financial and common reporting to Data Point Model (DPM) version 2.4.1. A special application, called Master Data Management (MDM), was deployed and is now used to centrally manage the reference data.

Additionally, following the entry of force of EU legislation such as the BRRD, CRD IV, CRR, DGSD and subsequent supplements, a new project was initiated to allow several data providers to notify general or specific information to the EBA on an ad hoc or regular basis. The project will provide a secure platform to enable several additional authorities, such as CAs, DGSs, DGSDAs, RAs, AML/CTF authorities, EIOPA, ESMA etc., to deliver notifications and sanctions to the EBA.

In the domain of workplace solutions, the EBA further promoted the use of the Colleges platform, to enhance the sharing of information and communication between supervisory colleges. The user community has been also extended to resolution colleges. The Colleges platform has helped to enhance cooperation and coordination between resolution colleges and colleges of supervisors, which has in turn strengthened the supervision of cross-border banking groups.

Regarding business solutions, further improvements were implemented to optimise the administrative efficiency of the EBA. The electronic document management system has been implemented to allow internal EBA users to share, store and retrieve documents in a more consistent, secure and efficient way.

Additionally, a DPM-driven data analytics solution project has been initiated, to further enhance the use of ITS data within EBA, and to provide the ability to extract, integrate, analyse and interpret collected data in a timely and proactive way. The project includes the implementation of a solution with data discovery and analytic capabilities and it is expected to lead to an increase in the operational effec-

tiveness and productivity of all users by effective use of the DPM.

In the infrastructure domain, further improvements have been implemented. An internal service desk, integrated with the already existing ticketing system, has been implemented to deal with all internal issues in an automated way.

### Communicating and promoting the EBA's work

In line with the external communications strategy approved by the EBA Management Board, several activities were undertaken to promote the agency's work and support the delivery of its main projects.

The EBA's Fifth Anniversary Conference, held in early February, considerably raised the agency's visibility. The event was conceived as a way for the EBA to gather feedback not only on the impact of its achievements over the past years but also on the priorities for the future. With a web live stream and active promotion through social media, the feedback received from attendees and speakers was very positive.

An ad hoc strategy was developed to communicate one of the EBA's highlights of 2016: the 2016 EU-wide stress test. The communication activities on this project started as early as February, when the exercise was launched, and continued throughout the year with a number of technical briefings and interviews with journalists and the publication of relevant material on the website. The results were published at the end of July. This extensive preparatory and proactive communication work was effective in conveying the key messages to media and stakeholders, in particular the change of approach in the exercise, i.e. moving away from a 'pass or fail' type of stress test to one aimed at assessing remaining vulnerabilities and understanding the impact of hypothetical adverse market dynamics on EU banks.

The need to enhance transparency in the banking system has been a leitmotif of the EBA, which has been promoted through several speeches and interviews with the press. The annual transparency exercise results, published simultaneously with the risk assessment report in early December, have also attracted strong interest from the press, especially on the findings on NPLs.

The outcome of the UK referendum on its EU membership was also a new challenge in terms of both external and internal communication. The EBA's official stance on the impact of Brexit on the Authority was delivered externally through numerous interviews and speeches, and internally through the creation of an ad hoc intranet section.

In general, number of regular background briefings and interviews with members of the media throughout the EU increased in 2016, so as to ensure correct understanding and increase visibility of a number of regulatory activities, from public consultations to technical standards that were published throughout the year. Media briefings and interviews were organised either reactively – following requests from media – or proactively on the basis of EBA outputs which, in the light of specific relevance or sensitivity, were deemed to require dedicated media activities. This was particularly the case for the disclosure of the results of the 2016 EU-wide stress test, the final MREL report, the report on the impact assessment of the liquidity coverage ratio and the report on the impact of IFRS 9.

With 173 news items and press releases published in 2016, compared with 158 in the previous year, the EBA is in line with expectations in terms of reach-out activities. These figures reflect the increase in mandates and tasks for the EBA.

In line with the strategic communication objective of strengthening the relationship with press officers within national competent au-

thorities, as well as ensuring that all concerned stakeholders across the EU received consistent information, the EBA published a quarterly Communications Newsletter. This aimed to ensure that national press officers were kept up to date on the upcoming deliverables and on the work of the EBA, as well as on planned communication activities. The newsletters contained key communication messages on selected EBA products to allow national press officers to understand and explain to national media the EBA's work. An 'in focus' section on a key topic that the EBA was working on was also included to help national press officers become more familiar with a particular topic that generates media interest.

A short version of the Communications Newsletter was also produced for the media and the general public and published in the press section of the EBA website. The primary aim of this version of the newsletter was to help the media across the EU plan ahead of publication of EBA products, as well as to facilitate the press work of the EBA. This is in line with the strategic communication objective of creating sound and profitable relationships with all media across the EU.

The increase in the EBA website traffic is also a proof of the increased profile of the Authority. Throughout the year, the EBA website registered a regular number of visits: 2.79 million visits (+23% in comparison with 2015), corresponding to 8.87 million page views (+17.3%).

The middle and the end of the year saw an increase in the number of visitors to the website as a result of the publication of the stress test results (July) and of the transparency exercise results (December). Geographically, the highest concentration of visits came from the UK (20%), followed by Germany (14%) and Italy (8%).

Social media platforms such as Twitter, YouTube and LinkedIn were used to promote specific news on an ad hoc basis. By the end of the year, the number of followers of the EBA Twitter account had more than doubled in comparison with the previous year, reaching over 4 100. The most popular tweet was about the stress test results, gaining 46 783 views and 1 108 reactions. The EBA's LinkedIn community also grew in 2016 by 17%, attracting 7 400 followers by the end of the year.





## EBA BUDGET

The big challenge in managing the budget over the past couple of years has been the fluctuation in the value of the euro against the pound sterling. The euro dropped to a low of 0.7085 in July 2015, then rose to a high of 0.89905 in November 2016, a gain of 27% over 16 months. With the EBA's financial regulations preventing us from hedging, in 2015 we had to request a EUR 1.9 million increase in funding whereas in the course of 2016 we returned EUR 1.6 million. **To enable us to identify such projected shortfalls and surpluses during the year, we have put significant effort into our budget-planning and monitoring activities, in conjunction with the EBA's operational units.**

Over the same period we have also focused in particular on process efficiencies and financial control: since 2014 we have reduced the number of individual payments by 40%, the number of late paid invoices to just 10 and paid zero late payment interest for the third year running. **Looking ahead, we see an opportunity for further efficiencies in moving to fully electronic workflows for transaction processing, where we will seek to maximise the integration of our suppliers into the ordering and invoicing processes.**



### Budgetary and financial management

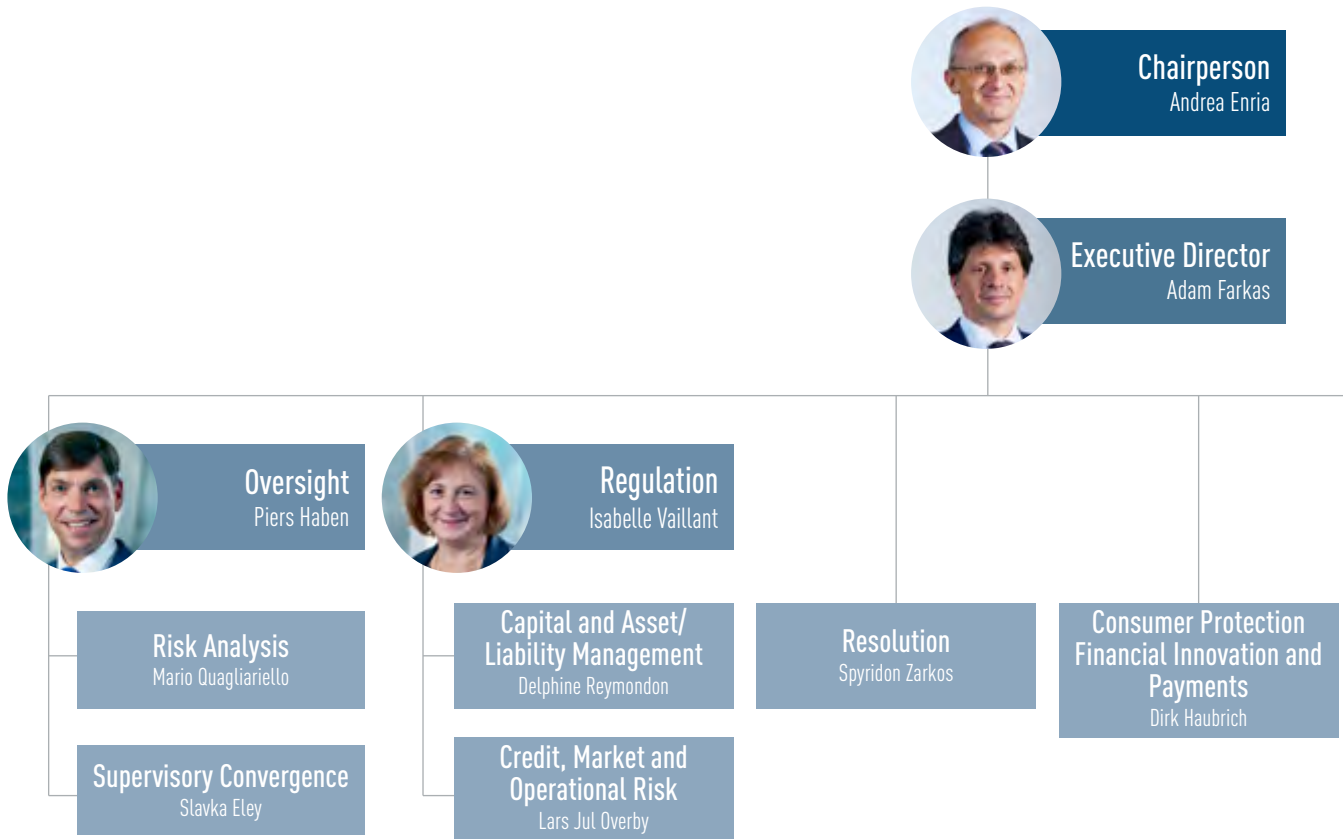
The EBA's budget execution in 2016 was 96.8%. As 2016 was a difficult year for EBA budget management, principally because of the UK referendum on EU membership, this can be considered an acceptable result. Whereas in 2015 the EBA requested an increased amending budget because of the drop in the value of the euro against the pound sterling, in 2016 the exchange rates went the other way and in the summer we requested a decreased amending budget of EUR 1.572 million, which reduced the EBA budget from EUR 38.064 million to EUR 36.492 million. The impact of the referendum continued through the second half of the year, resulting in further strengthening of the euro. The political uncertainty also negatively affected the EBA's recruitment plans and thus expenditure on staff; note that 68% of the EBA budget is spent on staff costs (Title I). The

EBA processed 33 internal budget transfers in 2016, moving EUR 660 000 from Title I to Title II (EUR 250 000) and Title III (EUR 410 000). None of the transfers required management board approval. The larger transfers were driven by the need to take on interim staff and consultants due to recruitment issues and lack of internal expertise, and by increased demand for missions, meetings and translation costs.



# Annexes

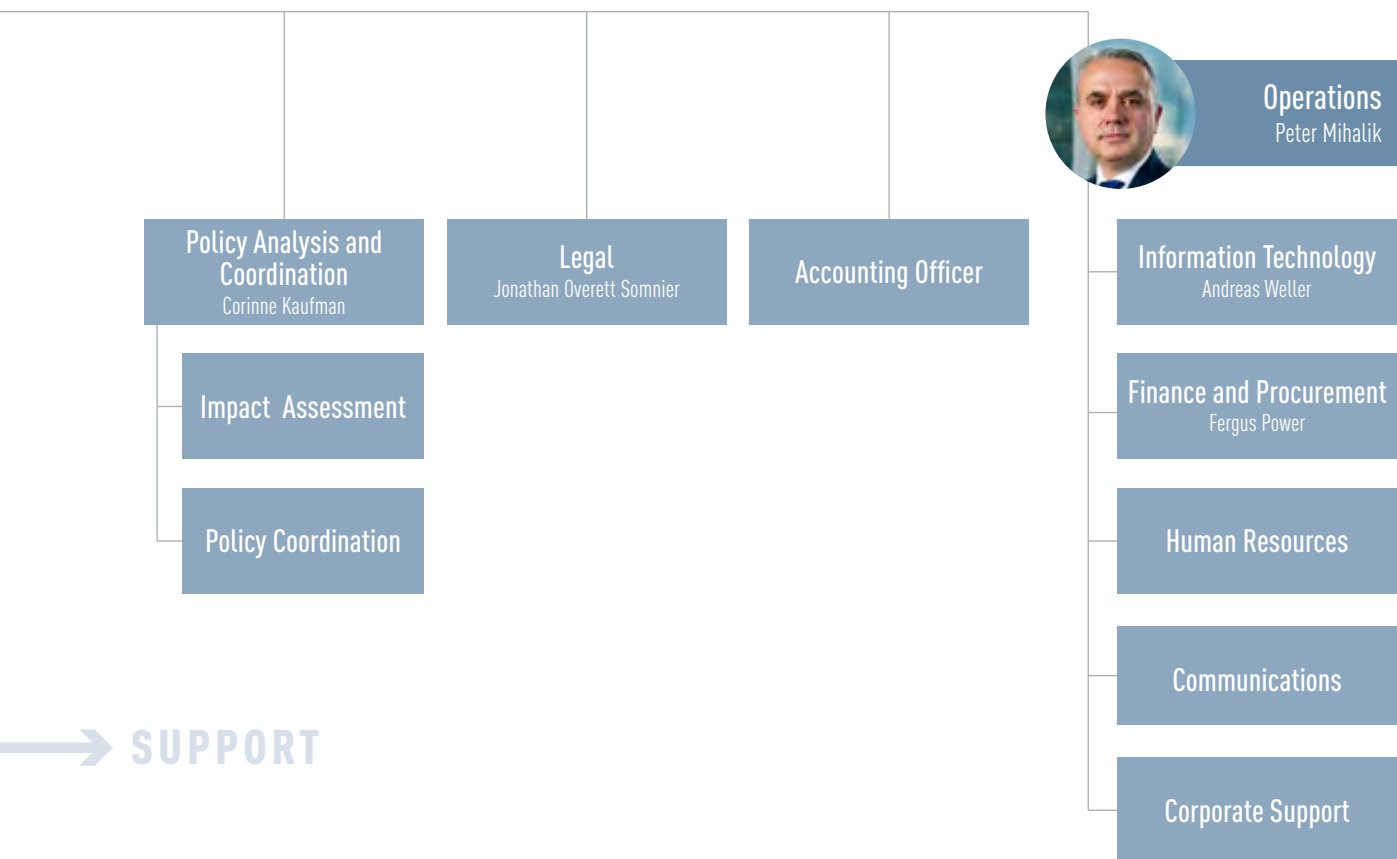
## EBA organisational structure



CORE ←

Composition as of 31 December 2016.





## Board of Supervisors

### VOTING MEMBERS

COUNTRY	INSTITUTION	MEMBERSHIP	NAME
Austria	Finanzmarktaufsicht (Financial Market Authority)	Head	Helmut Ettl
		Alternate	Michael Hysek
Belgium	National Bank of Belgium	Head	Jo Swyngedouw
		Alternate	David Guillaume
Bulgaria	Българска народна банка (Bulgarian National Bank)	Head	Dimitar Kostov
		Alternate	Stoyan Manolov
Croatia	Hrvatska Narodna Banka (Croatian National Bank)	Head	Damir Odak
		Alternate	Zeljko Jakus
Cyprus	Κεντρική Τράπεζα της Κύπρου (Central Bank of Cyprus)	Head	Stelios Georgakis
		Alternate	Elena Gregoriadou
Czech Republic	Česka Národní Banka (Czech National Bank)	Head	David Rozumek
		Alternate	Zuzana Silberova
Denmark	Finanstilsynet (Danish Financial Supervisory Authority)	Head	Jesper Berg
		Alternate	Sean Hove
Estonia	Finantsinspektsioon (Financial Supervision and Resolution Authority)	Head	Andres Kurgpõld
		Alternate	Kilvar Kessler
Finland	Finanssivalvonta (Finnish Financial Supervisory Authority)	Head	Anneli Tuominen
		Alternate	Marja Nykänen
France	Autorité de Contrôle Prudentiel et de Résolution (Prudential Supervisory & Resolution Authority)	Head	Édouard Fernández-Bollo
		Alternate	Frédéric Visnovsky
Germany	Bundesanstalt für Finanzdienstleistungsaufsicht (Federal Financial Supervisory Authority)	Head	Raimund Roeseler
		Alternate	Peter Lutz
Greece	Τράπεζα της Ελλάδος (Bank of Greece)	Head	Spyridoula Papagiannidou
		Alternate	Kyriaki Flesiopoulou
Hungary	Magyar Nemzeti Bank (National Bank of Hungary)	Head	Csaba Kandrács
		Alternate	Gábor Gyura
Ireland	Central Bank of Ireland	Head	Cyril Roux
		Alternate	Gerry Cross
Italy	Banca d'Italia (Bank of Italy)	Head	Luigi Federico Signorini
		Alternate	Andrea Pilati
Latvia	Finansu un Kapitāla Tirgus Komisija (Financial and Capital Market Commission)	Head	Pēters Putniņš
		Alternate	Ludmila Vojevoda
Lithuania	Lietuvos Bankas (Bank of Lithuania)	Head	Vytautas Valvoniš
		Alternate	Renata Bagdoniene
Luxembourg	Commission de Surveillance du Secteur Financier (Commission for the Supervision of Financial Sector)	Head	Christiane Campill
		Alternate	Martine Wagner
Malta	Malta Financial Services Authority	Head	Marianne Scicluna
		Alternate	Ray Vella

COUNTRY	INSTITUTION	MEMBERSHIP	NAME
Netherlands	De Nederlandsche Bank (National Bank of Netherlands)	Head	Jan Sijbrand
		Alternate	Olaf Steijpen
Poland	Komisja Nadzoru Finansowego (Polish Financial Supervision Authority)	Head	Andrzej Reich
		Alternate	Krzysztof Góral
Portugal	Banco de Portugal (Bank of Portugal)	Head	Pedro Duarte Neves
		Alternate	José Rosas
Romania	Banca Națională a României (National Bank of Romania)	Head	Nicolae Cînteza
		Alternate	Adrian Cosmescu
Slovakia	Narodna Banka Slovenska (National Bank of Slovakia)	Head	Vladimír Dvořáček
		Alternate	Tatiana Dubinová
Slovenia	Banka Slovenije (Bank of Slovenia)	Head	Primož Dolenc
		Alternate	Damjana Igljič
Spain	Banco de España (Bank of Spain)	Head	Fernando Vargas Bahamonde
		Alternate	Cristina Iglesias-Sarria
Sweden	Finansinspektionen (Swedish Financial Supervisory Authority)	Head	Martin Noréus
		Alternate	Uldis Cerps
UK	Prudential Regulation Authority (Bank of England)	Head	Sam Woods
		Alternate	Sasha Mills

#### EEA EFTA MEMBERS

Iceland	Fjármálaeftirlitið (Icelandic Financial Supervisory Authority - FME)	Member	Jon Thor Sturluson
		Alternate	Sigurdur Freyr Jonatansson
Liechtenstein	Finanzmarktaufsicht - FMA (Financial Market Authority)	Member	Patrick Bont
		Alternate	Heinz Konzett
Norway	Finanstilsynet (Norwegian Financial Supervisory Authority)	Member	Morten Baltzersen
		Alternate	Emil Steffensen
	EFTA Surveillance Authority	Member	Frank Büchel
		Alternate	Ólafur Jóhannes Einarsson

#### OBSERVERS

SRB	Dominique Laboureix
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#### NON-VOTING MEMBERS

ESMA	Verena Ross
EIOPA	Fausto Parente
ECB Supervisory Board	Korbinian Ibel
European Commission	Olivier Guersent
ESRB	Francesco Mazzaferro

## Management Board

According to the EBA founding Regulation, the Management Board should ensure that the EBA carries out its mission and performs the tasks assigned to it. It is composed of the EBA Chairperson and six other members of the Board of Supervisors elected by and from its voting members. The Executive Director and a representative of the Commission also participate in its meetings.

Two new members (representing the Czech and French competent authorities) joined the Management Board on 1 January 2016. Furthermore, in June 2016 the Board of Supervisors re-elected the member from the Italian competent authority for a second term; finally, following the resignation of the member from the UK's competent authority in June, it elected a new member (from the Danish competent authority) in September 2016. At end December 2016, the Management Board was composed of three members from participating SSM Member States (France, Italy and Spain) and three members from non-participating SSM Member States (the Czech Republic, Denmark and Poland). This composition was deemed by the Board of Supervisors to be in line with the requirements of balanced and proportionate representation as set out in the EBA founding Regulation, reflecting the European Union as a whole.

To guarantee the transparency of the Management Board's decision making, the minutes of its meetings are published on the EBA website immediately after they are approved. In 2016, the Management Board met five times at the EBA premises in London.

### COMPOSITION AS AT END 2016

COUNTRY	INSTITUTION	MEMBER
Czech Republic	Česká Národní Banka	David Rozumek
Denmark	Finanstilsynet	Jesper Berg
France	Autorité de Contrôle Prudentiel et de Résolution	Édouard Fernández-Bollo
Italy	Banca d'Italia	Luigi Federico Signorini
Poland	Komisja Nadzoru Finansowego	Andrzej Reich
Spain	Banco de España	Fernando Vargas Bahamonde
-	European Commission	Olivier Guersent

## Banking Stakeholder Group

MEMBER	SELECTED TO REPRESENT	INSTITUTION	POSITION	COUNTRY
Dominic Lindley	Consumers	Independent	Independent consultant	UK
Phryne Michael	Consumers	Cyprus Consumers association	Chair of the Board of the Cypriot Consumers Association	CY
Martin Schmalzried	Consumers	Confederation of Family Organisations in the EU (COFACE)	Senior Policy and Advocacy Officer	CZ
Mike Dailly	Consumers	Govan Law Centre	Chief Executive/Principal Solicitor	UK
Anne Fily	Consumers	Bureau Européen des Unions de Consommateurs (BEUC)	Special Advisor	FR
Dermott Jewell	Consumers	Consumers' Association of Ireland	Policy and Council Advisor	IE
Michel Bilger	Credit institutions	Credit Agricole	Head of Regulation and Supervision	FR
Santiago Fernandez De Lis	Credit institutions	BBVA	Chief Economist, Financial System and Regulation	ES
Simon Hills	Credit institutions	British Bankers Association	Executive Director, Head of Prudential Capital & Risk Team	UK
Soren Holm	Credit institutions	Nykredit	Group Managing Director	DK
Gerda Holzinger-Burstaller	Credit institutions	Erste Group AG	Deputy head of Group Secretariat and head of Prudential Affairs	AT
Sergio Lugaresi	Credit institutions	Italian Banking Association (ABI)	Consultant and Project Manager	IT
Sabri Thaeer	Credit institutions	Electronic Money Association	Chief Executive Officer	UK
Ernst Eichenseher	Credit institutions	Unicredit	Head of Credit Risk Control & Economic Capital	DE
Arnold Kuijpers	Credit institutions	Rabobank	Director European Affairs	NL
Sabine Masuch	Credit institutions	Association of Private Bausparkassen	Legal Consultant and head of the Ombudsman Office	DE
Mark Roach	Employees	ver.di – vereinte Dienstleistungsgewerkschaft	Trade Union Officer	DE
Jesper Bo Nielsen	Employees	Danish Financial Services Union	Chief Regulatory Officer	DK
Nikolaos Daskalakis	SMEs	Hellenic Confederation of Professionals, Craftsmen & Merchants (GSEVEE)	Representative of the association	EL
Sara Monteiro de Oliveira	SMEs	Horizon 2020 Advisory Group, TecBis	Member of Horizon 2020, Executive Manager at TecBis	PT
Angel Berges	Top-ranking academics	Universidad Autónoma de Madrid	Professor of Finance	ES
Luigi Guiso	Top-ranking academics	Einaudi Institute for Economics and Finance and University of Rome Tor Vergata	Professor of Household Finance	IT
Monika Marcinkowska	Top-ranking academics	University of Lodz	Professor of Finance	PL
Peter-Otto Muelbert	Top-ranking academics	University of Mainz	Professor of Law	DE
Giovanni Petrella	Top-ranking academics	Catholic University, Milano	Full Professor of Banking	IT
Emilios Avgouleas	Top-ranking academics	University of Edinburgh	Full Professor of International Banking Law and Finance	EL
Alin Iacob	Users of banking services	Association of Romanian Financial Services Users	Managing Partner and Editor-in-Chief	RO
Christophe Nijdam	Users of banking services	Finance Watch	Secretary General	FR
Guillaume Prache	Users of banking services	Better Finance	Managing Director	FR
Giedrius Steponkus	Users of banking services	Board of Lithuanian Shareholders Association	Founder and chairman of the Board of Lithuanian Shareholders Association	LT

## Resolution Committee

ResCo Chair: Dominique Laboueix (Board Member, Single Resolution Board)

MEMBER STATE	RESOLUTION AUTHORITY	RESCO REPRESENTATIVE
Austria	Finanzmarktaufsicht (Financial Market Authority)	Member: Klaus Kumpfmüller Alternate: Oliver Schütz
Belgium	National Bank of Belgium	Member: Pierre Wunsch Alternate: Gregory Nguyen
Bulgaria	<ul style="list-style-type: none"> <li>▪ Българска народна банка (Bulgarian National Bank) – contact authority</li> <li>▪ Комисия за финансов надзор (Financial Supervision Commission)</li> </ul>	Member: Boyan Bonchev Alternate: Emilia Dimitrova
Croatia	<ul style="list-style-type: none"> <li>▪ Hrvatska Narodna Banka (Croatian National Bank) – contact authority</li> <li>▪ Hrvatska Agencija za Nadzor Financijskih Usluga (Croatian Financial Services Supervisory Agency)</li> <li>▪ Državna Agencija za Osiguranje Štednih Uloga i Sanaciju Banaka (State Agency for Deposit Insurance and Bank Resolution)</li> </ul>	Member (voting): Michael Faulend Alternate: Sanja Tomičić Member (non-voting): Marija Hrebac
Cyprus	Κεντρική Τράπεζα της Κύπρου (Central Bank of Cyprus)	Member: Michalis Stylianou Alternate: Panayiotis Vlamis
Czech Republic	Ceska Narodni Banka (Czech National Bank)	Member: Radek Urban Alternate: Tomáš Kahoun
Denmark	<ul style="list-style-type: none"> <li>▪ Finanstilsynet (Danish Financial Supervisory Authority) – contact authority</li> <li>▪ Finansielt Stabilitet (Financial Stability Company)</li> </ul>	Member (voting): Henrik Bjerre-Nielsen Alternate: Marianne Simonsen Observer: Birgitte Søgaard Holm Alternate for Observer: Stig Nielsen
Estonia	<ul style="list-style-type: none"> <li>▪ Finantsinspeksiioon (Financial Supervision and Resolution Authority) – contact authority</li> <li>▪ Tagastisfond (Guarantee Fund)</li> </ul>	Member: Riin Heinaste Alternate: Siim Tammer
Finland	Rahoitusvakausvirasto (Finnish Financial Stability Authority)	Member: Tuija Taos Alternate: Reima Letto
France	Autorité de Contrôle Prudentiel et de Résolution (Prudential Supervisory and Resolution Authority)	Member: Olivier Jaudoin Alternate: David Blache
Germany	Finanzmarktstabilisierung (Federal Agency for Financial Market Stabilisation)	Member: Thorsten Pötsch Alternate: Manfred Heemann Observer: Adam Ketessidis
Greece	<ul style="list-style-type: none"> <li>▪ Τράπεζα της Ελλάδος (Bank of Greece) – contact authority</li> <li>▪ Επιτροπή Κεφαλαιαγοράς (Hellenic Capital Market Commission)</li> </ul>	Member: Maria Mavridou Alternate: Eleni Statiri For investment firms responsible Hellenic Capital Market Commission Observer: Nikolaos Troullinos Alternate: Sofia Kriali
Hungary	Magyar Nemzeti Bank (Central Bank of Hungary)	Member: András Kólmár Alternate: Judit Matusek
Ireland	Central Bank of Ireland	Member: John Coyle Alternate: Patrick Casey
Italy	Banca d'Italia (Bank of Italy)	Member: Bruna Szego Alternate: Roberto Cercone
Latvia	Finanšu un Kapitāla Tirgus Komisija (Financial and Capital Market Commission)	Member: Janis Placis Alternate: –
Lithuania	Lietuvos Bankas (Bank of Lithuania)	Member: Tomas Garbaravičius Alternate: Vaida Česnulevičiūtė

MEMBER STATE	RESOLUTION AUTHORITY	RESCO REPRESENTATIVE
Luxembourg	Commission de Surveillance du Secteur Financier (Commission for the Supervision of Financial Sector)	Member: Romain Strock Alternate: Joëlle Martiny
Malta	Malta Financial Services Authority	Member: Aldo Giordano Alternate: Roberta Victoria Buhagiar
Netherlands	De Nederlandsche Bank (National Bank of Netherlands)	Member: Frank Elderson Alternate: Marc Roovers
Poland	Bankowy Fundusz Gwarancyjny (Bank Guarantee Fund)	Member: Zdzisław Sokal Alternate: Krzysztof Broda
Portugal	Banco de Portugal (Bank of Portugal)	Member: João Freitas Alternate: João Marques
Romania	<ul style="list-style-type: none"> <li>▪ Banca Națională a României (National Bank of Romania) – contact authority</li> <li>▪ Autoritatea de Supraveghere Financiară (Financial Supervisory Authority)</li> </ul>	Member: Emil Vonvea Alternate: Aurica Rusu
Slovakia	Rada pre riešenie krízových situácií (Resolution Council)	Member: Júlia Čillíková Alternate: Peter Pénzeš
Slovenia	Banka Slovenije (Bank of Slovenia)	Member: Peter Kupljen Alternate: Mišo Drobež
Spain	<ul style="list-style-type: none"> <li>▪ FROB (Spanish Executive Resolution Authority) – contact authority</li> <li>▪ Banco de España (Bank of Spain)</li> <li>▪ Comisión Nacional de Valores (National Securities Market Commission)</li> </ul>	Member (voting): Jaime Ponce Alternate: Javier Torres Member (non-voting): Alberto Casillas Mr Casillas's Alternate: Francisco Sotelo
Sweden	Riksgälden (Swedish National Debt Office)	Member: Hans Lindblad Alternate: Pär Holmbäck
United Kingdom	Bank of England	Member: Andrew Gracie Alternate: Peter Brierley

COUNTRY/INSTITUTION NAME	RESCO REPRESENTATIVE
Iceland	Observer: Ragnar Hafliðason Alternate: Linda Kolbrún Björgvinsdóttir
Liechtenstein	Observer: Dominik Haeuptle Alternate: Johannes Kueng
Norway	Observer: Ole-Jørgen Karlsen Alternate: Knut Lykke
ECB	Observer: Eleni Angelopoulou Alternate: Paul Disveld
European Commission	Observer (DG FISMA): Emiliano Tornese Observer (Resolution Task Force): Sabino Formies Alternate: Alessandro Malchiodi
Single Resolution Board	Observer: Nadège Jassaud
ESRB	No official representative; ad hoc participation
ESMA	Observer: Amandine Zelenko Alternate: Boryana Stoyeva-Dimitrova
EIOPA	No official representative; ad hoc participation

## Budget summary

The amended budget for 2016 is published in the Official Journal of the EU: <https://www.eba.europa.eu/documents/10180/1406403/EBA+2016+Amending+Budget.pdf/1518909d-bbce-4538-a132-a06de740b418>

## Regulatory compliance of guidelines and recommendations

In accordance with the EBA Regulation (Article 16(4)), this section comments on competent or resolution authorities that have not complied with guidelines and recommendations issued by the EBA.

The following non-compliance reflects guidelines and recommendations issued in 2015 and 2016, for which the notification deadline was in 2016.

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### EBA/GL/2015/11 – Guidelines on Creditworthiness Assessment – Compliance Notification Deadline – 21 May 2016

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The following competent authorities failed to provide notification of compliance within the notification deadline:

- a) Malta – Malta Financial Services Authority;
- b) Romania – Banca Națională a României (National Bank of Romania);
- c) Finland – Finanssivalvonta (Finnish Financial Supervisory Authority) <sup>(49)</sup>.

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### EBA/GL/2015/12 – Guidelines on Arrears and Foreclosures – Compliance Notification Deadline – 21 May 2016

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The following competent authorities failed to provide notification of compliance within the notification deadline:

- a) Lithuania – Lietuvos Bankas (Bank of Lithuania);
- b) Malta – Malta Financial Services Authority;
- c) Finland – Finanssivalvonta (Finnish Financial Supervisory Authority) <sup>(50)</sup>.

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### EBA/GL/2015/18 – Guidelines on Product Oversight and Governance (POG) – Compliance Notification Deadline – 23 May 2016

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The following competent authority failed to provide notification of compliance within the notification deadline:

- a) Malta – Malta Financial Services Authority.

The following competent authorities submitted the following notifications:

- a) Germany – Federal Ministry for Economic Affairs and Energy – With regard to the Guidelines applicable to distributors, the Federal Ministry for Economic Affairs and Energy, as the competent authority, does not intend to comply with the Guidelines, as the relevant Level 1 Regulation is implemented in German civil law, leaving the enforcement of these provisions to the courts (see recital 80 of the MCD).
- b) Austria – Finanzmarktaufsicht (Austrian Financial Market Authority):
  - i) With regard to the Guidelines applicable to manufacturers, the authority does not comply and does not intend to comply, due to a lack of legal basis at a national level to implement the Guidelines;
  - ii) With regard to the Guidelines applicable to distributors, the FMA is not the competent authority and therefore informed the Federal Ministry of Science, Research and Economy (BMWF) as the competent authority.
- c) Austria – Bundesminister für Wissenschaft, Forschung und Wirtschaft (BMWF) – With regard to the Guidelines applicable to distributors, BMWF as the competent authority does not intend to comply, due to a lack of legal basis at national level to implement the Guidelines.
- d) Slovakia – National Bank of Slovakia – With regard to the Guidelines applicable to manufacturers, the authority does not comply and does not intend to comply, due to a lack of legal basis at a national level to implement the Guidelines.

<sup>(49)</sup> FIN-FSA was designated as competent authority under the MCD from 1 January 2017, the compliance forms have been already received by the EBA.

<sup>(50)</sup> FIN-FSA was designated as competent authority under the MCD from 1 January 2017, the compliance forms have been already received by the EBA.



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**EBA/GL/2015/19 – Guidelines on Passport notifications for credit intermediaries under MCD – Compliance Notification Deadline – 21 May 2016**


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The following competent authorities failed to provide notification of compliance within the notification deadline:

- a) Greece – Τράπεζα της Ελλάδος (Bank of Greece) <sup>(51)</sup>;
- b) Cyprus – Κεντρική Τράπεζα της Κύπρου (Central Bank of Cyprus);
- c) Slovakia – Národná Banka Slovenska (National Bank of Slovakia);
- d) Iceland – Fjármálaeftirlitið (Icelandic Financial Supervisory Authority – FME)

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**EBA/GL/2015/20 – Guidelines on limits on exposures to shadow banking – Compliance Notification Deadline – 3 August 2016**


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The following competent authority failed to provide notification of compliance within the notification deadline:

- a) Liechtenstein – Finanzmarktaufsicht – FMA (Financial Market Authority).

The following competent authority gave notification of its intention not to comply with the Guideline:

- a) Slovakia – Národná Banka Slovenska (National Bank of Slovakia) – Does not comply and does not intend to comply. Entities to which these GLs on limits to shadow banking entities apply are under regulation in accordance with Act No 186/2009 Coll. Moreover, exposures to these entities are not substantial from the point of view of the market.

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**EBA/GL/2015/22 – Guidelines on sound remuneration policies – Compliance Notification Deadline – 19 July 2016**


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The following competent authorities gave notification of their intention not to comply with the Guidelines, citing their reasoning:

- a) Denmark – Finanstilsynet (Danish Financial Supervisory Authority) – Award of variable remuneration in instruments (section 15.4, paragraph 251(a)). According to the Danish official translation of the CRD IV the availability of instruments under Article 94(1)(i) are both shares and share-linked instruments for institutions in the legal form of a stock corporation. The same translation follows from the Danish official translation of the identical requirement in the previous directive, CRD III. The wording of the Danish official translations of CRD III and CRD IV has been implemented into the Danish Financial Business Act since 1 January 2011. Since the EBA/GL/2015/22 paragraph 251(a) conflicts with the Danish official translation of CRD IV Article 94(1)(i), the Danish Financial Business Act complies with the Danish official translation of the CRD IV and therefore the Financial Supervisory Authority does not comply with and does not intend to comply with paragraph 251(a) of the guidelines. According to the Opinion of the European Banking Authority on the application of the principle of proportionality to the remuneration provisions in Directive 2013/36/EU paragraph 23, the EBA is also of the opinion that listed institutions should be able to use share-linked instruments, as, in terms of incentives for prudent risk taking, they have the same effect as shares, when they reflect exactly the value of the shares.

Severance pay (section 9.3) – According to CRD IV Article 94(1)(h) severance pay is ‘payments relating to early termination of contract that reflect performance achieved over time and do not reward failure or misconduct’. The wording is identical to the previous provision of the CRD III requirement.

CRD IV Article 94(1)(h) regarding severance pay is implemented into Danish Executive Order no 818 of 27 March 2014 on Remuneration Policy and obligations to provide information about Remuneration, section 13.

Section 13 of the Danish Executive Order contains special regulations on severance pay, and states as follows:

‘13.-[1] Section 10 shall not apply to agreement on redundancy pay complying with the following conditions:

- 1) The agreement on redundancy pay is established in connection with recruitment to the position.
- 2) The redundancy pay agreed does not depend on the results achieved from working in the position.
- 3) At the time of redundancy, the redundancy pay agreed may not exceed a value corresponding to the last two years’ total remuneration including pension.

(2) Section 10 shall not apply to agreements on redundancy pay established in connection with redundancy for the part of the redundancy pay that does not exceed a value corresponding to one year’s total remuneration including pension.

(3) Subsections (1) and (2) shall only apply to redundancy pay which cannot be derived from legislation or collective agreement.

Section 13 was implemented on 1 January 2011 in line with the wording of the CRD III requirement and has been maintained because the wording of CRD IV Article 94(1)(h) is the same.

Further guidance regarding the interpretation of section 13 of the Danish Executive Order follows the Danish guidelines regarding the interpretation of the remuneration requirements in the Danish Financial Business Act and the abovementioned Danish Executive Order.

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<sup>(51)</sup> Τράπεζα της Ελλάδος was designated as competent authority under the MCD from 1 January 2017, the compliance forms have been already received by the EBA.

Section 13 of the Danish Executive Order and the Danish guidelines is not as specific as EBA/GL/2015/22 section 9.3. The Danish national implementation of CRD IV Article 94(1)(h) is maintained and will as far as possible be interpreted in line with section 9.3 of EBA/GL/2015/22.

Except from the points above, the Danish Financial Supervisory Authority intends to comply with the Guidelines by 1 January 2017.”

- b) Germany – Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin) – BaFin will generally and almost entirely comply with the EBA Guidelines on sound remuneration policies under Articles 74(3) and 75(2) of Directive 2013/36/EU and disclosures under Article 450 of Regulation (EU) No 575/2013 (EBA/GL/2015/22).

There is only one exception: BaFin will not implement the prohibition laid down in paragraph 251(a) of the EBA Guidelines where it is determined that listed stock corporations must not use share-linked instruments for the award of variable remuneration. Given the current review of the CRD according to Article 161 of the CRD and the fact that the EBA and the European Commission have already suggested amending the CRD text in a way that would subsequently legitimise the German approach, BaFin has decided to avoid forcing institutions to change their remuneration systems for what is expected to be only a limited period of time. In addition, there is not any notable prudential benefit, while costs for the companies are obvious.

Background: In its Opinion (EBA/OP/2015/2) on the application of the principle of proportionality to the remuneration provisions in Directive 2013/36/EU of 21 December 2015 addressed to the European Commission, European Parliament and Council, EBA has proposed amending the current text of the CRD in order to allow the use of share-linked instruments (also) by listed institutions in future, as, in terms of incentives for prudent risk taking, they have the same effect as shares, when they reflect exactly the value of the underlying shares.

Meanwhile in its Report to the European Parliament and the Council on the assessment of the remuneration rules under the CRD of 29 July 2016 (COM(2016) 510 final, together with two accompanying working documents), the European Commission has confirmed that the requirement for listed institutions to use only shares is not efficient, since the exclusive use of shares does not bring a notable prudential benefit compared with a situation in which the use of share-linked instruments whose value closely tracks the value of the underlying share would also be allowed. The Commission has therefore concluded that it is acceptable to allow listed institutions to use share-linked instruments, provided that they closely track the value of shares (without a leverage effect), and has announced that it will consider proposing a legislative amendment to that effect.

- c) France – Autorité de Contrôle Prudentiel et de Résolution (ACPR) – First of all we confirm that the ACPR intends to comply with the major part of the Remuneration Guidelines, namely paragraphs 1 to 6; 8 to 13; 17; 20; 22 to 45; 47 to 58; 60 to 64; 69 to 78; 80 to 101; 103; 105 to 107; 109 to 239; 241 to 250; 252 to 266; and 268 to 326.

The CRD introduced remuneration requirements that were faithfully transposed into French legislation in Articles L.511-55 and L.511-71 to 511-88 of the Monetary and Financial Code and in the Ministerial Order on internal control of 3 November 2014.

The ACPR will not be able to comply with several provisions of the Guidelines because they are not in line with the abovementioned national transposition of CRD IV.

There are two main reasons for these divergences:

The French legislator considers that the Guidelines’ restrictive interpretation of the proportionality principle (i.e. no exemption of remuneration requirements allowed) is not in line with the substance and the wording of the CRD IV provisions, which would allow targeted exemptions of remuneration requirements on grounds of proportionality for small, non-complex institutions. Several provisions of the EBA Guidelines introduce new requirements which exceed the legal mandate of these Guidelines to specify the implementation of already-existing CRD requirements. Some of these requirements excessively change the substance of the CRD provisions and so should be incorporated in Level 1 text. The French legislator sees no reason to amend a national framework which is compliant with current CRD provisions. For this reason, the ACPR will not be able to comply with the following paragraphs of the Guidelines: 7; 14 to 16; 18; 19; 21; 46; 59; 65; 66; 68; 79; 102; 104; 108; 240; 251; 267.

Details of partial compliance and reasoning are also noted under the following headings:

#### 1. Proportionality principle and exemptions (waivers)

Several of the ‘Remuneration policies and group context’ and ‘Proportionality’ sections of the Guidelines require that all institutions identify material risk takers at the individual and consolidated levels as well as apply the maximum limitation of the variable remuneration of 200% of the fixed remuneration.

However, for proportionality purposes, Articles 198 to 201 of the Ministerial Order on internal control of 3 November 2014 provide waivers for the application of Articles L.511-71 to L.511-88 of the Monetary and Financial Code, which include the two abovementioned requirements, on an individual or consolidated basis under certain conditions for specific entities (balance sheet threshold of EUR 10 billion, insurance companies, asset management companies).

The French legislator considers that these waivers reflect a risk-based approach and are compliant with the proportionality principle which is explicitly mentioned in Article 92 of CRD IV: ‘institutions comply with the following principles in a manner and to the extent that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities’.

For these reasons the ACPR is not able to comply with paragraphs 7, 65, 66, 68, 79, 102, 104 and 108 of the Guidelines.

## 2. Scope of requirements for all staff

The Guidelines include a mapping of the remuneration requirements for all staff and identified staff only (Annex 1). The scope of several requirements of Articles 92 and 94 of the CRD (e.g. remuneration policy in line with the business strategy, incorporates measures to avoid conflicts of interest) has been extended to all staff by the Guidelines, even if the reading of the abovementioned articles of CRD indicates these articles apply only to identified staff.

The structure and scope of Articles 92 and 94 of the CRD have been faithfully transposed into French law in Articles L.511-71 to L.511-88 of the Monetary and Financial Code, which effectively apply to identified staff.

For these reasons, the ACPR is not able to fully comply with paragraphs 14 to 16, 18, 19 and 21 of the Guidelines.

## 3. Delegation of the role of the remuneration committee to the parent company

Article L.511-91 of the Monetary and Financial Code allows a subsidiary to delegate the functions of the remuneration committee to the remuneration committee of the parent company, including when the subsidiary is considered significant (over EUR 5 billion in total assets). The purpose of this provision is to alleviate the operational burden related to establishing and maintaining a remuneration committee at the individual level of the subsidiary.

However, according to the Guidelines, any institution considered significant at the individual level, including a subsidiary, should establish its own remuneration committee.

For these reasons, the ACPR is not able to comply with paragraphs 46 and 59 of the Guidelines.

## 4. Deferral period of at least 5 years under certain conditions

Paragraph 240 exceeds the legal mandate of the Guidelines by introducing a new requirement: significant institutions should in all cases apply a deferral period of at least 5 years to the members of the management body in its management and supervisory function. However, Article 94(1)(m) of the CRD does not include any specific requirements of this kind and only requires 'deferral over a period which is not less than three to five years'.

As regards this provision, Article L.511-82 of the Monetary and Financial Code is compliant with the CRD by requiring a deferral of 'at least 3 years'.

For these reasons the ACPR is not able to comply with paragraph 240 of the Guidelines.

## 5. Share-linked instruments

Article L.511-81 of the Monetary and Financial Code allows listed institutions to use share-linked instruments for compliance with Article 94(1)(i) of the CRD, which requires at least 50% of variable remuneration to be paid in instruments. However, following a restrictive reading of Article 94(1)(i) of the CRD, the Guidelines consider that only non-listed institutions should be allowed to use share-linked instruments.

It should be noted that, in its Opinion on proportionality attached to the Guidelines, the EBA considers that listed institutions should be allowed to use these instruments.

For these reasons, the ACPR is not able to comply with paragraph 251 of the Guidelines.

## 6. Retention period

The concept of 'retention period' is referenced only once in CRD IV, in Article 94(1)(o), for discretionary pension benefits. The Guidelines extend this concept, exceeding the legal mandate of the Guidelines, by imposing a new requirement to all variable remuneration, considering that, after the vesting of the deferred variable remuneration, an additional retention period should apply before the individual can freely use the amount.

As mentioned before, French law faithfully transposes the CRD IV provisions. Therefore, the concept of retention period is not reflected anywhere other than in the transposition of Article 94(1)(o), i.e. Article L.511-84 of the Monetary and Financial Code. In this article, the phrase 'is deferred to 5 years' is used instead of 'subject to a five-year retention period', with a totally equivalent effect: the retired individual cannot obtain his or her discretionary pension benefits before 5 years.

Now paragraph 267 of the Guidelines imposes a new and specific requirement for the retention period, distinguishing it clearly from the deferral notion: the retention period should be at least 1 year. A retention period of 6 months is allowed only when the deferral period is at least 5 years for a subset of identified staff.

The national transposition of CRD, in line with the Level 1 text, by definition could not include such a requirement. The Guidelines are not the appropriate venue to establish new requirements; the Level 1 text is.

For these reasons, the ACPR is not able to comply with paragraph 267 of the Guidelines.

Any other additional information that may be necessary: For any further information, please also refer to the ACPR answer to the EBA survey on proportionality, which was also transmitted to the European Commission in the context of its report following the CRD review clause.

The provisions of the Ministerial order on internal control of 3 November 2014 exempt the following entities from the abovementioned remuneration requires (i.e. Article L.511-71 to L.511-88 of the Monetary and Financial Code).

- Asset management companies (Article 198 of the Ministerial Order on internal control of 3 November 2014).
  - Insurance companies (Article 198).
  - Entities other than asset management companies and insurance companies which belong to a banking group and have total balance sheets of less than EUR 10 billion and which do not pose risk to the solvency and liquidity of the group (Article 201). If these entities are credit institutions, investment firms or finance companies, they are subject to remuneration requirements on a consolidated level, following Article 200.
  - Credit institutions, investment firms and finance companies which have total assets of less than EUR 10 billion (or which belong to a group having a total consolidated balance sheet of less than EUR 10 billion) which have identified their risk takers and have implemented a policy on variable remuneration including deferral, limitation and payment in instruments. The remuneration policy of these entities shall take into account long-term interests of the company or the group and shall not limit their capacity to strengthen their own funds. If required by the threshold of EUR 5 billion of total balance sheet mentioned in Article 102 of the ministerial order, these entities shall also be able to justify all these elements to the supervisor, as well as their efficiency and appropriateness regarding the size and nature of their activities (Article 199).
  - Credit institutions, investment firms and finance companies having a total balance sheet of less than EUR 10 billion and which belong to a group having a total consolidated balance sheet of more than EUR 10 billion are exempted on an individual basis (i.e. have to apply group-level requirements) (Article 200).
- d) Slovakia – Národná Banka Slovenska (National Bank of Slovakia) – NBS has never faced or addressed serious problems with implementation or application of the relevant articles of the CRD. The remuneration provisions stipulated in the CRD and CRR were implemented or incorporated into Slovak legislation in an appropriate and satisfactory way. We came to the conclusion that this GL is beyond the scope of CRD and CRR as well as the scope of EBA's competence. Since labour law is not harmonised in the EU and remuneration is a part of the Labour Act, NBS cannot regulate this remuneration area in such a detailed way through the Banking Act or NBS decrees. By issuing this GL, EBA enters an area that is not harmonised: labour law. We are of the opinion that regulation of remuneration through the acts and decrees within the competence of the NBS could be an unacceptable intervention in the constitutional powers according to the Slovak Constitution.
- e) Finland – Finanssivalvonta (FIN-FSA) (for less significant institutions as defined in Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank concerning policies relating to the prudential supervision of credit institutions) – Article 94(1)(o) of the CRD IV has not been implemented in Finnish legislation.
- The FIN-FSA will not be able to comply with paragraphs 134, 135 and 136 in section 8.5, 'Discretionary Benefits', of the Guidelines because of the national implementation of the directive as specified above. In addition, discretionary benefits as granted in Finland cannot be subject to malus and clawback. The amounts are set and cannot be changed based on the terms and conditions.
- The FIN-FSA intends to comply with other parts of the guidelines by 1 January 2017.
- f) Sweden – Finansinspektionen (Swedish Financial Supervisory Authority – FSA) – Non-compliance is for the most part due to implementation in Swedish law or binding regulations which makes it impossible for the FSA to comply with the guidelines. The specific reasons for non-compliance are set forth below:
- Paragraph 73: The rules that are applicable to branches in Sweden of credit institutions authorised in a third country are set forth in the Swedish law and are not possible for the Swedish FSA to decide on.
- Paragraph 81: For the avoidance of doubt, the Swedish FSA does not have authority to supervise competition between institutions. However, the Swedish FSA treats all institutions according to the principle of equal treatment.
- Paragraph 114: The possibility for the Swedish FSA to intervene is regulated in the Swedish legislation. The methods of intervention mentioned in the paragraph are highly prescriptive, while the Swedish legislation gives wider discretion to the supervisory authority.
- Section 15.7: Clawback is not possible according to Swedish law. Therefore the parts concerning clawback will not be implemented in Sweden.
- Any other additional information that may be necessary:
- The opportunity for a Member State to implement a possibility for shareholders or owners or members of the institution to approve a higher maximum level of the ratio between the fixed and variable components of remuneration according to Article 94(1)(g)(ii) of Directive 2013/36/EU has not been used in Sweden. Therefore, the paragraphs that relate to those rules are not applicable in Sweden. The present Swedish regulation concerning remuneration sets forth, in line with the principle of proportionality, some waivers (neutralisation). When it comes to these, the Swedish binding regulation applies. One example of such a waiver is that, according to the Swedish regulation, the rules of deferral presently apply only if the variable remuneration exceeds SEK 100 000 per year (see, inter alia, Part 15.2 of the Guidelines). The Guidelines consequently go further than the Swedish regulation. The rules concerning deferral in the Guidelines will therefore for the time being apply only if the variable remuneration exceeds SEK 100 000.
- According to Swedish law it is not possible to make a clawback when the ownership has been transferred to the staff member.
- Concerning paragraph 163 it should be noted that Finansinspektionen does not see the possibility of intervening according to Swedish law should the paragraph not be fulfilled.

- g) United Kingdom – Prudential Regulation Authority (PRA) – The PRA wishes to notify the EBA of partial non-compliance with the EBA Guidelines on Sound Remuneration Policies (the Guidelines). The PRA will comply with all aspects of the Guidelines, except for the requirement that the limit on awarding variable remuneration to 100% of fixed remuneration, or 200% with shareholder approval (the bonus cap), must be applied in any case to all firms subject to the CRD as stated in paragraph 79 (second sentence) and related provisions.

Our approach to the application of the proportionality principle is based on the wording under Article 92(2) of the CRD, which states: 'competent authorities that ensure that ... institutions comply with the following principles in a manner and to the extent that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities' (emphasis added).

In our view, the 'extent' of application under the proportionality principle may include not applying a remuneration principle in its entirety based on the size, internal organisation, and nature, scope and complexity of the activities of the firm in question. This is confirmed by recital 66 of the CRD, which clarifies that it would not be proportionate for some firms to comply with all of the principles including the limits on bonuses.

The proportionality principle applies to all of the remuneration principles including the bonus cap, as stated under Article 94(1) of the CRD: 'For variable elements of remuneration, the following principles [i.e. the bonus cap and all other numerical requirements] shall apply in addition to, and under the same conditions as, those set out in Art. 92 (2)' (emphasis added).

The principle of proportionality is enshrined in Article 5(4) of the Treaty on European Union. The European legislators respected this principle when they enacted the Capital Requirements Regulation and CRD. In particular, the legislators did so by including language in Article 92(2) of the CRD (and imported into Article 94(1) of the CRD) that permits a firm to comply with the remuneration principles in the manner and to the extent that is appropriate for that firm.

We therefore disagree with the suggestion that CRD does not permit waiver of any of the quantitative CRD minimum criteria for any identified staff, or for any institutions. In particular, the CRD provides no credible basis for specifically identifying the bonus cap as a numerical criterion which must be applied to all firms irrespective of their size, their internal organisation and the nature, scope and complexity of their activities.

- h) United Kingdom – Financial Conduct Authority (FCA) – The FCA wishes to notify the EBA of partial non-compliance with the EBA Guidelines on Sound Remuneration Policies (the Guidelines). The FCA will comply with all aspects of the Guidelines, except for the requirement that the limit on awarding variable remuneration to 100% of fixed remuneration, or 200% with shareholder approval (the bonus cap), must be applied in any case to all firms subject to the Capital Requirements Directive (CRD) as stated in paragraph 79 (second sentence) and related provisions.

Our approach to the application of the proportionality principle is based on the wording under Article 92(2) of the CRD, which states: 'competent authorities that ensure that ... institutions comply with the following principles in a manner and to the extent that is appropriate to their size, internal organisation and the nature, scope and complexity of their activities' (emphasis added).

In our view, the 'extent' of application under the proportionality principle may include not applying a remuneration principle in its entirety based on the size, internal organisation, and nature, scope and complexity of the activities of the firm in question. This is confirmed by recital 66 of the CRD, which clarifies that it would not be proportionate for some firms to comply with all of the principles including the limits on bonuses.

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We therefore disagree with the suggestion that CRD does not permit waiver of any of the quantitative CRD minimum criteria for any identified staff, or for any institutions. In particular, the CRD provides no credible basis for specifically identifying the bonus cap as a numerical criterion which must be applied to all firms irrespective of their size, their internal organisation and the nature, scope and complexity of their activities.

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#### Recommendations delivered in 2015 – Compliance Notification Deadline – 23 January 2017

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The two-month notification deadline for confirming compliance or intention to comply, or stating the reasons for not complying or not intending to comply, with the following recommendations will be reported in the 2017 Annual Report.

- a) EBA/REC/2015/02 – Recommendations amending Recommendations on Equivalence of Confidentiality Regimes.

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**Guidelines delivered in 2016 – Compliance Notifications in 2016**


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The EBA issued 11 guidelines in 2016, of which only four, confirming compliance or intention to comply, or stating the reasons for not complying or not intending to comply, within the two-month notification deadline, are relevant to the 2016 Annual Report.

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**EBA/GL/2016/01 – Revised Guidelines for the identification of globally systemically important institutions (G-SIIs) – Compliance Notification Deadline – 2 May 2016**


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The following competent and/or resolution authorities failed to provide notification of compliance within the notification deadline:

- a) Bulgaria – Българска народна банка (Bulgarian National Bank);
- b) United Kingdom – Financial Conduct Authority (FCA);
- c) ECB – This is still awaited, because of its internal processes.

The following competent authorities submitted the following notifications:

- a) Malta – Malta Financial Services Authority – These GLs do not apply in the jurisdiction of the competent authority. No G-SIIs are currently licensed in Malta. However, Malta will comply should such institution exist in the jurisdiction.
- b) Slovakia – Národná Banka Slovenska (National Bank of Slovakia) – The Guidelines do not apply in the jurisdiction of the competent authority.

Based on Commission Delegated Regulation (EU) No 1222/2014, Article 3, paragraph 2: 'The relevant authority shall report the indicator values of each relevant entity with an exposure measure above EUR 200 billion which is authorised within its jurisdiction to the EBA not later than 31 July each year', and based on Article 4, paragraph 1 of the same regulation: 'The relevant authority shall calculate the scores of the relevant entities that are included in the sample notified by the EBA, which are authorised in its jurisdiction, not later than 15 December of each year'. As, in the Slovak financial sector, none of the relevant entities has an exposure measure above EUR 200 billion, the National Bank of Slovakia as the relevant authority is not obliged to calculate the scores and indicator values for Slovak banks.

- c) United Kingdom – Prudential Regulation Authority (PRA) – The PRA wishes to notify the EBA of partial non-compliance with the EBA Guidelines on further specification of the indicators of global systemic importance and their disclosure. Similar to our position last year, the PRA will comply with all aspects of the Guidelines except for the requirement in paragraph 2 that they apply to certain institutions that are subsidiaries of non-EU headquartered banks. As per the Basel Committee's approach to the identification of Global Systemically Important Banks – which the EBA Guidelines closely follow – we will ensure that UK headquartered institutions that participate in the Basel Committee exercise report and publicly disclose the relevant data and indicator values.

Details of partial compliance and reasoning: We do not intend to comply with the Guidelines in so far as they relate to institutions that are not subsidiaries of an EU parent institution or EU parent financial holding company or EU parent mixed financial holding company. Given that the guidelines are on disclosure of 'indicators of globally systemic importance' we do not see the rationale for ensuring that these subsidiaries report and disclose the relevant data and indicator values, as it would not help serve this objective. This is not least because their parent groups will complete and disclose the template at the group level. As these firms do not participate in the Basel process in their own right, this data would not be used for any other purpose. However, this would result in additional costs for us as the supervisory authority, as the current set of data submissions go through an extensive data quality assurance process by the PRA, as well as the affected firms, as most of the requested data is not collected or compiled for other purposes. Taking the above points into account, we believe that our interpretation of the policy intention of these guidelines is also consistent with the accompanying cost-benefit analysis/impact.

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**EBA/GL/2016/02 – Guidelines on cooperation agreements between deposit guarantee schemes under Directive 2014/49/EU – Compliance Notification Deadline – 8 August 2016**


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The following competent and/or resolution authorities failed to provide notification of compliance within the notification deadline:

- a) United Kingdom – Financial Services (Gibraltar).

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**Guidelines delivered in 2016 – Compliance Notification Deadline pending**


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At the time of compilation and printing of the 2016 Annual Report, the two-month compliance notification periods of the following Guidelines had not yet ended:

- EBA/GL/2016/05 – Guidelines on communication between competent authorities supervising credit institutions and the statutory auditor(s) and the audit firms carrying out the statutory audit of credit institutions – Compliance Notification Deadline – 9 January 2017;
- EBA/GL/2016/06 – Guidelines on remuneration policies and practices related to the sale and provision of retail banking products and services – Compliance Notification Deadline – 13 February 2017;

- EBA/GL/2016/07 – Guidelines on the application of the definition of default under Article 178 of Regulation (EU) No 575/2013 – Compliance Notification Deadline – 20 March 2017;
- EBA/GL/2016/08 – Guidelines on implicit support for securitisation transactions – Compliance Notification Deadline – 24 January 2017;
- EBA/GL/2016/09 – Guidelines on corrections to modified duration for debt instruments under Article 340(3) of Regulation (EU) No 575/2013 – Compliance Notification Deadline – 6 March 2017;
- EBA/GL/2016/10 – Guidelines on ICAAP and ILAAP information collected for SREP purposes – These guidelines have not yet been translated into all EU official languages and, until then, there is not yet a date to trigger the Compliance Notification Deadline;
- EBA/GL/2016/11 – Guidelines on disclosure requirements under Part Eight of Regulation (EU) No 575/2013 – These guidelines have not yet been translated into all EU official languages and, until then, there is not yet a date to trigger the Compliance Notification Deadline.

Non-compliance with guidelines and recommendations issued in 2016, but for which the compliance notification period is not due until 2017, will be reported upon in the 2017 annual report.

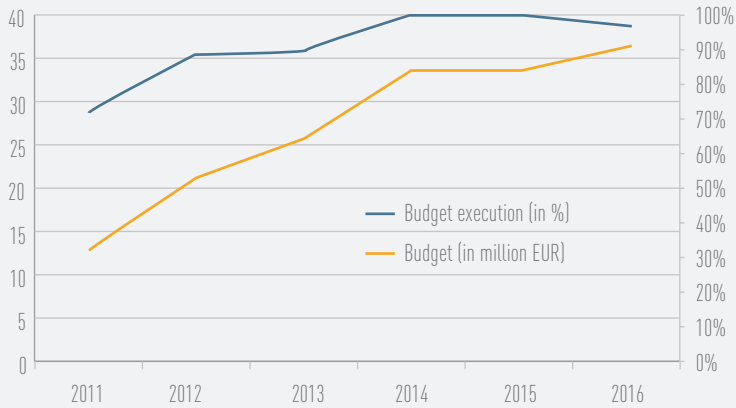
### Statistics on disclosure

The Legal Unit is the central point for dealing with requests relating to transparency and public access to documents. Within the remit of Regulation (EC) No 1049/2001, the Legal Unit provided its advice on four formal requests for access to information.

Key figures in 2016

**FINANCE**

Annual budgets and execution rate (%)



▶ Total budget: **EUR 36.492 million**

▶ Budget execution: **96.8 %**

▶ Carry forward to 2017: **EUR 2.950 million**  
(8.4% of commitments)

**PROCUREMENT**

▶ New open procurement procedures: **5**

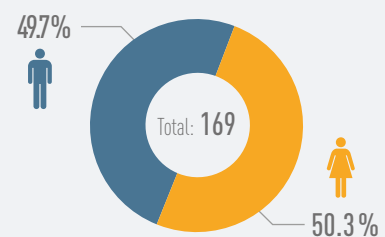
▶ Negotiated procedures (+EUR 15,000): **9**

▶ EBA participation in other EU institutions framework contracts: **38**

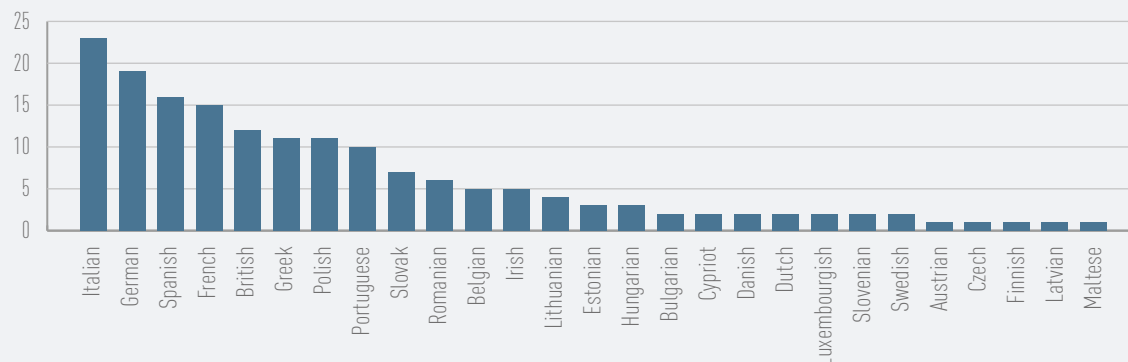
**HUMAN RESOURCES**

Gender	Temporary Agents		Contract Agents	Seconded National Experts
	AD	AST		
Female	51	8	23	3
Male	66	1	9	8
<b>Total</b>	<b>117</b>	<b>9</b>	<b>32</b>	<b>11</b>

Gender balance



Nationalities (total staff of 169)





**HUMAN RESOURCES**

▶ Posts from the establishment plan filled by year end:

**126**

▶ Vacancy notices published:

**47**

(26 TA, 7 CA and 16 SNE), for which 948 candidates applied and 113 were interviewed

▶ Trainees:

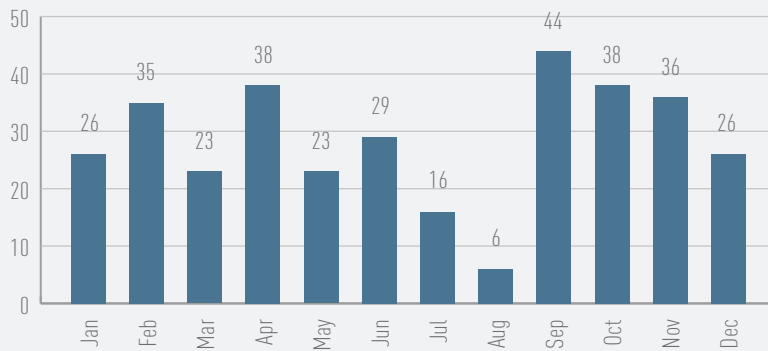
**7**

▶ Average number of training days by staff member:

**2.14**

**EVENTS**

Number of events organised by the EBA in 2016



▶ Events organised by EBA:

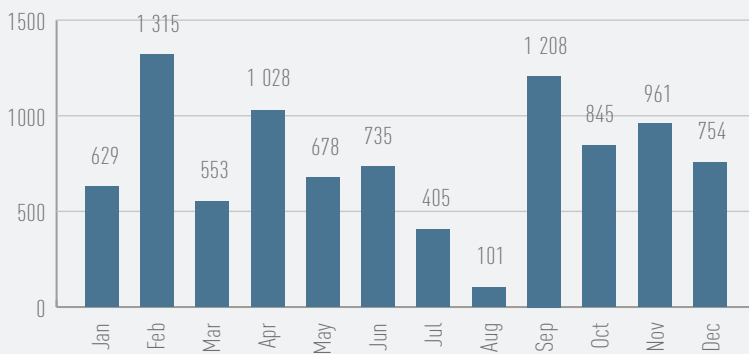
**340**

▶ Total of number of participants:

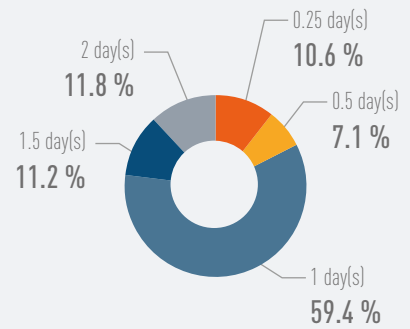
**9 215**

(vs. 8,627 in 2015)

Number of participants in 2016

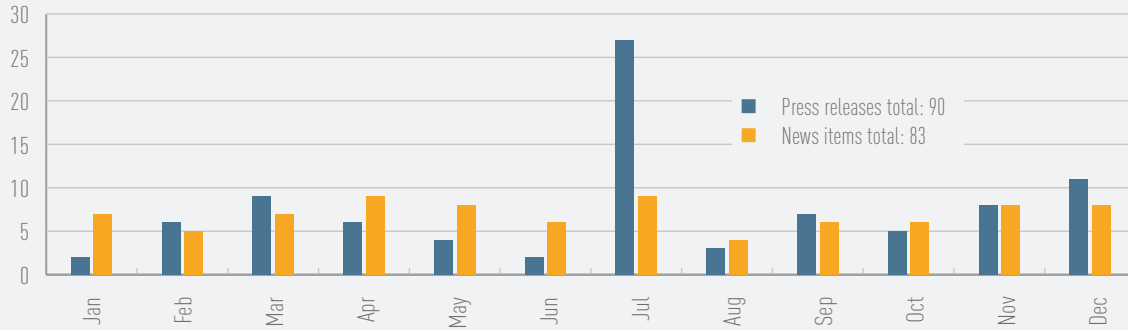


Breakdown by event duration



**PRESS AND COMMUNICATION ACTIVITIES**

Number of communications outputs by month

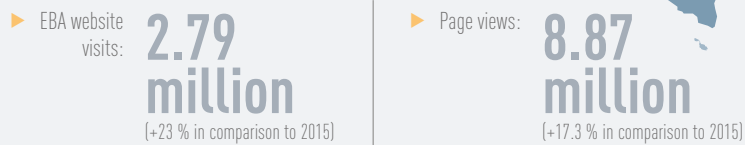
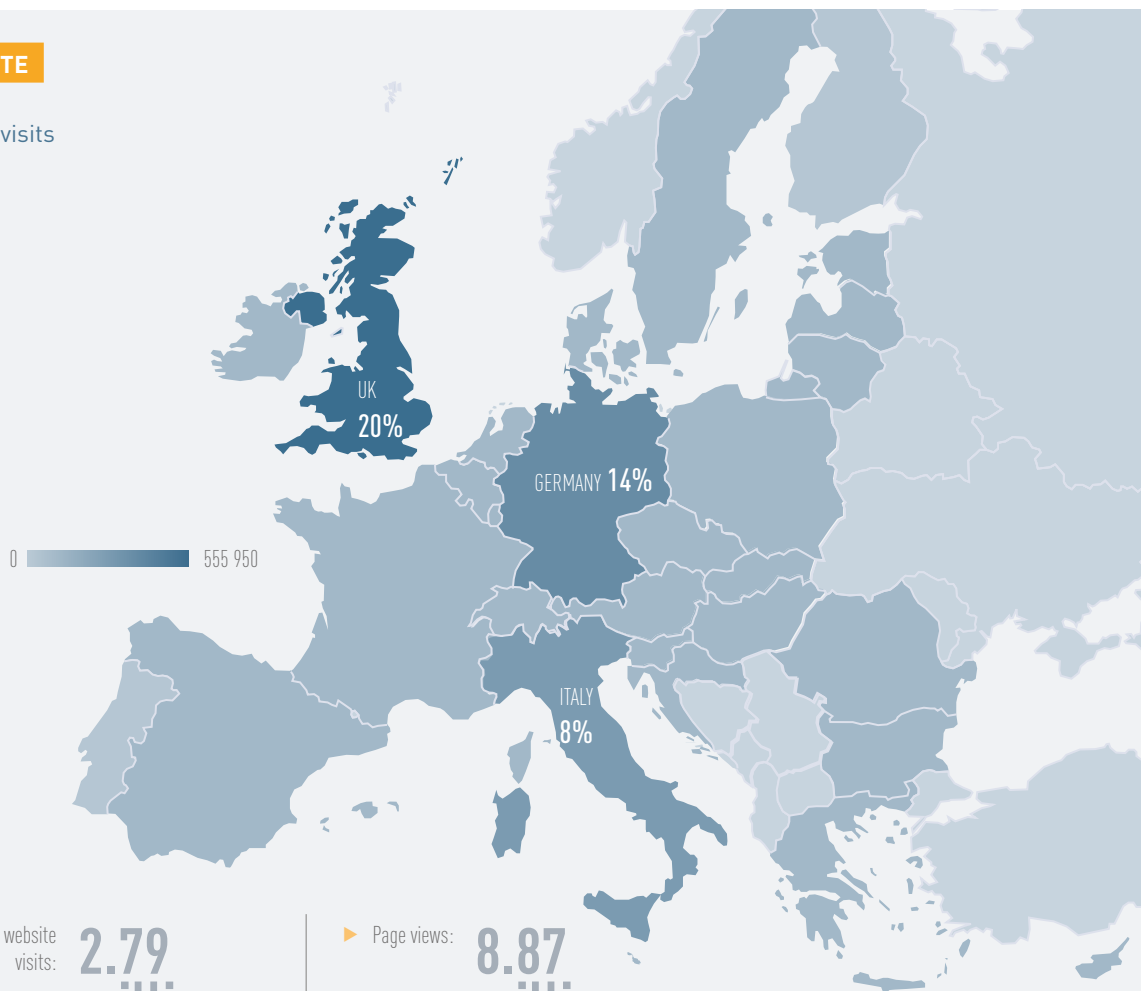


Breakdown of interaction with media



**WEBSITE**

Website visits



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### Open data from the EU

The EU Open Data Portal (<http://data.europa.eu/euodp/en/data>) provides access to datasets from the EU. Data can be downloaded and reused for free, both for commercial and non-commercial purposes.

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